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Vol 1

CONGRESSIONAL GLOBE AND APPENDIX

THIRD SESSION FORTIETH CONGRESS:

IN THREE PARTS.

PART III,

CONGRESSIONAL GLOBE AND APPENDIX.

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THE CONGRESSIONAL GLOBE:

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

U.S.

THIRD SESSION FORTIETH CONGRESS;

TOGETHER WITH

AN APPENDIX,

COMPRISING THE LAWS PASSED AT THAT SESSION.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1869.

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Entered according to Act of Congress, in the year 1869, by
F. & J. RIVES & GEO. A. BAILEY,
In the Clerk's office of the Supreme Court of the District of Columbia.

accept the best. It has been considered with a great deal of care and amended and reamended, and I believe now, under the advice of the board that was sitting here, the bill is as near perfect as it can be. We have avoided putting anything in the bill that the law provides now for the safety of passengers.

Mr. MORTON. I have just one word to say. Before Congress shall require every vessel that goes to sea, large or small, steam vessel or sailing vessel, to be provided with this patent apparatus, the price of which may be fixed by the patentee, while it may be an excellent thing for him, the Senate should not make a requirement of that kind upon all ship-owners without being well satisfied in the first place that these patents are valuable.

Mr. CORBETT. I think the Senator is mistaken in supposing that it confines it to any particular patent. It requires them to carry a life-boat, and only in two cases does it particularize as to any particular kind of life-boat, and that is that they carry large numbers, eight and ten life-boats. We require them to carry one self-bailing or self-relieving boat, which is said to be a very desirable boat; but if that is objectionable I will strike it out. I will agree to an amendment to strike that out if it is thought desirable.

Mr. NYE. I hope it will not be stricken out.

Mr. CORBETT. I inquired of the inspectors while they were here, and they said they could not recommend this. We required in the former bill a larger number of these self-bailing, self-relieving life-boats, and they advised me not to require so many of them. It might be modified in this way: "one of which may be self-bailing or self-relieving," if that would be satisfactory.

Mr. NYE. I hope that will not be done. This is a question in which there are more people directly interested than in any ordinary question that engages the attention of the Senate. We have become a traveling people. I have traveled by sea ten thousand miles a year for almost eight years in succession. It is a fact palpable to every one that the ship-owners will not put the means upon their ships for the preservation of human life unless they are obliged by law to do it. There is no question about it, they will not, as the Senator from Indiana says, tax themselves, and they cry out "patent rights," like the honorable Senator, when the lives of countless thousands depend upon this apparatus being on board the ships.

Mr. MORTON. Will the Senator allow me one word?

Mr. NYE. Certainly.

Mr. MORTON. I am as much in favor as the Senator is of making all the preparation that can be to preserve human life. The simple question I made was whether, before we require all ships, great and small, of all kinds, to adopt these things, the Senate ought not to be satisfied that they are in themselves excellent.

Mr. NYE. That is what I am going to try to satisfy the Senate of, so far as the amendment I propose goes. I assert again that it is a fact patent that these ship-owners will not provide the means for the protection of life in case of accident at sea unless they are obliged by law to do it. Take Francis's life-boat, and every life-boat that has been made since the time the first one was patented; it was not got up by the ship-owners, but the law compelled them to buy it, and never till they were compelled to do it did one of them buy it; and they would not now if they could avoid it. That patent life-boat is good for the purposes it is intended for; in case you can lower the boat and get the passengers into it in time to save their lives, it is very well; but I repeat that the first signal of danger is the dangerous moment attending a shipwreck, and then it is that you want this light apparatus by which each person can take care of himself and protect the life of himself and others with him with a little coolness. In such a moment, taking one of

these cork mattresses, that no matter which side is up is always tant and which every way it strikes is buoyant, it will hold up twelve persons till the life-boats can be launched, and these men can be rescued from a watery grave before it is too late.

Especially does this apply to the rivers. I call the attention of the honorable Senator again to the appalling accident which recently occurred on the Ohio river, where within fifteen feet of the shore men and women were burnt to a crisp and lost by hundreds. I ask the honorable Senator, and I ask the Senate, if they will not require this simple little apparatus to be insisted upon. It is simply a mattress that takes up no room on board ship. It is the bed in which you sleep, supplied with water and with bread. I submit that it is such an apparatus as should be required to be carried for public safety and for the individual safety of those who embark on these dangerous crafts. I have no interest in this patent right, and I presume the honorable Senator did not mean to insinuate that I had.

Mr. MORTON. Certainly not.

Mr. NYE. No, sir; I never knew enough to patent right anything; but I know enough to want to save my life, and want the honorable Senator to help me. If his neighbor has patented a thing that will save it, I want it to be tried. If my friend was drowning he would not stop to inquire whether the thing that could save him was patented before he took hold of it.

I rejoice in these inventions. It is the duty of Congress to compel these passenger-carriers on the ocean and river to provide for the safety of passengers. That is the duty of Congress, and I ask Congress to perform that duty, whether it is acceptable to the ship-owners or not. The owners will not pay for it, but you and I who ride pay for it. The cost of fitting it up is a part of the cost of the ship or of the boat, and those who travel are assessed a full quota in view of all the cost. One life is worth more than a dozen mattresses or a life-boat, and the struggling victim from carelessness or accident upon the ocean waves would sing praises to Congress if he had a mattress to which he could hold that would not sink when it was soaked with water. These life preservers that the Senator from Kansas talks about are good for nothing. If they are made of rubber one single spark of fire will let them out so that they will not buoy up a fly.

Mr. MORTON. My friend's argument proves everything except the point in issue, and that is, before all the ship-owners shall be obliged to buy this patent some evidence should be furnished that this self-bailing apparatus is valuable.

Mr. NYE. I know nothing of self-bailing. I am talking only about what I know of. I hope the honorable Senator will do the same thing. I do not know anything about these self-bailers. Does the Senator?

Mr. MORTON. No; I want to be informed.

Mr. NYE. I am not speaking of self-bailers, but of cork mattresses that I do know something about. My friend from Oregon can amuse us in regard to the self-bailing apparatus. I do not know anything about that.

Mr. President, I say again to the Senator from Indiana that those ship-owners will not furnish any life-saving apparatus unless Congress imposes the duty upon them, and it is not for the ship-owners to determine what is necessary. It is for Congress, having the power and in view of the responsibility that rests upon them. For every ship that goes out freighted with human beings Congress is responsible if it does not compel the owners of that ship to provide means for the safety of every passenger; and Congress becomes guilty in this case, the power being reposed in them, if they do not exercise it.

If the honorable Senator from Indiana can get a better thing than Golding's cork mattress I am content to say "Golding's cork mattress or other appliance answering the same purpose." I have no objection to that modifica-

tion. I have no interest in this matter; but I have found lying on my desk—indeed it was put into my hands a year ago—a book that I laid before the honorable Senator, and the moment I did so he cried out "Patent right," and dropped the book. It is a recommendation of the Secretary of the Treasury and by one of his ablest assistants. If the honorable Senator will read it he will know when this improvement was patented, if it ever was, and he will see the shape of it. He will see its beneficial effects; that it takes up no room in the ship, and there is precisely the trouble in regard to the life-preserving apparatus. The owners of these ships want every inch of room for freight and passengers, and they will not make room for these dead weights to protect their passengers at sea. You may put in the law a requirement that they shall have ten life-boats and they will go with four or five. I have seen that myself frequently. I have seen times when there was occasion to use life-boats and they were not to be found. They were not on board in compliance with the law. Now, Mr. President, I have done my duty. If Senators here do not think it is worth while to protect human life on board steamships, be it so, but no drowning man shall say to me that I did not do what I could to save him.

Mr. CORBETT. I would suggest to the Senator from Nevada whether the provision already in the bill does not cover his case.

Mr. NYE. No; it does not.

Mr. CORBETT. If we put in the bill a provision that some man's mattress shall be used, then when some one else invents one that is supposed to be better we must change the law.

Mr. NYE. Of course; and it ought to be done.

Mr. CORBETT. The bill is now framed in such a way that it will admit of any patent or any improvement that may be considered the best.

Mr. NYE. I ask the Senator from Oregon whether there is anything which says they must carry any kind of a mattress?

Mr. CORBETT. I suppose they have to carry mattresses for the people to sleep on.

Mr. NYE. But it does not say so.

Mr. CORBETT. There is no law that requires that, I believe, but it is customary I think to carry a mattress.

Mr. NYE. What I want to know of the honorable Senator who has this bill in charge is to tell me whether there is anything in it about a cork mattress. I am willing to strike out Golding's name. I do not care anything about Golding, but I think we should require such a mattress to be carried. Let me illustrate by the case of a steamer going to California on which the Senator and I have often traveled. There were four or five of us in the state-room. Suppose we had two of these mattresses in the state-room and a collision or accident should occur; we could go over into the Pacific ocean with perfect safety and wait until the regular appliance could be lowered to save us. Take the case of the burning of the Golden Gate when it burned from the center each way and drove the people maddened to death. I ask the honorable Senator if they had had these mattresses would not every one of them have been saved?

Mr. CORBETT. I have traveled during the past eighteen years between here and the Pacific coast from time to time; I have made a great many trips; and I think I am as desirous of saving my life and the lives of the passengers traveling on that route and other routes as any other person; and I have amended this bill in such manner that I think it will cover the entire case. If we amend it by inserting a requirement that some particular patent shall be used other amendments will be proposed in the House to adopt somebody else's mattress, and it will prevent the bill from passing. I am sure we cannot pass the bill if we particularize the different patents which shall be used. The bill as it now stands provides that the inspectors shall authorize the substitution, for the portion of such life-boats diminished, life-rafts or other contrivance to insure the

safety of all the passengers and crew. The law now requires them to furnish life-preservers. Those are supposed to answer the purpose until they can get some other contrivance, some life-rafts or life-boats. I ask that the bill may be passed as amended by the committee.

Mr. STEWART. I concur with what has been said as to the fact that ship-owners will not supply themselves with the various conveniences that have been invented for saving life. If the ship is lost they have no particular interest in saving the passengers, as under such circumstances passengers are annoying to them because they have lost their money; and, strange as it may be, the owners are generally cold-blooded enough to be willing that the passengers should go if the ship goes. But there is a great deal of intrinsic difficulty in this whole business, and I believe that the Committee on Commerce, if they will devote themselves to devising means for having a proper system of inspection, a proper board of inspection, would remedy many of the evils under which we labor. The trouble now is that the laws are disregarded. We should have some board of inspection of more reliability than our present one. Great Britain is far in advance of us in this particular. She takes her retired admirals to inspect not only the vessels but the commanders and officers of the boats, and succeeds much better than we do in enforcing her regulations. I believe the Committee on Commerce ought to devise some plan whereby there shall be responsibility in carrying out these regulations; and I believe this bill does require some further amendment. I do not think it is safe to designate patents by name; we should designate the article to be secured, and then we should have some board of officers that we could trust in making the selection. I think the whole business demands the serious consideration of Congress, not only for making regulations, but to provide for their enforcement. Most of the trouble is that our present regulations are badly enforced, and that the passengers are generally lost when the ship is, in many cases on account of the neglect to furnish the appliances the law now requires.

Mr. BUCKALEW. I rise to move an adjournment.

Mr. CORBETT. I hope we shall not adjourn until we pass this bill.

Mr. COLE. I should like to know when this bill will be in order again if we adjourn without passing it to-night.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) It will be the unfinished business, and will come up to-morrow at one o'clock.

Mr. COLE. I think it exceedingly important that this bill should be passed before we adjourn.

The PRESIDING OFFICER. The Senator from Pennsylvania is entitled to the floor.

Mr. BUCKALEW. Of course this bill will be in order to-morrow. I will give way to the Senator from Indiana, who asks me to do so.

Mr. MORTON. Here is a patent right designated by name which every ship-owner in the United States is required to buy. Whether it is the best patent or not will be found by experience; we do not know. The honorable Senator from Nevada, it turns out, does not know anything about it, according to his own confession. He has an advertisement that he says was put on his desk a year ago. I saw it a few minutes ago.

Mr. NYE. I have seen the mattress.

Mr. MORTON. But I presume the Senator has never tried it. All that he knows about it is what we all know, that cork is light. That is about the substance of his knowledge on the subject, but he requires every ship-owner to buy these cork mattresses. Of course, when he is required to buy it by law of Congress, the patentee can charge what he pleases, and the ship-owners are in his hands. Then this bill by another provision requires ship-owners to buy a certain patent right for bailing life-boats. Of course they are in the hands of that patentee. Now, sir, before we put all the ship-

owners into the hands of these patentees, there ought to be some evidence before the Senate that these are the best patents; that they are valuable. We have no evidence before the Senate on that subject. It may be a joke here, but it will not be a joke to them if they are required to buy these things.

Mr. NYE. There are a number of official certificates here.

Mr. MORTON. The Senate has not seen them.

Mr. NYE. I have.

Mr. MORTON. I say the Senate has not.

Mr. NYE. It is not my fault that the Senate has not seen them.

Mr. BUCKALEW. I desire to remind the Senate that we shall be obliged to hold night sessions every night till the end of the session. It is after ten o'clock, and is time that we should adjourn. I have heard so much about mattresses that I should like to go home and try one. [Laughter.] I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

IN SENATE.

WEDNESDAY, February 24, 1869.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. WILLIAMS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

PETITIONS AND MEMORIALS.

Mr. CAMERON presented seventeen petitions of citizens of Pennsylvania, praying for such an amendment to the Constitution of the United States as will fully acknowledge the obligations of the Christian religion; which were referred to the Committee on the Judiciary.

He also presented a resolution of the Board of Trade of Philadelphia, asking Congress to institute such inquiries and to inaugurate such measures as will secure to American shipping in Spanish ports an equalization of tonnage dues and port charges with those imposed upon the most favored nation; which was referred to the Committee on Commerce.

He also presented a resolution of the Board of Trade of Philadelphia, recommending the passage of a law for the protection of copyright for works of art; which was referred to the Committee on the Library.

He also presented a petition of the Pennsylvania Academy of Fine Arts, praying the passage of a law for the protection of copyright for works of art; which was referred to the Committee on the Library.

Mr. POMEROY. I have received, and desire to present, a petition from a large number of citizens, heads of families for the most part, living in the State of Kansas on the rivers known as the Solomons and Republican rivers, in which they represent that the Indians who committed depredations last year, for which the Government went to war with them, and who, it was supposed from the report of General Custer and others were killed, have returned, and during the last ten or twelve days have commenced depredations again upon the settlements; and they ask that they may be protected, and urge that vigilant and strenuous efforts shall be made on the part of the Government to that effect. I sympathize with these settlers, but I do not know what I can do more than move to refer this petition to the Committee on Military Affairs.

The motion was agreed to.

Mr. POMEROY also presented a petition of citizens of Illinois, a petition of citizens of Maine, a petition of citizens of New York, and a petition of citizens of Michigan, praying for such an amendment to the Constitution as will grant the right of suffrage to women equally with men; which were ordered to lie on the table.

Mr. TRUMBULL presented a petition of

citizens of Illinois, praying for such an amendment to the Constitution of the United States as will fully recognize the obligations of the Christian religion; which was referred to the Committee on the Judiciary.

Mr. NYE presented the petition of Mary E. Hill, praying compensation for services as nurse in the Army, and for reimbursement of moneys expended to aid suffering soldiers; which was referred to the Committee on Claims.

He also presented the petition of John P. Brown, secretary and dragoman of the American legation at Constantinople, praying an increase of compensation; which was referred to the Committee on Foreign Relations.

He also presented the petition of O. H. Dockery and others, members of the House of Representatives from the Southern States, praying the passage of the bill to pay loyal citizens in the States lately in rebellion for services rendered in taking the United States census in 1860; which was referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom were referred the following bills and joint resolutions, asked to be discharged from their further consideration; which was agreed to:

A bill (S. No. 639) providing for a more efficient provisional government for Mississippi;

A bill (S. No. 662) to carry out the reconstruction acts of the State of Georgia;

A bill (S. No. 708) to repeal so much of the act passed June 25, 1868, as provides for the admission of the State of Georgia to representation in Congress and to provide a provisional government therein, and for other purposes;

A bill (S. No. 716) to provide for the reassembling of the constitutional convention of the State of Georgia, and to prescribe the duties of the same;

A bill (S. No. 733) to enable the people of Georgia to form a State government republican in form;

A bill (S. No. 962) supplemental to an act to abolish and forever prohibit the system of peonage in the Territory of New Mexico and other parts of the United States; and

A joint resolution (S. R. No. 106) relative to fixing an exterior line in New York harbor on both sides of Hudson river.

He also, from the same committee, to whom was referred the bill (S. No. 854) to further the administration of justice, reported it with amendments.

He also, from the same committee, to whom were referred the following resolutions and memorials, asked to be discharged from their further consideration; which was agreed to:

Resolutions adopted at a meeting at Macon, Georgia, approving the policy of R. B. Bullock, Governor of that State, and asking for the passage of a law for the protection of loyal citizens of that State;

The petition of L. P. Gudger, of Georgia, praying such legislation as will protect Union men in that State;

The petition of citizens of Augusta, in the State of Georgia, praying for relief against violations of the reconstruction acts of Congress in that State, and for security of life and property.

A petition of citizens of Georgia, praying the passage of a law for their protection in the enjoyment of their civil rights;

A letter of the Governor of Georgia to the Congress of the United States, in relation to the laws under which that State was to have been admitted to representation in Congress;

A memorial of the representatives of the colored voters of Georgia in convention assembled, in relation to the action of the Legislature in expelling twenty-nine colored members from that body;

Resolutions adopted at a meeting of the Republican party held in Atlanta, Georgia, February 15, 1869, relative to the political condition in that State;

Resolutions adopted at a meeting of citizens of Columbus, Georgia, setting forth the troubled condition of affairs in that State, and praying the intervention of Congress for the protection of loyal persons;

A petition of citizens of Georgia, praying that the reconstruction acts may be enforced, to the end that the Legislature be purged of members illegally elected, and that those duly elected be restored to their seats therein;

A petition of Charles R. Pate, of Georgia, praying that protection may be extended to Union men of that State;

A petition of citizens of Georgia, praying that section three of the eleventh article may be stricken from the constitution of that State, and that protection be afforded from the outrage upon their legal rights attempted to be imposed by that section, and that officers not elected under the reconstruction acts may be declared not eligible;

Resolutions adopted by the National Union Republican Association of Georgia, approving the action of the National Union Republican party against the repudiation of the national indebtedness; approving the adoption of the fourteenth article to the Constitution of the United States; approving the policy of Governor Bullock, and in relation to the expulsion of the colored members from the Legislature of that State; indorsing the platform of the National Republican party adopted at Chicago; and that Hon. Joshua Hill and Hon. H. V. M. Miller may not be admitted to seats in the Senate as Senators from that State; and

A memorial of the Corn and Flour Exchange of Baltimore city, against any further postponement of the fifty-per-cent. clause of the present bankrupt law.

Mr. TRUMBULL. The same committee, to whom was referred the bill (H. R. No. 1987) to define felonies and misdemeanors and regulate peremptory challenges, have instructed me to report it back adversely, and with the recommendation that it do not pass. The statutes already provide, in the opinion of the committee, for challenges in such cases.

Mr. TRUMBULL. The same committee, to whom was referred the bill (H. R. No. 1624) to preserve the purity of elections in the several Territories of the United States, have instructed me to report it back and to move that it lie on the table, upon the ground that there is not sufficient time during the present session, owing to the pressure of business, to mature, perfect, and pass the bill; although the committee are in favor of the principle of it, which is to have a registration law to protect the ballot-box in the Territories. It is only because there is not sufficient time to mature and perfect it that they report at this time that it lie on the table.

The motion was agreed to.

Mr. WILLIAMS. I desire to report back to the Senate, from the Committee on Private Land Claims, the bill (H. R. No. 65) for the relief of William McGarrahan, with the accompanying papers and an adverse written report, signed by the Senator from Connecticut [Mr. FERRY] and myself. I understand that the Senator from Louisiana [Mr. KELLOGG] and the Senator from South Carolina [Mr. SAWYER] propose to submit a report on the other side, and the Senator from Delaware [Mr. BAYARD] refuses to take any part whatever in the decision; so that, under these circumstances, it is impossible for the committee to make any specific recommendation on the subject, and the whole matter, therefore, is referred to the Senate. I ask to have the report printed.

The PRESIDENT *pro tempore*. That order will be entered.

Mr. KELLOGG. I desire to state that a portion of the Committee on Private Land Claims dissent from the conclusions of the report presented, and propose during the day to submit a report, which is now being copied.

Mr. SAWYER subsequently submitted the views of the minority of the Committee on Private Land Claims on the bill (H. R. No. 65)

for the relief of William McGarrahan; which were ordered to be printed.

Mr. CHANDLER, from the Committee on Commerce, to whom was recommitted the bill (H. R. No. 1046) making appropriations for the repair, preservation, and completion of certain public works, and for other purposes, reported it with an amendment.

He also, from the same committee, to whom were referred the following bills and joint resolutions, reported adversely thereon:

A bill (S. No. 21) to authorize and provide for the construction of a military and postal road from Galveston, in the State of Texas, to Fort Gibson, in the Indian territory, with a branch to Little Rock, in Arkansas;

A bill (S. No. 387) concerning the liability of ship-owners, maritime liens, salvage, and the jurisdiction in admiralty;

A bill (S. No. 504) to amend an act entitled "An act to extend the warehousing system by establishing bonded warehouses, and for other purposes;"

A bill (S. No. 523) to regulate the appointment and promotion of consular clerks;

A bill (S. No. 525) to authorize the establishment of customs ports of delivery on the Pacific coast of the United States, and for other purposes;

A bill (S. No. 572) to incorporate the Island City Harbor Company;

A joint resolution (S. R. No. 125) authorizing the issue of a new register to the American-built schooner Milton Badger;

A joint resolution (H. R. No. 44) relating to the sale of the marine hospital at Evansville, Indiana; and

A joint resolution (S. R. No. 27) to authorize the leasing of certain real estate in San Francisco.

He also, from the same committee, to whom were referred the following petitions, memorials, and resolutions, asked to be discharged from their further consideration; which was agreed to:

The petition of Thomas Dickerson, praying the intervention of Congress to protect all persons engaged in navigation from illegal exactions by the various tonnage tax laws imposed by States, cities, and sea-port towns;

The memorial of Albert Elmore, collector of customs at Mobile, Alabama, praying an increase of the compensation of inspectors;

The memorial of the Hannibal and St. Joseph, Toledo, and Wabash, and the Chicago, Burlington, and Quincy Railroad Companies, relative to bridges across the Mississippi river;

Resolutions of the Legislature of California, in favor of an appropriation for the improvement of the harbor of San Diego;

A petition of citizens of California, praying an appropriation of \$30,000 for turning San Diego river into False bay;

The petition of F. A. Merrill, praying that an American register be granted to the bark Carlotta;

The memorial of the Legislature of Wisconsin, in favor of an appropriation for the purpose of building a light-house on the point of the reef at Bailey's harbor;

A petition of assistant engineers of the United States revenue service, praying that assistant engineers of the United States revenue service may receive full and formal commissions, to which their positions and the services required of them entitle them, as a mark of rank and as a distinction from other officers made simply by appointment or warrant, and for a revision of the laws relative to the distribution of prize money among revenue officers so as to include them according to rank among those entitled to receive it;

The memorial of Thomas E. Trueworthy, praying an appropriation of \$100,000 to him for the purpose of removing obstructions to the navigation of the Colorado river; and

A petition from certain Hungarian citizens of the United States, praying for the establishment of a United States consulate general at Buda-Pesth.

Mr. CHANDLER. I move that the report of the committee be concurred in with regard to the bills reported adversely, so as to have them indefinitely postponed, that they may not go on the Calendar.

Mr. NYE. The effect of that is to send them over to the next session.

The PRESIDENT *pro tempore*. That cannot be done. It leads to debate every time.

Mr. CHANDLER. Then I ask unanimous consent that the motion be put.

Mr. SUMNER. It makes no difference.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 1808) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1870, reported it without amendment.

Mr. STEWART, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 1880) to relieve certain persons therein named from the legal and political disabilities imposed by the fourteenth amendment of the Constitution of the United States, and for other purposes, reported it with amendments.

Mr. CONKLING, from the Committee on the Judiciary, to whom was referred the petition of James F. Joy, reported a joint resolution (S. R. No. 236) for the relief of James F. Joy; which was read, and passed to a second reading.

POST OFFICE AT OMAHA.

Mr. THAYER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Post Offices and Post Roads be instructed to inquire into the expediency of providing for the erection of a post-office building at Omaha, Nebraska.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President of the United States had this day approved and signed the bill (S. No. 935) to provide for a term of the circuit and district courts of the United States for the district of Vermont.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating information of his compliance with a resolution of the Senate of the 13th of January last, requesting the President to direct the Secretary of the Treasury to detail an officer to select from the public lands such prominent points upon the coast of Oregon, Washington Territory, and Alaska, as in his judgment may be necessary for light-house purposes, in view of the future commercial necessity of the Pacific coast; which was referred to the Committee on Territories, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that he had been directed by the House, in compliance with a request of the Senate, to return the joint resolution (S. R. No. 228) authorizing the Secretary of the Treasury to admit free of duty certain submarine telegraph cable.

The message also announced that the House had passed a bill (H. R. No. 2003) to authorize the county commissioners of Ada county, Idaho, to select a site for a territorial prison, in which it requested the concurrence of the Senate.

SITE FOR JAIL IN IDAHO.

Mr. NYE. I ask the unanimous consent of the Senate to take up the bill which has just been sent to us from the House of Representatives with regard to the selection of a site for a prison in Idaho Territory. The bill makes no appropriation. The appropriation is already made. Unless the bill is passed now they will have to wait for two years from this time.

By unanimous consent, the bill (H. R. No. 2003) to authorize the county commissioners of Ada county, Idaho, to select a site for a territorial prison, was read three times, and passed

IMPORTATION OF SCIENTIFIC APPARATUS.

MR. SHERMAN: The Committee on Finance yesterday reported an amendment to a House joint resolution which disposes of quite a number of cases that are upon the Calendar. I ask unanimous consent to have that joint resolution taken up and the amendment acted upon, so that the Senate Committee on Finance may know what course to pursue with regard to the other bills. It is in regard to philosophical instruments that have been imported by various colleges. I presume there will be no objection to the amendment, and in that way we can dispose of several bills on the subject.

There being no objection, the joint resolution (H. R. No. 327) authorizing the Secretary of the Treasury to remit the duty on certain meridian circles was considered as in Committee of the Whole.

The Committee on Finance reported the joint resolution with an amendment, to strike out all of the original resolution after the enacting clause, in the following words:

That the Secretary of the Treasury be, and he is hereby, directed to remit the duties on a meridian circle, imported for the observatory at Cambridge, in the State of Massachusetts, and a meridian circle imported for the observatory connected with the Chicago University, at Chicago, in the State of Illinois.

And to insert in lieu thereof:

That all books, maps, charts, statues, statuary, busts, and casts of marble, bronze, alabaster, and all paintings and drawings, etchings, specimens of sculpture, cabinets of coins, medals, regalia, gems, and all collections of antiquities, and mathematical, philosophical, and scientific apparatus imported into the United States since the 1st day of May, A. D. 1868, be admitted free of duty: *Provided*, That the same be specially imported in good faith for the use of any society incorporated or established for philosophical, literary, or religious purposes, or for the encouragement of the fine arts, or for the use or by the order of any college, academy, school, or seminary of learning in the United States.

MR. CONKLING. I move to amend the amendment by adding these words, which I ask the Secretary to insert in some place where they will be appropriate, "and chimes of bells of a kind not made in this country."

MR. POMEROY. I think we had better insert "railroad iron" also.

MR. MORRILL, of Vermont. I trust the amendment proposed by the Senator from New York will either be withdrawn or will not prevail. We have a great number of establishments in the country that make bells, and we produce the copper which forms more than ninety per cent. of the raw material for the making of the bells; and the parties who desire the particular class of bells instanced by the Senator from New York, chimes, are usually wealthy churches who are able to pay for them. I hope the amendment will not prevail.

MR. GRIMES. I wish to suggest to the Senator from Vermont that we also have manufacturers of scientific instruments. I believe there is not anybody in the world who is able to excel Mr. Alvin Clark, of Cambridge, Massachusetts, in the manufacture of telescopes and articles of that description, and he is not the only one.

MR. NYE. Nor Spencer, of New York.

MR. GRIMES. The Senator from Nevada adds "Spencer, of New York." Why should the Senate delay protection to these manufacturers of philosophical instruments? Then I should like to know why it is that we should not exempt the chimes of bells when we are going to allow all these little corporations throughout the country organized for literary purposes and library associations to import gems? What is the necessity of permitting them to import gems? What is the use in that?

MR. TRUMBULL. I will state to the Senator from Iowa that the meridian circle could not be manufactured in this country, and had to be manufactured abroad.

MR. GRIMES. The question of the meridian circle is not before us.

MR. SHERMAN. I will answer the Senator from Iowa, and perhaps he will be satisfied. The gems referred to here are the gems and regalia that are used by Odd Fellows and Masons, and I am advised of no other class by which they are used except those socie-

ties. I will say that the proposition as now introduced by the committee has been the law for years, and was not changed except by the tariff act of 1864. That law repealed the old exception that had been continued almost time out of mind by which colleges and schools and societies brought in these articles free of duty. It was found that so many applications were made to Congress to remit duties for charitable institutions—there is one for the Cornell University; there is one for the meridian circle in Boston; there is one for the meridian circle in Chicago—so many applications of this kind came for relief and remission of duties that we thought it better to restore the old provision of the law.

The Senator asked me why bells were not inserted. Simply because bells are manufactured in this country, and bells have never been exempted from duty except in special cases. We did exempt from duty a chime of bells that were put up in a college in Indiana, but there the copper was exported to France and brought back here, and the whole thing was simply an act of charity, and under the special circumstances of that case we did remit the duties on the bells. I have no objection, however, to the amendment offered by the Senator from New York except that any enlargement of this free list will naturally embarrass this bill, which is simply the restoration of the old law, which was repealed probably by inadvertence. I trust, therefore, that those who are in favor of granting this relief will not embarrass it with amendments. I cannot myself give any good reason why chimes of bells should not be introduced; but it would introduce a new element not contained in the old law, and would probably create some embarrassment in the passage of the bill. That is all there is of it. No institution, I believe, in my own State has any application for the remission of duties on articles of this sort. This only applies to institutions scattered through the country. There are several House bills which have been sent to us for the remission of duties, and we propose this general statute instead.

MR. GRIMES. The Senator from Illinois seems to be under the apprehension that this bill is only intended to exempt from duty a meridian circle. That is not the bill at all.

MR. TRUMBULL. That was the bill.

MR. GRIMES. That was the bill as it came from the House of Representatives. Now I want to show the Senator and the Senate what this bill is; and let me say it applies not only to observatories and colleges and universities, but to every little incorporated society, library, or otherwise throughout the whole length and breadth of the land.

That all books, maps, charts, statues, statuary, busts, and casts of marble, bronze, alabaster, and all paintings and drawings, etchings, specimens of sculpture, cabinets of coins, medals, regalia, gems, and all collections of antiquities—

I do not know what that cannot be made to include—

and mathematical, philosophical, and scientific apparatus imported into the United States since the 1st day of May, A. D. 1868, be admitted free of duty: *Provided*, That the same be specially imported in good faith for the use of any society incorporated or established for philosophical, literary, or religious purposes—

It includes all sorts of purposes almost—or for the encouragement of the fine arts, or for the use or by the order of any college, academy, school, or seminary of learning in the United States.

It is not even required to be for the use of a college or library, but if it is imported by the order of a college or a university it is to be admitted free of duty. The language is "for the use or by the order of any college, academy, school, or seminary of learning in the United States." Now, Mr. President, while I am in favor of throwing as few obstacles as possible upon the importation of such articles as are enumerated in this bill, I am not quite prepared to vote to put three hundred per cent. duty upon copper that is used in all sorts of domestic purposes, and at the same time entirely exempt from duty such articles as are enumerated in this bill.

The PRESIDENT *pro tempore*. The hour

of half past twelve o'clock having arrived, the special order fixed for that hour, the joint resolution (S. R. No. 231) providing for the reporting and publication of the debates in Congress, is before the Senate.

MR. SHERMAN. I hope we shall be allowed to have a vote on this bill.

MR. ANTHONY. I am willing that the special order shall lie over informally for a few minutes for that purpose.

MR. POMEROY. It will be impossible to get a vote very soon on that bill.

MR. ANTHONY. I wish it to be understood that the special order is only laid over informally.

MR. SHERMAN. If there is a general opposition to this bill I will not stand for it.

MR. CONKLING. I have no opposition to it, although I should like to say a word in explanation of my amendment whenever it is in order to do so.

The PRESIDENT *pro tempore*. It is asked that the special order be passed over informally for the purpose of proceeding with the bill.

MR. DRAKE. I object.

The PRESIDENT *pro tempore*. Objection being made, the special order is before the Senate.

DUTIES ON IMPORTED COPPER—VETO.

MR. WILLIAMS. With the consent of the Senator from Rhode Island I move to lay aside informally the special order and take up House bill No. 1327.

The PRESIDENT *pro tempore*. The Chair feels bound to lay before the Senate a message from the House of Representatives, transmitting a bill (H. R. No. 1460) regulating the duties on imported copper and copper ores, with the objections of the President of the United States thereto. The veto message will be read.

The Secretary read the veto message, as follows:

To the House of Representatives:

The accompanying bill, entitled "An act regulating the duties on imported copper and copper ores," is, for the following reasons, returned, without my approval, to the House of Representatives, in which branch of Congress it originated.

Its immediate effect will be to diminish the public receipts, for the object of the bill cannot be accomplished without seriously affecting the importation of copper and copper ores, from which a considerable revenue is at present derived. While thus impairing the resources of the Government, it imposes an additional tax upon an already overburdened people, who should not be further impoverished that monopolies may be fostered and corporations enriched.

It is represented, and the declaration seems to be sustained by evidence, that the duties for which this bill provides are nearly or quite sufficient to prohibit the importation of certain foreign ores of copper. Its enactment, therefore, will prove detrimental to the shipping interests of the nation, and at the same time destroy the business, for many years successfully established, of smelting home ores in connection with a smaller amount of the imported articles. This business, it is credibly asserted, has heretofore yielded the larger share of the copper production of the country, and thus the industry which this legislation is designed to encourage is actually less than that which will be destroyed by the passage of this bill.

It seems also to be evident that the effect of this measure will be to enhance, by seventy per cent., the cost of blue vitriol—an article extensively used in dyeing and in the manufacture of printed and colored cloths. To produce such an augmentation in the price of this commodity will be to discriminate against other great branches of domestic industry, and by increasing their cost to expose them most unfairly to the effects of foreign competition. Legislation can neither be wise nor just which seeks the welfare of a single interest at the expense and to the injury of many and varied

interests at least equally important and equally deserving the consideration of Congress. Indeed, it is difficult to find any reason which will justify the interference of Government with any legitimate industry, except so far as may be rendered necessary by the requirements of the revenue. As has already been stated, however, the legislative intervention proposed in the present instance will diminish, not increase, the public receipts.

The enactment of such a law is urged as necessary for the relief of certain mining interests upon Lake Superior, which, it is alleged, are in a greatly depressed condition, and can only be sustained by an enhancement of the price of copper. If this result should follow the passage of the bill a tax for the exclusive benefit of a single class would be imposed upon the consumers of copper throughout the entire country not warranted by any need of the Government, and the avails of which would not in any degree find their way into the Treasury of the nation. If the miners of Lake Superior are in a condition of want it cannot be justly affirmed that the Government should extend charity to them in preference to those of its citizens who in other portions of the country suffer in like manner from destitution. Least of all should the endeavor to aid them be based upon a method so uncertain and indirect as that contemplated by the bill, and which moreover proposes to continue the exercise of its beneficence through an indefinite period of years. It is, besides, reasonable to hope that positive suffering from want, if it really exists, will prove but temporary in a region where agricultural labor is so much in demand and so well compensated. A careful examination of the subject appears to show that the present low price of copper, which alone has induced any depression the mining interests of Lake Superior may have recently experienced, is due to causes which it is wholly impolitic, if not impracticable, to contravene by legislation. These causes are, in the main, an increase in the general supply of copper, owing to the discovery and working of remarkably productive mines, and to a coincident restriction in the consumption and use of copper, by the substitution of other and cheaper metals for industrial purposes. It is now sought to resist, by artificial means, the action of natural laws; to place the people of the United States, in respect to the enjoyment and use of an essential commodity, upon a different basis from other nations, and especially to compensate certain private and sectional interests for the changes and losses which are always incident to industrial progress.

Although providing for an increase of duties, the proposed law does not even come within the range of protection in the fair acceptance of the term. It does not look to the fostering of a young and feeble interest, with a view to the ultimate attainment of strength and the capacity of self-support. It appears to assume that the present inability for successful production is inherent and permanent, and is more likely to increase than to be gradually overcome; yet in spite of this it proposes by the exercise of the law-making power to sustain that interest, and to impose it in hopeless perpetuity as a tax upon the competent and beneficent industries of the country.

The true method for the mining interests of Lake Superior to obtain relief, if relief is needed, is to endeavor to make their great natural resources fully available by reducing the cost of production. Special or class legislation cannot remedy the evils which this bill is designed to meet. They can only be overcome by laws which will effect a wise, honest, and economical administration of the Government, a reestablishment of the specie standard of value, and an early adjustment of our system of State, municipal, and national taxation, (especially the latter,) upon the fundamental principle that all taxes, whether collected under the internal revenue or under a tariff, shall interfere as little as possible with the productive energies of the people.

The bill is therefore returned, in the belief that the true interests of the Government and of the people require that it should not become a law.

ANDREW JOHNSON.

WASHINGTON, D. C., February 22, 1869.

The PRESIDENT *pro tempore*. The question, "Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?" and on that question the Clerk will call the roll.

The question being taken by yeas and nays, resulted—yeas 38, nays 12; as follows:

YEAS—Messrs. Abbott, Anthony, Cameron, Catell, Chandler, Cole, Conkling, Corbett, Drake, Frelinghuysen, Harlan, Harris, Howard, Howe, Kellogg, McDonald, Morgan, Morrill of Vermont, Morton, Nye, Osborn, Patterson of Tennessee, Pomeroy, Pool, Ramsey, Rice, Ross, Sawyer, Sherman, Spencer, Stewart, Thayer, Tipton, Wade, Warner, Welch, Wiley, and Williams—38.

NAYS—Messrs. Buckalew, Davis, Dixon, Ferry, Fessenden, Grimes, McCreery, Sumner, Trumbull, Van Winkle, Vickers, and Whyte—12.

ABSENT—Messrs. Bayard, Conness, Cragin, Doolittle, Edmunds, Fowler, Henderson, Hendricks, Morrill of Maine, Norton, Patterson of New Hampshire, Robertson, Saulsbury, Sprague, Wilson, and Yates—16.

The PRESIDENT *pro tempore*. On this question the yeas are 38 and the nays are 12. Two thirds of the Senators present voting in the affirmative, the bill is passed.

PUBLICATION OF DEBATES.

Mr. ANTHONY. I now call up the special order.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 231) providing for the reporting and publication of the debates in Congress. It reads as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congressional Printer is hereby authorized and directed, on and from the 4th day of March, 1869, to report and publish the debates in Congress under the direction of the joint Committee on Public Printing.

SEC. 2. *And be it further enacted, That for the purpose aforesaid there shall be appropriated and paid out of any money in the Treasury not otherwise appropriated—dollars,*

Mr. ANTHONY. Mr. President, at the close of the last session of Congress, in an appropriation bill, was a section repealing from and after the 4th of March, 1869, all acts authorizing the publication of the congressional debates, and directing the joint Committee on Printing to invite proposals for the publication of the actual proceedings and debates in Congress upon a plan and specifications to be previously published by them, and to ascertain the cost of such publication by the Superintendent of Public Printing, and to report as soon as practicable such proposals and estimate of cost to Congress.

In conformity with this direction of Congress the joint Committee on Printing invited proposals and instructed the Congressional Printer, who has succeeded to the office of Superintendent of Public Printing, to make estimates of the cost of printing the debates in the Government Printing Office. Only two proposals were received. One was received from the present contractors, Rives & Bailey. The other was received from Mr. Crowell, of New York. It is but fair to say in the beginning that the Congressional Globe by Rives & Bailey has been printed to the entire satisfaction of Congress. The work has been done well and promptly, and we have had no complaint of it. Like good air and good water and good health, we do not hear anything about it until we begin to miss it. It is reported that they have made a large sum of money out of their contract, and I suppose it is true. It is very proper that they should. Men who put in capital and skill and business ability and integrity ought to make money.

The proposals of Mr. Crowell are accompanied with abundant testimonials of his ability, professional, mechanical, and pecuniary, to transact the business.

The bid of the present contractors is considerably larger than either of the others. The other proposal is so near that of the Congress-

sional Printer that the difference is not worth estimating. There is \$10,000 difference in the bids.

Under these circumstances the committee, not agreeing entirely as to the best mode of proceeding with the work, directed me to report two joint resolutions, one of which has just been read. My own judgment is that the will of Congress will be best carried out by giving this work to the Government Printer. If it is to be taken from the present contractors (and there is a responsible bid considerably lower than theirs) it seems to me it should be done by the Government Printer, unless there is a considerable difference between his estimate and the bid of the lowest contractor. The difference is very small indeed. We have a Government Printing Office which has worked very well—has been, we think, the means of saving large sums of money to the Government; and if we print anything there I do not know why we should not print the Globe there as well as anything else.

I anticipate that any change will cause considerable annoyance to Congress, and especially to those who will probably be charged with the immediate oversight of it. I look with a good deal of apprehension, if it should please the Senate to keep me for the next two years in the place where I am now, to the troubles we shall have from any change. But these are the days of economy, and the bid of Rives & Bailey is much higher than either of the others.

Mr. FERRY. What is the difference? How much would be saved by a change?

Mr. ANTHONY. The bid of Messrs. Rives & Bailey is according to report \$389,000 against the estimate of the Congressional Printer of \$276,000. But these figures are subject to considerable reductions; and I think the difference between the two bids, making the proper corrections, is about fifty-five or sixty thousand dollars a Congress; that is, for two years.

Mr. WHYTE. May I ask the chairman of the committee whether or not in that \$55,000 there is not a difference of some \$20,000 in regard to the binding.

Mr. ANTHONY. No; my estimate deducts the binding. Leaving out the binding and the paper—the paper being an uncertain item and the binding being estimated by the Congressional Printer so much lower than by either of the other bidders that it would probably be for the interest of the Government to have it done at the printing office as it is now—leaving out both of these items I think the difference is about what I stated; but my friend from Maryland, who has investigated this matter carefully, may have the exact figures, and if so I should defer to them.

Mr. GRIMES. What do you recommend?

Mr. ANTHONY. That the work be given to the Congressional Printer, with very great doubts whether any system can be initiated that will give so much satisfaction as the one we have now.

Mr. WILLIAMS. How much will it save?

Mr. ANTHONY. Fifty-five or sixty thousand dollars a Congress.

Mr. TRUMBULL. That is two years?

Mr. ANTHONY. Yes, sir. The saving will be fifty-five or sixty thousand dollars on the Thirty-Ninth Congress. It is rather more than that now.

Mr. TRUMBULL. That is the estimate?

Mr. ANTHONY. The estimate is considerably more than that, and the reductions to which I have referred reduce the amount.

Mr. WHYTE. As a member of the joint Committee on Printing I deem it proper to offer a substitute for the resolution which is now before the Senate, and I send it to the desk and ask that it be read.

The Chief Clerk read the proposed amendment, which was to strike out all of the resolution after the resolving clause and insert the following:

That the joint Committee of Congress on Public Printing is hereby authorized to contract, on behalf of the General Government, with Rives & Bailey for the reporting and publishing of the debates in

Congress for the term of two years on and from the 4th day of March, 1869, in accordance with the proposition submitted by them, (excluding paper and binding.) *Provided*, That before the United States shall be called on to pay for any reporting or publication of the debates the accounts therefor shall be submitted to the joint Committee on Public Printing, or such other officer or officers of Congress as they may designate, and on their or his approbation thereof, as being in all respects according to the contracts, it shall be paid for from the Treasury of the United States, after having passed to the proper accounting officers thereof.

Sec. 2. *And be it further resolved*, That in case the joint Committee on Public Printing are unable to conclude a contract with said Rives & Bailey, or that they be unable to fulfill any contract that they may make, the joint Committee on Printing be authorized to have the debates reported and printed under the direction of the Congressional Printer at the Government Printing Office.

Sec. 3. *And be it further resolved*, That for the purpose aforesaid there be appropriated and paid out of any money in the Treasury not otherwise appropriated — dollars.

Mr. WHYTE. Before proceeding to make a very brief statement to the Senate in regard to this matter of printing, I move that the time of the morning hour be extended twenty minutes in order to enable me to dispose of this matter.

Mr. GRIMES. I hope that motion will not be made until the chairman of the Committee on Appropriations shall come in.

Mr. ANTHONY. I have no doubt that by common consent this matter will be allowed to go on after the expiration of the morning hour. It is a subject that we must dispose of.

Mr. WHYTE. With that understanding I will proceed. As the chairman of the Committee on Printing has stated, between this time and the 4th of March it is necessary for the two Houses of Congress to determine in what manner the reporting and publication of their debates must be continued, whether by a new contract with some contractor or by directing its execution at the Government Printing Office under the supervision of the Congressional Printer. The last act, under which the present contract with Rives & Bailey was made, was passed on the 4th of July, 1864, (Statutes-at-Large, p. 392 of vol. 13.) By a subsequent act of Congress (vol. 14, p. 470, sec. 11) notice was given that on the 3d of March, 1869, this contract should cease, and on the 20th of July, 1868, all the laws on the subject were repealed, and the contract ends with the present Congress. It is therefore absolutely necessary, if it is in contemplation to continue this parliamentary history of our country, that some immediate action should be had in the premises.

It seems to me to be utterly idle to consider Mr. Crowell's proposition, to undertake at this late moment to make a contract with a private individual from a distant city, unprepared with presses and type, buildings and materials, reporters and proof-readers, and all the other paraphernalia of such an undertaking, for the execution of this work, beginning on the first day of the session of the Forty-First Congress. In the brief statement which I wish to make I shall not, therefore, consider the bid of Mr. Crowell, whose Christian name is as uncertain as are his proposals, for he appears on page 5 of the report of the committee as John T., Joseph T., and W. T. I do not think it at all consistent with prudence or common sense for the small difference between his bid and the estimate of the Congressional Printer to embark upon a sea of uncertainty with so important a work before us.

The whole matter seems to me to resolve itself into the inquiry whether we should for a small sum and in a spasm of retrenchment abandon a long-tried and successful mode of presenting to the people a full and authentic report of the congressional debates and enter upon a new mode; that is, the reporting and publication of the debates under the direction of the Congressional Printer at the Government Printing Office.

It is true the estimate of the Congressional Printer and the amount paid to the contractors for the Thirty-Ninth Congress are both apparently far below the present proposal of Rives & Bailey, but a close examination of the items

in detail shows the difference between the two last estimates really to be about twenty-six thousand dollars a Congress, or \$13,000 a year. The report of the committee, made in pursuance of the resolution of July 20, 1868, on page 5, shows the estimates to be as follows:

Rives & Bailey.....	\$389,454 96
J. T. Crowell.....	261,149 30
Congressional Printer.....	276,494 84

for two sessions of Congress.

This estimate is made upon the basis of the cost of the Daily and Congressional Globe for the Thirty-Ninth Congress.

Now, the reason why the proprietors of the Globe continued the work at the old prices for the Thirty-Ninth Congress was because of the sale of sets of back numbers for new members, which is to terminate on the 4th of March next. If, then, you add to the amount paid them for the current work of that Congress the sum of \$49,000 for these back numbers, the amount would stand thus:

<i>Rives & Bailey, (page 3 of Report No. 248.)</i>	
A. Paid for quarto Globes.....	\$156,939 70
B. Paid for Daily Globes.....	66,520 89
C. Back sets.....	223,460 59
	49,000 00
D. Extra compensation to reporters.....	272,460 59
	16,000 00
It leaves amount paid.....	\$288,460 59
Now, then, take their proposals, made to the joint committee, for the future, thus.....	\$389,454 96
Deduct from this the new service required, to wit, 500 Daily Globes at.....	\$9,000 00
Binding 84,152 volumes.....	66,059 32
	75,059 32
	314,395 64
And then take the amount paid for Thirty-Ninth Congress.....	288,460 59
And we have an excess of.....	\$25 935 05

The Senate will perceive that under a new contract all the demand for back numbers is cut off, and the stereotype plates used for the past work will be lost to the contractors, and yet they are required to do some seventy-five to eighty thousand dollars' worth of additional work, besides which, under the eight-hour system enforced by congressional legislation, a very considerable burden has been placed upon these contractors.

To save this sum, then, it is proposed to take the work from the present contractors and have it done at the Government Printing Office. It is conceded on all sides that the Government office is not large enough for this purpose and would have to be enlarged, and in addition, although no estimate is made of such an expense, can it be doubted that new officers at high salaries will be required to supervise all this work, and by this means a large sum added to the estimate of the Congressional Printer? No estimate of this additional expense is made by Mr. Defrees, but who doubts that the moment you put this vast work in the Government Printing Office you are to create new officers to take charge of it at high salaries: proof-readers, superintendents, superintendents of the reportorial corps, &c., with enormous salaries? for it is not pretended that the force now employed at the Government Printing Office can discharge this additional service. I do not mean the compositors, but I mean the force of supervisors, of superintendents. Without knowing how many new officers—for there is no estimate of that; all that is left out of view—you will have to create to discharge their respective duties under this new proceeding, without knowing the salaries that they will demand—and every man who knows anything of the salaries paid now to printers and to foremen of composing-rooms and press-rooms, &c., knows that these men demand and receive high and sometimes exorbitant salaries, because they are men highly educated in their profession—without any estimate of all these items we are asked to commence a new system to save a paltry sum that will not be missed.

Again, I feel sure, from what I have learned in the investigation which it was my bounden duty to make as a member of the joint Com-

mittee on Printing that I might faithfully report to the Senate what I had learned upon the subject, that the estimate for binding is made too low by the Congressional Printer. He estimates the binding at fifty-two cents, and I am satisfied it cannot possibly be done at that price. Seventy-eight cents is the price which all the binders seem to consider as the fair and proper one.

And, remarkable to say, in an estimate made by an officer of the Government—made by the Congressional Printer, into whose hands it is sought to confide this highly important work of reporting the debates and proceedings of Congress—I find no estimate whatever for the folding of the quarto Globe, although if Senators will look at the report of the committee they will find that for the Thirty-Ninth Congress the sum of \$8,479 09 was paid for folding alone. There is not one farthing estimated for that item on which that amount was paid for the Thirty-Ninth Congress, and no explanation upon his part as to why it is not there.

Senators will see that I state it correctly: if they will look upon page 3 of the report of the committee No. 248. Eight thousand four hundred and seventy-nine dollars and nine cents is the amount; and if they will look at the Congressional Printer's estimate on page 4, not one dollar is estimated for that work. One third of the difference, one third of the \$25,000 for which I have shown these contractors at present offer to do the work exceeding what they received for the Thirty-Ninth Congress, is explained by this item, which is not included in the estimate.

Mr. MORTON. I should like to inquire of my friend from Maryland what is the difference between the contract price of the Globe proprietors and the estimated cost by the Public Printer and the proposition made by Mr. Crowell?

Mr. WHYTE. The difficulty of coming at that is, that the Congressional Printer has made the estimate in such a way that I have had to dissect it. I say there is a very material difference in his estimate from the estimate made by the Globe contractors, and a much less sum on Mr. Crowell's part, less even than the Congressional Printer. The difference, I suppose, is about forty thousand dollars.

Mr. ANTHONY. I think that the revised estimates of Mr. Crowell, making the necessary deduction for stereotyping, which was put into the Congressional Printer's estimate and not into Mr. Crowell's estimate, reduced the estimate of the Congressional Printer a little below that of Mr. Crowell, but the difference is very small either way.

Mr. WHYTE. I was speaking of the estimate as reported. I have seen this morning for the first time a correction by Mr. Crowell of his bid.

Mr. ANTHONY. Yes.

Mr. WHYTE. A very great difference. He makes a difference of not less, if I remember correctly, than \$16,000.

Mr. ANTHONY. About sixteen thousand dollars.

Mr. MORTON. Below the Globe?

Mr. WHYTE. No; above his former bid. The bid has nothing in it. When he is brought down to the point and sees the estimate of the Congressional Printer, and discovers that if that stands it will put him in a false light, he corrects it by showing a difference in the amount he bid for of \$16,000; that is to say, now he increases his bid \$16,000 over what it was when it was first presented to the committee.

Mr. ANTHONY. I do not think there is anything unfair in this correction that Mr. Crowell makes. In the first place my friend from Maryland will remember we got from the Congressional Printer the actual cost of printing the debates of the Thirty-Ninth Congress, that being the last Congress for which the Globe had been completed and printed. Then we took the bid of Rives & Bailey and took the bid of Mr. Crowell and reduced each of them to the basis of the Thirty-Ninth Congress; that is to say, we ascertained what it would have

cost to print the proceedings of the Thirty-Ninth Congress upon the bid of each of these persons. We then submitted this estimate to each of the bidders, to Rives & Bailey and to Mr. Crowell, to ask them if the reduction of their bid to the Globe of the Thirty-Ninth Congress had been properly made, as my friend will remember. Then each of them returned an answer showing some particulars in which the bids had not been correctly reduced. That of Rives & Bailey referred to an item which was put in all the bids, and therefore did not affect any of them, or affected them all alike. That of Mr. Crowell—

Mr. WHYTE. Will the chairman allow me to make a suggestion? Rives & Bailey did not alter their bid at all. All that they excepted to was that the \$16,000 extra compensation voted by Congress to the reporters ought not to be charged against them; but that was a mistake on their part, because it was charged against everybody.

Mr. ANTHONY. But Mr. Crowell objected to the manner in which his bid had been reduced to the Thirty-Ninth Congress, and explained his own meaning of his bid, which was all perfectly proper, because as the bid was not an offer for a contract, but merely a proposal, and if we had occasion to draw up a contract with him it would be proper that we should know precisely what his understanding of it was.

Mr. WHYTE. I did not mean to impute anything to Mr. Crowell at all. I only meant to say that upon the reexamination of the matter his statement shows that it would require \$16,000 more than what he originally proposed to pay him according to his idea.

Mr. ANTHONY. That is so.

Mr. WHYTE. I have not considered his bid because Congress in no law that I know of has ever laid it down as a requirement that the lowest bid shall be taken, but in all the laws it is "the lowest and best bid." It must be both; and such was the character of his bid, as far as it came to me and as far as my mind took it in; such was his condition, without any means at his disposal here in Washington, without any presses, without any sort of preparation to go to work on the 4th of March, that I considered that that bid could never be considered the best bid, and therefore it was not worthy of consideration at all.

Mr. CAMERON. I used to know something about this business of printing. It was a long while ago, to be sure, and I do not know so much about it now; but I know enough to convince me that the printing of the Globe and the reporting also can be done for a great deal less money than we pay. The Senator from Maryland says that if we employ the Public Printing Office we shall have to add thirty or forty thousand dollars to the stock of the office.

Mr. WHYTE. May I ask the Senator if he proposes to ask me a question?

Mr. CAMERON. No, sir.

Mr. WHYTE. I have not concluded.

Mr. CAMERON. I said the Senator from Maryland had stated in his speech that if we employed the Public Printer the Government would be put to the expense of some thirty-two thousand dollars, according to an estimate which was made for the purpose of restocking that Printing Office. I understand from the Public Printer that that sum will be required for the ordinary printing, but not a dollar more in consequence of this change. Persons acquainted with the printing business can very well understand that when you have an establishment perfectly stocked with its types and presses you can increase the amount of business very largely without correspondingly increasing the cost. In other words, you have to keep a great amount of type on hand that you may not use. You must have it whether you have a larger amount of work or a smaller amount. We must begin some time. We are paying too much money for this publication of the Globe. Everybody knows it, and yet everybody is disinclined to make a change, because it is believed to be unkind to the owners of the job. These gentlemen have made a large fortune

out of it. Two generations of them, and two generations, of two families, making four generations, have made very large fortunes out of this Globe contract.

Mr. WHYTE. I must ask the Senator to allow me to conclude my remarks.

Mr. CAMERON. I beg your pardon.

Mr. WHYTE. I gave way, but I desire to conclude what I have to say.

The PRESIDENT *pro tempore*. The Senator from Maryland had the floor.

Mr. CAMERON. I hope the Senator from Maryland will excuse me. I thought he sat down.

Mr. WHYTE. I perceived that, and therefore I thought it my duty to interrupt you. I was going on to say that in the estimate of the Congressional Printer there is no calculation at all for the expense of folding.

Mr. ANTHONY. I am sorry to interrupt my friend, but I know he wishes to make the statement with accuracy.

Mr. WHYTE. I do.

Mr. ANTHONY. The estimate of fifty-two cents a volume for binding includes the folding and gathering. The Congressional Printer told me so this morning, and he has just repeated it to me.

Mr. WHYTE. Then I am satisfied that his estimate is simply ridiculous.

Mr. ANTHONY. It is the estimate of the foreman of the bindery.

Mr. WHYTE. I do not think another man engaged in the business can be found anywhere who will put such an estimate on the binding of these volumes. I have made inquiry and it is utterly impossible, if you deduct \$8,000 from the amount calculated for the binding, that it can be done for any such price. Nor is there any estimate for wastage of paper. All that is lost sight of in the Congressional Printer's estimate, which all printers will tell you is a loss of from three to five per cent.

Besides all this there is no calculation for the wear and tear of machinery or for the presses, the wear of type, or of the buildings. There is not one dollar of estimate for all this; and yet I take it that when a contractor bids for Government work he brings into view all those expenses and adds a reasonable and proper profit, which nobody ought to be unwilling to allow him upon that estimate.

Nor is there anything in the estimate of the Congressional Printer to show that the paper estimated for is as good as or inferior to the paper now used or contemplated to be used by Rives & Bailey.

Again, on page 5 of Report No. 248, the estimate of the Congressional Printer for the Daily Globe—and I ask the attention of Senators to this important fact unexplained, and I ask the chairman of the Committee on Printing to explain it if he can, after his conversation with Mr. Deffrees or with anybody else—is \$120,610 52; while the same work, as done by Rives & Bailey for the Thirty-Ninth Congress, and this estimate is based upon the standard of the Thirty-Ninth Congress, amounted to \$82,520 89, showing a difference in favor of Rives & Bailey of \$38,089 63.

Mr. ANTHONY. But they do not propose to continue it at that price. Rives & Bailey will not continue to publish the Globe at the present prices.

Mr. WHYTE. I grant it; but I am showing that the estimate of the Congressional Printer upon the standard of the price which they received is \$120,000. But then take their present proposition, and how do we find it? The Congressional Printer's estimate is \$120,610 52; while the present bid of Rives & Bailey is \$116,350 70; making a difference in favor of Rives & Bailey, on their present bid, of \$4,259 82. It is in the quarto Globe, by some means or other, that the difference is made between Rives & Bailey's present bid and the estimate of the Congressional Printer; but in the Daily Globe, without any reason why, the estimate of the Congressional Printer exceeds their present bid for the same work \$4,259 82.

Now, Mr. President, I say there is so much uncertainty in this estimate, so much that is inexplicable, so much that is not clear to the mind of the Senate, that they ought not to depart from that mode of printing and reporting these debates adopted in 1833, and only departed from in 1846, I think, or 1847, when it was given temporarily to the Union office and the National Intelligencer office, from whom Congress was glad enough to take it back and give it again to the Congressional Globe. With all this uncertainty, and for the purpose of saving so small a sum in a mere spasm of retrenchment, I say Congress ought not to do it. If you make a contract with these gentlemen you know exactly how much the Government has to pay. They are bound by their contract, and bound by a bond with it, and if it exceeds the amount which you have agreed to pay them it is their misfortune. But if you take the Congressional Printer's estimate of what it will cost to do this work and it turns out at the end of the next Congress that he made a mistake of twenty-five or thirty thousand dollars, what have you to do? You have got to pay it, and there is no escape.

Mr. President, no man is more in favor of economy and retrenchment than I am; but no man who knows the people knows better than the Senator who is the chairman of the Committee on Printing that the people never complain that the Government money shall be expended in having its work done well. They never sit down to calculate a few dollars when it is simply upon the subject of the execution of work. It is when you squander the public money; it is when you give large subsidies to corporations; when you engage in class legislation; when you vote enormous grants of land to corporations which do not meet their approval that the people speak out; but they believe in the doctrine that the laborer is worthy of his hire; and the people never find fault because a few thousand dollars in excess of what probably the same work might have been done for is expended, if the execution of the work is satisfactory to the people.

One word in conclusion. I admit that these gentlemen have been engaged, both their predecessors and themselves, for a long time in this service. That only makes them the more able to discharge with fidelity the duties imposed upon them; and while I am unwilling to pay any more than is reasonable and proper for their work, I do think that if their present bid is not accepted the power ought to be lodged with the joint Committee on Printing of both Houses to make a proper and a fair contract with these gentlemen, and not discharge them now and leave us on the 4th of March next with a hiatus in the reporting and publication of the debates. They submitted their proposal for six years. I would not give them a contract for six years. I propose to give it to them for two years, for the Forty-First Congress, and then, if during those two years it can be discovered that other, better, and more competent men can be employed as contractors or employed in your Government Printing Office to take charge of this work, it will be time enough to pass a resolution of the character proposed by the joint Committee on Printing.

Mr. ANTHONY. The Senator from Maryland has enumerated various items of expenditure in the cost of publication, which he says are not included in the estimate of the Congressional Printer. This is a mistake. I suppose no estimate has been made of the rent of the building, but the items of wastage of paper, wear and tear of machinery, wear and tear of type, are included in the statement submitted by the Congressional Printer just as much as they are in the other bids. They are put in the general statement of cost. If we estimated all these items they would make a very long list.

The binding, folding, and gathering are estimated in the Congressional Printer's estimate at fifty-two cents. That seems very low, but it is the estimate of the foreman of the bindery,

who is a very accomplished man in his business. He says he can do it for that, and he thinks he can do it for less than that. That is the price he puts down, and it is hardly proper for us, because it seems low, to say that we will give a man seventy eight cents for doing that which our own officer says he can do for fifty-two cents.

I have no doubt that the Congressional Printing Office can do this work as cheaply as it can be done by anybody, and that whatever money a contractor can make on it will be saved by the Government, subject, of course, to the deduction that must always be made for Government work in competition with private work. It always costs rather more. The eight-hour system, which has been imposed upon the Government Printing Office increases very much the cost of publication; but it equally increases the cost of publication at all private offices here, and these bidders have been obliged to take that into consideration in their estimates.

Mr. WHYTE. May I ask the Senator from Rhode Island whether he states that the Congressional Printer himself made out these estimates?

Mr. ANTHONY. He revised them. I do not know that he made them out originally; probably not; but he revised and examined them, and they are all his estimates.

Mr. WHYTE. Then may I ask the Senator whether he could explain some of these estimates when he was asked?

Mr. ANTHONY. He explained them all according to my satisfaction.

Mr. WHYTE. I ask the Senator whether he could explain the estimate of Crowell in regard to indexing and folding one hundred and one signatures?

Mr. ANTHONY. I understood that matter of folding and indexing one hundred and one signatures in this way: each index contains about twenty signatures, and the indexes are put in all the volumes. There are five volumes, and that makes a hundred signatures.

Mr. WHYTE. The Senator will pardon me. I did not ask him what he understood; I asked him if the Congressional Printer could explain it until I made a suggestion to him.

Mr. ANTHONY. I do not recollect. I know that we looked it all over together, and that was the conclusion we came to. At all events I think it is of very little consequence what are the items that make up these estimates. Here is the total at which Rives & Bailey say they will do it; here is the total at which Crowell says he will do it; and here is the total for which the Congressional Printer estimates that he can do it. However the items may vary we have the total estimate.

Mr. HENDRICKS. Will the Senator allow me to ask him a question?

Mr. ANTHONY. Certainly.

Mr. HENDRICKS. Who is Mr. Crowell, and what establishment has he under his control at which this work can be done, and what connection, if any, has he heretofore had with the public printing?

Mr. ANTHONY. When a bidder comes to us with a proposal, as Mr. Crowell has come, certified to by men like the Appletons of New York, by men like the publishers of the New York Times, and by others not inferior in respectability, we do not go into his biography and past history. He offers to do this work, and they testify that he is a man abundantly able in capacity, in mechanical skill, and in professional ability to do it. I understand that he has been connected heretofore with the public printing, but I never saw him, and his name is not at all familiar to me; nor did I think it desirable to go behind such certificates as he adduced to us.

Mr. HENDRICKS. Are these certificates from gentlemen who propose to go on his bond?

Mr. ANTHONY. I do not know.

Mr. HENDRICKS. I suppose they give statements that he is a respectable gentleman?

Mr. ANTHONY. There is no doubt in my judgment of his ability. These gentlemen

testify to his ability to fulfill any work he may undertake in the way of printing and to his ability and integrity.

Mr. HENDRICKS. I ask the Senator if he was not connected with the public printing when it was in the charge of Mr. Wendell?

Mr. ANTHONY. I do not know. I am told that he was at one time connected with the public printing, and it may have been under Mr. Wendell.

Mr. HENDRICKS. The reason the question suggested itself to my mind was, that when the change was made by which the printing was taken away from Mr. Wendell by a change of the law, I opposed the proposition, and made some remarks to the Senate about it; and then it happened that on the same morning Mr. Wendell and Mr. Defrees both came to me and urged me to withdraw my opposition, as I stated that day in the Senate, and I wanted to know whether this gentleman was connected with the public printing at that time.

Mr. ANTHONY. He cannot have been connected with the public printing since it has been done at the Government office, unless in some subordinate capacity, which I suppose he would not have been likely to take. Ever since the Senator from Indiana has been in this body the public printing has been done at the Government office by the Superintendent of Public Printing, or the Congressional Printer. Of course Mr. Crowell could have had no connection with him except as one of his subordinates, and I never knew that he was one, and I supposed he was a man of larger capacity and business than would be likely to take such a place. I could ascertain the fact, however, if it be deemed desirable to be known. I think Mr. Crowell was connected with the public printing before my day in some capacity, as contractor, or printer of blanks; but I do not know that. All I know of him is the testimonials he presents, and those are perfectly satisfactory.

Mr. CAMERON. Mr. President, I have only a word to say, and it is in corroboration of what has been said by the chairman of the Committee on Printing. I think as guardians of the public interest it is our duty to save \$60,000, as we can do by giving this work to the Government Printing Office. One reason why they can do the work there cheaper is that they have all the management paid for; they have the building, they have the types, presses, bindery, &c., paid for.

Mr. WHYTE. May I ask the Senator from Pennsylvania if he states that they can do this work in the present building?

Mr. CAMERON. I did not say that. They have asked for an appropriation of \$22,000, as I understand, to increase the building which is necessary now for the present work they do. When that appropriation is made and the building extended they will have room enough for the publication of the Globe. There is no mistake about this. That clear-headed old gentleman over there in the corner [pointing to a reporter] does the reporting, which gives all the credit to the Congressional Globe that it has, and he does it for the pay of a subordinate. The gentlemen who have had the contract have several families to support; they have the proprietors of the establishment, they have their clerks and foremen, and their buildings, and their type, presses, &c., to put into the cost; and therefore of course they will require a larger sum to make a profit than the work can be done for at the Government Printing Office.

Besides, the estimate that the Senator from Maryland makes about the binding is to my mind very clear. On the one side, the Globe proprietors ask seventy-eight cents a volume for binding; the Congressional Printer estimates its cost at fifty-two cents. There is twenty-six cents profit. That is a profit which has enabled these gentlemen, a number of them, to make the large fortunes they have. I do not complain about it.

Mr. WHYTE. My proposition excludes the

binding, leaving that to be done as it is now, by the Government.

Mr. CAMERON. Why should not the whole work be done by the Government Printing Office as well as the binding? I do not know anything about the gentleman who puts in the bid that is said to be lower than any other. I have always been in favor of letting our printing be done by contract. A long while ago I obtained the passage of the bill here giving it to the lowest bidder, and we got the work very well done, and we saved more than half the price which had been paid before that on the same amount of work. But now we have a Government Printing Office here; we have to support it, and we may as well compel it to do as much work as it is capable of doing.

I know how difficult it is to change a contract of this kind. The Senator from Maryland says let us make a contract for two years and try it. We have been making these experiments for fifteen years. It will be just as difficult to settle this matter in two years as it is now. Now, by ending the present arrangement we do no harm to the contractors; they have had abundant profits; they are rich; they have made more money than they need, a great deal more than they need, out of this contract. Let us now try some other experiment, and if the Public Printer does not do it cheaper for us, then we can give it to the lowest bidder or adopt some other plan.

As to the hiatus the Senator talks of in the reporting, nothing of that kind will occur. We can in five minutes pass a resolution that the same corps of reporters who are here now shall continue to report our debates. Their manuscript will not spoil; their notes and the copyings of these notes will be here, and in a very few days a printing office can be in condition to put them in type. It is just a question to my mind whether we shall save a certain sum, \$60,000 a year, and I believe it will be double that next year, or whether we shall throw that money away.

Mr. FRELINGHUYSEN. Mr. President, I understand the difference between the estimate made of what it will cost the Government and the contract is not \$60,000 a year, but only \$40,000. I think that that margin is not enough to compensate the Government for the risk it runs—that the estimate is not accurate.

Mr. CAMERON. Forty thousand dollars is a good deal of money to save in a year. I do not know how it is in New Jersey; but it is so regarded in my State.

Mr. FRELINGHUYSEN. I am told the whole cost is \$150,000 a year. We are told this change will be a saving of \$40,000; but how is that estimate made? That estimate is made not by a person who is going to take the contract and who is unaffected entirely by the question whether his estimate is correct or incorrect, and I have not a great deal of confidence in it. Besides, I believe it is the true interest of the Government to make as few contracts, to undertake as few jobs, whether in printing or in building railroads or canals or anything of that character, as possible; but to make contracts with individuals and make them strictly and have them rigidly enforced.

Mr. MORRILL, of Vermont. I believe that we have got one or two or three printing offices at the Treasury Department and other places, and that they have resulted disastrously so far as economy is concerned. If this change should be made I have no idea but that instead of making \$40,000 for every two years of congressional printing we should run under at least \$50,000 a year. It is not to be expected, in the first place, that this printing can be done without a building equal in extent and capacity to the buildings now occupied for the purpose of pursuing this business by the Globe office; and we are either to rent such buildings or to make appropriations for their construction hereafter, and we are to employ a large additional force. The present amount of business that is under the control of the Superintendent of Printing is enough for the

ambition of any one man without adding anything more to it. We give him all of our congressional printing and we give him that of the internal revenue department, and we have recently thrown upon him the purchasing of all the stationery used in any branch of the Government, as I understand.

Mr. ANTHONY. That has only passed the House of Representatives.

Mr. MORRILL, of Vermont. It has passed the House at any rate. Now, Mr. President, the parties who have been engaged in this business are enterprising men. It is shown by the very proposals they have made here, when they are made with the expectation of any amount of competition, that they cannot do the work for such sums as have been paid to them heretofore. That shows at least that their profits heretofore have not been extravagant, have not been more than the same amount of capital and the same amount of business tact and energy ought to have made.

I do not believe that we are on the road to retrenchment by making this change; but I believe that if it should be made we should revert and turn back to the same system within four years. I trust that we shall allow the Committee on Public Printing to make a contract with the present proprietors of the Globe.

Mr. MORRILL, of Maine. I gave notice yesterday that to-day at one o'clock I should ask the Senate to consider the Army appropriation bill. If this is likely to occupy more time I shall feel called upon to interpose; but if no more discussion is to take place I shall not make the motion.

Mr. ANTHONY. I do not know how long it will occupy, but I think it will occupy less time now than at any future day. I think we ought to dispose of it before we adjourn. I have no more interest in it than any other Senator.

Mr. MORRILL, of Maine. I am appealed to on both sides to allow this matter to go on for a few moments.

Mr. SHERMAN. I should like to ask my friend from Rhode Island if the contract with the Globe expires on the 4th of March as the law at present stands.

Mr. ANTHONY. It does. The contract expires; and if the Government had not given notice to the contractors of the termination of the contract the contractors themselves would have given notice to the Government. The profit which they have derived from printing the Congressional Globe has been derived from furnishing back sets to new members of Congress. That amounted for the Thirty-Ninth Congress to \$49,000; and as they are printed from stereotype plates it is fair to suppose that from one half to two thirds is profit. They say that Congress now having cut off that source of profit it will be impossible for them to go on with their work at the present prices.

Mr. MORRILL, of Maine. I will not insist on my motion at present.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 2004) establishing the term of office of the House of Representatives and providing for biennial sessions of the Legislative Assembly of the Territory of Montana;

A bill (H. R. No. 2005) declaring the lands constituting the Fort Collins military reservation in the Territory of Colorado subject to pre-emption and homestead entry as provided for in existing laws; and

A bill (H. R. No. 1744) to strengthen the public credit and relating to contracts for the payment of coin.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 1864) for the repeal of tonnage duties on Spanish vessels; and it was thereupon signed by the President *pro tempore*.

NAVAL APPROPRIATION BILL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 1599) making appropriations for the naval service for the year ending June 30, 1870, disagreed to by the House of Representatives; and

On motion by Mr. MORRILL, of Maine, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. GRIMES, Mr. HENDRICKS, and Mr. NYE.

HOUSE BILLS REFERRED.

The bill (H. R. No. 2005) declaring the lands constituting the Fort Collins military reservation in the Territory of Colorado subject to pre-emption and homestead entry as provided for in existing laws was read twice by its title, and referred to the Committee on Public Lands.

The bill (H. R. No. 1744) to strengthen the public credit and relating to contracts for the payment of coin was read twice by its title, and referred to the Committee on Finance.

MONTANA TERRITORIAL LEGISLATURE.

Mr. COLE rose.

Mr. NYE. Will the honorable Senator give way one moment? The bill for biennial sessions of the Legislature of the Territory of Montana provides simply that the citizens of Montana Territory may elect their legislators for two years in compliance with the now existing law. It is a question we have had before our committee, and it is very well understood; and it is necessary to pass the bill for the purpose of complying with the enabling act.

The PRESIDENT *pro tempore*. The bill may be taken up at this time if there be no objection.

Mr. COLE. I do not know how long it may take. I rose to call up the unfinished business of last night, which I suppose takes precedence of all other business.

Mr. NYE. It will not occupy a moment.

By unanimous consent, the bill (H. R. No. 2004) establishing the term of office of the House of Representatives and providing for biennial sessions of the Legislative Assembly of the Territory of Montana was read three times and passed. It provides that hereafter the members of the House of Representatives of the Territory of Montana shall be elected for the term of two years; that the sessions of the Legislative Assembly shall be biennial, and that the Legislative Assembly at its first session after the passage of the act shall provide by law for carrying its provisions into effect.

PUBLICATION OF DEBATES.

Mr. COLE. I move that the Senate proceed to the consideration of the unfinished business of yesterday.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is Senate bill No. 247, to amend an act entitled "An act to provide for the greater security of the lives of passengers on board of vessels propelled in whole or in part by steam," and for other purposes. The question is on the amendment of the Senator from Nevada, [Mr. NYE.]

Mr. MORRILL, of Maine. I wish to say one word. If this is to occupy time I think I ought to ask for a postponement; if not, and the friends of the bill think it can pass without debate, I have no objection to a vote being taken upon it. If it is to occupy time, I think I ought to ask for its postponement, and to move that the Senate proceed to the consideration of the Army appropriation bill.

Mr. CORBETT. I think it will take but a few minutes to pass this bill.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Nevada, [Mr. NYE,] which will be read.

Mr. ANTHONY. Is my joint resolution displaced?

The PRESIDENT *pro tempore*. The joint resolution is superseded by the unfinished business of yesterday.

Mr. ANTHONY. I thought the unfinished business was laid aside to take it up.

The PRESIDENT *pro tempore*. It overran the time, and the Chair did not call up the unfinished business until attention was called to it.

Mr. ANTHONY. The matter we were engaged upon is almost in the nature of a privileged question; but I do not mean to press it as such. I have the same interest in it that all other Senators have.

Mr. MORTON. As we are informed that the Globe contract terminates on the 4th of March it seems to me to be imperative on Congress to take some action one way or the other, or we shall after that time find ourselves without reporters and printers. We ought to determine one way or the other about the thing now.

Mr. ANTHONY. I move to postpone the bill that has been called up as unfinished business for the purpose of continuing the consideration of the joint resolution which was pending during the morning hour.

The motion was agreed to; and the consideration of the joint resolution (S. R. No. 231) providing for the reporting and publication of the debates in Congress was resumed as in Committee of the Whole.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment offered by the Senator from Maryland, [Mr. WHYTE,] which will be read.

Mr. WHYTE. Before my amendment is read I should like to refer the Senate to page 5 of the Congressional Printer's last annual report. There the Senate will see the immense amount of unfinished work he has already on his hands, and they can then determine whether it had better be added to or diminished.

Mr. ANTHONY. I wish to make a suggestion to my friend from Maryland. The amendment directs the joint Committee on Printing to contract with Rives & Bailey according to their proposition. Now, it seems to me that if we are to contract with Rives & Bailey their proposal is so much higher than the estimate of the Congressional Printer, and so much higher than the bid we have received from a person who brings to us abundant evidence of his capability to perform the work, that the price ought to be left blank. I should not desire myself, unless under the specific instructions of Congress, to contract at the price named in their proposal.

Mr. WHYTE. I have no objection to such a modification if the committee desire it.

Mr. FESSENDEN. I suggest to the Senator from Maryland whether it would not be better to put in "if they can make a contract satisfactory to the committee."

Mr. WHYTE. I am perfectly content.

Mr. FESSENDEN. Put it in that shape.

Mr. WHYTE. I will strike out the words "according to their proposition."

Mr. FESSENDEN. We may get it cheaper. As it stands now, the question is whether we should gain or lose by it. My opinion is that we should only lose by attempting to do it, because I think it is overburdening the Public Printer, and I think those men have done the work so well and so long that their judgment as to what they can do it for, as they certainly must be very desirous of getting the contract, is a good deal better than the judgment of anybody else.

Mr. SHERMAN. If in the opinion of the Senate the printing of the Globe should be done by private persons, and not by the Public Printer, I would much prefer to leave the whole matter of making a contract to the Committee on Printing. Certainly I would not require them to make a contract with any particular person, but would give them the most unlimited power to make such a contract as in their judgment would secure the purpose of the law—a full report of the debates of Congress. My own opinion is, and has been for

two or three years, that since we have already established a Bureau of Printing, if I may say so, a great printing establishment, this additional work of printing the proceedings of Congress may be added to that establishment without very much enlarging it or very much changing it. The publication of our debates, although very voluminous, is but little in comparison with the vast work that the Government Printing Office is now doing, and doing well, and doing cheaper than it was done before. There is no doubt about the comparison of the figures of the cost of printing now and the cost of printing before the war; taking into consideration the advance in the price of materials, we save largely on the work done by the Congressional Printer. The whole establishment has been a success so far as I know.

My friend from Vermont awhile ago alluded to the printing of the Treasury Department. I can show by statistics that the cost of doing what has been done in the Treasury Department by the private corporations in New York who used to print our bank bills would have been twice or three times as great as what it has been in the Treasury. My friend from Maine [Mr. FESSENDEN] can testify better as to that, but the fact is that the cost of printing in the Treasury Department has been greatly under that which would have been paid to private companies.

Mr. MORRILL, of Vermont. I do not deny that for a specific job the work has been done cheaper at the Treasury Department, but I insist that it has brought with it a large amount of unnecessary printing that has been done in the Treasury Department, and which involves the Government in a vast increase of expense.

Mr. SHERMAN. While I am on my feet I will state that I concur substantially in the view of the Committee on Printing, that this work being a Government work had better be done and controlled like all the other Government printing in the Government Printing Office. I would not establish a Government Printing Office for the purpose of printing the debates of Congress, but since we have such an establishment, and since this will be only a comparatively small addition to the labor, I think it ought to be done there. The Government Printing Office now binds the Globe; it has to buy the paper for that purpose; it now does all the kinds of work that would be done if it was compelled to print the Congressional Globe, except to provide for the reporting. The reporting is done by a corps of experienced gentlemen, who, I suppose, cannot be improved in the United States. No doubt they will be retained. Probably no better or more experienced persons for that business could be employed anywhere. They will undoubtedly be kept. The only change will be that their manuscript, instead of being sent to the office of Rives & Bailey, will be sent to the Government Printing Office. Now the sheets that come from the press of Rives & Bailey are sent to the Government Printing Office to be bound, so that all the additional work that will have to be done in the Government Printing Office is to put up the types and stereotype them and print these sheets. It seems to me that if by this process we can save fifty or sixty thousand dollars we ought to do it, even upon the narrow ground of economy; but I believe on other grounds it is better to have this whole matter done under Government supervision in the Government Printing Office. I shall therefore vote for the resolution of the committee.

Mr. WILLIAMS. It appears to me that this resolution, with the amendment as now presented, is unobjectionable. According to the resolution as amended the Committee on Printing is required to make a contract with Bailey & Rives for the publication of the Globe, and there are no terms prescribed. They are not required to contract according to the proposition made by Rives & Bailey, but they are left to their discretion to make as good a contract as they can with these persons. If they do not succeed in making a satisfactory contract with these persons, then the resolution

provides that the printing may be done at the Public Printing Office. Can the resolution be put in any better shape than that? It seems to me that that is all that Congress can require. Let the committee proceed. It is possible, after this discussion and after further consultation with these gentlemen, that they will prefer to take this printing at a reduced price rather than to have it transferred to the Government Printing Office. If they do not consent to do that, then let the committee, according to the second section, take the printing and put it at the Government Printing Office, and have it conducted there under their supervision. It seems to me that this is the best shape in which the proposition can be put. I hope we shall pass it.

Mr. POMEROY. I think we ought to take the sense of the Senate in regard to the question whether we shall transfer this work to the Government printing establishment or not. I am for that.

Mr. ANTHONY. That is precisely what the committee wish, some indication of the disposition of the Senate on the subject.

Mr. POMEROY. I was going to say that if the Senate decline to make the transfer, then I want the committee to make as good a contract as they can, but let the question first be determined whether we will transfer it. I am for that. I do not see why we want to run two establishments. If we run one printing establishment why should not it do the whole work?

Mr. SHERMAN. In order to get at a result without wasting much time, I will submit a motion that will bring it to a direct vote. I move, as an amendment to the proposition of the Senator from Maryland, a simple proposition that the printing of the Congressional Globe shall, after the 4th of March next, be done at the Government Printing Office. That will bring a direct vote.

Mr. ANTHONY. But the amendment of the Senator from Maryland is an amendment to that very proposition.

Mr. SHERMAN. But I offer it as an amendment to the proposition of the Senator from Maryland.

Mr. ANTHONY. Then you offer the original proposition as an amendment to an amendment to that proposition?

Mr. SHERMAN. We shall get a vote in that way.

Mr. ANTHONY. Very well.

Mr. POMEROY. Let us get a vote on something.

Mr. SPRAGUE. Unless in the proposition the Congressional Printing Office is permitted to make sales of the daily issues of the Globe and of the quarto volumes after they are printed they cannot in any way print as cheaply as the present contractors. Can the Government Printing Office sell its publications to the public?

Mr. ANTHONY. Yes. There is a general law that allows any document ordered by Congress to be sold, the price of it being paid before it is printed.

Mr. SPRAGUE. Here is a public and enterprising company that sell during the session the issue of the Globe for ten dollars. It costs between six and seven dollars to the Government for the copies furnished Congress. They sell copies during the session of Congress, as they are issued daily, for ten dollars a copy. Then, for the five volumes that are published by Congress they get thirty dollars. The price that they get outside will enable them to compete successfully against the Congressional Printing Office or anybody else. That is as I understand it, and as I have been informed is the condition in which this printing business is.

Mr. ANTHONY. They undoubtedly have an advantage on the private subscriptions to the Globe.

Mr. SPRAGUE. It will enable them to print at a much less rate. The correct way, in my judgment, to manage this business is to authorize the Printing Committee to make a contract for doing it either with contractors or

with the Government Printing Office, and give them a discretion in the matter.

Mr. HENDRICKS. Mr. President, nothing is more deceptive than public estimates; we know that in the great body of the work that is done for the Government, the construction of public buildings and repairs and all that. Now, sir, I have very little confidence in the estimates that are presented here from the bureau of public printing, if it may be so called. I do not believe that this printing will be done at the Public Printing Office for the price that we are paying to the present company. I do not expect it to be done for that price. I know that the Government never does work as cheap as individuals do it. Ordinarily we can pay individuals for work done and a reasonable profit, and save money to the Government, rather than do it directly through the agents of the Government. This work has been carried on a long while by this office to the satisfaction of members of Congress. It reflects credit upon the Government, and I am very reluctant to see a change made. In the course of a Congress I believe it is now claimed that there can be a change made in favor of the Treasury of forty or fifty or sixty thousand dollars. When we come to test it by experience I think that the change will be the other way; it will cost that much more than it does now.

But, sir, as we have the work done to the entire satisfaction of Congress now I would not risk a change for the possibility of saving that amount. While I do not believe we shall save it—on the contrary I believe it will be more expensive—I would not make the change for that small sum. It is a valuable work. It contains the history of Congress. It is done now by responsible parties. They are responsible to their profession as well as to Congress and to the people for the style in which the work is done. I should regret to see a change made. It is very clear that the work ought not to be given to this other competitor for it. There is no prospect that it will be done as we should desire. And as between the Public Printing Office and the Globe office I prefer leaving it where it is.

I have an old attachment perhaps to this office that influences my judgment somewhat. I knew it when it was carried on by Mr. John C. Rives. I had a great respect for him, and do not regret that he made a reasonable profit on the work that he always conducted according to his contract and continued with honor until he made it one of the creditable works in connection with the public service. I do not regret that he made some profit upon it. The fact referred to by the Senator from Pennsylvania, that he amassed a respectable sum of money is not a reason for taking it away. We expect men when they do work to make some profit, and if the profits are uniform and reasonable in the course of a long series of years they will amount to a respectable sum. I do not understand that the fortune is a very great one, not as much perhaps as has been made by many gentlemen in their ordinary private pursuits, but a respectable fortune as I understand, though what it is I am not prepared to say. That is not a reason for taking work away unless it appears that the price paid is an unreasonable one. If an unreasonable one, then the correction ought to be made, of course. I do not understand that the present price is an unreasonable one, and therefore I shall vote to leave this work where it is. I believe it is to the advantage of the Government to leave it there.

Mr. CORBETT. Mr. President, I look upon this something in the light of an old faithful bookkeeper or friend that has been in your employment for a great many years. If I had a bookkeeper that was in my employment, and had been for twenty or thirty years, that had always been faithful, who had done his business to my satisfaction, always been trusty, and I had found him in every way worthy, I should feel myself bound to continue him in that position as long as he behaved himself in such a manner as to command my confidence and appro-

bation. This business, as I understand, has been conducted to the satisfaction of Congress; and for the sum of \$20,000 a year to change this printing to a source which perhaps may not be so satisfactory to every gentleman in Congress seems to me very unwise.

The work is now done to the satisfaction of every one of the Senators here present, I have no doubt. The courtesy extended by this printing establishment has been uniform to every member of Congress; and we have no complaint. The price it seems to me is not above perhaps what should be reasonable as a profit over and above the cost of the printing of this work. The estimate is that the actual cost will be something like \$20,000 a year less to the Government than it would be under the auspices of this private company. That is not more than a reasonable amount of profit for these individuals; and these people pay their taxes and contribute to the support of the Government as does every other business. It seems to me it would be unwise to change this printing at this time. I shall vote for keeping it where it is.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Maryland.

Mr. WILLIAMS. Let the amendment be read as modified by the mover.

The Chief Clerk read it, as follows:

Strike out all after the resolving clause, and insert: That the joint Committee of Congress on Public Printing is hereby authorized to contract, on behalf of the General Government, with Rives & Bailey for the reporting and publication of the debates in Congress for the term of two years on and from the 4th day of March, 1869: *Provided*, That before the United States shall be called on to pay for any reporting or publication of the debates, the accounts therefor shall be submitted to the joint Committee on Public Printing, or to such other officer or officers of Congress as they may designate, and on their or his approbation thereof as being in all respects according to the contract, it shall be paid for from the Treasury of the United States, after having passed the proper accounting officers thereof.

Sec. 2. *And be it further resolved*, That in case the joint Committee on Public Printing are unable to conclude a contract with the said Rives & Bailey, or that they be unable to fulfill any contract that they may make, the joint Committee on Public Printing be authorized to have the debates reported and printed under the direction of the Congressional Printer at the Government Printing Office.

Sec. 3. *And be it further resolved*, That for the purpose aforesaid there be appropriated and paid out of any money in the Treasury not otherwise appropriated the sum of \$350,000, or so much thereof as may be necessary.

Mr. MORTON. I have no faith myself in the Government directly procuring heavy work of this kind to be performed cheaper through its own immediate agents than by contract. It is contrary to all governmental experience. Wherever the Government has work to be done of a continuous or important character it has uniformly been found to be cheaper to let it out, under fair terms of contract, than to undertake to execute the work itself.

If the Government has a harbor to repair or construct, or any public work to do, it has been found cheaper by experience to let it out by contract than for the Government to undertake, through its own agents, to hire the hands and execute the work. The Government tried that experiment once in the construction of the Cumberland road. The construction of that road was first put under the care of engineers, with authority to employ superintendents and agents, to hire the hands and construct the road, without the intervention of contractors; and I believe it is a notorious fact that the work cost the Government at least twice what it would have cost if it had been let out under fair terms of contract; and more than that, it progressed far more slowly than it would have done if it had been fairly contracted for.

Why, sir, the operation of this principle is so well understood that railroad companies, private corporations, where they have a railroad to construct, will not undertake to construct it directly by their own agents. Some roads have attempted that; but they have been, I believe, uniformly unfortunate. I remember one instance where a railroad company undertook to build a road through its own super-

intendents, to employ hands, and superintend them; and after having partially constructed the road it was compelled to abandon that system and resort to the ordinary one of contract, where the work is let out to contractors under fair competition.

Now, sir, if the Government of the United States can save money by undertaking to execute a long and heavy work of this kind, directly through its own agents, I undertake to say it will be the first time that that experiment has ever been successful. As I said before, it has been tried in regard to railroad companies, where the parties managing the company were directly parties in interest; and it has been found, even with regard to railroad companies, that it is to their advantage to let the work out to contractors and allow the contractors to make fair profits, and that they can construct the work cheaper and faster.

As this is the almost universal experience with regard to the Government in other particulars, with regard to corporations, with regard to the construction of all works of improvement, it seems to me there is no reason to suppose that the Government can execute this particular work cheaper through its own agents than it can by contractors, with fair competition. What I should like to see—I do not know whether it is possible now or not—would be that this work should be thrown open to fair competition to the lowest bidder. I am of the opinion that if this thing was properly published, and if there was time for it, there are heavy printing establishments in New York, Boston, and Philadelphia, where they have ample material, where they have entire experience and an abundance of presses and type, and all the necessary machinery that could set up a branch establishment here and could do this work perhaps cheaper than is either offered by Mr. Crowell or by the Globe company. But, sir, that the Government will save anything, as even compared with the bid of the Globe company, by undertaking to do it itself, I entertain the gravest doubts.

Mr. ANTHONY. Will the Senator allow me one word?

Mr. MORTON. Certainly.

Mr. ANTHONY. The Senator will notice that there is a second joint resolution reported from the Committee on Printing, under the instructions of the act, which does give this contract to the lowest bidder. It was not exactly in the nature of a bid, because we were not authorized to receive a bid, but only proposals, and to report them to Congress, and we have reported the lowest proposal we received, and another joint resolution gives the contract to the party making that proposal.

Mr. MORTON. I understand that; and I have no doubt the committee have done all in their power to present this subject to Congress in the best possible manner. But, sir, if the Government can save money by doing this work itself rather than having it done by contractors it is an exception to every other kind of work that the Government has to perform. It is an exception to the almost universal experience so far as the Government and the States are concerned, and even private corporations.

Mr. GRIMES. The first thing to be done will be to build a new printing-house.

Mr. ANTHONY. That we have got to do anyhow.

Mr. FESSENDEN. Mr. President, I think we carry our notions of economy to a very considerable excess without stopping to consider what may be the result finally. There are two propositions before the Senate. One is to give this work to the lowest bidder. Let us look a little at the nature of it. It is not simply a matter of printing and binding; it is a matter of reporting; it is a matter of getting up the material, stating properly, succinctly, and accurately what we do here. That is a part of the contract. These men who are to furnish the reports of the debates employ the reporters; they are responsible for the accuracy of the reports;

they are responsible for the accuracy of the work that is done. It is a matter of skill, a matter of experience, a matter of judgment. If we have this work done at the Government Printing Office, although I have as much confidence in the Superintendent of Public Printing as any man can have, and believe he does his work well, faithfully, and carefully, yet, after all, he is but a Government agent, and there is no personal responsibility on him. He makes no contract. He will do it as well as he can; but how is he situated? I understand from the chairman of the committee that the Superintendent has no desire to do this work. He does not want to increase his own labors. He says he can do it if Congress requires it; that it can be done at the Government Printing Office; but it is tacking an additional burden upon what already is heavy enough for any one man; and he, after he takes it, would be a mere agent of the Government, and he would be no more responsible in one sense of the word for the accuracy of it by any contract he would make, pecuniarily, than we should ourselves.

Now, sir, it is an old adage, and one that is well worth thinking of, that it is best to let well enough alone. We all know that this reporting has been exceedingly well done. It is done well, not only on the part of the reporters themselves, with whom we have every reason to be abundantly satisfied in every particular, but it has been done well on the part of the contractors who are responsible for the execution of the work.

It is said that they have got rich. I do not know how that may be; I know nothing about their fortunes; but I know that Mr. Rives was repeatedly before Congress and demonstrated to the satisfaction of Congress that he could not do this work unless he was allowed certain sums and certain privileges. That he made himself comfortable in his fortune is very true; and I agree with the Senator from Indiana [Mr. HENDRICKS] that he deserved to make himself comfortable and to make a reasonable sum of money and to be independent.

Now, sir, experience is everything. In that building, having all the necessary material to carry on this work, has been the experience of years, and a most satisfactory experience. Suppose we let this out to the lowest bidder. As has been said here, he has not a printing office; he has got to begin on the 4th of March; he has not a printing office here; he has no materials ready; everything is to be prepared. How shall we be situated until he gets well under way and gets the thing going? We shall have innumerable complaints and innumerable errors. It is in the nature of things that it should be so. Instead of going on with old experienced hands who are already accustomed to the work—and it needs practice and experience—we have new hands. I take it that nobody thinks seriously of making a contract on such terms unless we can be satisfied that the work shall go along correctly.

Then the only question that presents itself is, shall we save so much money? If we can save it as well as not and do this work I should be very glad to save it; but it is the merest experiment in the world. No man's judgment is infallible. The idea that the Public Printer, with all the labor that he has upon his hands, the vast amount of work he has to perform, can take this work at once under his control and do it as well as those who have had it for their only work to be accomplished is to my mind perfectly incomprehensible. I do not see how any gentleman should think it possible. I care not who has this work so that it is well done.

I am among those who believe that in these times the reporting of the proceedings of Congress has become a necessity. It is a necessity to the public and it is a necessity to the members of Congress themselves. It is satisfactory to the community. They want to know what is being done, and they want to know with some degree of accuracy what is being

done. The idea suggested by my honorable friend from Indiana [Mr. MORRILL] that we can let it out to printers in New York, Boston, &c., does not strike my mind as at all feasible, that we can accomplish anything by it. I do not believe that the lowest bidder is one half the time the cheapest bidder for the person with whom he contracts.

Now, sir, the matter can be easily understood. The Committee on Printing are practical men. My friend who stands at the head of it [Mr. ANTHONY] is certainly acquainted with his business. I am perfectly willing to pay the present publishers a fair and reasonable profit, and with this competition before them they cannot get any more than a fair and reasonable profit. Then, what is this proposition? Bear in mind that the idea of change, and change at once, includes all the risks of change; the risks with regard to accuracy in the first place; the risks with regard to promptitude; the risks with regard to final expenditure, final cheapness, and real economy. That has got to be an experiment. We only have an opinion to begin with. Then, what is the objection to this proposition? I am in favor of letting well enough alone if we can afford to do so. I am in favor of letting this work be done as it has been done, by the same men, if they will do it on reasonable terms, such as we ought to accept; because, being satisfied with the mode in which they have done it, I feel more safety while in their hands if they continue to do it.

Therefore I shall vote for the amendment of the Senator from Maryland, because it puts it into the hands of the committee to make a contract with those who have performed their contracts well hitherto and whom we know by experience to be prompt and capable of doing all this work, if you can make a contract with them on satisfactory terms, such you ought to make. If you cannot do it, then you have the Congressional Printer at hand, and then from necessity will be obliged to take the risk of that experiment. I shall be willing to take it under those circumstances, and I would rather take it now than contract with any new men; but I should prefer to go on as we have been going on if we can be satisfied that in so doing we are really advancing or not injuring the interests of the Government in relation to that particular matter.

I am not in favor of leaving ourselves in the power of any set of men who can make their own terms for work; and I make this remark with reference to what fell from my friend from Vermont [Mr. MORRILL] in regard to the printing at the Treasury. I have no doubt, from my knowledge of affairs there, that millions have been saved to this Government by the fact that the Treasury took into its own hands, under the direction of Secretary Chase, the printing of the notes, bonds, &c. Prior to that time we were in the hands of men who could make their own terms, and did make their own terms, and it was an absolute necessity to be independent of them. I believe if any experiment in the world has been a success that experiment has been a success, and a very great success; and all the investigations that have been had with reference to the conduct of it, so far as I know, have resulted in nothing but the discovery of some irregularities in keeping the accounts, but in no discovery of any serious wrong or any serious loss. I know that when I first went into the Treasury Department I felt exceedingly troubled about it, and I watched it with exceeding care. The thought that troubled me when I went to my pillow at night was the fear that something or other would happen with regard to the printing of notes and bonds in the Treasury Department that would involve me in responsibility as the head of it. But, sir, I believe, with all the scrutiny and all the examination and everything that has been done to find out what the result of it has been, the conclusion to be arrived at must necessarily be that it has been a remarkable success in itself, and free from any very particular injury or loss to the Government in any way, nothing to be

compared with what has been stated. I say this simply with reference to that remark made by the Senator from Vermont, in order that I might express my opinion publicly on this subject so far as my knowledge of it extends.

Mr. SPRAGUE. Whenever the Government have had anything to sell as a general thing the result has been that they have had to sell it at a much less price than it was worth. Take the sales at the close of the war of all the Army and Navy material, and you find that the combinations that have been made against the Government in the purchase of all those materials have been to the Government's disadvantage. Contracts for the doing of any work of the Government are of the same character, in my judgment, and contractors for printing outside can as readily be bought off and the contract obtained at a higher price unless proper restrictions and proper guards are placed around it so that the contracting party or the Government may have some leverage against these combinations. Now, then, it strikes me that the Committee on Printing are the proper power or persons to execute these contracts; and it is also proper, in my judgment, that in addition to that power being conferred upon them they should be able to use the Government Printing Office as a part of the power or privilege or advantage which they would have in making the contract. For myself I do not believe that it is possible for the Government Printing Office to print the debates as cheaply or as well as those who have been accustomed for so long a time to do it; but I believe that having that office at their disposal the committee would be able to contract to much better advantage for the Government than they would otherwise be able to do. As I have said, the compensation that the contractors now have is in the sale of the books otherwise made than to Congress, by which they are enabled to contract at a low price, and that part can be pushed to a greater extent than it is now. With wise attention given to it by the Committee on Printing the printing of the Congressional Globe can be obtained from the present contractors to better advantage, in my judgment, than it can in any other way. I would have the discretion left with the Committee on Printing to use the Government office in the event that they could not obtain satisfactory prices out of the present contractors or others.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maryland.

Mr. ANTHONY. I ask my friend from Maryland to modify his amendment. It directs the committee to contract with Rives & Bailey according to their proposals.

Mr. WHYTE. No, sir; I have modified it in that particular.

The amendment was agreed to.

Mr. SHERMAN. I should like to have it read now just as it stands.

The CHIEF CLERK. The joint resolution, as amended, reads as follows:

Be it resolved, &c. That the joint Committee of Congress on Public Printing is hereby authorized to contract on behalf of the General Government with Rives & Bailey for the reporting and publication of the debates of Congress for the term of two years on and from the 4th day of March, 1869: *Provided*, That before Congress shall be called on to pay for any reporting or publication of the debates the accounts therefor shall be submitted to the joint Committee on Public Printing or to such other officer or officers of Congress as they may designate, and on their or his approbation thereof, as being in all respects according to the contract, it shall be paid for from the Treasury of the United States, after having passed the proper accounting officers thereof.

SEC. 2. And be it further resolved, That in case the joint Committee on Public Printing are unable to conclude a contract with the said Rives & Bailey, or that they be unable to fulfill any contract they may make, the joint Committee on Public Printing be authorized to have the debates reported and printed under the direction of the Congressional Printer at the Government Printing Office.

SEC. 3. And be it further resolved, That for the purpose aforesaid there be appropriated and paid out of any money in the Treasury not otherwise appropriated the sum of \$350,000, or so much thereof as may be necessary.

Mr. SHERMAN. I should like to insert the

word "satisfactory" before "contract," because I wish to leave the committee some discretion. They undoubtedly can make a contract with Rives & Bailey; but I wish to make the matter discretionary with them to make a satisfactory contract.

The PRESIDENT *pro tempore*. That amendment will be made if there be no objection.

The joint resolution was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made in Committee of the Whole.

Mr. ANTHONY. I ask for a division on that amendment. There was no division before. I do not wish to continue the discussion.

The amendment was concurred in, there being on a division—ayes 24, noes 11.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

ARMY APPROPRIATION BILL.

Mr. MORRILL, of Maine. I now ask the Senate to proceed to the consideration of the Army appropriation bill.

Mr. COLE. I suppose that will displace indefinitely the unfinished business.

Mr. MORRILL, of Maine. I have no objection to laying that aside informally by general consent.

Mr. COLE. I have no objection to that if it will come up immediately after this bill is disposed of.

The PRESIDENT *pro tempore*. The Senator asks the unanimous consent of the Senate to lay this bill aside informally. If there be no objection that course will be taken, and the bill (S. No. 247) to amend an act entitled "An act to provide for the greater security of the lives of passengers on board of vessels propelled in whole or in part by steam," and for other purposes, is before the Senate, the pending question being on the amendment offered by the Senator from Nevada, [Mr. NYE.]

Mr. MORRILL, of Maine. I moved to take up the Army appropriation bill. My remark was, in reply to the Senator from California, that I had no objection that his bill should go by informally while we considered the Army bill. Otherwise I make the motion to take up that bill.

The PRESIDENT *pro tempore*. The Senator from California wanted to get up his navigation bill.

Mr. MORRILL, of Maine. Was his bill before the Senate?

The PRESIDENT *pro tempore*. There is nothing before the Senate.

Mr. MORRILL, of Maine. There being nothing before the Senate I move to proceed to the consideration of the Army appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1803) making appropriations for the support of the Army for the year ending June 30, 1870, and for other purposes.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) If it is the pleasure of the Senate the amendments reported by the Committee on Appropriations will be acted upon as they are reached during the reading of the bill. No objection being made, that will be considered as the sense of the Senate.

The Chief Clerk proceeded to read the bill.

The first amendment of the Committee on Appropriations was in line eight, to strike out the words "one hundred and" before "fifty;" so that the clause will read:

For expenses of recruiting and transportation of recruits, \$50,000.

The amendment was agreed to.

The next amendment was in line seventeen, to reduce the appropriation "for payments to discharged soldiers for clothing not drawn" from \$500,000 to \$200,000.

The amendment was agreed to.

The next amendment was in line twenty, to

increase from \$60,000 to \$100,000 the appropriation "for contingencies of the Army."

The amendment was agreed to.

The next amendment was to insert after line twenty-four the following:

For the purchase of artificial limbs for officers, soldiers, and sailors, \$40,000.

The amendment was agreed to.

The next amendment was in line forty-eight, to strike out "three" and insert "five," so as to make the appropriation for the regular supplies of the quartermaster's department \$5,000,000.

The amendment was agreed to.

The next amendment was in line fifty, in the clause making an appropriation for the general and incidental expenses of the quartermaster's department, to strike out the words "general and" before "incidental."

The amendment was agreed to.

The next amendment was in line eighty-eight, to insert the words "the purchase of;" so that the clause will read:

For the purchase of horses for cavalry and artillery, \$250,000.

The amendment was agreed to.

The next amendment was in line one hundred and eighteen, to strike out "five" and insert "eight;" so as to make the appropriation for the transportation of the Army \$8,000,000.

The amendment was agreed to.

The next amendment was after line one hundred and twenty-five, to strike out the following proviso:

Provided, That the commanding officer of the post where any land of the United States is occupied by any civilian for a private purpose, is required to charge rent for the same; the amount of which rent shall be ascertained by advertising for proposals before the 1st day of July in each year in at least one paper in the State or Territory in which the land lies, and the same shall be let to the highest bidder therefor, for the year next ensuing, subject to the approval of the Secretary of War, provided said land shall be vacated by the tenant, on notice, when the exigencies of the service may require, without any claim for damages for removal: *And provided further*, That the Quartermaster General shall be authorized, in like manner, to lease any lands or buildings of the United States under the charge of the War Department, during the time in which the same are not needed for the use of the Government, and the proceeds thereof shall be covered into the Treasury of the United States.

The amendment was agreed to.

The next amendment was in line one hundred and fifty-three, to strike out the words "pay for" and to insert the word "purchase."

The amendment was agreed to.

The next amendment was to strike out the second section of the bill, in the following words:

SEC. 2. *And be it further enacted*, That until the military force is reduced to twenty regiments of infantry, five regiments of cavalry, and five regiments of artillery, no new commission shall be issued in any regiment; and the Secretary of War is hereby directed to consolidate regiments as rapidly as the requirements of the public service and the reduction in the number of officers will permit until the aforementioned minimum is reached.

The amendment was agreed to.

The PRESIDING OFFICER. The amendments reported by the Committee on Appropriations have now been gone through with.

Mr. WILSON. I offer an amendment from the Committee on Military Affairs, to insert in lieu of the second section, which has been stricken out, the following additional sections:

SEC. —. *And be it further enacted*, That the President is hereby authorized and directed to reduce the Army of the United States as rapidly as the interests of the public service will permit, in the manner and to the extent hereinafter specified: the number of infantry regiments shall be reduced to thirty by consolidation, and no more enlistments shall be made into the infantry or artillery until the number of enlisted men in each regiment falls below the minimum number prescribed by law, and thereafter the number of enlisted men shall not exceed the minimum. No appointments of brigadier generals shall be made until the number be reduced to less than eight; and thereafter there shall be but eight brigadier generals in the Army.

SEC. —. *And be it further enacted*, That hereafter the term of enlistment shall be five years.

SEC. —. *And be it further enacted*, That all officers rendered supernumerary by the provisions of this act shall be assigned to vacancies which may occur in their respective grades, and no appointments other

than graduates of the Military Academy shall be made to fill vacancies in any grade until all such supernumerary officers of that grade shall have been so assigned.

SEC. —. *And be it further enacted*, That of the fifteen bands now in the service, organized under the provisions of section seven of an act entitled "An act to increase and fix the military peace establishment of the United States," approved July 28, 1866, all except the band at the Military Academy shall be honorably discharged without delay, and shall receive full pay and allowance to the date of such discharge: *Provided*, That there shall be enlisted in each regiment a chief musician, who shall be instructor of music, with a salary of sixty dollars a month and the allowances of a quartermaster sergeant.

I hope there will be no objection to this amendment.

Mr. MORRILL, of Maine. I do not know that I rise to object.

Mr. GRIMES. This amendment is to take the place of the second section, which has been stricken out. I think the third section ought to be stricken out also.

Mr. WILSON. It will not do any harm to let that stand.

Mr. MORRILL, of Maine. I will say one word, not in the way of objection. The estimates for the expenditures for the Army for this year were about fifty-six million dollars. The Committee on Appropriations in the House of Representatives proposed a reduction to \$42,000,000. That was based upon the assumption of the probable reduction of the Army by natural causes. The bill as it came to the Senate from the House of Representatives appropriated a fraction over \$29,000,000; but that reduction seems to have been made during the progress of the bill upon the probability that the House of Representatives was to adopt some measure by which the Army should be reduced some twenty-five thousand men, rank and file; but when the bill came to be concluded the House failed to adopt the proposition which reduced the Army in that way. The Committee on Appropriations of the Senate, looking at this state of facts, have increased the appropriations to about thirty-four million dollars, I think. I ought to say that that reduction is upon the assumption that the Army from natural causes or by the future action of Congress will be greatly reduced. It is only upon that assumption that this sum is deemed adequate. Now, the chairman of the Committee on Military Affairs interposes to provide for that reduction. I do not rise to object to it, but simply to say that if it has been matured by the Committee on Military Affairs and they deem it advisable I do not object to it.

The amendment was agreed to.

Mr. WILSON. I now move to strike out in the third section, lines four and five, the words "in the ordnance department, in the engineer department;" so that the section will read:

That until otherwise directed by law there shall be no new appointments and no promotions in the Adjutant General's department, in the Inspector General's department, in the pay department, in the quartermaster's department, in the commissary department, and in the medical department.

The amendment was agreed to.

Mr. WILSON. I propose to add at the end of the first section the following amendment:

For continuing and concluding the field work of the expedition and survey of the fortieth parallel, under the direction of the Secretary of War, \$50,000. And the Secretary of War is hereby authorized to have prepared and published the report of the results of the exploring expedition and survey of the line of the fortieth parallel: *Provided*, That the cost of the same shall be defrayed out of existing appropriations in the War Department: *And provided further*, That the letterpress work shall be done at the Public Printing Office.

I hold in my hand a report made by the chief of engineers, indorsed by the Secretary of War and recommended by the General-in-Chief of the Army, asking for \$200,000 for the purpose of military surveys in the country. The Committee on Military Affairs thought, as this report came here so late, that we had better not move an amendment covering that large amount of money; but as this work is under way the committee report an appropriation of \$50,000 instead of \$200,000.

Mr. TRUMBULL. Who is doing it?

Mr. WILSON. The engineer department. Mr. GRIMES. I should like to know what practical benefit this survey of the fortieth parallel is to be.

Mr. WILSON. It is a military survey of the fortieth parallel.

Mr. GRIMES. What is it for? Is it to find a place to build a fort, or to find a place for a railroad or a plank-road or a wooden road?

Mr. DAVIS. I do not understand the object of a survey of that parallel, and I should like the chairman of the Committee on Military Affairs to explain it.

Mr. WILSON. I will not press this amendment if there is any doubt or question about it; but I have here a report of General Humphreys, chief of engineers, stating that a certain appropriation for surveys had been stricken out of the river and harbor bill and recommending an appropriation of \$200,000 for military surveys. The Secretary of War sends it here and indorses it thus:

"The sum asked for is for military surveys, estimated in the annual estimates of the engineer's department of the Army for the next fiscal year, to be transferred from the river and harbor appropriation bill, in which it has been put by Congress, to the Army appropriation bill."

The river and harbor bill, which contained that appropriation, will probably not pass at this session. The General-in-Chief of the Army sent a letter to the chairman of the Committee on Appropriations of the House of Representatives recommending this action to Congress and sustaining the report of General Humphreys and the Secretary of War. The committee thought the sum of \$200,000 was a large sum to put on the bill for military surveys, but they thought it well to finish the work already begun on the fortieth parallel, and they report this appropriation of \$50,000 to do that and for the printing of the report which will be made in regard to it. I am not at all strenuous about the amendment. If the Senate does not wish to put on this sum, let it go.

Mr. GRIMES. I believe the Senator has withdrawn his amendment.

The PRESIDING OFFICER. Does the Senator from Massachusetts withdraw his amendment?

Mr. WILSON. I will do so if there is any opposition to it. I do not care anything about it.

Mr. MORRILL, of Maine. I did not know what it was for, except that I had communications for the first time sent to me to-day from the House after they were—

The PRESIDING OFFICER. The Chair understands the amendment to be withdrawn.

Mr. COLE. I offer the following amendment, to come in as a proviso after the ninety-third line on the fifth page of the bill:

Provided, That section seven of the act of March 2, 1867, entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," shall be construed to include the traveling expenses of such California and Nevada volunteers as were honorably discharged by reason of expiration of term of service, or for any cause, at points distant from the places of enlistment.

If the Senate need any explanation of this amendment I am prepared to give it.

Mr. TRUMBULL. I think we had better have some explanation. I should like to know something about it.

Mr. COLE. Soon after the close of the war provision was made for the payment of the volunteers in certain States who were discharged at points distant from their place of residence or place of volunteering. Such was the case with the soldiers from the State of Michigan and some other States; and in 1867, at the end of the Army appropriation bill of that year, there was added the following section:

"SEC. 7. *And be it further enacted*, That the Paymaster General be authorized to pay, under such regulations as the Secretary of War shall prescribe, in addition to the amount received by them for the traveling expenses of such California and Nevada volunteers as were discharged in New Mexico, Arizona, or Utah, and at points distant from the place or places of enlistment, such proportionate sum, according to the distance traveled, as have been paid to the troops of other States similarly situated: and such amount as shall be necessary to pay the same is

Merely appropriated out of any moneys in the Treasury not otherwise appropriated."

The construction that has been given to this section by the Auditor's office is, that those who were discharged by reason of the expiration of their term of service were not to be benefited by the act, which was passed for their benefit, by reason of the omission of the words "discharged on account of the expiration of the term of service." This is merely to correct the law, so that those who were intended to be benefited by the act of March 2, 1867, may get what was then appropriated for their benefit. It requires no new appropriation; and with this explanatory section the purpose of Congress, as exhibited in the law of 1867, will be carried out.

I will add, in this connection, that these soldiers discharged at these very great distances from their places of enlistment, in New Mexico, in Texas, and in Utah, were in many cases utterly ruined in their attempts to get to their places of residence in California. Some were able to purchase the means of conveyance; but many of them were compelled to go on foot for the want of means a distance, in some cases, of a thousand or two thousand miles. This amendment is to carry out the purpose intended by the law of 1867, and I presume there can be no objection to it by any Senator who understands it.

Mr. MORRILL, of Maine. I want to understand it. I do not know that I have any objection to it; but I should like to know precisely what the difference is from the act of 1867.

Mr. COLE. By the omission of the words "discharged by reason of the expiration of the term of service" in the law of 1867 those soldiers were not provided for. That is the ruling of Mr. Brodhead, the Comptroller. This amendment will insert those words.

Mr. MORRILL, of Maine. That is the amendment. As the law of 1867 stands it reads:

"As were discharged in New Mexico or Utah, and points distant from the place or places of enlistment."

Now I understand the amendment to be that it is proposed to extend this rule to all such persons as were honorably discharged at such places.

Mr. COLE. Yes, sir.

Mr. MORRILL, of Maine. This law of 1867 applies to all volunteers who were discharged. Does it not embrace them all?

Mr. COLE. No, sir. Mr. Brodhead, the Comptroller, construes it so as to exclude from the benefits of the law those who were discharged by reason of the expiration of their term of service.

The amendment was agreed to.

Mr. SUMNER. I am directed by the Committee on Foreign Relations to move an amendment as a new section to come in at the end of the bill. I will observe that I have already given notice to the chairman of the Committee on Appropriations of this amendment:

And be it further enacted, That the Secretary of the Treasury be authorized and required to audit and fix the interest accounts of Maine and Massachusetts for advances made by Massachusetts, then including Maine, for the United States during the war of 1812-15 with Great Britain, upon the basis that the claim for those advances belonged, after the separation of the two States, one third to Maine and two thirds to Massachusetts, and reckoning interest at six per cent. per annum; and that he is hereby authorized and directed to pay to Maine and Massachusetts, out of any money in the Treasury not otherwise appropriated, such sums as he shall ascertain to be due to those States as herein directed to be audited and fixed: *Provided*, That in lieu of payment in money the Secretary of the Treasury may, at his discretion, issue to those States bonds of the United States payable in thirty years and bearing interest at the rate of six per cent. per annum, payable semi-annually; the principal and interest of such bonds to be made payable in lawful money of the United States.

Mr. GRIMES. I raise the point that this is a private claim and comes within the prohibition of the rules of the Senate, and ought not to be admitted. It is a question, I believe, that has been decided half a dozen times since I have been in the Senate, and ruled out that many times.

Mr. SUMNER. I beg the Senator's pardon;

I have eighteen instances since 1864 of precisely similar cases which were put on appropriation bills. I hold them in my hand. I can call attention to them, and the Senate will see that the motion that I make now is precisely according to the precedents.

Mr. GRIMES. If there was anybody here who raised the point of order at the time those propositions were submitted to the Senate and put on to the appropriation bills, then the Senator's case would be analogous to those. It is not only a private claim, so far as the States are concerned, but it is for the benefit of private parties. The paper that the Senator himself submits shows it to be for the benefit of a railroad corporation. Let me read it:

And be it further enacted, That the Secretary of the Treasury be authorized and required to audit and fix the interest accounts of Maine and Massachusetts for advances made by Massachusetts, then including Maine, for the United States during the war of 1812-15, with Great Britain—

Before almost any man here was born—upon the basis that the claim for these conditions belonged, after the separation of the two States, one third to Maine and two thirds to Massachusetts, and reckoning interest at six per cent. per annum.

Does the Senator intend this to be compound interest, or only simple interest?

Mr. SUMNER. Simple interest.

Mr. GRIMES. I am glad to know that.

Mr. SUMNER. It is according to the habit of the Treasury.

Mr. GRIMES. The amendment goes on:

And that he is thereby authorized and directed to pay to Maine and Massachusetts, out of any money in the Treasury not otherwise appropriated, for the use of the European and North American Railway Company—

Mr. SUMNER. No, sir; for the use of the State, to be paid to the State.

Mr. GRIMES. Has that clause been stricken out? The mistake is certainly pardonable. I see that a pencil-mark is drawn through the words "for the use of the European and North American Railway Company, to which these interest accounts have been assigned by said States." The amendment continues:

such sums as he shall ascertain to be due to these States as herein directed to be audited and fixed: *Provided*, That in lieu of payment in money the Secretary of the Treasury may at his discretion issue to those States bonds of the United States payable in thirty years, and bearing interest at the rate of six per cent. per annum, payable semi-annually; the principal of such bonds to be made payable in lawful money of the United States.

Now, in order to avoid, as the Senator supposes, the objection that may be raised that this is a private claim for the benefit of a railroad corporation, a pencil-mark has been very adroitly drawn through the words which make that declaration; but it is nevertheless a fact known to every man in the States of Massachusetts and Maine that by a public act of the Legislatures of those States such claim as those States may have upon the Government for this interest has been transferred to railroad corporations. Now, the question is, whether such claims shall be recognized here on a general appropriation bill—claims that are so stale as this, and which have been transferred from the State for speculative purposes of railroad corporations?

Mr. SUMNER. Mr. President, is this question open to debate?

The PRESIDING OFFICER. Points of order are to be decided, under the rules, without debate; but it is usual to allow a statement of the case. The Chair will not object to hearing a statement of the case.

Mr. SUMNER. The Senator from Iowa has kindly called attention to a pencil-mark in the proposition which I sent to the Chair. The question before the Senate is according to the draft which has been read, pencil-mark or no pencil-mark. That has nothing to do with it. The motion which I make is that the Senate shall provide for the payment of the outstanding interest account of Massachusetts on account of her services during the war of 1812. The question is not in any respect affected by the consideration that Massachusetts has generously appropriated that fund to the construction of a very important railroad by which the

general interests of the country will be advanced. Such is the fact; and therefore, though a Massachusetts Senator, I can plead for this appropriation without any suspicion of any pecuniary interest of my State. Nevertheless the money can only be obtained from the United States through the appeal of Massachusetts and of Maine, two States of this Union.

Now, sir, I have always understood, since I have had the honor of being in this Chamber, that the claim of a State was of such peculiar character and importance that it could not be treated as private; it was essentially public. So has it been treated again and again. I said that I had a list of eighteen precedents, during and since 1851, providing upon general appropriation bills for payment to States of moneys expended for war purposes or interest thereon; and one of these very cases is to pay Iowa moneys paid for troops called out by the Governor in 1857, 1858, and 1859; and that sum was moved on the Army appropriation bill June 21, 1860. I might go through the list. There is one, however, that is particularly applicable. It is known as the Maryland case. It appears on the bill of March 8, 1857, "to pay Maryland interest upon her advances from 1812 to 1815." That is precisely what is proposed by the motion which I now make, only Massachusetts is substituted for Maryland.

The Senator from Iowa used a strong expression when he characterized this as a "stale claim." Sir, why is it "stale?" The claims of Massachusetts were long outstanding. Their first settlement was as late as 1830, but the settlement was not completed until 1859. How could there be a settlement of an interest account until the question of the principal was determined? But this determination was not reached till on the eve of the rebellion under which our country suffered. Of course Massachusetts and Maine forbore to press their claim during the heat of the civil war; and it is only now when peace is restored that they appear again in this Chamber and ask that their accounts shall be finally closed by the payment of the interest which is due on their original claims. They ask simply for the interest that has been awarded to other States, to all the States of this Union; so that at this moment I may say of these old claims, this of Massachusetts, and Maine of course is included under Massachusetts, is the only one that is now in any respect outstanding. All of them are closed. Close this and you close that book of the past. The Massachusetts claims ever since my childhood have been more or less before the country. They were among the topics of interest I remember early in life, and they have continued down to this day. This is their last echo in Congress, so far as I, at least, can understand. Let this item be settled and the account is finally closed.

But I have already said it is not for the benefit of Massachusetts; for she has already set apart this money, when it shall be paid by the national Government, to the completion of a great national highway by which the commerce of the United States is to find a new avenue into the British Provinces; and so important has that avenue been regarded by those who are entitled to speak on the subject that it has been considered as an essential element of the national defense. By it the United States will be connected intimately with important and most fruitful and productive provinces. By it the communication will be facilitated; and should any trouble arise, of course additional opportunities would be afforded for the national defense. It was on that account that Massachusetts came forward and dedicated her claim to this object.

Now, sir, it is hardly fair to call the claim "stale;" for it could not come here properly before this day. It comes now in the natural course of time; tardily, I admit, but from the nature of the case it could not appear here before.

Sir, I have met every question of order, and I have briefly hinted at the questions of fact or of principle involved in the case. If there be

occasion for any further argument I am ready to meet it.

Mr. GRIMES. I am not going to have any controversy with the Senator from Massachusetts as to whether this be a stale claim or not.

The PRESIDING OFFICER. The question before the Senate is a question of order.

Mr. GRIMES. I say I am not going to argue that question. I imagined that a claim which had been in existence for fifty-five years, or in other words ever since the boyhood of the Senator, as he expresses it himself, might possibly have become stale.

Mr. SUMNER. But my friend will let me remind him that the claim for the interest began in 1859.

Mr. GRIMES. The Senator himself in his remarks must have satisfied every candid man here present that this is a private claim. He admits that by a public statute both of the State of Massachusetts and of Maine the whole claim of those States to this money has been dedicated for a specific purpose, transferred, in other words, from the States to a railroad corporation. The States have lost all their interest in it. Whatever claim they may have had themselves they have transferred to that railroad corporation, and it is for their benefit simply, in the name of the States, that this claim is now asked. There are \$700,000, I am told by a citizen of the State of Maine, involved in the proposition.

Mr. CONKLING. Will the Senator allow me to ask him a question? Does he remember how much this same railway company received last year by an appropriation for squatters' claims under the treaty of Washington?

Mr. GRIMES. I really do not know, but we have been paying claims growing out of the northeastern boundary, interest accounts, and one thing and another of that kind, to Maine and Massachusetts ever since I have been here, and I think almost since the boyhood of my friend, the Senator from Massachusetts. I am very happy, though, to know from the Senator that this is the last claim Massachusetts has against the Government growing out of the war of 1812.

The PRESIDING OFFICER. The Chair must remind Senators that this is a question of order on which the merits of the claim cannot be discussed.

Mr. FESSENDEN. I wish to say one word on the question of order. The Senator from Iowa dwells with very considerable force on the fact that this claim has been transferred so that the equitable ownership of it is now in a company. It is nevertheless a claim of Massachusetts and Maine; and because they have given the ownership of it or the equitable interest in it to the advancement of a public work in one of the States, I do not see that that changes the fact in regard to its being a public claim, if it was so before.

The point that is taken is a point of law that, although this may be a just claim on the part of Massachusetts and Maine due to those States, and although it may be a public claim on their part, yet, inasmuch as the two States have dedicated the equitable ownership of it to a great public work, and a national work also, that takes it out of the rule. Did anybody ever hear anything more absurd than that?

The PRESIDING OFFICER. The Secretary will read the rule under which the point of order is made by the Senator from Iowa.

The Chief Clerk read Rule 30, as follows:

"30. No amendment proposing additional appropriations shall be received to any general appropriation bill unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing or select committee of the Senate, or in pursuance of an estimate from the head of some of the Departments; and no amendment shall be received whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law or treaty stipulation."

The PRESIDING OFFICER. The Chair will ask the Clerk to read the latter part of the sixth rule.

The Chief Clerk read as follows:

"And every question of order shall be decided by the Presiding Officer, without debate, subject to an appeal to the Senate; and the Presiding Officer may call for the sense of the Senate on any question of order."

The PRESIDING OFFICER. The Presiding Officer is only in the chair for the moment, and will submit this question, therefore, to the Senate under the rule that has just been read.

Mr. SHERMAN. It has been repeatedly held that a claim made by a State for money past due on an old debt, even of a year old, an approved debt, to use a legal phrase, is a private claim. It has been repeatedly so held in the Senate. It makes no difference whether the money is due to a State or an individual. In this case the money is due to a railroad company; it is in the name of a State, but it is due to a private person or to a series of private persons called a corporation; and it has been held that claims made by a State stand in no better attitude, so far as this rule is concerned, than a claim made by an individual.

Mr. SUMNER. Will the Senator be good enough to state where it has been so held? I have eighteen instances to the contrary.

Mr. SHERMAN. The question comes upon us suddenly, and I am not prepared with the cases. Now, what is an appropriation bill? It is to provide for the future service of the Government; to carry into effect existing laws; to appropriate the necessary money to enable the executive officers to execute the laws. That is an appropriation bill, and the reason of this rule is to exclude from a general appropriation bill the payment of past liabilities to private parties, to States, or to individuals. Therefore the rule forbids and discourages all these amendments.

As a matter of course, if this amendment is received as in order, it will open a wide latitude of debate. I hold in my hand a printed document of thirty-four pages, containing a majority and minority report on the subject in the House of Representatives. I know some of the parties who are interested in this railroad. I have looked into it so far as my time will allow me. This claim, as stated by one of the parties, involves \$350,000, and from that up, as I get it from a member of the House, to \$700,000. It is only part of a series of claims amounting to over \$2,500,000 transferred by the States of Maine and Massachusetts to a railroad company. This particular claim for interest is selected from among four claims to be presented as an amendment to an appropriation bill. It is manifest that if we are to enter into this discussion we shall lose sight of the Army appropriation bill, and engage in a wide latitude of debate about a claim that has now gone on for fifty years without payment. It is a claim for payment made during the war of 1812, the last of which must have been made in 1815; consequently the junior claim is fifty-three years old.

Under the circumstances, at this period of the session, if we do not enforce the rule strictly it will involve us in great difficulty. I have felt disposed, from an examination of the papers, to look upon this claim as favorably as I could; but to offer it as an amendment to the appropriation bill will only lead other Senators to offer other propositions which may be reported from the committees, and we shall be involved not only in the consideration of the Army appropriation bill, but in an infinite number of private claims. I therefore intend to stand by the rule.

Mr. FESSENDEN. The first rule read makes an exception of claims to carry out existing laws. All the payments that have been made to Massachusetts have been made by law, as a matter of course and of necessity, to pay Massachusetts so much money with interest, and interest has been paid. Now what is this question? This question is simply nothing more than this: the computation of interest in carrying out these laws for the payment of the claim of Massachusetts was wrongly made; that is all. Massachusetts by law was ordered to be paid her claim, with interest. Very well.

This calls for recomputation, and why? What is the simple principle? It is that when these payments were made interest had accrued to the State. For instance, it went on up to the year 1830, when the first payment was made; when that money was received on the claim it was carried to the payment of the principal, and no notice whatever was taken of the interest. So of the second payment, so of the third, and so of the fourth, if there were so many; I am not familiar with the number. How do you compute interest on a note of hand? Suppose I was unfortunate enough to owe my friend from Iowa \$1,000; if it ran for a couple of years, and I paid him \$100 on account, I reckon he would take out the interest first, and not credit it on the principal. That is the way interest is computed in courts of justice.

I have carried this proposition through the Senate three or four times myself on that very principle, that the computation made at the Treasury was wrong. The proposition has passed the Senate, and I think once on an appropriation bill. The equity and right of it could not be disputed, and never has been. Congress in several cases, one of which was the case of Maryland, which was a striking case, ordered the recomputation upon that express ground, that the payments had been carried to the principal instead of first taking out the interest.

All these payments were made under existing laws to pay Massachusetts principal and interest; and now we say this is to carry out the law by having the interest correctly computed; it directs a recomputation by which Massachusetts will get what is due to her. That is all there is in the amendment, and now I put that as showing that this proposition comes strictly under the rule to carry out an existing law. That is the state of it precisely.

Mr. CONKLING. To what law does the Senator refer?

Mr. FESSENDEN. I allude to the laws that have been passed from time to time to pay Massachusetts the amount due to her. Of course those payments could not be made without law. I cannot, at this moment, turn to the statutes; but the Senator knows very well that payment could never have been made without an appropriation made by law; and it has always been held that an appropriation, so far as that is concerned, is to be considered as a law, for it is a law.

Mr. CONKLING. I understood the Senator to say that there was an existing law requiring the payment of this interest.

Mr. FESSENDEN. No, sir; not this particular interest, but payment of the claim of Massachusetts against the United States with interest—a certain sum of money; and the interest has been computed as coming under those laws. The only question I make is that it has been wrongly computed, that the law has not been carried out, the claim has not been paid, for the reason that Massachusetts did not get the interest she was entitled to under those appropriations made for her benefit.

Mr. SUMNER. Mr. President, I should not say another word—my voice hardly allows me to speak—but for the singular ground taken by the Senator from Ohio, [Mr. SHERMAN.] In the first place he cries out against this motion because he says it will cause debate. Why will it cause debate? I do not believe it. I believe that the moment it is decided to be in order, and I can see no other conclusion of the question, it will be found that there is no occasion for debate, its intrinsic equity will be so apparent.

Then the Senator, following the Senator from Iowa, [Mr. GRIMES,] reminds us of the antiquity of the claim. Sir, I deny it in a just sense in this argument. The claim for interest is only since 1859. It was in 1859 that the last appropriation was made on account of the claims of Massachusetts. I have already remarked that soon after that the country became involved in difficulties, and Massachusetts was in no mood to appear here as a petitioner for interest on an ancient claim.

It is now that peace is restored that she does call for the adjustment of her accounts, and appropriates the interest generously, as I have already stated. Let me say, therefore, to my friend from Ohio that he does injustice to the case when he reminds us that in its origin it is fifty-seven years old. To be sure what was done originally was fifty-seven years ago; but it was only recently that the claim was audited by the Government and put in a condition for us to calculate interest upon it. Now it remains that the interest should be paid. Until that is paid there will be a standing claim of Massachusetts and Maine on the national Government. Why should it not be met now? What good reason can you assign? Are you not willing to do justice to those two States? Is there any reason why you should be in default to them alone? You have paid the interest to every other State of this Union, beginning in 1825 with Virginia, and in 1857 passing a special section very much like the one I now move for the benefit of Maryland. Why will you not do the same for Massachusetts? Are you deterred because Massachusetts announces in advance that she has pledged this money to a generous purpose for the national good?

But the Senator from Ohio insists, without citing a single case, that the claim of a State is a private claim. He goes on to characterize it by giving a reason. He says that it is because you cannot include in an appropriation bill the payment of an old outstanding claim; anything old and outstanding is in the nature of a private claim. So I understood the argument of the Senator, whether it be presented by an individual or by a State.

Now, sir, is that the case? I did not wish to take up the time of the Senate; but since the Senator from Ohio has made the objection it seems to me that it should not be settled according to his argument. It is important that the right of the States to present their claims on appropriation bills should not be thus summarily abandoned. I find on the Army appropriation bill of 1854 a proposition to reimburse California for expenses in suppressing Indian hostilities, \$924,252. On the Army appropriation bill of March 3, 1857, there was an appropriation to pay Arkansas for militia called out in 1846. So on the same bill there was one to pay Florida volunteers called out in 1849 and 1852, and to pay New Mexico for troops called out by Governor Messerve in 1854. On the Army appropriation bill of 1859 there is an appropriation to pay Texas for companies of volunteers called out by General Smith in 1854; also on that same bill one to pay Massachusetts for advances in 1812-15, \$227,195, being the last installment which has been paid by the national Government to Massachusetts on account of those original advances; and that was on an appropriation bill, an Army bill.

Sir, I will not take time. Suffice it to say that I have in my hand a list; I could go on year by year and show you how the claims of States have been recognized on your appropriation bills.

Mr. GRIMES. Allow me to make one suggestion.

Mr. SUMNER. Certainly.

Mr. GRIMES. It appears from the record that this rule was not adopted until 1854. It was a long time after most of the instances.

Mr. SUMNER. All the cases that I cite are from 1854 down to the present time; none before 1854. The case of Iowa, if the Senator will pardon me for calling his attention to it, was on the Army appropriation bill of June 21, 1860, to pay Iowa for troops called out in 1857, 1858, and 1859. I could read the list; I could go through it all if the occasion would justify.

Mr. GRIMES. The point of order was not made in those cases.

Mr. SUMNER. What is to be our rule in this Chamber if not the precedents of the body, if not the legislation as you find it in the statute-book? I call your attention to appropriation bills year after year, and show you clauses in appropriation bills precisely like that which I

now move, and yet the Senator from Ohio and the Senator from Iowa tell us that the present motion is out of order. Then, sir, all these were out of order. Yet you find them in your statute-book. How could that be? Why, sir, the answer is clear that an appropriation for a State was not excluded as a private claim.

Mr. FRELINGHUYSEN. May I ask the Senator from Massachusetts whether this claim is entirely for interest?

Mr. SUMNER. Absolutely for interest; nothing else.

Mr. FRELINGHUYSEN. The payments that were made were made as principal?

Mr. SUMNER. As principal and partly on account of interest, but they did not completely satisfy it.

Mr. FRELINGHUYSEN. But satisfied all the principal?

Mr. SUMNER. It satisfied the principal, but it has left an outstanding interest account which I have already said Massachusetts forbore to press during the war.

Mr. WILLIAMS. Will the Senator state to what sum that interest amounts?

Mr. SUMNER. The Senator from Maine says six or seven hundred thousand dollars. I have not made an estimate myself.

Mr. GRIMES. I ask how many times this has been moved in the last ten years on appropriation bills of the Senate and rejected?

Mr. SUMNER. Never once to my knowledge. The Senator confounds it with one or two other motions for the benefit of Massachusetts and Maine.

Mr. GRIMES. Which particular motions were those for the benefit of Maine and Massachusetts?

Mr. SUMNER. I think one or two of them were questions arising under treaties.

Mr. GRIMES. I think a former chairman of the Committee on Finance had this in charge, and I myself raised a question of order on it once and it was ruled out. I think his information will be more accurate than that of the Senator from Massachusetts.

Mr. FESSENDEN. That was the timber claim.

Mr. SUMNER. This claim, I am sure, has never been ruled out of order.

Mr. GRIMES. Has that timber claim been finally disposed of?

Mr. SUMNER. Yes; that is out of the way. The Senator need have no anxiety on that point. I do not wish to take time, but I believe that the point of order is completely established. It is in order; that is, unless you are ready to cut adrift from all the precedents of the body.

Mr. MORTON. Mr. President, it is said that this money has been donated by Massachusetts, when collected, to a railroad company. What has Congress to do with that? The question is whether the money is due to Massachusetts, not whether Massachusetts gives it to a railroad company or a benevolent institution, or puts it into Boston harbor along with the tea.

Mr. GRIMES. It shows it to be a private claim.

Mr. MORTON. No; I beg the Senator's pardon, not if the claim is of a public character. In the first place the transfer here does not make it a private claim, and the question as to what disposition Massachusetts makes of it we have nothing to do with. If it belongs to Massachusetts, if the money is due to Massachusetts, she may give it to this railroad company, or to anybody else, or throw it away. We have nothing at all to do with that, and it does not affect our rights or obligations in the least. Now, sir, how can it be a private claim? Massachusetts is not a private party like an individual. The States are recognized by the Constitution. Senators who come here do not represent private parties, but represent States; and if a claim is due to a State it is of a public character, and the fact that Massachusetts proposes to give it to a railroad company does not make it a private claim. It is essentially public in its character. It seems to me, without going

into the merits of the claim, that the point of order is not well taken.

Mr. DAVIS. Mr. President, the question before the Senate is a point of order, and it is whether the present amendment can be properly offered to an appropriation bill. The Chair directed the Clerk to read the rule of the Senate upon that subject, and the character of this amendment certainly does not bring it within any of the classes of amendment that are provided for in that rule of the Senate as admissible.

The honorable Senator from Maine says that this is an amendment in pursuance of a law. If there can be found any law which directs this interest upon advance made by the States of Massachusetts and Maine in the war of 1812 to be paid I will concede for myself that the amendment is properly presented; but I have seen no such law and no such law has been read.

The Senator from Massachusetts reads from various appropriation bills to establish the position that the principal of the claims of certain States against the United States was directed to be paid, but he has not read a single instance, if I recollect aright, in which the interest upon any of these claims was attached to an appropriation bill. Mr. President, the general rule and the general practice of the Government is not to pay interest at all. The measure of justice which the Government usually deals out is the principal of all claims, public or private, in behalf of States or individuals, without interest; and the several precedents that the Senator from Massachusetts read provided simply for the claims of States being paid and said nothing about the interest. Now, in defiance of the provisions of the rule of the Senate which regulates the character of amendments that may be offered to general appropriation bills, and in defiance of the general practice of the Government, the Senator from Massachusetts proposes to attach to this general appropriation bill a bill not to pay the principal, but the interest upon certain sums advanced by the States of Massachusetts and Maine in the war of 1812; and I come to the conclusion that it is not in order to propose such an amendment on a general appropriation bill.

Mr. CONKLING. Mr. President, the honorable Senator from Massachusetts brought his last remarks to a close by assuring the Senate that claims like this had never been ruled out of order under this rule. I think he stunted himself unnecessarily in his expression. He might have made it much more ample. He might have said that claims like this and claims of all sorts never could be excluded under this rule. On the theory which he advances I should like to know now what claim, if it be entertained by Congress, is excluded by the rule before us unless this be one? It is due under existing law. Why? Because the law is that all claims for honest debts are to be paid. Wherever a debt is owing it is to be answered. Therefore the law exists. Is not that true of all claims unless you have adjudicated that the claim never existed and in truth does not exist? And then, of course, it is not to be entertained at all. Take the case of any honest claim; it is the case of a request to pay money upon the ground that it is due, due by law, and therefore by existing law; and therefore this rule does not apply to it!

The PRESIDING OFFICER. It becomes the duty of the Chair to arrest the business of the Senate in order to announce the order of the Senate, which is that the Senate take a recess from four o'clock until seven o'clock.

Mr. MORRILL, of Maine. I move that that order be suspended.

Mr. RAMSEY. I raise a point of order. I do not see how that can be done after four o'clock has arrived. There is no time. The recess has really commenced.

The PRESIDING OFFICER. Under the order of the Senate—

Mr. DRAKE. What is the order of business for this evening?

Mr. GRIMES. Business from the Committee on Military Affairs.

Mr. RAMSEY. Nothing can be done now, as I understand the rule, but take a recess. The time has arrived.

The PRESIDING OFFICER. Under the order of the Senate it becomes the duty of the Chair to announce that the Senate now take a recess from four o'clock until seven o'clock, the evening to be devoted to bills from the Military Committee.

EVENING SESSION.

The Senate reassembled at seven o'clock p.m.

BREVET COMMISSIONS.

Mr. WILSON. I move to take up for consideration House bill No. 273.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 273) to amend the act of April 10, 1806, for establishing rules and articles for the government of the armies of the United States. The bill proposes to repeal the sixty-first article of an act for establishing rules and articles for the government of the Armies of the United States, approved April 10, 1806, and to provide that hereafter commissions by brevet shall only be conferred in time of war and for distinguished conduct and public service in presence of the enemy, and all brevet commissions are to bear date from the particular action or service for which the officer was breveted.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GETTYSBURG AND ANTIETAM CEMETERIES.

Mr. WILSON. I move now to take up Senate joint resolution No. 119.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 119) authorizing the Secretary of War to take charge of the Gettysburg and Antietam national cemeteries. It is a direction to the Secretary of War to accept and take charge of the Soldiers' National Cemetery at Gettysburg, Pennsylvania, and the Antietam National Cemetery at Sharpsburg, Maryland, whenever the commissioners and trustees having charge of those cemeteries are ready to transfer their care to the General Government; and when they are placed under the control of the Secretary of War they are to be taken care of and maintained in accordance with the provisions of the act of Congress entitled "An act to establish and protect national cemeteries," approved February 22, 1867.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FORT SNELLING RESERVATION.

Mr. WILSON. I now move to take up Senate resolution No. 211.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 211) for setting apart a portion of the Fort Snelling military reservation for a permanent military post and the settlement of all claims in relation thereto. The resolution proposes to empower the Secretary of War to select and quiet the title to so much of the military reservation of Fort Snelling as the public interest may require for a permanent military post, and to settle all claims for that reservation and its use and occupation upon principles of equity.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SAULT STE. MARIE RESERVATION.

Mr. WILSON. I move to take up House bill No. 1489, granting a portion of the military reservation at Sault Ste. Marie, Michigan, to the American Baptist Home Mission Society.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It proposes to authorize the Secretary of War to convey to the American Baptist Home Mission Society, by good and sufficient title, a portion of the military reservation at Sault Ste. Marie, in the State of Michigan, not to exceed one acre, now occupied by a mission building owned by the society.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SUBMARINE TELEGRAPH CABLE.

Mr. STEWART. Yesterday, on my motion, the House of Representatives was requested to return to the Senate the joint resolution (S. R. No. 228) authorizing the Secretary of the Treasury to admit free of duty certain submarine telegraph cable. It has been returned; and I now move to reconsider the vote by which that joint resolution was passed.

The PRESIDENT *pro tempore*. The motion will be entered.

ABSENT OFFICERS.

Mr. WILSON. I move to take up Senate joint resolution No. 201.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 201) to drop from the rolls of the Army officers absent without leave. It is an authorization to the President of the United States to drop from the rolls of the Army for desertion the following-named officers: Second Lieutenant Daniel Hitchcock, fifth cavalry; Second Lieutenant W. G. McKay, twenty-ninth infantry, and any other officers who are now or may hereafter be absent from duty three months without leave; and any officer so dropped is to forfeit all pay and allowances due or to become due, and not to be eligible for reappointment.

Mr. TRUMBULL. I should like to inquire if it requires an act of Congress to drop these men?

Mr. WILSON. It cannot be done without an act of Congress unless they are court-martialed. We passed an act last year and dropped some from the Army, and here are men who cannot be found in the United States.

Mr. TRUMBULL. Cannot they be stricken off without a special act?

Mr. WILSON. They cannot; but this bill allows it hereafter to be done without a special act.

Mr. TRUMBULL. I have no objection to it. The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

FREEDMEN'S HOSPITALS.

Mr. WILSON. I move to take up Senate bill No. 960.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 960) relating to freedmen's hospitals. It proposes to direct the Commissioner of the Bureau of Refugees and Freedmen to continue the freedmen's hospitals at Richmond, Virginia; Vicksburg, Mississippi; New Orleans, Louisiana; and in the District of Columbia, including the asylum for aged and infirm freedmen and for orphan children, but the expense thereof is to be paid by the Commissioner out of moneys heretofore appropriated for the use of the bureau, and the hospitals are to be discontinued on the 30th day of June next, or as soon thereafter as may be practicable, in the discretion of the President of the United States. The bill further provides that the second section of the act entitled "An act relating to the Freedmen's Bureau and providing for its discontinuance," passed on the 25th day of July, 1868, shall be so construed that the educational department of the bureau and the collection and payment by the Commissioner of the bureau of moneys due to colored soldiers, sailors, and marines, or their heirs, shall be continued until otherwise ordered by act of Congress.

The bill was reported to the Senate without

amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ARMY JUDGE ADVOCATES.

Mr. WILSON. I move to take up House bill No. 1487.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1487) to declare and fix the status of the corps of judge advocates of the Army. The preamble to the bill declares that doubts have arisen whether the judge advocates of the Army, though originally commissioned in the regular service, constitute a permanent corps in which vacancies may be filled, and that it is expedient that the corps be made permanent and that vacancies be filled therein; and the bill provides that the corps of judge advocates of the Army be fixed at twelve members, including the Judge Advocate General and an assistant judge advocate general, and authorizes the President, by and with the advice and consent of the Senate, to fill all vacancies which have occurred or may hereafter occur therein.

The PRESIDENT *pro tempore*. There are two amendments reported by the Committee on Military Affairs.

Mr. WILSON. I desire to strike out the whole bill and to insert—

That the department of judge advocates of the Army be, and the same is, fixed at ten members; and the President is hereby authorized, by and with the advice and consent of the Senate, to fill all vacancies which may have occurred or may hereafter occur therein.

The motion was agreed to.

Mr. WILSON. I move now to strike out the preamble.

The motion was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. DAVIS. I should like the chairman of the Committee on Military Affairs to explain the provisions of the bill.

Mr. WILSON. It is a House bill that comes here, which provides for the appointment of what is called a corps of judge advocates, and provides that it shall consist of twelve persons. The amendment provides that it shall not be called a corps like the corps of engineers, but a department; and provides for striking out the preamble and to amend the title so that it will simply declare and fix the status of judge advocates. It makes two less than the House proposed, and I think they can get along with ten.

Mr. DAVIS. Will the honorable chairman of the Committee on Military Affairs inform the Senate how many of these judge advocates there were before the war?

Mr. WILSON. I cannot. There was a Judge Advocate, but how many persons were employed I do not know; but that kind of work has enormously increased, and there is an immense quantity of it to do. We cut off two from what the House proposed.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

Its title was amended, on motion of Mr. WILSON, to read, "A bill to declare and fix the status of judge advocates of the Army."

TWELFTH KENTUCKY BAND.

Mr. WILSON. I move to take up Senate joint resolution No. 72.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 72) for the relief of John M. Broome and others, the band of the twelfth Kentucky infantry. The preamble of the resolution states that John Martin Broome, leader of the band of the twelfth regiment Kentucky volunteer infantry and Adam Skilling, Christian Kuboz, George Scott, and Rudolf Vanderan, musicians of the first class, George Hoeflinger, Peter Oehlschlager, John Eck, and Philip Weis, musicians of the second class, and Alvis Berg and Philip Hermann, (the last named having died in hospital on the 31st of March, 1862,) musicians of the

third class, were enlisted as the band of musicians of the twelfth Kentucky infantry on the 3d day of January, 1862, and performed service and were discharged by the authority of law and military regulations as the band of the regiment until the 10th of September, 1862, without having been paid and without having furnished to the War Department the proper rolls of muster-in and muster-out of service. It is therefore proposed to direct the proper officers of the War and Treasury Departments to allow to these musicians the same pay and allowances from the time of their enlistment to the date of their discharge as though their muster-rolls had been properly furnished and were in all respects regular.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

GENERAL OF THE ARMY.

Mr. WILSON. I move to take up Senate bill No. 959.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 959) to repeal the second section of an act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes, approved March 2, 1867.

Mr. DAVIS. Will the chairman inform the Senate what is the purport of the section proposed to be repealed?

Mr. WILSON. It is the section put upon the Army appropriation bill at the time set forth; which requires that the General of the Army shall reside at Washington; that all orders of every kind shall go through him to the Army; which does not permit the Secretary of War or the President to send an order or direction unless it goes through the General; and if the General should happen to be absent on business it would be a pretty difficult thing to do. It is proposed to repeal it.

Mr. DAVIS. I am very much gratified that a bill has been introduced to repeal that clause in the appropriation bill of two years ago. It is an enactment that should never have been made, in my judgment, and it was simply intended to shackle the present President of the United States in the exercise of his constitutional powers. I am very much gratified that the party who have passed enactments in derogation of the Constitution and of the constitutional powers of the President are now seized with a disposition and a purpose to some extent to stop them.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BUILDINGS AT FORT TOTTEN.

Mr. WILSON. I move to take up Senate joint resolution No. 230.

The motion was agreed to; and the joint resolution (S. R. No. 230) authorizing the erection of brick buildings for military purposes at Fort Totten, in Dakota Territory, was read the second time and considered as in Committee of the Whole.

Mr. POMEROY. In most of the western Territories we have a kind of lime-stone much cheaper than wood or brick either. I do not see why you should say brick. Stone has been used in our military posts in the West. I do not know whether there is any lime-stone in Dakota or not, but I have never seen any of the western Territories that did not have plenty of it. I have no objection to this if there is no lime-stone there; but there is generally a layer of lime-stone or sand-stone through that country. It is cheaper than brick.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WALTER D. PLOWDEN.

Mr. WILSON. I move to take up for consideration House bill No. 1323, for the relief of Walter D. Plowden. There is a report in

the case, which can be read if anybody desires to hear it.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1323) for the relief of Walter D. Plowden. It is a direction to the Secretary of the Treasury to pay to Walter D. Plowden, a colored scout and spy, the sum of \$1,000 for military services rendered the Army of the United States under Major General Hunter, in the military district of South Carolina, in the war of 1861 for the suppression of the rebellion.

Mr. WILSON. If any member desires to hear it, there is a full report which can be read. It is a very extraordinary case.

Mr. DAVIS. I should like to hear it.

The Chief Clerk read the following report, made by Mr. BINGHAM in the House of Representatives, on the 1st instant:

The Committee of Claims, to whom were referred the memorial and evidence of Walter D. Plowden, praying compensation for military service, made the following report:

The claimant, who was born a slave in Washington county, Maryland, emancipated in early life found his way to the city of New York, and in 1861, at the breaking out of the rebellion accompanied the forty-seventh regiment New York volunteers, Colonel Henry Moore commanding, as servant to Major White, surgeon of the regiment, into South Carolina.

After the discharge and muster-out of Major White, with whom he had gained a large experience with the colored people and the troops on the coast, he was employed by Major General Hunter, then in command of the Federal forces at Beaufort and Hilton Head, as a scout and spy, and as a guide in various expeditions from the coast into the interior of the State.

In the spring of 1863 he was sent by night on a secret expedition, with a row-boat and eight colored men, up the Combahee river one hundred and thirty-one miles, to the crossing of the Charleston and Savannah railroad in the vicinity of the Pocotaligo, from which he returned in five days, reporting the condition of the bridges and trestle-work and the strength of the military guard of the enemy at that crossing.

Immediately following he accompanied the well-known expedition of Colonel Montgomery, thirty-fourth United States colored troops, against Pocotaligo as a guide, which was successful in the destruction of the railroad bridge and the release from slavery and the service of the enemy of eight hundred colored men and a large amount of property, which were used by the United States Government. Soon thereafter, in May, 1863, he was sent on a third expedition as scout and spy to the Cosawatchie river, with a boat and five colored men, with orders to cut the telegraph on the Savannah and Charleston railroad at Gardner's Corners, the crossing of the railroad over the Cosawatchie. This bridge was so strongly guarded that after several efforts by night to cut the wires the attempt was abandoned and the expedition was unsuccessful.

In June following he was sent up the Ashepoo with a boat and eight colored men, and was perfectly successful in setting the bridge of the Savannah and Charleston railroad on fire and burning it up. The rebel guard attacked his little crew in their flight, and they barely made their escape.

In July following he was sent up the Broad river with a boat and eight colored men, making progress by night and scouting out into the country to the camps of the enemy by day, taking observations of the location and strength of picket posts and the position of military forts and works of the rebels. He returned with all this information to General Hunter. Immediately thereafter he accompanied General Benham's expedition up the Broad river to Chisholm's Landing as guide and spy. The force was four gunboats and a brigade of troops, which inflicted serious punishment for two days to the rebels, capturing prisoners and destroying military works and materials of war.

After his return from this expedition he was sent ten miles within the rebel lines from the mainland at Hilton Head, and returned bringing information to General Saxton by which he captured the rebel pickets on the next day.

In September following he was sent as foot spy to Bluffton, within the rebel lines, and returned with the information which led to its immediate capture by General Hunter. He accompanied the troops as guide to Bluffton.

In December following he was sent as spy up Stono inlet to Waupo Cut for information as to the condition of the rebel ram there building and which was expected to come out of the inlet very shortly. On this expedition, for want of sufficient force to outwrest the rebels, he was captured in his flight from Waupo Cut, when he was almost within shot of the Pawnee, the Federal man-of-war, to which he hoped to escape, lying at the mouth of the inlet.

He was put into prison at Charleston, January 2, 1864, and closely confined without food but just sufficient to support life for more than fifteen months, and was released when General Sherman's army marched into South Carolina.

In this service he invariably reported to General Hunter, General Saxton, General Benham, or General Terry, and received nothing as pay except the necessary outfit of arms and subsistence.

The committee have carefully collected this history from Major General Hunter himself, from General O. O. Howard, and from Chaplain Mansfield French who was present and had knowledge of the circumstances here detailed.

At the time when this claimant was employed by General Hunter that officer states that he had not in his possession secret service-money in order to pay him, and that he is well aware that he never was paid for the important services thus rendered.

Owing to his captivity the claimant lost his health and strength, and now remains broken and almost physically incapacitated for manual labor.

From these considerations the committee recommend that a bill be passed for his relief, appropriating \$1,000 in compensation for his services as scout and spy in South Carolina during the war for the suppression of the slaveholders' rebellion.

Mr. DAVIS. It seems to me that that subject ought to have been referred to the Committee on Claims.

Mr. WILSON. I am sure the Senator from Kentucky cannot oppose a matter of this kind. This person rendered about four years' service and was fifteen months in prison.

Mr. DAVIS. I think it is a case that should go to the Committee on Claims.

Mr. WILLEY. The report was read as from the Committee on Claims.

The PRESIDENT *pro tempore*. The report was from the Committee of Claims of the House of Representatives.

Mr. DAVIS. What committee of the Senate has had the bill under consideration?

Mr. WILSON. It was sent to the Committee on Military Affairs with some other bills of that nature, and it was thought proper by that committee to act upon it.

Mr. DAVIS. Its having been acted upon by the Committee of Claims of the House of Representatives is one evidence, independent of the intrinsic evidence afforded by the subject itself, that it should have been referred to the Senate Committee of Claims also. I have no doubt that this negro rendered very important service. I have a little doubt that thousands and tens of thousands of white men rendered as much service without having ever received any extraordinary compensation from the Government for it. I therefore move that this report and bill be referred to the Committee on Claims of the Senate that they may examine the subject.

Mr. POMEROY. I should feel entirely dissatisfied with this report and with this bill myself. It is made out that this individual served four years; was imprisoned; lost his health, and rendered most important service; and then here is a bill to pay him \$1,000. A thousand dollars for four years' service for great exposure, loss of health, and the performance of valuable services to two or three of our military commanders! If I could not have reported \$5,000 I would not have reported a cent for four years' services and such sacrifices. I think that the bill ought to go to a committee who will report \$5,000. If he is not entitled to that much the report is not correct. You have made out in the report sufferings and privations and services that entitle anybody to that amount. Either make no such report as that or make a decent compensation.

Mr. DAVIS. The honorable Senator from Kansas is certainly the friend of the negro. Now, I suppose that the white soldiers who performed as long service and rendered as essential service and were as often in captivity, and who suffered as much or more than this negro, could be numbered by thousands. I never have known, as far as I am conversant with the proceedings of Congress, of a special movement being made in favor of any white soldier who rendered any such service. If this negro soldier served four years in the Army he was entitled to pay just as any other soldier of the Army was, and I suppose he has received it. If he went upon perilous service that was nothing more than was common with all the soldiery of the Union Army. If he was captured that fate was common with probably one half the white soldiers, or a great number at least.

I do not see any reason for making this negro and his services, however signal and valuable they may have been, to be governed by any other rule than that which controls the

services of the white soldiers of the United States Army. I have no knowledge myself of a claim of that kind ever having been referred since the commencement of the war, by the order of the Senate, to the Committee on Military Affairs. But as the honorable Senator from Kansas thinks that this is but a mean pittance, which it is disgraceful to the Committee on Military Affairs to have recommended, and is anxious for it to be recommitted, with a view to see whether something like an adequate compensation and reward for these extraordinary services shall not be made, I hope that the honorable chairman of the Committee on Military Affairs will agree that the subject shall take that course.

Mr. POMEROY. If this man had been a white soldier, as the Senator says, or a soldier of any other color, he would have been entitled to a pension of at least eight dollars a month, equal to the interest on \$1,500 a year, and he would have been entitled to that for a lifetime. If he lived only ten years it would amount with the interest to about sixteen hundred dollars, and yet this committee find a man who served four years, lost health and limbs, rendered important service to four or five commanders, and they propose to pay him \$1,000, when, if he had been a white soldier, they would have paid him eight dollars a month pension, which, taken at the ordinary age of our soldiers, might be reckoned to last for twenty years. Take the average pension of the young men who have been disabled and they will draw their pensions for twenty years.

Mr. DAVIS. Is or is not the pension law the same in relation to negro soldiers that it is in relation to white soldiers?

Mr. POMEROY. Yes, sir; but this man was not a soldier at all. He did the duty without having been mustered in, and therefore cannot draw pension. This provision is in lieu of pension. If he had been a soldier, white or black, he could have drawn a pension, and that would have ended his claim. This is compensation for services when he was not entitled to a pension, and a very small compensation too.

Mr. WILSON. This bill was passed by the House of Representatives; and when it came here it was referred to the Committee on Military Affairs, who have reported it favorably. I of course would not make any objection to its going to the Committee on Claims if it was not important that it should be passed at this session. This man went out as a servant to an officer early in the war. For four years he served as a scout and spy for four or five general officers, and did the most important service. He was not a soldier, did not draw pay, was entitled to no pay, entitled to no bounty, entitled to no pension. He was captured in one expedition and held fifteen months in prison in Charleston, where he was punished for his fidelity to the country. He was kept in close confinement on account of his services as a spy and a scout. His health was severely injured. He is now a poor, broken-down wreck, living on charity at this time. It seems to me that this compensation, as is said by the Senator from Kansas, is a very small sum; but at the same time it may keep him out of the poor-house, and I think we ought to pass the bill.

Mr. POMEROY. I say give him nothing or else give him something that is respectable.

Mr. DAVIS. On a further representation of this case I withdraw the motion that I made to recommit the bill.

Mr. WILSON. I am much obliged to the Senator.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

SOLDIERS' BOUNTIES.

Mr. WILSON. I move to take up Senate bill No. 489, to relinquish the interest of the United States in certain lands to the city and county of San Francisco.

Mr. STEWART. I wish the Senator would let that lie over until the Senator from California [Mr. CONNESS] is present.

Mr. WILSON. Very well.

Mr. STEWART. Neither of the Senators from California is in his seat now; and I hope it will not be pressed at this time.

Mr. WILSON. I move to take up House bill No. 1279, in relation to additional bounties, and for other purposes.

The motion was agreed to; and the bill (H. R. No. 1279) in relation to additional bounties, and for other purposes, was considered as in Committee of the Whole. The bill provides in the first section that when a soldier's discharge states that he is discharged by reason of "expiration of term of service," he shall be held to have completed the full term of his enlistment and be entitled to bounty accordingly. The second section declares that the prohibition of bounty in the fourteenth section of the act of July 28, 1866, to any soldier "who shall have bartered, sold, assigned, transferred, loaned, exchanged, or given away his final discharge papers, or any interest in the bounty provided by this or any act of Congress" shall not apply in cases when the full amount of bounty has been advanced by States, counties, or towns, to the soldiers or to their families, but the State county, or town, advancing the same shall be entitled to it. The third section provides that the widow, minor children, or parents, in the order named, of any soldier who shall have died after being honorably discharged from the military service of the United States shall be entitled to receive the additional bounty to which such soldier would be entitled if living, under the provisions of the twelfth and thirteenth sections of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," approved July 28, 1866.

Mr. WILSON. I move to strike out the second section of the bill.

The amendment was agreed to.

Mr. WILSON. The first section of the bill provides that if any soldier was discharged, as there were some at the close of the war by expiration of term of service, a few days before the three years' term was out, he shall be entitled to bounty. Some of them were within a few days, within a week, of filling out their term when the regiment was mustered out, so that they did not quite serve their full term.

The second section that I have proposed to strike out provides that counties or towns or States shall have the bounty money they advanced as bounties to soldiers where the soldier has lost, or sold, or given away his papers. In such cases he could not have the benefit of the bounty, and I do not see any reason why we should take money out of the Treasury to give to States or towns or counties.

The third section simply provides that the widow or children of any deceased soldier who if living would have been entitled to receive the bounty of fifty dollars for two years service or \$100 for three years service shall have the benefit of the bounty. I think it is just and proper. It was supposed to be the law until the Department made a ruling to the contrary. This will include the families of a few men who died after their discharge—probably not a great many—and it will relieve their families. The men would have been entitled to the bounty if living, but they died after the close of the war. It cannot cover more than a few hundred cases. It is absolutely right and just in itself. If the men had lived they would have had the bounty, but as they died we propose to give it to their widows or children.

Mr. HOWE. I should like to hear that section read which saves the right of heirs to the bounty.

Mr. WILSON. It is the third section.

The Chief Clerk read the third section of the bill.

Mr. HOWE. I think the principle of that is right, but I happen to know that—I believe in two instances, there may be more—cases like this have come before the Committee on Claims: the soldier died after the bounty was allowed but before it was paid, and creditors have

appeared; and in two cases, I think, the Committee on Claims have reported bills allowing the bounty to be paid to creditors. Those cases I suppose ought to be excepted. If we once pay the money to the creditor we do not want to pay it again to the heirs.

Mr. BUCKALEW. I inquire of the Senator if any of those bills have been passed?

Mr. HOWE. I am not sure whether they have been or not.

Mr. BUCKALEW. I have my doubts whether they ought to be passed paying these bounties to creditors. It was not the intention of Congress to settle the debts of our soldiers, but it was a gratuity to them individually.

Mr. HOWE. No, sir; but where an honest debt existed against the soldier why not so apply the money? The two cases that I have in my mind are cases where the debts arose in nursing the soldier during his last sickness. The Treasury Department reported that the bounty could not be paid to the heirs, could not be paid to the representatives, the individual having died: it belonged to the Government. We thought it was fair that the Government should pay such claims as these rather than put the money into the Treasury. I do not know whether either of those bills to which I have referred has been passed.

Mr. BUCKALEW. It is a very exceptional case that the Senator has mentioned.

Mr. WILLEY. One of the cases to which the honorable Senator from Wisconsin refers was a very peculiar one. The soldier was sick, and he made an express contract with the party keeping him in his last illness that when he got his bounty and his back pay he would pay the old lady who kept him out of his bounty and back pay; and in consideration of that assurance she undertook to keep him, and did keep him, and he had no other means of support or of commanding that attention which was necessary in his last illness.

Mr. WILSON. I move to amend the bill by adding as additional sections:

And be it further enacted, That all claims for the additional bounties granted in sections twelve and thirteen of the act of July 28, 1866, shall after the 1st day of May next be adjusted and settled by the accounting officers of the Treasury under the provisions of said act; and all such claims as may on the said 1st day of May be remaining in the office of the Paymaster General unsettled shall be transferred to the Second Auditor of the Treasury for settlement.

And be it further enacted, That all claims for bounty under the provisions of the act cited in the foregoing section shall be void, unless presented in due form prior to the 1st day of December, 1869.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

ORLANDO BROWN.

Mr. ABBOTT. I move that the Senate take up for consideration Senate bill No. 830.

The motion was agreed to; and the bill (S. No. 830) for the relief of Orlando Brown was read the second time, and considered as in Committee of the Whole. It proposes to direct the proper accounting officers of the Treasury in the examination and settlement of the property and money accounts of Orlando Brown, late captain and assistant quartermaster United States Army, to credit and allow him all expenditures of money and property made by him in good faith under the orders or in conformity with orders of his superior officers; and especially all expenditures of quartermasters' property made by him for the benefit of freedmen, under the orders of Major General Benjamin F. Butler, in like manner as if the same had been regularly expended in the quartermaster's department.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ALLEGED NORTH CAROLINA DESERTERS.

Mr. ABBOTT. I move that the Senate proceed to the consideration of Senate bill No. 877.

The motion was agreed to; and the Senate,

as in Committee of the Whole, proceeded to consider the bill (S. No. 877) to remove the charge of desertion from certain soldiers of the second North Carolina mounted infantry. The bill recites that it appears from the evidence of certain officers of the second North Carolina mounted infantry, the records of the War Department, and the official orders of Major General Schofield, that certain soldiers were detached from the second North Carolina mounted infantry to join the third North Carolina mounted infantry to make a raid into the enemy's lines, in June, 1864, for the purpose of destroying railroad bridges and harassing the enemy, and that while absent from their regiment upon such duty they were borne upon the rolls of the second North Carolina mounted infantry as deserters; and it proceeds to direct the Secretary of War to remove the charge of desertion from certain soldiers of the second North Carolina mounted infantry whose names are given.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JANE NORTHRIDGE.

Mr. ABBOTT. I move to take up for consideration Senate bill No. 768.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 768) for the relief of Mrs. Jane Northridge. It provides for the payment to Mrs. Jane Northridge, widow of William Northridge, deceased, late colonel fifty-ninth regiment New York State volunteers, of \$10,260 32, in full payment for moneys advanced and services rendered by him in raising troops in the State of New York.

Mr. GRIMES. Let us hear the report in that case.

Mr. ABBOTT. I send the report to the desk to be read.

The Chief Clerk read the following report, made by Mr. ABBOTT, on the 16th instant, from the Committee on Military Affairs:

The Committee on Military Affairs, to whom was referred for investigation the claim of Mrs. Jane Northridge, widow of William Northridge, deceased, late colonel of the fifty-ninth regiment New York State volunteers, beg leave respectfully to submit the following report:

It appears, upon examination, that on or about the 1st day of June, 1861, Colonel Northridge commenced recruiting troops for the United States volunteer Army; that on or about July 24, 1861, he reported to the War Department and was authorized to complete a regiment of volunteers; that at that time he had five companies and had established a camp at Elm Park, Staten Island, Richmond county, New York, and that from the 1st day of June, 1861, to the 13th day of October, 1861, at which time his men were consolidated with others and formed the fifty-ninth New York State volunteers, he had expended large sums of money in subsisting said men.

It appears, upon an examination of official copies of affidavits on file in the War Department furnished by the honorable Secretary of War to your committee, that the sum of \$5,490 was paid for provisions; that the sum of \$3,525 was paid for wall and "A" tents; that \$451 32 was paid for rent of offices; that \$388 was paid for printing, and that the sum of \$406 was paid for stoves and for camp and garrison equipment, and that the total amount thus expended by Colonel Northridge was \$10,260 32.

It further appears that at the time these various purchases were made, receipts and vouchers covering the entire amount of said expenditures were obtained by said Northridge, and by his order were carefully filed away with other valuable papers and were lost in the month of August, 1862, in the following manner, to wit: while the Army was lying at Harrison's landing, Virginia, an order was issued by Major General George B. McClellan, ordering all the extra baggage of officers to be forwarded to a place of safety, and the Army to be in readiness to move in light marching order, and that in obedience to the said order Colonel Northridge ordered his trunk to be placed in charge of the regimental quartermaster and by him to be transported to barges lying at Harrison's landing, Virginia, to be shipped to Washington, District of Columbia, and from thence to their destination; that his trunk, containing the bills and receipts heretofore referred to, including other papers pertaining to the organization until the 13th day of October, 1861, with his extra clothing, was carefully marked and directed to be shipped by express from Washington, District of Columbia, to Baltimore, Maryland, and that his trunk was lost or stolen after delivery on board the barge as aforesaid; that he has made diligent search for the same, but without success. While the petitioner in this case is unable to produce the proper receipts for the expenditures made, it is shown by positive evidence from whom the purchases were made, and the reason why other vouchers cannot be produced

is satisfactorily accounted for in the affidavit of James H. Birdsall, late captain in said regiment. It is in evidence that there were about two hundred men subsisted daily from the 1st day of June, 1861, to the 1st day of October, 1861, and further, that the men were accepted by the United States Government.

The committee further find that the said Northridge, during his lifetime, presented the aforesaid claim to the War Department for adjudication, and that the same was rejected for the reason that he, Northridge, was unable to comply with a certain order existing in regard to the payment of such claims, to wit, furnishing receipts of the parties to whom payment was made, the reason being as heretofore stated, that such receipts were unavoidably lost with his baggage. It further appears that the said Northridge is now deceased, and has left a widow surviving; that his record while in the United States Army was good; that he subsisted out of his own private funds an average of two hundred men daily from the 1st day of June, 1861, to the 13th day of October, 1861; and that the Government in the hour of trial had the aid and services of the men thus recruited.

Your committee, therefore, firmly believe that the claim is just in every particular, and earnestly recommend that the bill be at once passed for the full amount of said claim.

Mr. BUCKALEW. This report does not state what became of this property afterward. It states that there is evidence that these purchases were made. I do not know what this man bought stoves for between May and October, which is one of the items. There is a large item for tents and other sorts of property. The committee ought to inform us what became of this property; whether it was turned over to the quartermaster's department afterward, or, if not turned over, whether it was sold and the proceeds accounted for in any manner. It occurs to me by what appears on the face of the report that this matter is indefinite.

Mr. ABBOTT. These bills were contracted in the early part of the recruiting service, when things were done all over the country very irregularly, and there is no evidence as to what became of the tents or the other property. The stoves, I suppose, were used, as was the custom in a good many camps in the early part of the war, for cooking before the soldiers had learned to cook with a camp-kettle. Anybody who was familiar with the recruiting business, with the raising of troops in the early part of the war, knows that a great deal of the business was done in an irregular manner. This man did not even take the care to get the proper orders, and so he could not draw from the quartermaster or commissary or ordnance departments; and instead of that, before the time came for him to be mustered in, he took his own money and supported his men. He only began to transact business with the Department after he had raised men enough so that he was mustered in. It appears moreover that he did not collect, as was the ordinary custom, the bills due him for recruiting under the rules and regulations, having proceeded informally during the whole time; and yet the men he raised were ultimately mustered in, and he became lieutenant colonel of the regiment. I have examined this claim with a good deal of care, and while it is informal, as is suggested by the Senator from Pennsylvania, I am satisfied that the claim is just. The evidence is abundant.

Mr. HENDRICKS. I should like to ask the Senator why this bill is reported from the Committee on Military Affairs? I understand the report to come from that Committee. There ought to be uniformity of decision; but if the claim of A be referred to the Claims Committee and B's to the Military Committee and C's to the Naval Committee, of course there will be no rule of adjudication common to all the cases. These cases ought to be decided on some principle, on some analogy to the law.

Mr. ABBOTT. I will answer the Senator from Indiana. This is a case that relates peculiarly to military matters. It may have been presumed that the Committee on Military Affairs was more conversant with the proceedings in these cases and better able to understand what were the merits of a claim of that nature than the Committee on Claims, because more of these cases came before it, and therefore it was referred to the Committee on Military Affairs.

Mr. HENDRICKS. That is plausible, but

not quite true. That would distribute all the cases that come into the Senate among the different committees, and there would be nothing peculiar for the Committee on Claims. For instance, if a man's claim was in any way connected with naval affairs, it would go to the Naval Committee; and if he served the State Department in any way, and was the loser, he would go to the Committee on Foreign Relations; and so of the other committees. Now, there is advantage given to this claim by sending it to the Military Committee, because that committee as a matter of course does not feel itself held before the Senate by the same stringent rules that govern the Committee on Claims. I know how that is very well. There is a liberality of view taken by other committees which would not be taken by that committee. Then, that committee is very much crowded with business, and so this claim gets in ahead of other claims that ought to be considered.

This may be all right; but I want to ask the Senator one more question, whether it was not a very common thing for officers to incur expenses in raising their companies and their regiments, and very large sums; and whether it is the purpose of the Military Committee to compensate them? I know the fact that during the war large sums were paid out by officers in raising their companies and their regiments. I did not know we were going to undertake the work of compensating them for those outlays.

Mr. ABBOTT. In the early part of the war things proceeded for several months in a very irregular manner. A man desired to enter the Army of the United States; he commenced to raise troops; he did not obey what rules and formulas there were at that time. If anybody will investigate the whole thing he will find that it was almost all done irregularly. If a man did proceed regularly he could collect his recruiting account. This man omitted to do it, as a great many others did; and a great many got their pay and adjusted their accounts afterward.

Mr. GRIMES. I am very well aware that the objection raised by the Senator from Indiana would have been considered a few years ago a very valid one. Such a claim as this would not then have been referred to the Committee on Military Affairs to be considered, but would have been sent to the Committee on Claims. But the Senator should remember that we have bravely gotten over all the rules we used to be governed by. To-day we had submitted to us a claim which, judging from its antiquity, should be considered by the committee of my friend from Nevada, [Mr. NRE,] the Committee on Revolutionary Claims; and yet it was reported to us by the Committee on Foreign Relations. I refer to the proposition relating to expenses incurred in the war of 1812-15. It was reported to us from the Committee on Foreign Relations. I suppose it came from that committee simply because that war was a foreign war. I cannot conceive of anything else. Perhaps, however, as has been suggested to me, it was because it was foreign to any subject that was under consideration at that time. [Laughter.] I should like to inquire of the Senator from North Carolina how it happens in this particular case that this man had his vouchers with him on the James river for money that he expended months and nearly a year before on Staten Island, New York? Is it the habit of men who transact business of this kind to carry around in their personal baggage vouchers for money that was expended months before in a distant State and carry them to the seat of war?

Mr. ABBOTT. It is the most natural thing in the world. I have known numbers of cases myself where officers kept their papers in their trunks. It was the most natural thing for an officer to do. He did not know when he was going to want them, and he thought that was the best place to keep them, by him. In this case this officer not comprehending the condition of things at Harrison's Landing when the order came for a restriction of transportation was, like everybody else, obliged to send

his baggage away, being a trunk, and it was lost in the journey.

Mr. HENDRICKS. Mr. President, \$10,000 paid to this man, perhaps, is not of very much consequence; but I do think it is an important question that the Senate ought to consider, whether we are now going to commence the rule of paying officers for their outlays in raising regiments and companies, and their irregular outlays that were made for that particular purpose. If so, the bills will come in in very large sums. I have had very many officers tell me that they had, before the war came on, laid up perhaps a thousand, or two thousand, and some three or four thousand dollars, and they had spent it all in raising their regiments. They did not view it as a claim against the Government. They did not think of presenting a claim. It was their ambition to raise their regiment or company, and so they expended their money; but if Congress now proposes to indemnify officers in such cases the whole volume of the claims will come in here.

Mr. ABBOTT. Will the Senator from Indiana allow me a moment? The remarks of the Senator do not apply to the equity of the matter. Anybody who understands that sort of proceeding knows that if this Colonel Northridge had taken the care to comply with the formulas of the quartermaster's and commissary departments he would have got his pay anyway; but he being perhaps ignorant of these forms did not take the care to do it, and he therefore could not collect it in accordance with the rules and regulations of the quartermaster's and commissary departments. That is simply all there is about it. I did exactly this same thing myself, and got my pay because I complied with these formulas and rules.

Mr. HENDRICKS. That is all right; I am glad you got the money.

Mr. ABBOTT. I looked out for that.

Mr. HENDRICKS. Perhaps in all the cases to which I have referred the money could have been had again from the Government if the forms had been observed. I do not know how that is. I know that officers will have claims for enormous amounts against the Government if this principle be established, and I think Senators had better decide the question whether they are willing to meet it. There were nearly two hundred regiments raised in Indiana, and I suppose that almost every officer who raised a company or a regiment incurred some considerable expense, but it was an expense that he was willing to incur, because he was ambitious to raise his company or regiment at once and get it into the field. If we are ready to pay all such claims we can vote on this bill understandingly.

Another thing; if this bill be passed it ought to be in the form of a bill not to pay money, but to refer the question to the proper accounting officers of the Treasury to settle the claim upon satisfactory evidence, simply waiving the technical and formal proof which the regulations require. Is it proper that the committee shall audit the case? I think this bill ought not to pass in its present form.

Mr. WILLIAMS. I do not like to interpose any objection to this claim, but—

Mr. ABBOTT. If the bill is to lead to further discussion I shall consent to have it passed over for the present.

Mr. WILSON. It had better go to the Committee on Claims.

Mr. ABBOTT. Very well; I move that it be referred to the Committee on Claims.

Mr. HOWE. I do not see the slightest necessity or propriety in sending it to the Committee on Claims. It has been examined by one committee, and I suppose that committee have presented the facts of the case to the Senate. That is all the Committee on Claims can do.

Mr. ABBOTT. Then let it be passed over informally.

The PRESIDING OFFICER, (Mr. THAYER in the chair.) The bill will be passed over informally if there be no objection.

CAPTAIN G. BRYSON'S COMPANY.

Mr. ABBOTT. I move to take up House bill No. 1872.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1872) providing for the payment of Captain Goldman Bryson's mounted company. It provides that the company of mounted volunteers raised and commanded by Captain Goldman Bryson, of Cherokee county, State of North Carolina, under authority of Major General Rosecrans, and received into the service of the United States by Major General Burnside September 29, 1863, and such men as were accepted into the service of the United States by Captain Goldman Bryson within one month thereafter, and the widows, heirs, and legal representatives of the officers and enlisted men, shall be entitled to pay, bounty, pension, and allowances according to their grade and time of service as other volunteers in the service of the United States, notwithstanding any informality in their muster or enlistment into the service of the United States, under such rules and regulations as may be adopted by the proper accounting officer of the Treasury.

Mr. ABBOTT. There is a report in that case which can be read.

Mr. HENDRICKS. The bill shows on its face what it is for.

The PRESIDING OFFICER. The report will not be read unless it is called for.

Mr. PATTERSON, of Tennessee. There is no objection to the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MILITARY INSTRUCTORS.

Mr. WILSON. I move to take up House bill No. 1490.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1490) to define the pay of officers of the Army detailed to act as military instructors. It provides that all officers detailed to give military instruction in colleges and universities under the provisions of an act entitled "An act to increase and fix the military peace establishment of the United States," approved July 28, 1866, shall, while so detailed, be entitled to the full pay of their respective grades the same as if they were in active service.

Mr. WILSON. I move to add the words "and allowances" after "pay," in line eight, and in line nine to strike out the words "the same as if they were in active service."

Under an act of Congress, supposed to be a wise one as all acts of Congress are, certain officers of the Army on the requisition of the colleges of the country were detailed by the Secretary of War to act in these colleges as teachers of military tactics, &c. At the War Department or at the Treasury the law is construed to mean that an officer so detailed is entitled to only his regular pay. This bill provides that he shall have the pay and allowances he would have were he in active military service. If the thing is worth supporting at all, if it is a good thing, I think it should be so, because these officers cannot live on their pay.

Mr. HENDRICKS. Will the Senator allow me to ask him a question?

Mr. WILSON. Yes, sir.

Mr. HENDRICKS. Does the law require them to go into the school or college if they do not wish to go?

Mr. WILSON. No; but it authorizes the Secretary to detail them.

Mr. HENDRICKS. The Secretary indicates to an officer, "We want you to go and teach in some school." Is he bound to go?

Mr. WILSON. We authorize the Secretary to detail officers for this purpose where they are required, and it is supposed to be an excellent law.

Mr. HENDRICKS. I had expected that the Military Committee before this time would have

reported a bill to repeal that act. It is about time to do it. It ought to be repealed, in my opinion, and I do not think we had better drive any spikes down to make it any firmer on the statute-book. It would be better to repeal the other law than to pass this.

Mr. WILSON. I am not particular whether it is repealed or not; but so long as it is the law it seems to me these officers ought to have the same pay that they would have were they in the service of the country. There is no question about one thing, that the practical operation of the law is training a great many young men of the country and fitting them by their studies to understand something about the Army.

Mr. CONKLING. I was about to inquire of the honorable Senator, then, why he says he does not care whether it is repealed or not. I understand this provision to be one of the most wholesome things and one of more consequence than almost any provided in the statute.

Mr. GRIMES. I should like to inquire of the Senator from Massachusetts whether these officers when they are connected with colleges are exercising an independent command and entitled to brevet pay?

Mr. WILSON. Oh, no.

Mr. GRIMES. I understand when an officer is exercising an independent command he exercises it with his brevet rank and is entitled, if in active duty, to brevet pay.

Mr. MORRILL, of Vermont. From what I understand these officers—

The PRESIDING OFFICER, (Mr. THAYER in the chair.) Does the Senator from Iowa yield the floor?

Mr. GRIMES. Certainly; I am after light.

Mr. MORRILL, of Vermont. The officers who have been detailed for this service have not been in any instance that I am aware of such officers as would have been assigned to active service.

Mr. WILSON. That is a mistake.

Mr. GRIMES. The chairman of the Committee on Military Affairs corrects the Senator from Vermont as to that.

Mr. WILSON. Officers from the field have been detailed for this special service, but they are generally the older officers.

Mr. MORRILL, of Vermont. I am not aware of any instance of an appointment of that kind; but they are men who have reached old age.

Mr. WILLIAMS. Superannuated.

Mr. MORRILL, of Vermont. Well, say superannuated; men who have been wounded and men in poor health; such men as the Secretary of War could spare. He never has in any instance that I can find detailed an officer who was fit for active duties.

Mr. GRIMES. That is no answer to my question. He has detailed to this duty some brevet major generals. Now, my question is, if a brevet major general is in the exercise of a command by virtue of his rank, in active duty, does he draw a brevet major general's pay?

Mr. MORRILL, of Vermont. All these officers are on leave of absence and receive less pay, and the institutions that employ them make it up where they are unwilling to come for the pay they receive upon leave of absence.

Mr. WARNER. I will say to the Senator from Iowa that the answer to his question will depend upon the order of the President. If an officer is assigned to duty with his brevet rank he then draws pay according to his brevet rank; but unless he is so specifically assigned he only draws the pay of his lineal rank.

Mr. BUCKALEW. We ought to have some distinct explanation in a case of this sort. How many persons have been detailed to this duty?

Mr. WILSON. About twenty or thirty.

Mr. MORRILL, of Vermont. There can be but twenty-five detailed under the law.

Mr. BUCKALEW. Of what rank are they, and what is their fixed pay, and what will be the amount to each of the allowances which

are made? What does the word "allowances" mean? Does it mean compensation for imaginary servants who are not employed?

Mr. WARNER. Will the Senator from Pennsylvania permit me to answer his question? Mr. BUCKALEW. Certainly; I am in the pursuit of information.

Mr. WARNER. The Senator will understand that the pay of an Army officer is the pay proper—that is, so much per month—and allowances, which consist of rations and allowances for servants' hire and for pay of servants, clothing of servants, and other matters of that kind. The officer is authorized to draw his rations and allowances in kind, or to commute them at their money value according to a fixed standard. The word "allowances" refers to those matters. They are fixed by law.

Mr. BUCKALEW. That is what I supposed. But an officer sent to a college, and occupying a moderate-sized room along with another person, I suppose, will not need the services of a servant; he will not need to clothe a servant; he will not need a great many other things which an officer in the Army on duty, or even in quarters, may require and is justified in having or in incurring. We have a bill thrown in here and we do not know the practical effect of it.

Mr. WILSON. If the Senator will allow me a single moment I think I can explain to him what the practical effect of it is. We passed a law in 1866 which at the time of its passage had the very strong support of the friends of education in the country, especially of military education to the young men of the country, authorizing the Secretary of War to detail a certain number of officers when called upon for the purpose of teaching in these institutions. By a construction given in the Department to that law these officers when so detailed are allowed only their pay proper.

The pay of an officer depends entirely on his rank. If he is a captain it is one thing, if he is a lieutenant, another. It depends entirely upon his grade. Then the allowances are all set forth. Rations, servants, fuel, and quarters, everything is set forth precisely according to their rank. If he is an officer of high rank those allowances amount to quite a sum. Now, the construction is that these officers are entitled to nothing except their pay proper. If an officer is detailed from the field, where he can live cheaper than he can anywhere else, and is sent to a college, in the city of New York for instance, his expenses are increased and he is cut off from everything but his pay proper; he has no rations, no servants, no fuel or quarters, no allowances of that kind.

But I do not wish to consume the whole evening in considering this bill, and if Senators are opposed to it I would rather let it go, although a great number of petitions have been sent to us asking for this change, because I have some other bills that I am very desirous of getting through to-night. If gentlemen are determined to oppose this bill I shall abandon it for the present.

Mr. CONKLING. I hope the Senator will not abandon this bill.

Mr. WARNER. I hope not, too.

Mr. CONKLING. Mr. President, I should like to read the section, if it be the only section, as I believe it is, in consequence of which this bill is reported. It is section twenty six of the act of July 28, 1866:

And be it further enacted, That for the purpose of promoting knowledge of military science among the young men of the United States the President may, upon the application of an established college or university within the United States, with sufficient capacity to educate at one time not less than one hundred and fifty male students, detail an officer of the Army to act as president, superintendent, or professor of such college or university; that the number of officers so detailed shall not exceed twenty at any time, and shall be apportioned through the United States, as nearly as practicable, according to population, and shall be governed by general rules, to be prescribed from time to time by the President.

The proposition is, in a time of peace, at the conclusion of a war which, at least, does not presage another, to leave the President

of the United States, the Commander-in-Chief of the Army, invested with the power to detail officers not exceeding twenty in number for the whole United States to colleges or schools capable of educating at one time one hundred and fifty male students. If I had not heard Senators object to this provision I certainly should not expect any objection to a provision of this sort. Assuming that the President is provident and discreet in his detail—and I mean thereby that he does not take an officer of use somewhere else, as, of course, he would not, and detail him—I should like to know to what ministration, to what mission of any sort, officers not exceeding twenty in number below a certain rank could be more properly devoted than to such a purpose as that here intended?

I have heard during my service in Congress oftentimes a crusade preached against West Point. I do not sympathize with that. But I have never heard the most ardent partisan of West Point deny the propriety of disseminating in other colleges some rudimental knowledge of the manual of the soldier. Here is the provision, appropriate and adapted to the cheap, indeed the inexpensive, dissemination of that knowledge. Why do I say "inexpensive?" Because these officers are not to be mustered out of service in lieu of being thus detailed. So that the question is whether they shall be somewhere, they not being required in the Army—because if they are required of course a request from a college will not be complied with—or whether their time shall be devoted to affording instruction in military drill and the rudiments of military science.

I speak in this behalf in one instance for the Cornell University of the State of New York, the pride of which university resides in the fact that it is founded in the munificence of a single citizen, but still more in the fact that it promises to be a school at which any man may become proficient in any branch of knowledge taught in any educational seminary in the world. It professes to do that, and men skilled as judges in its coming excellence, not only in this country but abroad, believe in the assurance that it will do that.

Take this single college to illustrate. It wants, as it seeks now, a military officer holding no rank higher than that of major to come and reside in the locality of the college, to teach the young men there, some of whom are able to pay for their tuition and some of whom receive tuition without payment in money for it, the rudiments of military science. If a war were in progress, and these officers were needed elsewhere, of course I should not advocate their presence in such places; but the whole theory of this statute is permissory. The President in his discretion is simply authorized, upon a request of this sort, to spare from the active service officers not exceeding twenty in number for the whole United States; and the request cannot legally proceed from any college less in size and capacity than that which enables it at one time to educate at least one hundred and fifty male students.

Now, Mr. President, I do most earnestly expostulate with my honorable friend from Indiana and the honorable Senator from Pennsylvania against their attempting to act upon the impatience of the honorable Senator from Massachusetts to dispose of the business of his committee at this late hour of the day and of the session, or in any other way to give this bill a death blow. I hope most earnestly it will be allowed to pass, and that these lieutenants and majors, during the months that they may be detailed to give this instruction, will not thereby be diminished in their pay below the point which will enable them to live; and that is all that is contained in this proposition.

I have but one other remark to make, and then I will give way for other Senators. Some Senator inquired whether this bill gave pay upon the idea of brevet rank. Certainly not, as is shown by the facts and shown by the language of the bill. It is simply that while they

are absent performing this duty they shall not thereby forfeit any part of their pay; but it is to be the same as if they were in active service. Now, sir, when you consider that it is committed to the discretion of the President, and that no President exercising a sound discretion will withdraw any man from the service who is needed elsewhere, I respectfully submit that the bill is absolutely without any objection.

Mr. BUCKALEW. I will not detain the Senator from Massachusetts with his other bills by speaking at length on this; but I must add a word or two to what I said before. I would have no particular objection to furnishing a major for the Cornell University of the State of New York, an institution of great merit and of much promise, as far as I am informed; but here is a question of more than twenty universities or literary institutions in different parts of the country, for each of which the Government of the United States is to furnish a professor. If we are to send a man with the rank of brigadier, and these details have become so common that I suppose you might make up the whole twenty from the list of brigadiers, you will furnish a professor drawing six or seven thousand dollars a year. I suppose professors ordinarily in colleges do not draw more than one half that amount. These professors, then—for they would be such—endowed by the United States, would get about twice the pay that would be obtained by those employed by the institutions themselves.

Now, sir, I have great doubts about the propriety of our entering upon this system of furnishing professors for literary colleges at the expense of the Treasury of the United States. It may have been well enough at the close of the war when we had a great superfluity of officers and did not know exactly what to do with them, and the idea of retrenchment and cutting down the Government expenses in regard to the Army had not taken root in the public mind, had not made its entrance, at all events, into the two Houses of Congress; but, sir, the idea has come to be entertained that we are to reduce the Army. Bills with that object were introduced at the last session of Congress, and have been at the present session. Whether we are to have an effective measure or not before the adjournment I do not know; but it is to be expected that within a reasonable time our Army will be largely reduced; and although the officers may not be reduced in the same proportion in which we reduce the rank and file, I suppose there will be a large curtailment of them. At all events, as resignations take place and as deaths happen, the vacancies need not be filled and we can reduce our efficient force very largely.

What object has the Government of the United States in furnishing professors to these literary institutions? The officer is sent there, it is said, to instruct the young gentlemen, not less than one hundred and fifty in number in any one institution, in the art and mystery of war. What does that mean? I suppose he is to instruct them in engineering and in sundry other branches of mathematical and other sciences, as well as in military tactics. If he is a competent man he will be a very efficient professor in the institution. His services may give it popularity and credit and character in the community, and may insure its prosperity.

But what next? Is it expected that these young men who are instructed in these institutions will enter the Army? No, sir. You have provision already made for the education of young men with that object at West Point. They are to pass out into all the ordinary occupations of civil life from these institutions; and the main result and the practical result is that you have a literary institution provided with a professor by the Government of the United States, and we have paid him.

Now, we are informed that the ordinary, that is the fixed, pay of these officers in the way of salary is not sufficient; that we must vote to them all the liberal and, by the way, the indefi-

nite allowances which have crept into our military system, which in my judgment is itself, if not a huge body, at all events a great practical inconvenience. For one thing, we never know how much an officer gets unless we enter pretty deeply into the question in the Departments of the Government. I remember that at one time we were endeavoring to fix the pay of the Judge Advocate General. We had three committees of conference on the question of his compensation and no end to debates. Our present minister to the Court of Madrid entered at large into the question. He undertook to conduct a contest against establishing a new office, the pay of which should not be known to Congress and the people; and after the expenditure of an immense amount of eloquence on the subject and the consumption of a large amount of public time he was defeated in his purpose; the Judge Advocate General had a salary given to him and all the allowances; and whereas we supposed it would amount to some four thousand dollars annually, I believe it turned out to be six or seven thousand dollars. At that time I was impressed with the conviction that this system of making allowances to officers in the Army was a very bad one, and that if it were possible in the nature of things some reform should be introduced. At all events, now when we are going to transform them into professors of colleges to give gratuitous instruction to the young gentlemen, the sons of the wealthy people of our country, who ordinarily attend those institutions, let us know how much we are to pay; let us fix the compensation of our Government professors at some amount which the people will understand and which Congress will understand also.

Mr. WARNER. I hope the Senate will understand this question, and when they do understand it I think they will pass this bill. The detail of these officers for duty in these colleges is already authorized by law. This bill simply and only provides that when thus detailed they shall have the same pay they would have if they remained where they were before they were detailed. That is all there is in it. I repeat that it does not relate to the matter of detailing at all. The detail of these officers for teaching in colleges is authorized by a previous law. The only effect of this bill is to provide that when thus detailed in pursuance of the law their pay shall not be reduced.

As to this talk about indefinite allowances, there is nothing indefinite about the pay of an Army officer. There is no trouble in calculating to a cent what the pay of an officer is under any circumstances. The matter is fixed by law. There is no evading it.

Mr. CONKLING. But if the Senator will allow me a moment, suppose there is something indefinite about it; and suppose, by churlish legislation, we refuse to apply that provision, whatever it is, to those who are detailed; the result is, they will not be detailed; and then the same inconvenience will remain. It does not make a farthing's difference to the Treasury, but simply deprives these colleges of the services of men, which services will not cost the Government a cent.

Mr. WARNER. Certainly; that would be the only effect produced. The object is to provide that when these officers are detailed in accordance with law, and not by their procurement but perhaps against their wish, their pay shall not be reduced. That is all there is in this bill.

Mr. HOWE. I desire to say two or three words about this bill. The first question that I consider is whether this service proposed in the act which has been read here is of any value to the country. A military education is thought to be so important that you maintain a school for that express purpose and pay pupils for attending it. That school, to be sure, will furnish officers enough for your Army in time of peace; but, I take it, there are very few on this floor who are willing to bet their lives to-night that we are always to be a nation at peace. We have seen war; we may see another; and

when you saw the last one your Government was very eagerly looking in every direction after men who had received a military education at any time, or any smattering of military education, or even had done respectable duty in a militia regiment; and we all know that in respect to military skill and proficiency those who turned out our enemies in that war were in advance of us. They had more men fitted by education to take commands than we had. Under these circumstances I think no one will deny that these officers, when you consider that each one of them will have under his instruction not less than one hundred and fifty pupils, may furnish them the rudiments of a military education which, when you want a larger Army than you have, may be made available, may be utilized.

Now, then, what is it going to cost you? It is of essential service to the Government. What is it going to cost you? Nothing; not a dime. Every one of these officers is in the service of the Government and is going to be there, and they have nothing in the world to do. You have more officers than you have men to command. I understand the rank and file of your Army to-day amounts to less than forty thousand—I think about thirty-six thousand—and you have officers for fifty-four thousand men, and you are not going to muster them out. They have nothing to do. They are going to be paid. The question is, will you lend these unemployed officers to the work of instruction in these colleges until you have some regular, legitimate military service for them to do? I do not think that is a very prodigal thing for the Government to do. I hope the Senate will consent to let this bill pass.

Mr. RAMSEY. The Senator might also add that the practice of the War Department is to detail only retired officers of the Army to this service.

Mr. SPRAGUE. I have not been able to discover exactly, from the remarks that have been made, this question; but, as I understand it, it is that the War Department may detail military officers to serve in the capacity of professors in colleges that have one hundred and fifty students. As to the propriety of detailing officers of the Army for the performance of this duty, I cannot conceive that the Senate can be at all in doubt. That it will be of advantage to the Army no Senator will doubt for a moment when he examines into the great capacity and achievements of officers who have heretofore been absent or resigned, or been detailed, either by their own acts or the acts of the Government, from the ordinary routine of Army life. I point to General Sherman as an illustration of the benefits accruing to the service by the detailing of officers away from the ordinary routine of Army life. I might point to Grant himself, who also broke off from the routine of Army life. It will be of advantage to the Army and to the officers themselves to give them the experience of civil life and of the active duties appertaining to a professorship in the instruction of youth. It will also be of advantage to the colleges in the introduction of new experience, if it may be so termed, of men who have been experienced in the active duties of Army life; and when it is considered that the nation is not subjected to any expense by this provision other than it would be without it, I think it is a cheap advantage obtained both for the Army and for the educational institutions throughout the country.

Mr. GRIMES. It is a very grave mistake, I apprehend, from the information I get from the chairman of the Committee on Military Affairs, to suppose that nobody is detailed to these colleges except retired officers. There are other than retired officers detailed to these places, and the moment you pass a law authorizing the Government to pay to any officer who may be detailed to an easy place at one of the northern colleges the same compensation according to his rank that you give to a man who is exposing himself on the frontier fighting the Indians you will find that your whole Army

will be besieging your Commander-in-Chief or the general in command trying to get detailed to like positions.

The Senator from Rhode Island does not seem to understand what this bill is. It is not the pay proper that it gives; it gives commutation for all the allowances that are made to an officer in active service, for his horses, for his forage, for his servants' commutation, for lights, for quarters, for fuel, for everything, amounting to more than double the amount of his pay proper.

Mr. BUCKALEW. I call the Senator's attention also to the wording of this bill. It is said that these are retired officers who are to be sent on this duty. The bill provides that they shall draw "full pay and allowances of their respective grades the same as if they were in active service."

Mr. GRIMES. Yes, as though they were in active service in the field. Now, is it fair to those who are in active service, exposing their lives on the frontier and to the pestilence and the storm, wherever they may be ordered, that these persons who are living in ease and quiet at your northern colleges shall draw precisely the same compensation that they draw? I am not a very great admirer of this system. I have never yet been able to come across a gentleman who believed that the mere manual of arms, which is about all that they teach, makes a soldier. All these comparisons that are drawn between the men who are educated in the manual of arms and the manual of the soldier at a college and General Grant and General Sherman, who have had a regular, thorough military education, I think are very far from proper illustrations of this subject.

Mr. CAMERON. To my mind this bill is eminently proper; but I would make a couple of amendments to it. In the first place, I would amend it in the seventh line by inserting after the word "detailed" the words "and there shall be none detailed but retired officers;" and in the eighth line I would change it so as to read "the full pay, without allowances, of their respective grades, the same as if they were in active service." With these two amendments I think the bill will do a great deal of service. I remember very well that when the war began we were anxious to secure everybody who had the most trifling military education. We even took a great many men, every of whom became generals afterward, who had been dismissed at West Point, or at least failed to pass their examinations. So glad were we to take anybody who had the least smattering of military education that we took any one of that kind.

I believe, with the Senator from Iowa, that the mere knowledge of the manual of arms is nothing; but there is something gained in turning the attention of the youth of the country to the subject of military education. You turn their minds in that direction and if they happen to have a turn that way it will be seen. I do not think we can do better with these retired officers of the Army, because we have got to pay them their pay proper, as it is called, at any rate, nor do I think they can be better employed than in instructing the youth of the country. They would be glad to go to these institutions, because when they are retired from the service they get no quarters, no fuel, no commutation of any kind, I believe; but while employed in this kind of service they will get whatever the schools think proper to pay them, and they would take with them all the knowledge which they had acquired during their long service in the Army, and not only in the Army but the education they had acquired at West Point. I think the bill eminently proper. I have had occasion in the course of last year to go frequently to the War Department asking for details of officers of the Army for schools in Pennsylvania; especially the other day I went there, on the recommendation of the Governor and the whole Legislature, to get somebody properly qualified to take charge of our agricultural college. I was told by the Secretary of War that he could not afford

to send a man there who was in active service.

Mr. HENDRICKS. I ask the Senator does he want a military man to teach agriculture to the people of Pennsylvania?

Mr. CAMERON. No, of course not; but the plowman has often been a good soldier. I remember that old Stark was out plowing in his field somewhere in the east when he heard the guns of the British—there is a picture of it some place about here—and he left the plow with the coulter sticking in the ground and he went to the war. Everybody remembers what he said about Molly Stark.

I trust, Mr. President, in conclusion, that this bill will pass, because we can take these gentlemen who are now useless to the country and put them in a service where they will be exceedingly useful.

Mr. SPRAGUE. We do not want it amended. Mr. CAMERON. I think we do. I intend to move the two amendments that I have indicated.

Mr. FRELINGHUYSEN. I think the Senator from Pennsylvania, on reflection, will hardly insist upon his first amendment, that the officers detailed shall be only those who are on the retired list. That is a subject which may with much greater propriety be left to the Secretary of War to determine. It may be that there are not twenty retired officers suitable for this purpose. That this plan of employing some of our officers in this way is a good one I have no doubt. In a college in which I have some interest, in New Jersey, there is an officer who is doing very valuable service there at this time. I suggest that the other amendment in the eighth line, "and allowances," be stricken out for this reason let them have full pay without allowances, and let the institution which employs them supply that by way of salary; it is but little for them to do. That is the arrangement in the case to which I refer in New Jersey. There the institution pays as much as the Government does, that being a case where the officer is on half-pay, being on the retired list.

Mr. CAMERON. That is just what my motion is, to make the bill perfect so that there can be doubt about it. The Senator from New Jersey says the college with which he has a connection makes that bargain. I want to make this thing so positive that the Secretary of War shall designate nobody to go to one of these institutions except upon these conditions. It is adding just so much to his compensation.

Mr. FRELINGHUYSEN. I suggest to the Senator to strike out the words "and allowances," but do not put in the words "on the retired list." Let the Secretary take whom he pleases.

Mr. CAMERON. I would not agree to do that, because I want those who are fit for active service to do duty in the field. Every man who is fit for service and paid by the Government ought to be in the field. I want to take the meritorious classes who are retired because of age and yet move in the vigor of youth. For instance, there is the Senator from Rhode Island, [Mr. SPRAGUE;] although he is a very old man age has no more impaired his powers than it has mine. [Laughter.] If he were in the Army he could perform all these duties just as well as a younger man. I remember how well and how gallantly he came here—the first man with a regiment at the beginning of the war, old as he is—and gladdened the heart of every loyal man in this District. Why should he be deprived, if he belonged to the regular Army now, of an opportunity of being useful in this respect? I insist on my amendment, and I trust the Senate will adopt it.

Mr. SPRAGUE. Old men, I have observed, are always exceedingly fond of young men, and when they have anything to do, in companionship or otherwise, they generally select that class of men for their companions. Now, in this case, being an old man myself, I am convinced that young men will better perform the service of professors and teachers in our colleges among young men, than old, retired, or

broken down men; and for that reason I am opposed to the proposition of my honorable friend from Pennsylvania, and I trust it will not prevail.

Mr. WILSON. I propose to withdraw the amendment inserting the words "and allowances," and let the bill stand as it came from the House of Representatives.

Mr. WARNER. I hope the Senator will not withdraw that amendment.

The PRESIDING OFFICER. The amendment reported by the committee is withdrawn.

Mr. SHERMAN. Let the bill be read as it stands without the amendment.

The Chief Clerk read as follows:

Be it enacted, &c. That all officers detailed to give military instruction in colleges and universities under the provisions of an act entitled "An act to increase and fix the military peace establishment of the United States," approved July 28, 1836, shall while so detailed be entitled to the full pay of their respective grades the same as if they were in active service.

Mr. WILSON. This bill comes to us from the House, and the Committee on Military Affairs agreed to insert the words "and allowances." That amendment was pending; but I withdraw the amendment, and if the bill passes it will not have to go back to the House. I want to get through with it some time to-night.

Mr. FOWLER. I have but one remark to make. Two Senators supporting the bill have furnished me with arguments against the whole bill. I should place the arguments in a reverse position to that in which they were offered. One says that there is much gained by detailing officers for the purpose of instructing these schools so as to practically turn the attention of our youth to military subjects. The other says that we have had wars, and that we may have wars again. That is unquestionably true. If we turn the attention of the youth of the country to military subjects by detailing Army officers for this purpose and making every college of one hundred and fifty pupils a military school you will unquestionably have wars again.

Now, sir, I should much prefer, if these gentlemen are going to turn their attention to the instruction of youth, that they should go into our colleges and teach the scholars science and morality, and leave the instruction of the manual alone, and leave all military subjects out of the schools. I should greatly prefer that the Government of the United States should detail or pay some good old Quaker ministers, either male or female, to take the place of these military gentlemen in instructing the youth of the country in the arts of peace and the love of peace, and entirely averse to martial questions. I think no greater evil can result to the American people than this tendency to instruct our youth in military science, and to increase the martial spirit of the people, which is already far beyond what it ought to be, perhaps beyond that of any other people in the world. We want these colleges to direct the attention of the youth to the arts of peace, and of peace alone. If we are going to make the colleges in the different States military schools let us dispense with the enormous expense of supporting the Military Academy at West Point.

Again, there is another argument in favor of dispensing with the expense of that Academy. I have heard some Senator argue to-night that by detailing military men in this way they gain more expansive views and greater knowledge of our people, greater knowledge of the country, &c. That may be true; and if so it furnishes me with a very adequate argument against supporting the West Point Academy any longer. Let us dispense with that institution.

Again, if our best officers are brought from the plow, and men can conduct great military operations without any military education at all, we can dispense with all these schools.

Mr. CAMERON. I desire to say a word in reply to the Senator from Tennessee. These gentlemen will not only teach the art of war, but we all know that in addition to their knowledge of war tactics they are generally highly educated. In the first place, they are the best

mathematicians in the country as a class. They are often very good engineers. Sometimes they are French scholars. They always have a systematic education, and I think, with hardly an exception, they are gentlemen highly qualified as instructors; and whether we require them as teachers of the art of war or not, they will be valuable in our seminaries and colleges. I would detail them to this service for that reason. In addition to that I would take them because there is a class of meritorious officers who have been retired and many more who will be retired only because they have lived too long in the way of somebody else. When they are retired they do not get compensation enough to enable them to live as comfortably as they did before. I would give them their full pay proper, which is probably not half what an officer now gets in pay and allowances. Wherever there is a meritorious retired officer in the neighborhood, I would allow his neighbors to select him as the principal of a college, and then go to the Secretary of War for his approbation, and let that man be detailed for that service. The Secretary of War, as I said awhile ago, refused to send a man in active service that the agricultural college in my State called for. I do not think the officer knew much about agriculture; but he knew a great deal about mathematics and other things. I think this bill is eminently proper for many reasons, but especially because it will provide places for those meritorious retired officers—one-armed and one-legged heroes.

Mr. HENDRICKS. If it be in fact desirable to connect military studies with the ordinary studies of our colleges, there is very little difficulty about that. If this important institution in New York desires to do so there is no trouble about it. There are now in every county in the United States men who are well trained as military men, capable of teaching pure military science, whose services can be obtained by the colleges to fill a military professorship at very little cost; at a reasonable salary, at least; perhaps, at a much less salary than we pay the officers of the regular Army. I do not care about discussing on this occasion whether it is best to connect military studies with the ordinary studies of colleges. I have my doubts about that; but if the colleges wish to do so then let them do it.

Mr. President, this bill is but an entering wedge. First, from the regular Army, supported by the Government, we furnish to colleges professors of military science. Then the next proposition will be that we shall furnish men competent to teach engineering. It is known that many of our officers are very skillful engineers; that their education at West Point has qualified them in a very superior degree to teach engineering; and it is a very useful study in colleges. I do not agree with the Senator from Pennsylvania, that they will be very useful in teaching agriculture. The spear will have to be converted into the plowshare first.

Mr. CAMERON. The Senator will allow me to suggest that I did not say they would be useful in teaching agriculture, except that I believed that the study of mathematics and everything that tends to cultivate the mind will improve agriculture.

Mr. HENDRICKS. Then the next step, as I said, will be to call from the Army, from the duties of their profession in the engineer corps, men to fill the professorships of engineering. Then, perhaps, it will go still further, and all professorships will be filled by military men.

I was going to offer an amendment to this bill to repeal the section in the act of 1866. That is what I think ought to be done; but as Senators say that these chairs are not likely to be filled from the Army unless we increase the pay, perhaps to defeat this bill will answer every purpose; and after a short time I know that propositions of this sort will not be entertained. In 1866, just at the close of the war, when there was a good deal of military spirit in Congress as well as out of Congress, a bill

of this kind would easily pass; but after a little it will not be so popular to fill our colleges with military men. I am in favor of having such a number of officers as is necessary to command the companies and regiments that we have, no more. We ought not to be paying a corps of officers to teach school. I may be mistaken, but I do not think it is the business of this Government to furnish school teachers either of high or low degree. The purposes of this Government are well enough defined. This does not fall within any of them. I think it is an abuse. I think it is starting off in a wrong direction, which ought to be corrected as soon as possible. If any schools or colleges wish to employ men to teach military science, let them employ them. There are thousands of men well qualified all over the country who would be very glad to accept professorships in colleges. Let them be employed. It will give employment to men, some of whom find it difficult to provide for themselves because of wounds received in the service; but do not call from the regular Army the men who are paid for their professional services to the country.

Mr. BUCKALEW. I move to strike out all of the bill after the word "grades." The bill will then conform to the ideas which have been stated by my colleague and other Senators.

Mr. CAMERON. If my colleague will allow me, I will add some words to the amendment I offered before. After the word "grades" I move to insert the words "without allowances except what the schools or colleges employing them may agree to pay."

Mr. SPRAGUE. We had better have that read at the desk, so we may see how the bill will stand if amended in that way.

The CHIEF CLERK. It is proposed to strike out after the word "pay" the words "of their respective grades the same as if they were in active service," and to insert:

Without allowances, except what the schools or colleges employing them may agree to pay.

So that it will read:

That all officers detailed to give military instruction in colleges and universities under the provisions of the act entitled "An act to increase and fix the military peace establishment of the United States," approved July 28, 1866, shall, while so detailed, be entitled to full pay without allowances, except what the schools or colleges employing them may agree to pay.

Mr. WILSON. I appeal to the Senator from Pennsylvania to withdraw that amendment and let us pass the bill as it came from the House. If we do that we shall not have to send it back to them. It simply allows full pay. I withdraw my motion to insert the words "and allowances," in order to let the bill pass in the form in which it passed the House.

Mr. MORRILL, of Vermont. The amendment of the Senator from Pennsylvania does not change the bill in the least. These institutions now pay these parties, in many instances, because they will not come and perform the service without extra pay beyond what they get from the Government.

Mr. CAMERON. I think my amendment makes it so plain that everybody can agree to it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Pennsylvania, [Mr. CAMERON,] which has been read.

The amendment was rejected—ayes six, noes not counted.

Mr. WARNER. I now renew the amendment which was withdrawn by the Senator from Massachusetts.

Mr. WILSON. I beg the Senator not to do that.

Mr. WARNER. Well, I shall not press it.

Mr. BUCKALEW. I now insist on the question being taken on my amendment.

The Chief Clerk read the amendment, which was after the word "grades," in the eighth line, to strike out the words "the same as if they were in active service;" so that the bill will read:

That all officers detailed to give military instruction in colleges and universities under the provisions

of an act entitled "An act to increase and fix the military peace establishment of the United States," approved July 28, 1866, shall, while so detailed, be entitled to the full pay of their respective grades.

The PRESIDING OFFICER put the question and stated that it was difficult to determine the result of the vote.

Mr. CAMERON. I ask for the yeas and nays.

Mr. WILSON. Oh, no; let it pass.

Mr. CAMERON. No; I will not let it pass.

Mr. GRIMES. He gives it up.

Mr. CAMERON. But I do not give it up. I ask for the yeas and nays.

Mr. GRIMES. The other side give it up.

Mr. CAMERON. I desire to say a word on the amendment. The Senator from Massachusetts desires to pass the bill as it is, so that the moment you bring these retired officers into the service of these colleges you give them all the compensation and all the allowances which an officer in active service gets in the Army. That is not the intention of the Senate; and it seems to me strange that Senators cannot see it. The object of the bill is to employ retired officers, meritorious men who can render useful service in these institutions throughout the country, and now you propose to bring them from their retirement and give them the compensation of officers in the field while acting as schoolmasters, professors, or teachers of some literary establishment. The officer may be seventy-five years of age and teaching mathematics, and if a war should come up at that moment, by the bill you propose to give him the compensation, if he is a general, that a general in the field would be entitled to. That is not what the Senator from Massachusetts intends.

Mr. HENDRICKS. I understand that the Senator from Massachusetts concedes that the amendment of the Senator's colleague was adopted.

Mr. CAMERON. No.

Mr. WILSON. Certainly I do. I will give it up if I can only get the bill through.

The PRESIDING OFFICER. Does the Senator from Pennsylvania withdraw the call for the yeas and nays?

Mr. CAMERON. Yes, if the Chair decides it in that way I will.

The PRESIDING OFFICER. The amendment offered by the Senator from Pennsylvania [Mr. BUCKALEW] is adopted.

Mr. CAMERON. Let the bill be read as amended.

The Chief Clerk read the bill as amended.

Mr. CAMERON. The words "without allowances" should be added.

Mr. GRIMES. There is no need of that.

The bill was reported to the Senate as amended.

Mr. DRAKE. I will inquire whether under the law as it now stands these officers are entitled to the full pay of their respective grades?

Mr. CAMERON. There is some mistake about this. When an officer talks about his pay he means all his pay. When he speaks about it technically he says "pay proper," and every officer understands that just as well as you understand the multiplication table. I shall be content with the insertion of the words "pay proper," if Senators prefer them, because every officer understands what they mean; but I do not intend to delude these officers with the idea that we have passed a bill which will give them the same pay as if they were not retired. I move that amendment.

Mr. DAVIS. I think there ought to be no equivocation about this bill. If certain pay is meant which is less remunerative to the officer than the pay to which he would be entitled in active service it ought to be so expressed; and if it is intended to give the whole pay, including all the perquisites of rations for servants and subsistence for horses, and all that sort of thing, it ought to be expressed, so that the accounting officers will know exactly what the intention of Congress is in passing the law by its words. As the words have been stricken out

it seems to me to leave the meaning of the whole in doubt and equivocal.

Shall while so detailed be entitled to the full pay of their respective grades the same as if they were in active service.

These words either have a meaning or they have no meaning. If they are intended to have the same meaning in relation to officers who are detailed on this service that they have when they relate to officers in active military service they ought to be retained, but if they are not intended to have that meaning there ought to be some words used which would express the intention of Congress not to be to give them as much of pay and perquisites as are given to them when in active service.

Mr. WILSON. I will say to the Senator from Kentucky that the pay of the Army is well defined. Allowances are one thing; perquisites and all these matters are other things.

Mr. DAVIS. Could not servants' rations, subsistence for horses, and all that kind of thing be included under the word "pay?"

Mr. SHERMAN. The words "full pay" include allowances, according to the construction put upon those words by the proper accounting officers. The words "pay proper" include the pay only; but if you insert the words now proposed by the Senator from Pennsylvania you will have the law stand precisely as it is now. An officer detailed for duty in a college now receives the "pay proper." The purpose of this bill was to give him "full pay," and my own impression is that it ought to be passed just as the House passed it. If officers are detailed for duty on this service at colleges, they render valuable service to the country, and they are entitled to full pay, which includes allowances.

Mr. BUCKALEW. Then does not this bill mean, brought down to an exact point, an increase of the pay of twenty officers of the Army?

Mr. SHERMAN. Certainly.

Mr. BUCKALEW. That is doubling the pay of twenty officers of the Army, under an arrangement sending them out over the country to these colleges. I hope, with this explanation, and with the additional knowledge we now have that they draw pay and can receive additional compensation from the colleges themselves, that we shall reject the bill.

Mr. CAMERON. I am glad to find that the Senators begin to understand this bill. The Senator from Ohio has stated the fact truly, that this bill is intended, when officers are detailed for this service in colleges, that they shall have the same pay that they would have if they had not been retired. There are a dozen words that I could put in there—that they shall have "full retired pay;" or say that they shall have "pay proper;" or you may say "pay without allowances." I am sure that the Senate does not intend that these gentlemen shall go into the service of these colleges and take the full pay of officers in active service and get compensation from the colleges also. My desire is that they shall be rendered useful to the country, and that they shall receive the pay they now have as retired officers, and shall also receive such compensation for their usefulness as presidents or professors of colleges as the institutions choose to give them. That is perfectly plain to me; and if the Senate understand it in that way let them put in any of the words I have suggested. If not, if you intend to say that these gentlemen the moment they are detailed shall receive the same pay that they would receive if they were assigned to service in the line of duty with their regiments or brigades, be it so; I am liberal enough toward the Army to give them almost anything you like.

Mr. HENDRICKS. I suggest to the Senator to strike out the word "full" before "pay" and insert "proper."

Mr. CAMERON. I am willing to do that or anything that will accomplish the purpose; but let us understand what the bill means. These men will be better off in this service than they are now as retired officers, where

they only get the pay proper. I would allow them to render such services as they are capable of performing to these institutions, and receive such compensation as the institutions choose to give them.

Mr. FOWLER. I am of the opinion that these officers, if they are detailed for this purpose, should have all the pay they would get if they were in the Army. I see no reason why we should cut short their pay at all. If the Government has in its service a body of men for whom it has no use whatever, and details them for the purpose of instruction in the colleges of the country, in my judgment it ought to pay them the same as if they were in the Army. If it has use for these officers for Army purposes it had better devote them exclusively to Army uses. I understand that it cannot use them in that way, that we have more officers than we want. I think so. We have altogether more Army than we need.

While I attribute to these gentlemen the very highest qualifications and the very highest scientific attainments, I am opposed to making all the institutions of the country military institutions. I do not think that the Congress of the United States could do a worse thing than to foster such institutions in the country. I do not believe that there was any cause that tended more actively to bring on the rebellion in the southern States than the institution of a large number of military schools of this kind there. It fostered in that portion of the country an undue military spirit; and such will be the case through the whole country under this bill. We have too much martial spirit in the United States; and for that reason we ought to discourage this kind of education entirely. It is not the kind of education that the spirit of the age and the spirit of civilization require. The fewer wars we have the better. There is very little ever gained by any war; and certainly there is nothing gained by war that cannot be gained by peaceable means. Therefore I am opposed to the whole bill, and will move to lay it on the table.

Mr. WILSON. I was about to move to lay the bill on the table. I have several other bills that I desire to have acted upon, and we have sacrificed enough time already on this one.

Mr. CAMERON. I hope the Senator from Massachusetts will wait for a few moments.

Mr. WILSON. Look at the time and see what we have to do. We shall lose all our other bills if this debate continues.

Mr. SPRAGUE. I think by common consent this bill is to be laid on the table, and in that event I desire to call up a bill from the Military Committee.

The PRESIDING OFFICER. Does the Senator move to lay the bill on the table?

Mr. SPRAGUE. Yes, sir.

The PRESIDING OFFICER. Then the question is on that motion.

The motion was agreed to.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 2003) to authorize the county commissioners of Ada county, Idaho, to select a site for a territorial prison, and the enrolled bill (H. R. No. 2004) establishing the term of office of the house of representatives, and providing for biennial sessions of the Legislative Assembly of the Territory of Montana; and they were thereupon signed by the President *pro tempore*.

GEORGE W. SHORT.

Mr. SPRAGUE. I now move to take up House bill No. 1878.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1878) for the relief of George W. Short. It directs the Paymaster General to pay to George W. Short, late captain of company D, sixty-third regiment of Illinois volunteers, out of any money appropriated for the pay of the Army, three months pay proper of a captain of infantry.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LEONIDAS SMITH.

Mr. SPRAGUE. I now move to take up House bill No. 1280.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1280) for the relief of Lieutenant Leonidas Smith, late of the twenty-second regiment Indiana volunteer infantry. It requires the Secretary of the Treasury to audit and allow to Lieutenant Leonidas Smith, late of company K, twenty-second regiment Indiana volunteer infantry, the full pay and allowances of a first lieutenant in the active service in the Army in the late war, from the 28th of February, 1863, to the 23d of January, 1864, in full payment for unpaid salary and allowances for that period of time.

The PRESIDING OFFICER. There was an amendment reported to this bill, which will be read.

Mr. SPRAGUE. I withdraw the amendment, so that the bill may be put upon its passage.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

H. A. WHITE.

Mr. ABBOTT. I move that the Senate proceed to the consideration of House bill No. 1868.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1868) for the relief of H. A. White. It directs the Paymaster General to pay to H. A. White, late captain of company C, third regiment of North Carolina mounted infantry, out of any money appropriated for the pay of the Army, the full pay and allowances of a captain of infantry from October 15, 1864, to August 8, 1865.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DRAFTED MEN.

Mr. WILSON. I move that the Senate take up House bill No. 424.

The motion was agreed to; and the bill (H. R. No. 424) amendatory of an act entitled "An act for the relief of certain drafted men," was considered as in Committee of the Whole. It repeals so much of the second section of an act entitled "An act for the relief of certain drafted men," approved the 28th of February, 1867, as provides that the section "shall apply only to claims received at the War Department prior to its passage;" but all claims under the second section of that act are to be presented and filed within two years from the date of the final passage of this act, and not afterwards.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MILITARY INSTRUCTORS.

Mr. MORRILL, of Vermont. I ask the Senator from Massachusetts to give way for a moment to enable me to call up the bill (H. R. No. 1490) to define the pay of officers of the Army detailed to act as military instructors, that we may pass it by general consent with the amendment proposed by the Senator from Massachusetts. I think there is no objection to it, and I hope it will be allowed to pass.

The PRESIDING OFFICER. (Mr. THAYER in the chair.) Does the Senator from Vermont submit a motion?

Mr. MORRILL, of Vermont. Yes, sir; I submit a motion to take up the bill.

The PRESIDING OFFICER. Is there any objection?

Mr. SHERMAN. It would not be exactly right after the two Senators from Pennsylvania have gone out of the Chamber to take up the bill.

Mr. MORRILL, of Vermont. Does the Senator from Ohio object?

Mr. SHERMAN. I think it is not fair. I object.

Mr. MORRILL, of Vermont. I think the bill has not been treated fairly for an hour and a half.

Mr. SHERMAN. I am in favor of the bill; but as two Senators who opposed it have left the Chamber supposing that it had gone over, I do not think it would be exactly right to take it up again in their absence.

The PRESIDING OFFICER. The Chair understands the motion to be withdrawn.

WIDOWS OF GENERAL OFFICERS.

Mr. WILSON. I now move to take up House bill No. 1741.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1741) granting an increase of pension to Emily B. Bidwell, widow of Brigadier General Daniel D. Bidwell, and to Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman. The bill directs the Secretary of the Interior to place on the pension-roll the name of Emily B. Bidwell, widow of the late Brigadier General Daniel D. Bidwell, for a pension at the rate of fifty dollars per month from the 19th of October, 1864, on which day General Bidwell fell mortally wounded at the battle of Cedar Creek, Virginia, to continue during widowhood. The pension heretofore allowed her under general law is to be discontinued; but the sum received by her under it is to be deducted from the pension hereby granted. The bill also directs the Secretary of the Interior to place on the pension-roll the name of Sarah Hackleman, widow of the late Brigadier General Pleasant A. Hackleman, for a pension, at the rate of fifty dollars per month from the 3d day of October, 1862, on which day General Hackleman fell mortally wounded at the battle of Corinth, to continue during her widowhood. The pension heretofore allowed her under general law is to be discontinued; but the sum received by her under it is to be deducted from the pension hereby granted. The pensions hereby granted are to be subject to the provisions of the general pension law, except as to the amount as above provided for. The bill also proposes to repeal an act entitled "An act granting an increase of pension to Emily B. Bidwell, widow of Brigadier General Daniel D. Bidwell, and to Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman," approved July 27, 1868.

Mr. WILSON. I offer an amendment—and this is all I have for to-night—to add as an additional section the following:

And be it further enacted, That the Secretary of the Interior be, and he is hereby, directed to pay Mrs. Sallie Griffin, widow of the late General Griffin, United States Army, whose name is now on the list of pensioners, the sum of fifty dollars per month during her widowhood, in lieu of the pension she is now receiving.

The amendment was agreed to.

Mr. BUCKALEW. I do not want to debate this bill. I wish to inquire whether it is reported in accordance with the rules on the subject of pensions in regard to the amount which is to be allowed in the particular cases?

Mr. WILSON. The bill was referred to the Committee on Pensions, and that committee took the subject under consideration, and then reported the bill back and had it referred to the Committee on Military Affairs, and we reported the bill under those circumstances.

Mr. BUCKALEW. I do not wish to oppose a pension bill; but I do not think it will answer to break down a general rule, and pass a bill allowing as a pension to one or two widows an amount which is not in accordance with the ordinary rule. If we do that for these persons we shall have to change the whole system of pensions, at least as to officers of this grade. I do not think we ought to pass this bill in the absence of the chairman of the Committee on Pensions without some information in regard to the effect that will be produced by it.

Mr. WILSON. I will say frankly to the

Senator that the chairman of the Committee on Pensions, who is not here, was opposed to the passage of this bill which came from the House, or to the bill as amended, and it was referred to the Committee on Military Affairs and reported by them. Some six or seven similar cases have passed during the last four or five years.

Mr. ANTHONY. There can be but very few persons to whom this principle can ever apply—only to the widows of brigadier generals who have died in the service—and I think the precedent is not at all dangerous.

Mr. FERRY. I do not see why there may not be widows of other officers besides brigadier generals. I remember when this bill came before the Senate from the Pension Committee there was an extreme reluctance on the part of Senators to resist bills of this kind, and yet at the same time the objection was made. The ground of the increase of pension then was that the officer was killed in battle. That was the sole ground made at the last session for this increase of pension beyond the ordinary law; and it was said if the fact that an officer is killed in battle is a reason for the increase of pension to his widow, then let it be done by some general law, and not select individual cases. It seems that since then the opinion of the Committee on Pensions being adverse to this species of legislation, the tone of the Senate at that time being adverse to this species of legislation, the bills have somehow got away from the Pension Committee, for they were originally two bills, and have been referred to the Committee on Military Affairs. I confess I do not like this species of legislation.

Mr. ANTHONY. The reason why the Committee on Pensions declined to recommend these bills was because the Committee on Pensions recommend bills only according to the law. Where there are cases where the applicants do not fall within the letter of the law, but come clearly within its spirit, the Committee on Pensions report bills. Now the law allows no pension higher than thirty dollars a month; but there have been several cases where the widows of brigadier generals have received a pension of fifty dollars a month. I think the chairman of the Committee on Pensions himself would be in favor of a general law, I certainly should be, increasing the pensions of this grade of pensioners, of whom there are very few, up to fifty dollars a month. I see no reason why this bill should not pass; and if there are other cases—they must be few—I see no reason why they should not pass also.

Mr. VAN WINKLE. The law grades the pensions of officers, commencing with the lowest rank and going by five dollars a grade up to thirty dollars, which reaches to a lieutenant colonel; and all officers higher than a lieutenant colonel get the same. It is similar in the Navy, except that the grades are a little different for the same names of officers. I think the rate for a lieutenant in the Navy is the highest in the naval service. However, that is not material to this discussion.

These bills have from time to time been sent to the Pension Committee, who have, since my connection with it, uniformly refused to entertain them on the ground that their business is properly confined to ascertaining whether the party is entitled to a pension, and if they find that he is so entitled to a pension they can only give properly the pension which the law fixes; and to ask anything beyond the regular rate of pension is to ask as it were a gratuity or a reward for extra services. This would bring these bills here; the parties themselves and their friends come to me and talk to me about the very eminent services of the deceased, about his great sufferings, great losses, and great sacrifices perhaps. I can only tell them that we have nothing to do with that, nor should we. If a man is to be allowed for extra military services it is most certainly the province of the Military Committee to consider it and judge of it. We are not supposed to have the information officially which enables us to judge in

such cases, and we do not like to take the function upon ourselves.

Then, there in another reason. If we do this in one case we are making distinctions which perhaps we have no right to make, unless the case should be very strong or very different from the ordinary run; and we should not feel ourselves, even if the matter was referred to us for the purpose, at liberty to make these distinctions. It may be said that one general has been extraordinarily successful, while another has not fought so many battles or won so many victories; but we have reason to believe that all these men discharged their duties, and then of course there should be no distinction. Where we have every reason to believe that a man has devoted all his skill, all his time, and everything that goes to make a soldier to accomplishing his duties, he has discharged his full duty, and we cannot make a distinction between two officers who have equally well discharged their duty although the successes of one may have been more brilliant than those of the other.

At the last session there was before the Senate a general pension bill making several amendments and alterations in the law. This same question was up then. Bills had been referred to the Military Committee, and I suggested, I believe, to the chairman of the Military Committee to test the sense of the Senate on the question by offering an amendment to increase the rate of pensions according to rank, giving a colonel thirty-five dollars a month, and so on until the brigadier general would get fifty dollars. The Senator from Massachusetts, the chairman of the Military Committee, did propose that amendment in the Senate. Some discussion ensued, and I believe on the suggestion of Senators around him and all over the Chamber, perhaps, it was withdrawn. The Committee on Pensions can take that for nothing but an instruction to them that they are not to report bills of this kind. The Senate refuses to do it as a general arrangement, and of course we acquiesce in that. If the Senate does not think fit to make a general allowance of fifty dollars to the widow of a brigadier or major general, we cannot consider that we have a right to do it in an individual case. In no case has the committee intended to cast any slur whatever on the deceased by its action on these applications. They have all been applications for widows. On the other hand in some cases we have esteemed them very highly. There is one bill before the Military Committee now which at the request of the applicant I had referred to the Military Committee, where I knew the deceased and have had several interviews with the widow, and I could say not one word against him or her; on the contrary if I did say anything, it would be in praise of both of them as being as worthily entitled to any benefaction the Senate had to give as any other persons. But we have found it necessary to adopt a principle. If we go on and give a higher pension to a common soldier, to a lower officer or a high officer than he is entitled to by law, we open the door to a thousand applications, and every pensioner would consider himself entitled to come back upon us and increase his pension. Unless, therefore, some very extraordinary reasons are shown for it I think it ought not to be done, and those extraordinary reasons must consist in extra services, something more than all of the same class and grade performed.

Mr. CONKLING. This bill was passed once, and was approved on the 27th of July, 1868. It failed to be executed by an accident which was exactly this; the bill provided: "But the sum received by her under the same shall be deducted from the pension hereby granted; and this pension shall be subject to the provisions of the general pension law." The Commissioner held that he must commence by putting up all the pension received, taking the whole time it had run, and that the total of that sum in money must be paid back by the claimant to begin with before this law could operate. In other words he held that there was

a repugnance on the face of the statute, and therefore it comes here again simply in consequence of the accident that having been passed by the two Houses of Congress and approved it failed of execution for that reason.

The bill was reported to the Senate as amended.

Mr. BUCKALEW. Now, I should like to hear the bill read once more.

The Chief Clerk read the bill as amended.

Mr. MORRILL, of Vermont. I have not a word to say in relation to this case; but I presented a claim before Congress in behalf of a widow who lost her husband in battle and also her son, and she was unable to procure a pension of fifty dollars, and I see not why this bill should pass if that is to be ignored.

Mr. BUCKALEW. I call attention to the fact that the pension in one of these cases commences five years back and in the other seven years, at the rate of fifty dollars a month; that this bill is not to execute the act passed at the last session at all; it includes other cases not covered by that act.

Mr. CONKLING. The same cases?

Mr. BUCKALEW. There are three here. There is a third pension case here.

Mr. CONKLING. That has been put in since.

Mr. EDMUNDS. The Committee on Pensions have examined these subjects with great care; of course not with the ability that the Military Committee possess, but with as much faithfulness, I feel bound to say; and we have been unable to see why the widows of brigadier generals should have any greater pension, out of proportion to the pay of their husbands, which is the basis of what the pension law gives them already, than the widows of colonels or captains or soldiers whose children are just as necessitous and whose wants are just as great. I hope the Senator will not insist upon passing an omnibus bill of that kind to-night, but let us lay it over and consider it. I move that the bill be postponed until to-morrow.

Mr. HENDRICKS. I hope this bill will not be postponed. If this were the commencement of this system perhaps the proposition of the Senator from Vermont would be right, but this results from the fact that a subject proper for the consideration of the Pension Committee has been referred at former sessions to the Military Committee, and of course the same policy and rules that govern the regular Pension Committee do not govern the Military Committee. They do not feel themselves under the same restraints of the general policy of the law that the Pension Committee do. There have been pensions allowed to the widows of brigadier generals of fifty dollars a month. Congress has deliberately done this in, I think, at least four cases before these two or three cases were considered; perhaps more than four cases. It may have been right or it may have been wrong; I am not now discussing that; but we have provided fifty dollars as the pension for the widow of a brigadier general in several cases.

I know much of the circumstances of the case of Mrs. Hackleman. General Hackleman was a lawyer in fine practice in a rich county in Indiana. From his profession he was realizing to himself and his family a very handsome competency. He volunteered; and from one grade to another he became a brigadier general. He was a man of marked talent, and I believe was quite successful in the new profession of arms, fought well and died, leaving this widow and a family, I think, altogether of girls; no member of the family upon whom she could lean for support. She has since his death been compelled to support herself by her own efforts, perhaps—I think in keeping a boarding house. Her husband was not very provident, because from his profession he knew that he could realize very handsomely, and he invested very much of his means in a handsome residence; so that it resulted after his death that she had this handsome house in which to live, but nothing upon which she could provide for herself and her daughters.

If there be any case in which it was proper to give a pension of fifty dollars, I apprehend that no Senator will question that the widow of General Hackleman is a proper case, and I should not wish a discrimination made against her. While we give fifty dollars to other widows of brigadier generals I insist that the same shall be given to Mrs. Hackleman.

Mr. EDMUNDS. Mr. President, the argument of my friend from Indiana seems to proceed upon the basis that if we have taken one step in the path of injustice to the whole class of widows and orphans of this rebellion we must take similar steps and continue to go wrong. Now, I do not stand up here to say that Mrs. Hackleman, so far as she is concerned, ought not to have fifty dollars a month or one hundred dollars a month. A thousand dollars a month will not make her good for her loss. Nobody disputes any such proposition as that; but I stand up for the whole body of the widows and orphans of this war who are as respectable and as needy and as sorrowful as this lady, to whom we say, if a private soldier's widow, "you can have eight dollars or ten dollars," whatever the rate is per month, "and no more." Their tears have been just as bitter, their sufferings are just as great, as those of the widows of brigadier generals who have, as my friend says his particular constituent has, a handsome house to live in.

If the country was rich enough to pay the debt of gratitude that it owes to the memory of these soldiers, and to pay the debt of duty as far as it has the means of paying it to the widows and orphans of these soldiers, I would go not only for paying the widows of brigadier generals fifty dollars a month, but for paying all other soldiers' widows whatever was necessary to make them and their children comfortable, no matter how much the sum might be; but we all know that that cannot be done, and that every dollar in excess that we pay to the widows of high officers, ladies in respectable and influential positions who can get the ear of Senators at any time in the marble room, is so much really that better belongs to this poorer, more needy, and as sorrowful body of widows and orphans who cover the land who are in greater want than they are. That, in my opinion, is the argument, not because I should be opposed to giving to these particular widows, if we were able to do it, all that they want; but in doing that to them we are committing a great injustice toward those who need more and who deserve as much.

I agree that it is not right to give to five widows and not give to others; but if it was wrong, as I am satisfied it was, to give this large rate to the widows to whom we have given it, it is no argument to me to say you must continue to do wrong until you can raise the whole pension-list by allowing the widows of soldiers and petty officers and officers in the line a greater pension than they now get according to their needs. I am opposed to going a single step or paying a single dollar more than the same ratable proportion under the law to the widows of the higher officers.

Mr. CAMERON. Mr. President, whenever we change this system of pensions we ought to do it by a general law. I have no objection to giving the widow of every general who died on the battle-field, or who died at home in consequence of his services on the battle-field, a pension of fifty dollars a month, but I will not agree to that until you give it to them all. Last year I objected to two or three of these cases that were sought to be put through by appeals to the sympathies of Senators who have great influence in this body, because, in my judgment, the proposition is wrong. Last year, when I went up into Columbia county, where my colleague lives, I found a highly-educated woman sewing for her living, and she said to me that her neighbors had bought her a sewing-machine. I knew her years ago when her husband and she were prosperous; he was a wagon maker. He had three children when the war began. She was a highly-educated woman, fitted to go into any society in this country. In

the enthusiasm of his patriotism he started out as a private soldier, as thousands of others did. He served for two or three years and was killed in battle. She applied to some lawyer in the neighborhood and she got eight dollars a month pension. She was just as fitted for the best society as the wife of any major general in the country, but she was poor, and she had three children, and she had to take what she could get. Why should she not have fifty dollars? If her husband had been killed on a railroad she would have got at least an income of \$300 a year, for in such a case in our State there would be no difficulty in getting five or ten thousand dollars for the life of a vigorous, active, and intelligent man that had a family. But he is killed in the service of his country, and she gets eight dollars a month and nobody thinks about her, because her husband was a private soldier! And yet in his home he was just as respectable, just as influential in the pursuits of life as anybody around him. His trade was that of a mechanic, but he had the education of our public schools and he was an educated man; he was a useful man in every way. Now, this general could not have been more than that, although he was a lawyer, and why should the wife of a lawyer who goes to the war for any motive, the best motive you like, if he happens to be killed, have more compensation than the wife of a wagon-maker? Does not a man who makes wagons and plows do as much for the world as the man who lives in his office, sometimes is learned and often not, and who gets his compensation without as much labor either of brain or body as the honest mechanic? I am in favor of this bill if you add all; and I am willing to make a motion that the widow of every brigadier general who died in battle or from wounds received in battle shall have fifty dollars a month, and that the widow of every private soldier who died in battle or from wounds received in battle shall have twenty dollars. I am willing to take that.

Mr. HENDRICKS. Mr. President, the argument of the Senator from Vermont and the Senator from Pennsylvania would have some force if the allowance that is to be made to Mrs. Hackleman was to be taken from the allowance that is made to the soldier's widow.

Mr. CAMERON. It is.

Mr. HENDRICKS. Does not the soldier's widow get her allowance whether this allowance passes or not?

Mr. CAMERON. She gets eight dollars and the other fifty dollars.

Mr. HENDRICKS. The Senator from Pennsylvania was once Secretary of War. Why did not he think of it when he was Secretary of War to say to Congress that the lawyer is no better than the wagon-maker, and that if the lawyer becomes a brigadier general it is not right that he should have \$5,000 a year and the wagon-maker only thirteen dollars a month?

Mr. CAMERON. Allow me to say just one word there. The Secretary of War in 1861 did for the first time in the history of his country recommend that every man who would go to the war should have a bounty of \$100 paid to him. It was the first time it was ever done.

Mr. HENDRICKS. The Senator thinks that is the first time it was ever done; I think a bounty was allowed in the Mexican war.

Mr. CAMERON. No; not like that. No bounty was given in the Mexican war except land, which was moved also by the Senator from Pennsylvania.

Mr. HENDRICKS. I think there was a bounty in money allowed in the Mexican war, but I am perfectly willing to concede cheerfully to the Senator from Pennsylvania that he did recommend that liberal allowance of \$100 for the wagon-maker and his associates.

Mr. CAMERON. The Senator from Pennsylvania moved also compensation to soldiers of the Mexican war—a quarter of a section of land to each.

Mr. HENDRICKS. That is all right now. But the Secretary of War then and Senator now did leave the difference between the brigadier and the soldier.

Mr. CAMERON. No.

Mr. HENDRICKS. The difference that has always been observed, that the brigadier shall have high pay, honor, and advantages and that the soldier shall have his thirteen or sixteen dollars a month. Why that difference? It may be arbitrary, but it has always been made; and when you speak of compensating the brigadier by three or four hundred dollars a month does the Senator from Pennsylvania bring it up that the wagon-maker, who is a private soldier, gets but sixteen dollars a month? Why this difference? There is no greater difference proposed between the brigadier's widow by this bill and the soldier's widow than the honorable Senator as Secretary of War recognized between the brigadier and the soldier, now both dead.

Mr. DRAKE. Not so much.

Mr. HENDRICKS. No, not near so much. Thirteen dollars a month is scarcely perceived in the compensation of a brigadier general; and then, after it is all paid, the brigadier carries off the glories of the battle when it is won. Public sentiment and the laws of the country both recognize this difference. It may be wrong; but the difference between the commander and the soldier was recognized before this Government established it. Perhaps it is necessary. I am not going to be called off by the argument of the Senator from Pennsylvania to discuss that. This distinction is recognized and he proposes to recognize it now. If he thinks the Treasury can afford to pay to the widows of soldiers who died in the service twenty dollars a month, and the committee come to that conclusion, I will vote with them if that be right and we can afford it.

Mr. EDMUNDS. Can we afford it?

Mr. HENDRICKS. I have not investigated the subject. I know that the Treasury can pay the half dozen more widows of brigadiers and not be disturbed by it \$600 a year—to a widow whose husband was making as many thousand dollars when he entered the service. Whether the Senator wishes to recognize the difference between the lawyer and the wagon-maker or not in this debate in the Senate the fact did exist that the lawyer could make much money by his profession; and he abandoned it, he went into the service, and he died in the service and left his widow poor. She had been accustomed to the habits of life which his income as a lawyer brought and secured. Now, why not make her comfortable? Six hundred dollars a year! There are not many of these widows, I understand there are only very few, whose husbands were brigadiers who died in battle, perhaps not more than three or four more. If I am mistaken it can be corrected. The statement was made as to the number last session, but I cannot recollect just now the number. I was astonished how few there were of them.

Mr. EDMUNDS. I should like to ask my friend a question, whether he means to argue that we can pay the widows of brigadiers more because they are few, and that we must deny to the widows of captains and of private soldiers what they ought to have because they are many?

Mr. HENDRICKS rose.

Mr. CAMERON. The Senator will allow me to say that I think the chairman of the committee knows that there are about four hundred.

Mr. HENDRICKS. Oh, no.

Mr. FRELINGHUYSEN. I think there were ninety brigadiers and major generals killed in the war.

Mr. HENDRICKS. Leaving widows?

Mr. FRELINGHUYSEN. I do not know about that.

Mr. HENDRICKS. I will ask the chairman of the committee if he has informed himself on the subject of the number.

Mr. WILSON. It is impossible to tell how many of the widows of brigadier and major generals who died in the service during the war will ever make any application of the

kind. In my State nine general officers died and twenty-five others were wounded.

Mr. EDMUNDS. How many line officers from your State?

Mr. WILSON. There were sixteen hundred in all killed and wounded; about four hundred died. There have been five cases, I believe, during the war, where we have granted this rate of pension, and this bill adds three more. There have been I think quite a number of applications, but some of these general officers left their widows in good condition, comfortable in regard to the means of support; others left them in a destitute condition. This increase has only been given in very hard cases. There have been five cases I think in all, and this bill will add three more if it shall pass. I admit the fact that it is a doubtful thing and appeals a good deal to our feelings, and our judgment is somewhat against it. We reported the bill with a good deal of reluctance.

Mr. HENDRICKS. I am not going to take up more time in discussing this matter. I have done my duty to this widow. General Hackleman was my professional friend; I knew him very well; I met him often in the court-house; I respected him for his ability; I knew his value to his family; I know that there is no soldier who fought under him who returned with the loss of an arm or a leg, and there is no widow of a soldier who fought under General Hackleman, that will think hard of the Senate of the United States for giving his widow this little allowance.

Mr. BUCKALEW. My objection to this bill is well illustrated by the speech of the Senator from Indiana. If we are to take up special bills outside of general rules either imposed by law or by the practice of committees, their passage will depend upon the accident of whether an effective appeal shall be made to the Senate by some member on behalf of the claimant upon our bounty. If some person, like the Senator from Indiana, who has the ear of the members, will tell us some affecting particulars of the deceased or of his widow, and it is understood that we are to pass bills of this kind, of course he will win; we shall pass his bill, and after a little we shall find that we shall have to go over our pension system and raise whole classes, perhaps nearly double, as in the case here, going up from thirty to fifty dollars a month. That is the only reason why I stand up to object to this bill, because this system is one which we dare not venture upon with regard to the public interests and our own duty.

Now, Mr. President, the objection is not that the widows of brigadiers get more than the widows of private soldiers. That is not the point of objection. That is our system. The objection is that you propose to select out the widows of brigadiers and give them increased pay, whereas you do not propose to do that with more humble persons. If I should call up a bill here to-night to increase the pension of the widow of some private soldier from eight dollars to fifteen dollars a month I should be laughed at; at all events I could not get any votes in the Senate.

Mr. FOWLER. I should vote with you.

Mr. BUCKALEW. The votes would not be adequate to pass it, although the Senator from Tennessee might vote with me.

Mr. President, nowhere upon the face of the earth are such amounts of money paid by Government to men who have served it and to the widows and children of men who have served it as we pay in this country to our soldiers. The amounts are huge. Look over our legislation; see what burdens our people have voluntarily taken upon themselves; see how your tax-collectors reach out to every man in the country and demand his contribution to meet the requirements of this system. It is done cheerfully; and why? Because the people feel that your system is one of equality and justice. You have pension laws which extend the same measure of public bounty to all. When it comes to be understood, however, that you have no

equal system, that it depends upon the feelings of the moment, upon a warm appeal in Congress in favor of individuals whether these pensions shall be granted or not, you will find complaint; a sense of injustice will come to all people who contribute to you the means by which you meet the demands of this pension system; and besides that all persons in those classes of pensions who are not favored will feel that Government is not dealing justly by them, and instead of your pension system being one of which you can boast and be proud you will have one not only of inequality but of unpopularity; one of which the people will complain, and justly complain.

Now, what do we do to those ladies who are before us? We pay to each of them every day of the year one dollar out of the taxes of the people of the United States. Can we afford to pay more? If we can, introduce your bill and let the Pension Committee tell us so, and let us vote the money in a proper manner; but do not permit any person to come here individually and ask to be taken out of a common class, and by favoritism, by feelings of friendship or of kindness at the moment, be placed in an invidious position, and to get from the public money a contribution which is not given to others standing in the same relations to the Government.

Mr. President, this thing grows. A year ago, it is said, some bill got through in a bungling way and the expected fruits of that legislation were not realized. Now, a bill in an improved form is introduced here for that case; and it goes back five years, commencing in 1864. What next? Here is another case going back to 1862; that is put into the bill and now constitutes part of it. What more? There is a third case, a Mrs. Griffin, whose husband was not killed in battle at all, but who died of disease, died of a fever; that case is added.

Mr. ANTHONY. The Senator will allow me to say that General Griffin died of disease contracted in the service, and died as much a martyr to his country as though he had died by a bullet. He stayed there at the peril of his life.

Mr. BUCKALEW. I am coming to that. The idea of confining this legislation to persons who were killed in battle is all idle. Is there not as much merit in behalf of the widow of a brigadier general who died of disease? Of course there is, and the case is in the bill; and the Senator from Rhode Island springs promptly to his feet to vindicate its being put there; and why is it not just as good a case where a widow comes and tells us that her husband died, perhaps years after the war was over, of a disease which he contracted or hardships which he underwent in the war? Of course he is on just as good a footing as the other, and so you can draw no line at all. The objection lies against this system of legislation, taking up individual cases and then attempting to control yourself by any rule. You cannot do it. It is all a matter of personal appeal and of personal feeling. The only ground of justice and of safety is to proceed by general and equal laws. If our pension laws are not liberal enough let them be amended; but let us not under any circumstances venture outside of the laws which have been enacted upon this subject and attempt to administer a system not merely rude, but a most imperfect and odious thing.

Mr. DAVIS. Mr. President, I am very much disposed to concur in the views expressed by the Senator from Pennsylvania who has just taken his seat. Legislation ought always to proceed upon principle. Legislation should always be uniform in its subjects and in its principles of operation. It is impossible to discriminate in laws between individuals belonging to the same class.

Mr. CAMERON. Will my good friend from Kentucky allow me to move an adjournment? It is after half past ten o'clock, and I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 24, 1869.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. Boynton.

The Journal of yesterday was read in part, when

Mr. POLAND moved that the further reading of the Journal be dispensed with.

The motion was agreed to.

LEGISLATURE OF MONTANA.

Mr. POLAND, by unanimous consent, reported from the Committee on Revision of Laws of the United States a bill (H. R. No. 2004) establishing the term of office of the house of representatives and providing for biennial sessions of the Legislative Assembly of Montana; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, provides that hereafter the members of the house of representatives of the Territory of Montana shall be elected for the term of two years, and the stated sessions of the Legislative Assembly shall be biennial; and the said Legislative Assembly, at its first session after the passage of this act, shall provide by law for carrying this act into effect.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. POLAND moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GOVERNMENT TELEGRAPH.

Mr. FARNSWORTH, by unanimous consent, reported adversely from the Committee on the Post Office and Post Roads upon the following bills; which, together with the accompanying report, were laid on the table, and the report ordered to be printed:

A bill (H. R. No. 1689) for the construction of lines of telegraph between Boston, New York, Philadelphia, Baltimore, and Washington under the direction of the Post Office Department;

A bill (H. R. No. 1504) to establish telegraph lines between Boston, New York, Philadelphia, Baltimore, and Washington;

A bill (H. R. No. 1415) to incorporate the United States postal telegraph, and to establish a postal telegraph system; and

A bill (H. R. No. 1083) for the construction of a Government telegraph under the direction of the Post Office Department between New York and Boston.

FORT COLLINS MILITARY RESERVATION.

Mr. JULIAN, by unanimous consent, reported from the Committee on the Public Lands a bill (H. R. No. 2005) declaring the lands constituting the Fort Collins military reservation, in the Territory of Colorado, subject to preemption and homestead entry, as provided for in existing laws; which was read a first and second time.

The bill provides that the lands constituting the Fort Collins military reservation, in the Territory of Colorado, so far as the same have not been lawfully disposed of since their reservation, shall be restored to the United States and made subject to preemption and homestead entry as now provided for by law.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. JULIAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TREASURY DEPARTMENT EMPLOYEES.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with various acts of Congress, lists of clerks and other employes in the several bureaus of his Department during 1868, their

salaries, &c.; which was laid on the table, and ordered to be printed.

SAC AND FOX TRUST LANDS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting, in answer to House resolution of the 13th instant, a letter from the Commissioner of the General Land Office, relative to the Sac and Fox Indian trust lands; which was referred to the Committee on Indian Affairs, and ordered to be printed.

HAMBURG HORTICULTURAL EXHIBITION.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Commissioner of Agriculture, relative to a proposed international horticultural exhibition to be held at Hamburg, September, 1869, recommending the sending of a commission, &c.; which was referred to the Committee on Agriculture, and ordered to be printed.

LEAVE TO PRINT.

Mr. YOUNG asked and obtained leave to have published in the debates remarks upon affairs in Georgia. [See Appendix.]

ORDER OF BUSINESS.

Mr. SCOFIELD. Mr. Speaker, the Committee on Appropriations are very anxious that the House shall resume this morning as soon as possible the consideration of the legislative appropriation bill; and under the instructions of that committee I shall have to insist on the regular order.

PUBLIC CREDIT—COIN CONTRACTS.

The SPEAKER. The House resumes, as the regular order, the consideration of the bill (H. R. No. 1744) to strengthen the public credit, and relating to contracts for the payment of coin. The previous question has been seconded and the main question ordered. The gentleman from Ohio, [Mr. SCHENCK,] who reported the bill from the Committee of Ways and Means, is entitled to one hour in which to close the debate.

Mr. SCHENCK. Mr. Speaker, having already addressed the House on this subject I am disposed to afford other gentlemen as much opportunity as possible to express their views. There is one fact, however, of which I wish to remind the House. The bill consists of two sections: one pledging the faith of the Government to pay its securities according to what is understood to be the right interpretation of the contract, the other relating to the legalization and enforcement of coin contracts in accordance with the recent decision of the Supreme Court. In order that gentlemen who are in favor of one of these sections and opposed to the other may have an opportunity to express their views by their votes, I have allowed two amendments to be offered: one to strike out the first section, the other to strike out the second section. These amendments are first to be voted on, and gentlemen will have an opportunity to place themselves upon the record upon each proposition separately, though I hope both sections will prevail. I now yield ten minutes to the gentleman from New York, [Mr. PRUYN.]

Mr. PRUYN. Mr. Speaker, on a previous occasion I submitted to the House some remarks on the legal-tender act of 1862, and on the question of our public debt. In the ten minutes now allotted me it will be impossible for me to go over that ground again, and for my general views upon those questions I must refer to what I have heretofore said. When the gentleman from Ohio [Mr. SCHENCK] announced his intention to speak on this subject, and said to the House at the beginning of his remarks that he did not mean to discuss the question of finance generally, but to confine himself strictly to the bill before the House, I supposed we should hear some reason for the adoption of the first section of the bill. But to my surprise the gentleman appeared here with a labored treatise on the finances of the country, in which he gave statements as to the

crops of the South, cotton and other crops, and dealt largely in generalities in stating to the House the object he had in view in the first section of this act. Let me have his attention for a moment; and first, I should like to know what he means by this declaration in the bill:

That the faith of the United States is solemnly pledged to the payment in coin or its equivalent of all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver.

What does he mean by that? Does he mean that any existing statute should be changed? Does he mean to say that the act of 1862—the legal-tender act, to which I suppose this is directed, and the issue of five-twenty bonds under that act—does he mean to say that that act does not provide for the payment of five-twenty bonds in coin, and therefore a statute of this kind ought to be enacted?

Mr. SCHENCK. Does the gentleman want a reply?

Mr. PRUYN. Not now, but when the gentleman is entitled to the floor.

Mr. SCHENCK. I cannot answer at any other time, for I have given all my time away. If the gentleman had done me the honor to read my speech he would have known I have replied to every one of his inquiries.

Mr. PRUYN. I listened to it as attentively as I could when it was delivered.

Mr. SCHENCK. I am sorry that I was not understood.

Mr. PRUYN. I will confess to my mind the gentleman did not meet the point at all. What do we mean by this legislation? Do we mean anything or nothing? Is it a renewed declaration of what former statutes provide or something else? If the former it is deceptive, and so I look upon it; but if it is the latter, then the gentleman undertakes by this law to create a new obligation on the part of the Government to its creditors, such as the acts under which the issue of bonds was made did not create.

Now, sir, this whole question will eventually be solved in one way. If the gentleman is of the opinion that in 1862, when the bonds of 1862 will have matured, the Government will then have resumed specie payment, the whole question is then solved, for we will then pay coin, of course. The labor, the industry, and the toil of the country must work out this problem; but if, when that time arrives, we cannot pay in coin, if we shall not have reached coin value, then we must pay in new obligations, and the public creditor must wait until the country is able to meet its obligations in coin. We stated to the world that we meant to carry on the war not upon a specie basis, that we were not able to carry on the war with coin, but we intended to draw on posterity and the labor of the future. We promised gold for interest, but that the public creditors must take the result as to the principal; that if we put down the rebellion, if we succeeded in that work, we should soon resume specie payment, and then, of course, every obligation of the Government, would be paid in coin. If we did not reach that point, then it would be impossible for us to pay in coin, and the public creditors must take new obligations and wait until we could reach specie payment. That was the proposition we made in 1862 to the public creditors, and under which they took those bonds.

Now, sir, what has been the cause of our expenditure since the war closed? We are more indebted now than we were then, notwithstanding a system of taxation more heavy than was ever before imposed upon any people living under a republican form of government. Notwithstanding these drafts upon our resources our debt has been accumulating, and we are further from specie payment than three years ago; and so it will be until we have a sound system of finance on the part of the Government—a sound system of taxation on one side levied on a few articles, and a wise system of expenditure on the other. Until

we do that we shall have to give the public creditors renewed promises to pay. On the other hand a wise, sound, and judicious system of finance can bring us to specie payments in a very few years. But Congress can do nothing by legislation of this kind. It is futile, it is useless, it is deceptive. The first section of this bill, so far as I can see, means nothing. If it means more than the former statutes do, then I submit that this is not the way to meet that question. If this Government is to come under increased and enlarged obligations, this whole thing should be fairly and squarely considered in open debate, giving an opportunity to all gentlemen to advance their respective views in regard to it, and we should determine by conjoint effort in what way we can best protect the credit and power of the country.

I regret, Mr. Speaker, that I cannot enlarge on some points connected with this matter, and that so important a matter must be disposed of under such pressing circumstances. But I felt bound to say this much in regard to it, and to express the hope that the first section of this act will be stricken out; and that with regard to the second section, while it may be well enough to pass it, there is really no need of it. But I do not know that there is any substantial objection to it. The decision of the Supreme Court has fortunately put us right on this subject, and I do not think that this House can supplement anything to the Constitution by its action on this subject. There are other views in regard to the matter that I would like to present, but I see my time is exhausted.

Mr. SCHENCK. I yield ten minutes to the gentleman from Illinois.

Mr. JUDD. Mr. Speaker, the tax-payers of this country demand that their burdens be lessened. They have proved in the past, as I think they will in the future, that they are ready to respond to all that the wants and necessities of the Government actually required at their hands. And while this feeling of patriotism prompts them to furnish all the means necessary to sustain their Government, they demand an economical disbursement of those means thus furnished, and that this Congress determine, so far as possible, in what manner the burdens of taxation can be reduced.

It is said, and truly said, that the first method is by a judicious and proper economy in the appropriations, the limitations of these appropriations to such objects and purposes as are absolutely necessary and essential to the existence of the Government. I think, Mr. Speaker, that that career has been entered upon by this Congress, and the reports of the Committee on Appropriations show that we shall, for the next fiscal year, disburse only about two hundred and ninety million dollars, about one hundred and fifty million dollars of which sum is to be applied to the payment of interest upon our various forms of indebtedness. That is a large reduction upon any former yearly expenditure. If the same spirit of economy continues we shall soon reach a point when no expenditure shall be made beyond the necessities I have before referred to. Such is my confidence in the patriotism and honesty of the people that I believe no exigencies can arise which involves the good faith and honor of the country but what they will respond with their means to the fullest extent necessary. Show the necessity and the action will be prompt and effectual.

Having entered upon the career of retrenchment we must pursue it to the end, for the purpose of relieving the tax-payer. And the rejection of all subsidies and grants looking to private interest at the expense of the public purse shows clearly the tone and temper of this House. The question is now before the nation whether there is any other mode in which we can be relieved of a portion of these burdens, and at the same time act in perfect good faith to all of our creditors. Mr. Speaker, we are paying a higher rate of interest than any nation on the globe that has equal resources to meet its obliga-

tions. We have more resources in proportion to our population, when compared with the amount of our indebtedness, than any nation. These resources have been and are being developed with a rapidity that is unparalleled in history. Why, then, is it, I ask members of this House, that to-day while European nations borrow money at three or three and a half per cent. interest we are compelled to pay six per cent. on all the loans we have made? Is it because any one doubts our ability to meet our obligations? No, sir. We are the only nation on the globe that has ever discharged in full its national debt. It is our history, and we are entitled to be proud of it. All know that we can meet our obligations, and that the spirit which carried us through the rebellion which has just closed will carry us through any financial necessities that honesty and honor may demand.

Mr. ELDRIDGE. I would like to know what the gentleman means by saying that we are the only nation that has ever discharged its debt in full. I certainly do not understand what he means.

Mr. JUDD. The gentleman is extremely critical. I suppose he has faith in General Jackson; he ought to have. President Jackson, in his seventh annual message to Congress, says:

"Since my last annual communication all the remains of the public debt have been redeemed, or money has been placed in deposit for this purpose whenever the creditors choose to receive it."

This is what I mean when I say we have before paid our debts in full.

But to return to the point I was discussing. I was asking the question why it is that with resources conceded to be adequate to meet all the claims upon us we are now paying six per cent. interest on our interest-bearing debt, amounting in the aggregate to \$150,000,000 per annum? I will tell you why, in my opinion, it is so. It is because we have thrown discredit upon our own obligations. It is because by our internal strife in politics we have thrown doubt upon our good faith. It is because some have pretended that if a creditor held our note for \$1,000 bearing interest that we had a legal right to pay that with ten \$100 notes not bearing interest. If between individuals such a transaction would not come within the definition of honesty, is the case changed when the Government does that or attempts to do it? We cannot pay our indebtedness now. If we desire to reduce our rate of interest we must have the money to pay the outstanding obligation and that must be borrowed. So long as a doubt remains as to the intentions and good faith of the nation no money can be borrowed, and the present rate of interest must continue to be paid.

It was said by the chairman of the Committee of Ways and Means in opening this debate that faith in our intention to meet our obligations is the basis of all credit, a belief not only in our ability to pay, but in our disposition so to do; and I say very frankly that technical discussions as to the meaning of our undertaking when we promised to pay a dollar and the search after some way in which that obligation might be abridged is one of the great causes why our debt cannot be funded at four per cent., thus saving to the nation \$50,000,000 per annum. I make no attack, Mr. Speaker, upon any person or party. I only refer to facts which are now a part of the history of this country, and the doubts occasioned thereby, that our discussions have shaken the faith of the public as to our securities, and until set at rest all hopes of reducing our rate of interest must be given up. Our ability to pay finally is undoubted. Place our faith beyond debate and cavil and this nation can command the money market of the world. Our five-twenties, bearing six per cent. interest, are payable at our pleasure after five years. When we can borrow money at four per cent. we are authorized by the terms of the contract to call in these obligations and stop the six per cent. interest. The purpose of the first section of this bill is to establish our credit by acting in

good faith, and that done the result I have named follows. We discussed at the last session a funding bill, the purpose being to consolidate the debt and obtain a lower rate of interest, and in that mode and to that extent to relieve the people. All such laws will be useless until we are in condition to say and show that our income from honestly collected taxation exceeds our expenditures, and that our promise to pay is perfectly sure at all times and upon all occasions. It is perfectly evident from the estimates of income and the amount authorized to be expended that we are in a condition to comply with the first of my propositions. Shall the second be demonstrated without resort to technicalities and quibbles? When that is done the United States of America can borrow any amount of money to take up her outstanding high-interest-rated obligations and substitute therefor a lower rate of interest, and we can change our obligations from six per cent. to four per cent. It is said that no man will give up six per cent. obligations and take four per cent. obligations. It is no matter whether he desires to do so or not. The law allows us when we have the money to pay the five-twenties. We can order the holders to surrender them and get the money at the Treasury, and a failure to do so stops interest on them. Such are the express terms of the contract. Why, then, should we not save \$50,000,000 per annum? It is worth struggling for; and to that end the bill of the Committee of Ways and Means has been proposed. The gentleman from New York [Mr. PRYOR] says that he does not see any object or purpose in this bill, and he asks the gentleman from Ohio [Mr. SCHENCK] whether he intends to change the terms of the law. What are the terms of the law has been and is a disputed question. It has been in the arena of politics and party strife; good men have differed and demagogues howled vociferously, and while this controversy was going on among ourselves the man that is in condition to help you reduce your interest from six to four per cent. stands back and says I have your note for a dollar; if it does not mean a dollar I shall avoid getting any more of such stuff. The commercial laws of the world recognize coin as the standard of value, and the United States, as part of that whole, made and recognized a dollar a dollar in coin. Many of the laws under which five-twenties were issued were enacted before the legal-tender act; and they had in part been executed by the issue of bonds under them. Will the gentleman from New York make us believe that anything but coin was within the intent of the law-makers? My time will not allow me to discuss this question or endeavor to satisfy doubts. It is to avoid these doubts and thus enable us to be in condition to lighten taxation by reducing interest that I would have this law passed. Will the act be beneficial in producing this result? If so I am in favor of it. It is my firm belief that such will be the result. This House on Saturday last closed the business of Treasury brokerage, so far as its action could do it, by the taking from the Secretary of the Treasury all power to sell and buy bonds, settling thus the amount of our debt. The duty of wise statesmanship is to proceed with such legislation as will consolidate our debt at the lowest possible rate of interest.

Mr. Speaker, I do not suppose it would be out of order in the discussion of this question to remind our friends on this side of the Hall, and with whom I act politically, that we are committed to the principles of this bill by the action of the convention that presented General Grant's name as the standard-bearer in the late political contest. In the declaration of principles will be found the following:

"That the national debt, contracted as it has been for the preservation of the Union for all time to come, should be extended over a fair period of redemption; and it is the duty of Congress to reduce the rate of interest thereon whenever it can be honestly done."

And again:

"That the best policy to diminish our burden of

debt is to improve our credit, that capitalists will seek to loan us money at lower rates, of interest than we now pay, and must continue to pay so long as repudiation, partial or total, open or covert, is threatened or suspected."

I find that my convictions of what is both expedient and right are fully in accord with the principles enunciated by the party with which I acted politically, and I shall with pleasure give my vote for this bill.

[Here the hammer fell.]

Mr. SCHENCK. I yield five minutes to the gentleman from Illinois, [Mr. BROMWELL.]

Mr. BROMWELL. Mr. Speaker, so far as the first section of this bill is concerned, I have heard with great pleasure the words of my colleague from the Chicago district. [Mr. JUDD.] The people of Illinois, and I believe the people of every State in this Union, are determined that the war debt of the United States and every other public obligation of this country shall be paid in such manner as to reflect no dishonor whatever upon the Republic. Now, all the Government of the United States has to do is to make its promises for gold, its greenbacks, as good as gold, and the question which divided parties last year will be no more. It is true, in my opinion, that the speeches and arguments of distinguished gentlemen upon this floor, Republicans and Democrats, on the subject of paying off our greenbacks have cost this Government \$50,000,000 a year, and will cost it that much until we have satisfied the world that our bonds mean just what an English bond means, and that is gold for gold.

The way to economize is to get money at a low rate of interest, and nothing will bring that about but the plan suggested by my colleague. It may be that the second section of this bill may have some effect in that direction. But take it all in all I do aver that I never will vote for any section in any bill that scales down the greenbacks of this country. This is not—and I commend this thought to the chairman of the Committee of Ways and Means [Mr. SCHENCK]—this is not like a case in which the Government is legislating about bank notes. This currency is the work of the Government itself. And will this Government issue notes purporting to be a legal tender, and then, by your own legislative action, advertise the Government as bankrupt, by declaring that your notes are not as good as gold, and that you will do nothing to make them so? I am opposed to any such measure, come from what source it may.

And I am glad this opportunity is offered me to speak my mind about this matter, lest I should be compelled to vote without an explanation, as I did the other day upon the constitutional amendment. Rather than vote that this Government will consent for a moment that its money is not as good as gold and so considered I will vote against the whole bill.

I cannot sit down without further calling the attention of this House to the great importance of banishing and forever from the public mind the thought that this Government will ever quibble with its creditors by offering them paper of its own in place of gold, which paper it does not make equivalent to gold in their hands. They are paying to-day for the stump speeches which gave candidates for the Presidency their prominence last year at the rate, I believe, of \$50,000,000 a year. And the tax-payers, Democrats and Republicans, are bound to struggle under this burden as long as we keep up the controversy whether we will make our credit good or not. This is all I have to say on this subject.

Mr. SCHENCK. I now yield to the gentleman from California [Mr. AXTELL] for five minutes.

Mr. AXTELL. I propose to address the House at this time for the purpose of sustaining both sections of this bill. The first section provides that bonds of the United States, except where otherwise expressly provided for, shall be paid in gold and silver coin, which is simply equivalent to saying that the bonds shall be paid. And I think that this Congress should give no uncertain utterance before the world to that sentiment.

There is no payment of these bonds except in gold and silver. Payment does not mean that you shall take up a bond bearing interest and give in its place a note bearing no interest and irredeemable; but it means that you shall really pay the amount of the bond. And it is necessary that we, as the American Congress, shall go squarely and boldly before the world with no uncertain utterance upon this point.

The action of this Congress, commencing with its vote that the bonds should be paid, but five or six voting in the negative, has brought up the value of American securities twenty per cent., gold receding from 150 to 130, from which point it will probably never rise; or, in other words, American securities and legal-tender notes have gone up, for to say that gold rises and falls misleads the mind. Gold cannot rise and fall, in fact. But nominally it is quoted now at 132 and a fraction, and last autumn it was quoted at 150. But we have in fact enhanced the value of our paper, while the value of gold remains the same. It is a misnomer to say that gold rises and falls. And the theory that you can make money out of chips and whet-stones and paper and the like is all a delusion and a snare. There is no money except gold and silver. And when we say that we will pay our bonds we mean that we will pay them in gold and silver. We are paying at the rate of \$125,000,000 a year in gold in the way of interest on our debt, and we are abundantly able to do so. The product of bullion from the Pacific States alone will reach this year \$100,000,000, and it will remain at that figure for twenty years to come.

I have not time now to explain the data upon which I base this assertion, but I challenge the attention of thinking men throughout the country to the fact that we are developing there gold and silver mines that will bring up the product of bullion to \$100,000,000 a year, and this added to \$20,000,000 received from abroad will afford ample means for meeting the national obligations in the only currency in which they can rightfully be discharged. But for the untimely expressions of politicians designed for political purposes, our bonds would not now be depressed in the markets of the world; we could go abroad and borrow money, enabling us to issue new bonds at a lower rate of interest. If this bill be passed, as I hope it will be by an overwhelming, or still better, a unanimous vote, our bonds will at once exhibit a decided advance in the markets of the world. But, sir, the policy of paying our bonds in greenbacks and then allowing those greenbacks to depreciate as they must to almost nothing, the policy of redeeming our interest-bearing bonds with mere due-bills which bear no interest and are never to be paid, is repudiation such as must stamp with disgrace any man or any nation that may be guilty of it.

Mr. SCHENCK. I now yield five minutes to the gentleman from Illinois, [Mr. LOGAN.]

Mr. LOGAN. Mr. Speaker, in the brief time allotted to me it would be impossible to discuss the legal question involved in this measure, and I will not undertake to do so. I shall merely seek to direct the attention of the House to the position toward which the current of events is naturally tending, and to which we must, all of us, within a short time find ourselves inevitably drawn. If we intend that this Government shall ever resume specie payments it is proper that we should at this time indicate that intention to the world by some bill or resolution which shall express our determination in emphatic and unmistakable language.

The question as to the currency in which our bonds shall be paid, which has been so much discussed in this Hall and throughout the country during the last two or three years, can be as well settled now as at any other time. I presume that no wise man in the country believes at the present day that the policy of the Government will be to discharge its indebtedness by the issue of new obligations. Although my own mind once tended in the direction of such a policy, yet the discussion which the

question has received, both here and before the people, has brought me to the conviction which I advocated before my constituents last fall, that the payment of a debt by the creation of a new debt is no payment at all. Although this proposition had for a time been considered doubtful by a portion of the people of my State, yet they then decided that the bonds of the Government are payable in money—not in paper currency, not in greenbacks, not in bank notes, but in that which is considered money by all civilized nations. The decision of the people of my State on this question was given in such a manner as should satisfy their representatives that the decision must be sustained.

I have stated the position I took before my constituents, not that the law necessarily requires by its terms the redemption of our bonds in coin, but that it is our duty to make such redemption and to declare specifically that such is our intention. Sir, it appears to me it is nonsense for us to discuss this question any longer. It is nonsense for us to talk of paying \$2,000,000,000 of bonds with \$2,000,000,000 of greenbacks. And, sir, at this time when we are about to enter upon a new Administration it is highly befitting that we should proclaim to the world that we intend to pay our obligations in the currency of the world; that we do not intend that hereafter the bonds of our Government shall be worth in London but eighty cents on the dollar, while the bonds of the State of Massachusetts are worth 105. There is no reason for this depreciation of our bonds in the markets of the world except that the discussions we have had on the question have raised a doubt as to the currency in which we intend to discharge our national obligations. Heretofore our bonds have constantly fluctuated, rising upon the introduction here of every resolution looking to their payment in gold, and falling upon the introduction of every resolution proposing payment in greenbacks.

Now, let us stop this higgling about it, and say as an honest people that we mean to pay our honest debts, both greenbacks and bonds, in such money that the world recognizes as money. If you pass the first section of this bill—I speak of the first section; I have nothing to say of the second section, for I leave the discussion of that to other gentlemen—if you pass the first section of this bill in less than thirty days the bonds known as five-twenties will be higher in the market than ever before since their issue.

[Here he hammered file.]

Mr. SCHENCK. I now yield for one minute to the gentleman from Massachusetts.

Mr. BUTLER, of Massachusetts. Mr. Speaker, I desire to say nothing myself, but I have sent up to the Clerk's desk to have read a letter from one of the best financiers in the country.

The Clerk read as follows:

NEW YORK, February 18, 1869.

Sir: There is another point that I wish to bring to your notice. The Secretary of the Treasury in his report says that while the large customs receipts are satisfactory in a revenue point of view, they show that we are running in debt to foreign nations very fast. It is not probable that the present tariff will produce more than \$30,000,000 a year when we cease to run in debt. In other words, nearly one half of our customs receipts came from goods for which we run in debt to foreign nations. When our bonds are all exhausted, and we cease to import more than we pay for, it will be necessary to increase the duties on tea, coffee, and sugar, and other articles of necessary consumption, in order to pay the interest. We shall have to do this or reduce the interest. The talk about funding at a lower rate of interest is all nonsense; such a measure cannot be accomplished except by compulsion. These foreign bond-holders buy our 1862 five-twenties at a great shave, receiving six per cent. in gold on the par value, and expect to receive the equivalent of gold for them in thirteen years hence, (1875.) It is no wonder that our bonds go abroad. They buy at 85, for instance, receiving interest at the rate of seven and a half per cent. in gold on 85, and in thirteen years they get 100 in gold. That is the expectation which Mr. SCHENCK's bill gives them.

Now, I hope you will not be satisfied to tax the coupons ten per cent. I hope you will reduce the interest to four per cent. and let the interest be taxed in the shape of income, this reduction of the rate of interest to be in lieu of taxation of the face of the bonds. I think we cannot rightfully tax any but our own citizens.

The amount of bonds that have been shipped recently is perfectly enormous, and in my judgment

the man is a fool who supposes the country can suffer any such exhaustion. "Is it altogether safe," asks Burke, "to allow the patience of the people to be the only limit to taxation?" Mr. SCHENCK's bill should be entitled: A bill to increase the burden of taxation, encourage the export of bonds, and insure repudiation. The real repudiators in this country are those who are crushing the people to the earth with unequal taxation and goading them to desperation.

I am, yours, respectfully,

Hon. B. F. BUTLER, M. C., Washington, D. C.

Mr. SCHENCK. I now yield for ten minutes to my colleague, [Mr. DELANO.]

Mr. DELANO. Mr. Speaker, considering the time allowed to me I must direct my attention strictly to the provisions of the pending bill. The first section pledges the faith of the United States to pay in coin or its equivalent all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money, or other currency than gold and silver. How many members of this body are there who do not believe that all the obligations of the nation calling for dollars, and not expressly payable in currency or lawful money, will be paid in coin or its equivalent? I will risk my judgment for accuracy by saying that there are not thirty.

We are part of a great family of nations; we are an important integer in this family. We recognize and are bound by the laws, regulations, and customs of this great family, and one of these laws, regulations, and customs is that the precious metals alone constitute the standard of values; and the history of centuries, nay of hundreds of centuries, has established, continued, and sanctioned this custom. We cannot ignore or violate this law without dishonor. We may have for our own use as a temporary necessity a paper dollar, but this is in its utility local, and unknown and unrecognized among other nations, and even here with us the value of this paper dollar depends largely upon its convertibility into coin. He who endeavors to give value to paper money otherwise than by its convertibility into coin does not understand what he is talking about. I regard, therefore, all efforts to create paper into money as futile, chimerical, and mischievous, come from whatever source they may; and all efforts made here or elsewhere to pay our debts in paper promises which we have agreed to pay in dollars seem to me as tending to dishonor and disgrace.

But I may be asked, Mr. Speaker, why make this declaration or pledge now and at this time? I answer, because the conduct of certain political organizations and of individuals has rendered it necessary. A great effort has been made by the party which during the war opposed the loyal people to break down and destroy the debt which was necessarily contracted in saving the nation's life. And the late rebel and rebel-sympathizing party are endeavoring to rebuild their disrupted organization by this attack on the nation's credit, supposing that the cupidity and avarice of the people will be a guarantee for success. I trust they will be mistaken. This effort in all parts of Europe, but in some places more than others, has impaired confidence in our national credit and honor, but not in our financial ability; and this impaired confidence has and still does depress our securities abroad, and it is to restore this confidence and credit we are at work to-day. We ought, as far as possible, to remove this stain. We must show the world that we are as just and honest as we are strong and powerful. This being done we shall hereafter, and as soon as we are able to pay coin on our circulating notes, be able to borrow money here and elsewhere at rates of interest as low as any nation upon the earth, I think much lower. Then, as our bonds become payable at the option of the Government, we shall be able anywhere and everywhere to negotiate new loans at a reduced rate of interest, and thus mitigate our national burdens and preserve our integrity and good name unsullied and without reproach.

If the attacks upon the nation's faith to which I have alluded had not been made this pledge of faith would not have been needed. If the rebellion had not been commenced the war to crush it would have been avoided. As we met and vanquished the assaults upon the Government so must we meet and vanquish the assaults upon our credit and our honor. I should be glad to move an amendment to the second section, which, I think, would remove objections to that section; but as I cannot offer it I will read it here. I move to add to the second section, so it will read as follows:

SEC. 2. *And be it further enacted*, That any contract hereafter made specifically payable in coin, and the consideration of which may be a loan of coin, or sale of property, or the rendering of labor or service of any kind, the price of which as carried into the contract may have been adjusted on the basis of the coin value thereof at the time of such sale, or of the rendering of such service or labor, shall be legal and valid, and may be enforced according to its terms; and on the trial of a suit brought for the enforcement of any such contract proof of the real consideration may be given; and if it shall be shown that the consideration was not entirely a loan of coin, or that the property, labor, or service, the price of which as carried into the contract was not adjusted on the basis of its real and actual coin value at the date of the contract, then such agreement to pay in coin shall be void, and the obligation shall be enforced as if this act had not been passed.

This section of the bill legalizes contracts payable in coin where coin was the only consideration, and where property, labor, or service being the consideration were placed at an actual coin value at the date of the contract. This provision seems to me necessary for several reasons.

First, it is a step toward resumption, and serves to grade the road to resumption, thus reaching this desirable end by easy steps that will not shock nor violently disturb the business or material interests of the country.

Again, in our large commercial centers coin must be used; it is necessary to pay duties, and for other reasons. The borrower of coin now has to pay something for the hazard which the lender runs when the loan is made, and business is embarrassed and rates of interest increased. Legalize such contracts and you will facilitate the business of the country; you will diminish the rate of interest when coin is loaned; you will let loose coin, and, to some extent, introduce it into the channels of business; and all this looks toward and prepares for the great desideratum of the nation, a resumption which shall not be attended with a too cruel and disastrous shrinking or reduction of value.

I give this bill in all its parts my hearty and cordial support, because I think it is what the nation sooner or later must do, and I sincerely think the sooner we do what is here proposed the better.

I cannot omit to express my sincere thanks to the Committee of Ways and Means for introducing this measure; and I feel assured that whether it be adopted now or not it is destined in the end to become the nation's policy. The ability with which the measure has been sustained by the chairman of the committee strengthens the credit of this nation, let the present fate of this measure be as it may.

Mr. SCHENCK. I will now give three minutes of my time to the gentleman from Pennsylvania.

Mr. BROOMALL. Mr. Speaker, I have no doubt about the proposition that the fifty-two bonds are, by the law which authorized their issue, payable either directly or indirectly in gold coin, for if payable in notes the notes are national obligations as sacred as the bonds, and are due on demand in coin; and hence I shall vote for the first section of this bill upon the ground that it is a mere expression of opinion on the legal question involved. I, however, regret its introduction here for reasons which I will state. If it is a mere legislative opinion upon an existing contract, in giving that opinion we are going outside of our duty. That business is for the courts. On the other hand, if my opinion about the law as it stands should be erroneous, and if it requires legislation to make these bonds payable in gold, then I affirm we have no right to legislate. The contract as it now

stands is written in the law under which it was made. It was entered into by the parties with the law before them. The tax-payers and the bondholders are the parties to it. What right have we upon the application of one of these parties, and without the consent of the other, to change the terms of that contract. Hence it is that while I shall vote for the measure as an expression of opinion upon the existing law, I regret its introduction at this time. If there is any doubt in the law the tax-payers have a right to insist that that doubt shall be suffered to remain for the purpose of enabling us to borrow again under a law clear of that doubt, and at a lower rate of interest, to discharge those bonds alleged to be questionable, and we have no right to deprive them of that.

With respect to the second section I am under some difficulty. If I could be satisfied that it was so guarded that the creditor could not use it as an engine of oppression toward the debtor I would vote for it with pleasure, provided some means were attached to it by which the legal-tender notes would not become further depreciated as they are thrown out of use by the introduction of coin in the business of the country. Without this the step we are asked to take is one from rather than toward specie payments. But I shall probably vote for this section also with the hope that some means will be provided to prevent further depreciation of the notes as a consequence of the introduction of coin, and with the hope that Congress in the future will protect the debtor class against the creditor class if the law should prove to be an engine of oppression.

[Here the hammer fell.]

Mr. SCHENCK. I yield five minutes to the gentleman from New York.

Mr. BROOKS. Mr. Speaker, this bill is before the House, and as we all have a vote to give upon it, and as I intend to vote "ay," I wish to say a word or two by way of giving my reasons therefor. I look upon it as a step toward the resumption of specie payments in cooperation with the recent decision of the Supreme Court of the United States; and as I consider the return to specie payments one of the greatest blessings I feel it my duty, directly or indirectly, in whatever manner I can, to bring about that result.

The recent decision of the Supreme Court in making gold contracts legal has led the way to the resumption of specie payments, which will be availed of first by the importers of the country, next by traders generally, and in the end, through the action of all classes, will sooner or later, either with or without the cooperation of Congress, in my judgment, enforce the resumption of specie payments.

The next step is a general belief or impression that the credit of the country and the character of the country are able to maintain specie payments; and this exposition of the law, or what is intended to be the law, is calculated, so far as Congress can go, to give that pledge to the country and the world that we intend to meet all our obligations of whatever kind and character sooner or later in coin. There is nothing, as I understand it, in this declaration here which goes further than the declaration of both parties prior to the presidential campaign.

Mr. VAN TRUMP. I wish to say that that is not Democratic doctrine.

Mr. BROOKS. This bill declares that "the faith of the United States is solemnly pledged for the payment in coin or its equivalent of all the interest-bearing obligations of the United States, except in cases where the law authorizing the use of such obligations has expressly provided that the same may be paid in lawful money or other currency than gold and silver." As I understand this we pledge ourselves to the maintenance of the law, and only to the maintenance of the law.

In reply to the remark of my friend from Ohio, [Mr. VAN TRUMP,] as I shall not have time to continue the argument I designed to make, I have to say that the precedents of the

Democratic party, the whole history of that party, its beautiful and glorious history, made by its trials and temptations, has been for hard money. Hard money is written upon its creed over and over again; and for the sixty years that the Democratic party was in power all the party were more or less faithful to their obligations.

Mr. VAN TRUMP. Does the gentleman say that the Democratic creed is embodied in the first section of this bill?

Mr. BROOKS. I understand nothing here to be in conflict with the Democratic creed as enunciated in its council in New York.

Mr. VAN TRUMP. I understand a great deal of it to be in conflict with the Democratic creed.

Mr. BROOKS. I hope the gentleman will have time to reply to me. What I have to say is that in voting for the first section of this bill I pledge myself to abide by the law of the country, and only by the law of the country, nothing more and nothing less. So far as the country has pledged itself to pay in coin it is bound by the most solemn obligation to discharge its debt in coin; and where its debt is to be paid in paper the pledge is to execute the law, and only the law.

[Here the hammer fell.]

Mr. ARNELL. If this bill was in a condition to be amended I would move to strike out the entire exception in the first section, to wit:

Except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver.

I would do this, Mr. Speaker, in order to leave no shadow of doubt as to the manner in which the public debt of the United States should be paid. I hold that this debt is a sacred obligation, made to preserve the nation's life, and no shade of doubt, in my opinion, should rest upon the character of its payment. The nation has been saved. Her integrity should be as spotless as her victory has been great and overwhelming.

Leave was granted to Messrs. BURR, COBURN, LOUGHRIDGE, PHELPS, BEATTY, VAN TRUMP, HOLMAN, BOYDEN, and MILLER to print remarks on the bill.

[The speeches will be published in the Appendix.]

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] has five minutes remaining of his hour.

Mr. WOOD. Will the gentleman from Ohio permit me to ask him a question?

Mr. SCHENCK. Yes, sir.

Mr. WOOD. I desire to know whether he will permit any gentleman opposed to this first section of the bill to speak against it, or whether he confines his liberality to the friends of the measure?

Mr. SCHENCK. I have already permitted two gentlemen to do what they could, and I would gladly have permitted more; for the more the subject is discussed the better assured I am that the world and the people of the United States will confirm favorable action upon an honest bill like this. But, sir, this House would not permit discussion. I labored, as the House will remember, to get a full discussion to allow fifteen-minutes speeches to members upon both sides of the Hall, and my successive propositions were voted down and I was reduced then to the advantage of the hour allowed by the rules of the House to myself, and I have given it all away. If I had given no part of it to any gentlemen on the other side of the question no complaint could be made, for it was all mine to speak in favor of the bill, and it was a mere gratuity upon my part that I have liberally given two gentlemen an opportunity of opposing the bill.

Mr. WOOD. No Democrat has had an opportunity to speak against this proposition. The gentleman has given liberally to those Democrats who are in favor of it, but none to those who are against it.

Mr. SCHENCK. I proposed if I had time—but carried away by my usual amiability I have

given it nearly all away—to say a word or two in reference to the second section of the bill. I ask gentlemen to look particularly at that section. I cannot doubt that the first section will be sustained, and I trust the second will be also.

The objection made to a provision legalizing gold contracts has always been, as is well understood, the apprehension that it may afford to a hard creditor, upon the renewal of an old contract, opportunity to embarrass or grind his debtor. That objection, I think, is fully provided against by the care with which this section has been drawn. I ask gentlemen to look at it. They will find, in the first place, that these contracts must be specifically made payable in coin, and that they can only be made so when the consideration is a loan of coin itself, or when it is for some labor or service performed or property purchased, which labor or service or property has been reduced to its coin value as that value stood at the time the consideration was agreed upon. And to avoid all questions about remedies in courts it is then further provided that in every case where it is set up in support of a contract of this kind, that it has been made in pursuance of these provisions of the law, there shall be permitted an inquiry into the actual consideration so as to ascertain whether it be so or not. The Supreme Court has to a certain extent, perhaps, obviated the necessity, by its late decision, of passing a section of this kind; but the dictum of the Chief Justice and the actual case before the court are not precisely coextensive, and some doubts may exist upon the subject, and we are but legislating in the direction which the court has taken by its judgment in affirming by positive enactment of law this provision which is proposed here in the section under consideration.

I hold, therefore, that instead of its being an argument against this second section that the Supreme Court have rendered such a decision, it is an additional reason for passing it; it is a reason consisting in the fact that we are giving clearness and precision to the law so as to relate to past contracts and future contracts, contracts made since the passage of the legal tender act as well as contracts made before, so as to brush away all question, all doubt, all possibility of the people being misled by not knowing precisely to what extent the court yet intend to go.

The previous question having been sustained, gentlemen will have an opportunity to vote against the sections of this bill separately.

Mr. BARNES. I ask unanimous consent of the House to speak for five minutes on the first section of this bill.

Mr. SCOFIELD. I object.

Mr. SHANKS. I move that the bill be laid on the table.

Mr. HOLMAN. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 54, nays 133, not voting 35; as follows:

YEAS—Messrs. Archer, Baker, Barnes, Beatty, Beck, Bowen, Burr, Benjamin F. Butler, Roderick R. Butler, Calkins, Cobb, Coburn, Cook, Deweese, Donnelly, Edwards, Eggleston, Ela, Eldridge, Fox, French, Golladay, Goss, Gravely, Grover, Haight, Hawkins, Holman, Hopkins, Hunter, Ingersoll, Johnson, Thomas L. Jones, Knott, Loughridge, Marshall, McCormick, Mungen, Niblack, Orth, Pruyn, Ross, Shanks, Stevens, Stokes, Stone, Taffe, Tift, Van Auker, Van Trump, Henry D. Washburn, John T. Wilson, Wood, and Young—54.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Banks, Barnum, Beaman, Benjamin, Bingham, Blackburn, Blaine, Blair, Boutwell, Boyden, Boyer, Brewster, Brooks, Broomall, Buckley, Chandler, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Corley, Cornell, Covode, Cullom, Dawes, Delano, Dickey, Dixon, Dockery, Dodge, Driggs, Eckley, Thomas D. Eliot, Ferriss, Ferry, Fields, Getz, Glossbrenner, Gove, Griswold, Harding, Heaton, Higby, Hill, Hooper, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulbard, Jenckes, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Ketcham, Kitchen, Koonz, Laffin, Lash, George V. Lawrence, William Lawrence, Logan, Lynch, Marvin, Maynard, McKee, Mercer, Miller, Moore, Moorhead, Mullins, Morrissey, Newcomb, Newsham, Norris, O'Neill, Paine, Perham,

Peters, Phelps, Pierce, Pike, Pile, Plants, Poland, Pomeroy, Price, Prince, Raun, Robertson, Roots, Sawyer, Schenck, Scofield, Shellabarger, Smith, Spalding, Starkweather, Stewart, Stover, Taber, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, James F. Wilson, Windom, and Woodbridge—133.

NOT VOTING—Messrs. Adams, Bailey, Benton, Boies, Buckland, Callis, Cary, James T. Elliott, Garfield, Halsey, Hamilton, Haughey, Asahel W. Hubbard, Humphrey, Lincoln, Loan, Mallory, McCarthy, McCullough, Morrissey, Nicholson, Nunn, Pettis, Polesley, Randall, Robinson, Selye, Sigreaves, Sypher, Lawrence S. Trimble, Van Wyck, Vidal, Elihu B. Washburne, Stephen F. Wilson, and Woodward—35.

So the bill was not laid on the table.

During the call of the roll,

Mr. SCHENCK said: My colleague, Mr. GARFIELD, has requested me to state that he is detained in his room by illness, and that if here he would vote for this bill.

The question was upon the motion of Mr. NIBLACK, to strike out the first section, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to remove any doubt as to the purpose of the Government to discharge all just obligations to the public creditors, and to settle conflicting questions and interpretations of the laws by virtue of which such obligations have been contracted, it is hereby provided and declared that the faith of the United States is solemnly pledged to the payment in coin or its equivalent of all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver: *Provided, however,* That before any of said interest-bearing obligations not already due shall mature, or be paid before maturity the obligations not bearing interest, known as United States notes, shall be made convertible into coin at the option of the holder.

Mr. PRUYN. I wish to ask the gentleman from Ohio [Mr. SCHENCK] if he will consent to so modify the first section as to specify which of these issues of bonds are payable in paper?

Mr. SCHENCK. The main question has been ordered, and the subject has passed beyond my control.

Mr. NIBLACK. As I have had no opportunity to debate this bill, I call for the yeas and nays on my motion to strike out the first section.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 54, nays 130, not voting 38; as follows:

YEAS—Messrs. Archer, Baker, Barnes, Beatty, Beck, Bowen, Burr, Roderick R. Butler, Cobb, Coburn, Deweese, Donnelly, Eggleston, Ela, Eldridge, Farnsworth, Fox, Getz, Golladay, Goss, Gravely, Grover, Haight, Hawkins, Holman, Hopkins, Humphrey, Hunter, Ingersoll, Johnson, Thomas L. Jones, Kerr, Knott, Loan, Marshall, McCormick, Mungen, Niblack, Orth, Pike, Pruyn, Ross, Shanks, Stevens, Stokes, Stone, Taffe, Tift, Van Auker, Van Trump, Henry D. Washburn, John T. Wilson, Wood, and Young—54.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Banks, Barnum, Beaman, Benjamin, Benton, Bingham, Blackburn, Blaine, Blair, Boutwell, Boyden, Boyer, Bromwell, Brooks, Broomall, Buckley, Calkins, Chandler, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Corley, Cornell, Covode, Cullom, Delano, Dickey, Dixon, Dockery, Dodge, Driggs, Eckley, Thomas D. Eliot, James T. Elliott, Ferriss, Ferry, Fields, Glossbrenner, Gove, Griswold, Halsey, Harding, Heaton, Higby, Hill, Hooper, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulbard, Jenckes, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Ketcham, Kitchen, Koonz, Laffin, Lash, George V. Lawrence, William Lawrence, Logan, Lynch, Mallory, Marvin, Maynard, McKee, Mercer, Miller, Moore, Moorhead, Mullins, Myers, Newsham, Norris, O'Neill, Paine, Perham, Peters, Pettis, Phelps, Pierce, Pile, Plants, Poland, Pomeroy, Price, Prince, Raun, Robertson, Roots, Sawyer, Schenck, Scofield, Shellabarger, Smith, Spalding, Starkweather, Stewart, Stover, Taber, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, James F. Wilson, and Windom—130.

NOT VOTING—Messrs. Adams, Bailey, Boies, Buckland, Benjamin F. Butler, Callis, Cary, Cook, Dawes, Edwards, French, Garfield, Hamilton, Haughey, Asahel W. Hubbard, Lincoln, Loughridge, McCarthy, McCullough, Morrissey, Newcomb, Nicholson, Nunn, Polesley, Randall, Robinson, Selye, Sigreaves, Sypher, Lawrence S. Trimble, Robert T. Van Horn, Van Wyck, Vidal, Elihu B. Washburne, Stephen F. Wilson, Woodbridge, and Woodward—38.

So the motion to strike out the first section of the bill was not agreed to.

The question then recurred on the motion of Mr. ALLISON, to amend by striking out the second section, reading as follows:

Sec. 2. *And be it further enacted,* That any contract hereafter made specifically payable in coin, and the consideration of which may be a loan of coin, or a sale of property, or the rendering of labor or service of any kind, the price of which as carried into the contract may have been adjusted on the basis of the coin value thereof at the time of such sale, or of the rendering of such service or labor, shall be legal and valid, and may be enforced according to its terms; and on the trial of a suit brought for the enforcement of any such contract proof of the real consideration may be given.

Mr. HOLMAN called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 72, nays 100, not voting 50; as follows:

YEAS—Messrs. Allison, Baker, Beatty, Beck, Benton, Bowen, Bromwell, Benjamin F. Butler, Calkins, Clift, Cobb, Coburn, Cook, Cornell, Cullom, Deweese, Dickey, Donnelly, Eckley, Ela, Eldridge, Farnsworth, Ferriss, Ferry, Fox, Golladay, Goss, Gravely, Hawkins, Holman, Hooper, Hopkins, Hunter, Ingersoll, Kelley, Kelsey, Knott, Koonz, William Lawrence, Loan, Loughridge, Lynch, Maynard, Miller, Moore, Morrell, Mullins, Mungen, Myers, Niblack, Nunn, O'Neill, Orth, Peters, Robertson, Ross, Sawyer, Shanks, Shellabarger, Smith, Stevens, Stokes, Taffe, Thomas, Tift, Upson, Van Trump, Henry D. Washburn, Thomas Williams, William Williams, John T. Wilson, and Young—72.

NAYS—Messrs. Ames, Anderson, Archer, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Banks, Barnes, Barnum, Beaman, Benjamin, Blackburn, Blair, Boyden, Boyer, Brooks, Broomall, Buckley, Roderick R. Butler, Callis, Chandler, Churchill, Reader W. Clarke, Corley, Covode, Dawes, Delano, Dixon, Dodge, Driggs, Edwards, Thomas D. Eliot, James T. Elliott, Fields, Getz, Glossbrenner, Gove, Griswold, Grover, Haight, Halsey, Harding, Heaton, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulbard, Jenckes, Johnson, Alexander H. Jones, Thomas L. Jones, Judd, Julian, Kerr, Ketcham, Kitchen, Laffin, Lash, George V. Lawrence, Mallory, Marvin, McCormick, McKee, Mercer, Moorhead, Newsham, Norris, Paine, Perham, Phelps, Pierce, Pike, Plants, Poland, Pomeroy, Price, Pruyn, Raun, Schenck, Scofield, Spalding, Starkweather, Stewart, Stone, Stover, Taber, Taylor, Trowbridge, Twichell, Van Aernam, Van Auker, Burt Van Horn, Ward, William B. Washburn, Welker, Whittemore, James F. Wilson, and Wood—100.

NOT VOTING—Messrs. Adams, Bailey, Bingham, Blaine, Boies, Boutwell, Buckland, Burr, Cary, Sidney Clarke, Dockery, Eggleston, French, Garfield, Hamilton, Haughey, Higby, Hill, Asahel W. Hubbard, Humphrey, Kellogg, Lincoln, Logan, Marshall, McCarthy, McCullough, Morrissey, Newcomb, Nicholson, Pettis, Pile, Polesley, Prince, Randall, Robinson, Roots, Selye, Sigreaves, Sypher, John Trimble, Lawrence S. Trimble, Robert T. Van Horn, Van Wyck, Vidal, Cadwalader C. Washburn, Elihu B. Washburne, Stephen F. Wilson, Windom, Woodbridge, and Woodward—50.

So the motion to strike out the second section was not agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question being on the passage of the bill, Mr. SCHENCK demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 120, nays 60, not voting 42; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Banks, Barnum, Beaman, Benjamin, Benton, Blackburn, Blaine, Blair, Boyden, Boyer, Brooks, Broomall, Buckley, Callis, Chandler, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Corley, Cornell, Cullom, Dawes, Delano, Dixon, Dodge, Driggs, Eckley, Thomas D. Eliot, James T. Elliott, Ferriss, Ferry, Fields, Getz, Glossbrenner, Gove, Griswold, Halsey, Harding, Heaton, Higby, Hill, Hooper, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulbard, Jenckes, Alexander H. Jones, Judd, Julian, Kellogg, Kelsey, Ketcham, Kitchen, Koonz, Laffin, Lash, George V. Lawrence, Lynch, Marvin, Maynard, McKee, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Newsham, Norris, O'Neill, Paine, Perham, Peters, Pettis, Phelps, Plants, Poland, Pomeroy, Price, Raun, Robertson, Robinson, Roots, Sawyer, Schenck, Scofield, Shellabarger, Smith, Spalding, Starkweather, Stewart, Stover, Taber, Taylor, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, James F. Wilson, and Windom—120.

NAYS—Messrs. Archer, Baker, Beatty, Beck, Bowen, Bromwell, Burr, Benjamin F. Butler, Roderick R. Butler, Calkins, Cobb, Coburn, Cook, Covode, Deweese, Donnelly, Eggleston, Ela, Eldridge, Farnsworth,

worth, Fox, French, Golladay, Goss, Grover, Haight, Hawkins, Holman, Hopkins, Humphrey, Hunter, Ingersoll, Johnson, Thomas L. Jones, Kelley, Kerr, Knott, William Lawrence, Loughbridge, Marshall, McCormick, Mungen, Niblack, Nunn, Orth, Pike, Ross, Shanks, Stevens, Stokes, Stone, Taffe, Thomas, Tift, Van Trump, Henry D. Washburn, William Williams, John T. Wilson, Wood, and Young—60.

NOT VOTING—Messrs. Adams, Bailey, Barnes, Bingham, Boles, Boutwell, Buckland, Cary, Dickey, Dockery, Edwards, Garfield, Gravelly, Hamilton, Haughey, Asahel W. Hubbard, Lincoln, Loan, Logan, Mallory, McCarthy, McCullough, Morrissey, Nicholson, Pierce, Pile, Polsley, Prince, Pruyn, Randall, Selye, Sitgreaves, Sypher, John Trimble, Lawrence S. Trimble, Van Auken, Van Wyck, Vidal, Elihu B. Washburne, Stephen F. Wilson, Woodbridge, and Woodward—42.

So the bill was passed.

Mr. SCHENCK moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 1864) for the repeal of tonnage duties on Spanish vessels.

NATIONAL CURRENCY.

Mr. COBURN. I move that the House reciprocate the request of the Senate for a committee of conference on the disagreeing vote of the two Houses on Senate bill No. 440, supplementary to an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864.

Mr. BROOKS. I object.

Mr. COBURN. I move to suspend the rules for the purpose I have indicated.

The House divided; and there were—ayes 66, noes 43.

Mr. COBURN demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 92, nays 69, not voting 61; as follows:

YEAS—Messrs. Allison, Anderson, Arnell, Delos R. Ashley, Baker, Beaman, Beatty, Beck, Benjamin, Blair, Boyden, Buckley, Burr, Benjamin F. Butler, Roderick R. Butler, Callis, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Cullom, Delano, Deweese, Dockery, Dodge, Eckley, Eggleston, James T. Elliott, Farnsworth, Ferry, French, Glossbrenner, Goss, Grover, Harding, Haughey, Hawkins, Heaton, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Alexander H. Jones, Thomas L. Jones, Judd, Julian, Kerr, Kitchen, Knott, Lash, William Lawrence, Mallory, Marshall, Maynard, McCormick, McKee, Mullins, Mungen, Nowcomb, Newsham, Niblack, Norris, Paine, Raum, Roots, Ross, Sawyer, Schenck, Shanks, Shellabarger, Stevens, Stokes, Stover, Taffe, Tift, John Trimble, Trowbridge, Van Auken, Robert T. Van Horn, Van Trump, Henry D. Washburn, Welker, Whittemore, William Williams, James F. Wilson, John T. Wilson, Windom, and Young—92.

NAYS—Messrs. Ames, Archer, Baldwin, Banks, Barnum, Benton, Brooks, Broomall, Chandler, Churchill, Cornell, Covode, Dickey, Dixon, Thomas D. Eliot, Ferriss, Fields, Fox, Getz, Griswold, Halsey, Hill, Hotchkiss, Richard D. Hubbard, Hulburt, Humphrey, Jenekes, Kelley, Kelsey, Ketcham, Kootz, George V. Lawrence, Loan, Lynch, Marvin, Mercier, Miller, Moore, Moorhead, Morrell, Myers, O'Neill, Perham, Peters, Pettis, Pike, Plants, Poland, Pomeroy, Pruyn, Robertson, Robinson, Scofield, Smith, Spalding, Starkweather, Stewart, Taber, Taylor, Thomas, Twichell, Upson, Van Aernam, Burt Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, and Wood—69.

NOT VOTING—Messrs. Adams, James M. Ashley, Atwell, Bailey, Barnes, Bingham, Blackburn, Blaine, Boles, Boutwell, Bowen, Boyer, Bromwell, Buckland, Cake, Cary, Dawes, Donnelly, Driggs, Edwards, Ela, Eldridge, Garfield, Golladay, Gore, Gravelly, Haight, Hamilton, Higby, Holman, Asahel W. Hubbard, Johnson, Kellogg, Lafin, Lincoln, Logan, Loughbridge, McCarthy, McCullough, Morrissey, Nicholson, Nunn, Orth, Phelps, Pierce, Pile, Polsley, Price, Prince, Randall, Selye, Sitgreaves, Stone, Sypher, Lawrence S. Trimble, Van Wyck, Vidal, Elihu B. Washburne, Thomas Williams, Stephen F. Wilson, Woodbridge, and Woodward—61.

So (two thirds not having voted in the affirmative) the rules were not suspended.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by its Secretary, Mr. GORHAM, which announced that that body, having proceeded in pursuance

of the Constitution to reconsider the bill entitled "An act regulating the duties on imported copper and copper ores," returned to the House of Representatives by the President of the United States with his objections, and sent by the House to the Senate, with the message of the President returning the bill, had resolved that the bill do pass, two thirds of the Senate agreeing to pass the same.

It further announced that the Senate had passed bills of the House of the following titles without amendment:

An act (H. R. No. 2003) to authorize the county commissioners of Ada county, Idaho, to select a site for a territorial prison; and

An act (H. R. No. 2004) establishing the tenure of office of the house of representatives and providing for biennial sessions of the Legislative Assembly of the Territory of Montana.

It further announced that the Senate had agreed to the conference asked for on the disagreeing votes of the two Houses on House bill No. 1599, making appropriations for the naval service for the year ending June 30, 1870, and had appointed Mr. GRIMES, Mr. HENDRICKS, and Mr. NYE as such committee on its part.

It further announced that the Senate had agreed to the conference asked for on the disagreeing votes of the two Houses on House bill No. 1812, to allow deputy collectors or assistant assessors of internal revenue acting as collectors or assessors the pay of collectors or assessors, and had appointed Mr. CATTELL, Mr. MORRILL of Vermont, and Mr. WARNER as such committee on its part.

It further announced that the Senate had passed bills of the following titles, with amendments, in which the concurrence of the House was requested:

A bill (H. R. No. 375) to repeal an act to regulate the disposition of fines, penalties, and forfeitures received under the laws relating to the customs, and for other purposes, and to amend certain acts for the prevention and punishment of frauds on the revenue and for the prevention of smuggling; and

A bill (H. R. No. 1804) to establish a bridge across the East river between the cities of Brooklyn and New York, in the State of New York, as a post road.

It announced in conclusion that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House was requested:

A bill (S. No. 735) to prevent the extermination of fur-bearing animals in Alaska, and to protect the inhabitants thereof;

A joint resolution (S. No. 214) changing the name of the steamship Aries, of the Philadelphia and Boston steamship line, to that of Spartan;

A bill (S. No. 761) giving the consent of the United States to the erection of a bridge across the Delaware river, between Philadelphia and Camden;

A bill (S. No. 895) giving the consent of the United States to the erection of a bridge across the Willamette river, in Oregon, from the city of Portland to the east bank of said river;

A bill (S. No. 789) making an appropriation and authorizing the purchase of additional ground for the Nashville custom-house;

A bill (S. No. 926) to provide for the enrollment and license of certain foreign vessels;

A bill (S. No. 731) to authorize the New York, Newfoundland, and London Telegraph Company to land its submarine cable upon the shores of the United States; and

A bill (S. No. 755) to define the limits of the collection district of Teche, in the State of Louisiana, and for other purposes.

LEAVE OF ABSENCE.

Leave of absence from the session of to-night was granted to Mr. PAINE.

PAPERS WITHDRAWN.

On motion of Mr. LAFLIN, leave was granted for the withdrawal from the files of the House of the petition and papers presented by Jeremiah Smith to the Thirty-Fifth Con-

gress, praying for compensation for the loss of a steamer in the service of the Government, copies to be left.

RESOLUTIONS OF INDIANA LEGISLATURE.

The SPEAKER, by unanimous consent, laid before the House resolutions of the Legislature of Indiana, asking Congress to inquire into the losses sustained by the officers and men of battery F, United States artillery, wrecked at sea; which were referred to the Committee of Claims.

DAILY HOUR OF MEETING.

Mr. SCHENCK. I ask the unanimous consent of the House that after to-day the House shall meet at eleven o'clock instead of twelve o'clock.

Mr. CULLOM. Would it not be as well to say ten o'clock?

Mr. SCHENCK. I do not think we could get a quorum here at that hour.

Mr. PRUYN. Let us sit from eleven till six o'clock, and have no night sessions.

Mr. SCHENCK. I do not propose to interfere with the recess.

The SPEAKER. The Chair would state to the gentleman from New York that unless we have night sessions or some other order the Committee on Appropriations will have no time that they can command for the appropriation bills. They have the night sessions now absolutely, but during the day privileged reports are in order.

Mr. SCHENCK. I hope there will be no objection to meeting at eleven o'clock.

Mr. CULLOM. I hope we shall meet at half past ten o'clock.

Mr. ROBINSON. I suggest to the gentleman from Ohio that he say after to-morrow.

Mr. SCHENCK. I think we had better begin to-morrow.

Mr. BROOKS. I have to be on two committees at half past ten o'clock.

Mr. SPALDING. I shall object unless the order is for after to-morrow.

Mr. SCHENCK. Then I ask unanimous consent that after to-morrow the House shall meet daily at eleven o'clock.

There was no objection, and it was so ordered.

INDIAN APPROPRIATION BILL.

Mr. BUTLER, of Massachusetts, from the Committee on Appropriations, reported back the amendments of the Senate to the Indian appropriation bill, and moved that they be referred to the Committee of the Whole on the state of the Union, and be made the special order after to-morrow until disposed of.

The motion was agreed to.

Mr. HOLMAN. I desire to reserve points of order on that bill.

The SPEAKER. These are Senate amendments on which points of order cannot be reserved. If any amendments are recommended by the Committee on Appropriations the right to raise points of order on those amendments will be reserved.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. BUTLER, of Massachusetts. I move that the rules be suspended, and the House now resolve itself into the Committee of the Whole upon the legislative appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SCHENCK in the chair,) and resumed the consideration of House bill No. 1673, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870.

The following clause of the bill, as amended by the Committee of the Whole, was under consideration:

In the office of the Secretary of the Treasury and the several bureaus, including copying, labor, binding, sealing ships' registers, translating foreign languages, advertising, and extra clerk hire for preparing and collecting information to be laid before Congress, and for miscellaneous items, \$50,000: *Provided*, That no part of this sum shall be paid as salary or compensation to the Special Commissioner of the Revenue.

Mr. ALLISON. I move to add to the proviso which has been adopted the words "after June 1, 1870." I offer that amendment for the purpose of securing the services of this Special Commissioner of the Revenue during most of the next fiscal year. It is well understood by gentlemen of the House that it is necessary to amend both the internal revenue laws now upon the statute-book, and also to make a thorough revision of the tariff laws.

Mr. MOORHEAD. I rise to a question of order. If I understand the amendment aright it provides that no portion of the money shall be paid after the 1st of June, 1870. My question of order is that this appropriation is from the 1st of June, 1869, to the 1st of June, 1870, and the provision which he makes would be after the time of this appropriation entirely, and therefore it is not in order in this bill.

The CHAIRMAN. The Chair overrules the point of order. It is for the House to determine whether it is expedient to do that which would seem to be inconsistent.

Mr. ALLISON. I would remind my friend that the fiscal year ends the 30th of June, and not on the 1st of June. I supposed he was aware of that. It seems he is not. Now, my object is to secure the service of this Special Commissioner for the most part of this year, and I desire now to say a word with reference to the past services of this Commissioner in reply to what was said by the gentleman from Pennsylvania [Mr. MOORHEAD] last evening. I understood him to hold this man responsible for the failure of what was known as the large tariff bill in the Thirty-Ninth Congress. I think he does that gentleman entirely too much credit when he attributes the failure of that bill to his efforts. I remember distinctly the failure of that bill, and if it is to be charged to anybody it should lie at the door of the distinguished gentleman from Pennsylvania himself. That bill went from the House of Representatives during the first session of the Thirty-Ninth Congress, was reported early in the second session to the Senate, and passed that body, I think, before the middle of January. It came back to this House, and because the gentleman from Pennsylvania insisted that it should go to the Committee of Ways and Means and not be acted upon in the House, it went to that committee and remained there for more than three weeks for the purpose of receiving amendments from gentlemen on that committee, chiefly increasing the duty on iron and steel upon those fixed by the amendments of the Senate. So that if any one is to be charged with the responsibility of the failure of that bill it is the gentlemen who are not satisfied with the increase made by the Senate upon the existing tariff on manufactured iron and steel, but desired that the duty should be greatly increased beyond what the Senate proposed.

Now, sir, I did not wish to allude to the history of that tariff bill, but I assert here that it was not the fault of the Special Commissioner of the Revenue that it did not finally pass, and I appeal to gentlemen here who desire a fair revision of the tariff, whether in the interest of protection, so called, or whether in favor of moderate protection, or in favor of a tariff for revenue, not to strike down on the 1st day of June next an officer and an office which is of vast value to the people of this country. I call upon the gentlemen who intend to vote against this Special Commissioner of the Revenue to remember that we are about to have a change of administration, and is it possible that a majority of this House, having faith in the incoming President, believe that if we now have an officer who is unfit for the discharge of his duties the President will not remove him and put in his place another man capable of discharging the important duties that we have imposed upon him by law? Therefore I trust we will at least continue the appropriation for eleven months of the next fiscal year.

Mr. MOORHEAD. I rise to oppose the amendment. I think we had a very fair expression of opinion on this subject last night, and I was in hopes the gentleman would have sym-

pathy enough for his friend, not to attempt to drag him before the House again; but as he has trotted him out, I hope the House will stand by what they have done. I did charge, and I reiterate it, that the defeat of the tariff bill was owing to the manipulations of this Special Commissioner. I charged it, as I thought, with full knowledge of the fact. Now, when the gentleman undertakes to make this House believe that I was the cause of the defeat of that bill I do not think it necessary to make any reply to that. I believe I am understood on that subject in this House and in the country, so that it is entirely unnecessary to defend myself against any such charge as that.

Mr. ALLISON. If the gentleman will allow me, I did not mean to say he intentionally defeated it. I only meant that he insisted on amendments which made it fail for want of time.

Mr. MOORHEAD. I understood perfectly what the gentleman meant. I said last night, and I say now, that the tariff bill was defeated by offering a substitute in the Senate which this Special Commissioner had prepared and which the Senate Committee on Finance adopted. That put so much into the bill, or rather made an entirely new bill of such length, that there was not time to pass it; so it failed for want of time, as a good many of our bills in the Committee of Ways and Means have done.

I repeat, as the gentleman has brought his friend before the House again, that I do not think we have any use for such an officer, and I hope some gentleman will relieve me from the necessity of offering a bill to abolish the office, which I shall feel bound to do if no one else offers it before this Congress closes.

We have our Secretaries, who are the official agents of the President, and they make their official reports to Congress. Now, we do not want a subordinate officer to give his opinions and his views and to prepare bills for Congress. If this gentleman were suffered to go on for a few years in the way he has been running for some time past, and with such elegant gentlemen to back him as he has had here, I do not know but what he might do the whole business. I do not know but what we might dispense with Congress altogether, and even with the Cabinet officers and the President also. I do not know but this gentleman might be looked to to run the whole machine. If the power was given to him, if we put him in the place of the Secretary of the Treasury, or even of General Grant himself, he might run the whole machine without assistance, and he would look upon Congress as a trammel in his way.

Now, I do not think that this gentleman is so valuable to Congress and to the country as to justify our continuing his salary any longer. That was my opinion last night when I offered my amendment, and I intend to follow it up, if no other gentleman does, with a bill to abolish the office.

[Here the hammer fell.]

Mr. KELLEY. I move to amend the amendment by striking out "1st of June, 1870" and inserting in lieu thereof the words "30th of May, 1869." I make this motion because I agree in some points with the gentleman from Iowa, [Mr. ALLISON.] I think that the tariff law and the internal revenue law both need general revision. And I think that Congress should have a fair chance to get at the facts on which to legislate, and not be put in the position of relying upon the reports of a man who in his last report has falsified nearly all the facts he pretended to submit.

I have shown you that he has pointed out as a season of prosperity a period when labor was out of employment and the deposits in savings-banks were running down rapidly. I have shown you that he points out as a season ruinous to the labor of the country a period when labor is fully and profitably employed, and when the laboring people in four States and two cities added in one little year over twenty million dollars to their deposits in the savings-banks. I have shown you his demonstration that the wealth of the country is at least

\$32,000,000,000, and yet I hold in my hand his subsequent official report announcing to Congress that the wealth of the country is but \$20,000,000,000, and asking it to rudely contract the currency to accord with his newly conceived dimensions of the wealth of the country. I have shown you—I did it last night—the suppression on the part of Mr. Wells of the most remarkable development of material resources and motive-power that the world has ever seen: the recent development of the bituminous coal-fields of this country, the substitution of coal for wood over hundreds of thousands of miles of territory, and of the steam-engine for muscular power over the same broad stretch of territory. These important facts are carefully concealed and buried in a parenthetical clause which contains a misstatement as ponderous as was ever made in such a clause, that the whole extent of the development of the bituminous coal-fields and the consequent increase of productive motive-power of this country has been but eight per cent. in three years. That is his statement, while, as I have shown you, the facts are that in Kansas it has been eight thousand per cent.; in Missouri, Illinois, Indiana, it has been in each more than eight hundred per cent.; and taking all the coal-bearing regions of the country into consideration, the increase has not been less than seven hundred per cent.

Now, sir, these perversions and suppression of significant facts cannot in my judgment be the result of mere confusion, but are the result of design. They are perpetrated because we have a Commissioner who has preconceived notions that he is determined to force upon Congress, and when he finds facts which do not sustain them, like the French philosopher he thinks it so much the worse for the facts, and sets them aside as not worthy of consideration. We should not pay a man to mislead and deceive us. If we want facts relative to revenue gathered and collated for us let us divide the money now paid Mr. Wells between Robert J. Walker, the great champion of free trade, and Henry C. Cary, the ablest expounder of the value of protection to the wages of American laborers, and let each give us honestly the facts that sustain his theory, and we will get the information we need. But do not let us pay the salary and traveling expenses and furnish clerks for a man whose sole business seems to be to deceive and delude those who are engaged in making laws for the country. I hope the amendment adopted last night will not be modified.

[Here the hammer fell.]

Mr. PIKE. Mr. Chairman, when the provision for the appointment of this Special Commissioner of the Revenue was first adopted it struck me as an incongruity. I thought that the existing offices of Secretary of the Treasury and Commissioner of Internal Revenue provided ample means for gathering and collecting the necessary facts for the action of Congress. But I must say that the manner in which Mr. Wells has discharged his duties has inclined me very strongly to the opinion that it was wise in Congress to establish this office, and very wise in the appointing power to select Mr. Wells to discharge its duties. Mr. Wells has had the misfortune to ascertain, in the course of his investigations, that the duty upon pig-iron is very high. In his various investigations in relation to this subject he has ascertained that the manufacture of pig-iron costs some twenty-three dollars a ton, while it usually sells, I think, for about forty dollars a ton, making a very respectable margin of some seventeen dollars a ton. As the duty on imported pig-iron is nine dollars in gold per ton, and as from time to time this suffering interest has clamored very much on the ground of want of protection, the facts exhibited in Mr. Wells's report are of course offensive to gentlemen engaged in that branch of trade. A profit of seventeen dollars per ton on pig-iron which costs twenty-three dollars per ton is, of course, not sufficient.

Mr. GRISWOLD. Will the gentleman yield for a question?

Mr. PIKE. I have but five minutes, and there is another item to which I wish to refer.

Mr. GRISWOLD. I simply want to ask the gentleman in what market pig-iron sells for the price he has named? I would like to know where such a market is to be found.

Mr. PIKE. I am speaking of the facts developed in the report of the Commissioner, as I recollect them. The gentleman from New York, [Mr. GRISWOLD,] being engaged in the iron trade, is of course more familiar with the precise details in regard to this business. I understand the Commissioner to say that the ordinary selling price of pig-iron is about forty dollars a ton; it may be somewhat less. Mr. Wells having committed the great offense of ascertaining and exhibiting the facts with reference to the manufacture of pig-iron, the gentlemen who expected this Special Commissioner to gather facts to sustain this duty of nine dollars in gold per ton, and not only to sustain but to increase that duty, do not like the result. I do not blame them. Not liking the result, they do not like the Commissioner; I do not blame them. Not liking the Commissioner they want the office abolished. The question now comes before the House whether or not, at the urgent request of these gentlemen, this office shall be abolished. For my part, I have been very much gratified to see that there is some officer of this Government who can present a series of facts upon which the House may intelligently act.

Then, again, the gentlemen connected with the salt trade made a few years ago, as Mr. Wells ascertained, an investment of \$160,000, which has since swollen to the respectable sum of three or four millions. In this case the duty is eighteen cents per hundred pounds; and if I recollect aright, the little tariff bill of my friend from Pennsylvania [Mr. MOORHEAD] proposed that this suffering interest should be relieved by increasing the duty from eighteen cents to twenty-four cents. This branch of business, it appears, has suffered enormously, because the investment of \$160,000 has swollen to only three or four millions. This increase is so moderate that gentlemen are not satisfied with it; so, of course, they do not like the Commissioner, and of course they want the office abolished. And all these other interests that have also been suffering so enormously under the present tariff do not like the Commissioner.

[Here the hammer fell.]

The CHAIRMAN. Debate is exhausted.

Mr. KELLEY. I withdraw the amendment to the amendment.

Mr. BUTLER, of Massachusetts. I ask unanimous consent that debate be closed on the pending paragraph.

There was no objection.

On the amendment of Mr. ALLISON there were—ayes 33, noes 25; no quorum voting.

Tellers were ordered; and Mr. MOORHEAD and Mr. ALLISON were appointed.

The committee divided; and the tellers reported—ayes 73, noes 49.

So the amendment was agreed to.

Mr. MYERS. I ask unanimous consent of the committee that I may offer an amendment to the paragraph relating to expenses of the Department of State, that paragraph having been passed.

Mr. BUTLER, of Massachusetts. I object. The Clerk read as follows:

For furniture, carpets, and miscellaneous items for the Treasury bureaus, \$20,000.

Mr. STOVER. I move to strike out of this item "\$20,000" and insert "\$5,000."

Mr. Chairman, I wish to call the attention of the House to this special item and to some figures which I have hastily prepared to show what in the last two years has been appropriated for miscellaneous items. At the second session of the Thirty Ninth Congress we appropriated for miscellaneous expenses the sum of \$131,500, and at the second session of the Fortieth Congress \$160,000—over a quarter of a million dollars.

Now, what is meant by miscellaneous items here I cannot tell, unless it has some reference to the new cash-room in the Treasury extension, which is being fitted up in a style, we are told, to surpass anything of the kind in the world. We see that it is specified that this is for carpets and furniture as well as for miscellaneous items. Within two years we have expended nearly two million dollars for furniture and carpets. Why, sir, men engaged in the Treasury Department are walking on better carpet than they ever walked on before in their lives—better carpet than that we have about this House. The carpets, too, are being constantly renewed. I see a job under it all. Walk up Pennsylvania avenue any Saturday morning and you will see crowds bidding for carpets that are said to be worn out and have to be replaced by new ones in the Departments. These worn-out carpets are greedily snatched up at \$2 80 a yard. It is all for the purpose of giving the friends of those who have control of these matters a contract for carpets, and carpets are taken up and sold long before they are worn out. I say that it is a wrong practice and ought to be stopped.

[Here the hammer fell.]

The amendment was adopted.

The Clerk read as follows:

For the general purposes of the Treasury Department building, including the extension:
For compensation of twelve watchmen and eleven laborers of the building, \$13,800.

Mr. PETERS. Mr. Chairman, I move to strike out "\$13,800" and in lieu thereof insert "\$16,500." Under the appropriation as it is in the bill these watchmen and laborers are compensated at the rate of \$600 a year. If you look under the head of General Land Office and Department of the Interior you will find that the salary is fixed at \$720. My amendment makes this appropriation conform to the amendment adopted last evening, and gives these men \$720 per annum.

Mr. BUTLER, of Massachusetts. As I explained last evening, this appropriation is according to existing law. Some of these watchmen have their pay fixed by law at one rate and some at another. Last night we adopted an amendment to produce uniformity in the pay of these laborers and messengers. That being done, it of course covers all the Departments and puts them upon an equality in that respect. In order to save time I propose that the vote in the House on the gentleman's amendment shall determine the salary of these watchmen and messengers in all the instances in this bill.

Mr. PETERS. I agree to that, and withdraw my amendment.

Mr. TWICHELL. I ask unanimous consent to go back to page 21 and offer an amendment.

Mr. MULLINS. I object.

The Clerk read as follows:

Department of the Interior:
For compensation of the Secretary of the Interior, Assistant Secretary, chief clerk, four clerks of class four, additional to three disbursing clerks, three clerks of class three, four clerks of class two, one return clerk, one messenger, two assistant messengers, five watchmen, and three laborers in his office, in all, \$41,540.

Mr. SCOTFIELD. The Committee on Appropriations have instructed me to move to amend by inserting the following after the foregoing paragraph:

Office of Education:
For Commissioner of Education, \$3,000; for two clerks of class one, \$2,400; for contingent expenses, \$600.

I propose, if this is adopted, to offer a proviso on behalf of the committee, disposing of this office after the 30th of June, 1870.

Mr. WHITTEMORE. I move to amend the amendment by substituting the following therefor:

Department of Education:
For compensation of Commissioner of Education, \$4,000; chief clerk, \$2,000; one clerk of class four, \$1,800; and one clerk of class three, \$1,600; for stationery, blank books, freight, express charges, library, miscellaneous items, and extra clerical help, \$10,000; in all, \$20,000.

And so much of the act entitled "An act making

appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1869," approved July 20, 1868, as provides, "That from and after the 30th day of June, 1869, the Department of Education shall cease," &c., is hereby repealed; and the act entitled "An act to establish a Department of Education," approved March 2, 1867, is hereby declared to remain in full force.

Mr. SCOTFIELD. I raise the point of order that this is new legislation.

The CHAIRMAN. The Chair decides that the amendment is not in order.

Mr. WHITTEMORE. I then withdraw the latter part, which repeals an existing law, and offer the rest.

The CHAIRMAN. The amendment, as modified, is in order.

Mr. SCOTFIELD. The amendment offered by me under the direction of the Committee on Appropriations is just in accordance with the estimate of the Department itself, sent to us through the Secretary of the Interior. The amendment offered by the gentleman from South Carolina is enlarging very much upon what the Department has itself asked.

Mr. WHITTEMORE. Mr. Chairman, the law which creates the office of Commissioner of Education also provides what shall be done by the Commissioner of Education and his clerks, and the Commissioner has assured the committee who made an investigation into the matters pertaining to the Department that there is great necessity for these clerks. The gentleman on my right [Mr. FARNSWORTH] says there is no need of them. The Commissioner has assured me otherwise, and the committee on investigation are satisfied that there is great need of these clerks.

Mr. FARNSWORTH. I would inquire of the gentleman from South Carolina, or of any other gentleman, of what use these clerks will be? Indeed, I would like to extend the scope of the inquiry, and ask what earthly use to the Government is this Department of Education? Every State has its commissioner of schools or of education, and we all know that all these Departments created in Washington cost the Government three, four, and even ten times as much as they do anywhere else. And why not, if you have a department of education, have a department of religion, or a department or blacksmithing, or of shoemaking? Why multiply these departments? The Department of Agriculture is about as far as it seems to me we ought to go in this experimental business of creating departments. We have found that to be an expensive concern. The only good thing we get from it, I believe, is an occasional report which the people like—nothing else that amounts to anything—and it costs the Government four or five times as much as it would an individual or even a State to do the same thing. My recollection is that last year we voted down this appropriation, and I hope the committee will do so now, for I do not believe the country will realize any considerable benefit from this Department—nothing, at all events, compared with the cost of it.

Mr. WHITTEMORE. The gentleman from Illinois asks what necessity there is for a Department of Education, and he thinks this is a useless expenditure on the part of the Government. By referring to the report which the committee have already made it will be seen that the memorial to Congress in regard to this Department sets forth the necessity which the memorialists believed to exist for the creation of such a department. They have also referred in their report to the history of the country to show that it is no new thing for those who are high in authority in this country from the time of Washington—

[Here the hammer fell.]

The question was put on Mr. WHITTEMORE's amendment to the amendment; and it was disagreed to—ayes nine, noes not counted.

The question recurred on Mr. SCOTFIELD's amendment.

Mr. BENJAMIN. I move to amend the amendment by striking out all except the first item, which provides for the salary of the Com-

missioner. I am satisfied that there are no clerks needed.

Mr. ROSS. I rise to a point of order. I would inquire whether this is not new legislation?

The CHAIRMAN. Nothing which relates to the salary of an office already established by law is new legislation under the rulings of the Chair.

Mr. BENJAMIN. I see by the law which we passed last year that we have established the office of Commissioner of Education, but there is no law authorizing the employment of any clerks in connection with it. If there is a sinecure office under this Government it is the office of the Commissioner of Education. No earthly benefit can result from it. The people know nothing about it, and members of Congress know nothing about it. At the time the subject was before the House last year, I recollect the question being asked of some member who was defending this Department of Education where the concern was located, and I believe there was not a gentleman upon this floor who could tell where the office was located, or what it had been doing, or what had been the result of its labors; and the same is true now. I trust this amendment will prevail.

Mr. JENCKES. The remarks of the gentleman from Missouri are convincing of the propriety of this appropriation. He says that we are ignorant of the existence of this Department—that even members of Congress are ignorant of it. I know they are, and it is not to their honor that they are, for if there is any one small office doing good under this Government it is the office of this Commissioner of Education. I remember once meeting in a book-store in this city a gentleman from one of the southern States who was inquiring where he could find some works giving an account of the common-school system of the eastern States. He did not know that there was such an office in the city, and I referred him to the office of the Commissioner of Education. I afterward had the curiosity to inquire who he was and what information he obtained, and I found that he was himself a commissioner from one of the southern States endeavoring to seek knowledge by which he might better administer the duties of his office.

Mr. BENJAMIN. Will the gentleman answer me a question?

Mr. JENCKES. Certainly.

Mr. BENJAMIN. I see that last year we appropriated \$10,000 for this concern. Now, my question is: what has been the result of that appropriation? What has issued from that Department?

Mr. JENCKES. The most valuable document that has been printed by this Congress, the report of the Commissioner of Education; and if the gentleman has not seen it I commend to him an examination of it. I know this gentleman who is the Commissioner of Education, and his history in connection with the cause of education. He is a man who has spent his life in this business, and there is no man living either in this country or any other who can better serve the cause of education than he can. If this Government should appropriate fifty or a hundred thousand dollars a year it would be cheap for what he would do in collecting and disseminating useful information in regard to the systems of education in this country and abroad. By this appropriation we do not propose to educate the people, but we undertake to create an exchange where ideas can be passed back and forth through this national office, and where the commissioners of the different States can obtain information concerning European systems of education and anything that would aid in the progress of education.

We have at the head of this Department the most experienced man for that purpose that can be found. To strike out the clerks will be to strike down the office itself, for the business of the Commissioner is correspondence, receiving

and answering letters from all parts of the country. It is in this way that this information is disseminated; and if we take away the means for disseminating this information by refusing any appropriation for clerks of what avail is this information? Therefore, instead of reducing this appropriation we should increase it.

[Here the hammer fell.]

Mr. BENJAMIN. I withdraw the amendment to the amendment.

Mr. FARNSWORTH. I renew it. If this was an appropriation to purchase school-books, spelling-books, and primers, to be distributed among the poor of the country, I would vote for it. If it was an appropriation to purchase books needed among the freedmen of the South I would vote for it, for it might then be of some use to the people of the United States. But the book which this Commissioner issues, and of which the gentleman from Rhode Island [Mr. JENCKES] has spoken, is a book for the learned, and of which now and then a man gets a copy. The poor man does not get it; the ignorant man does not get it; but now and then a worthy constituent of my friend from Rhode Island or myself gets this book, and it is a gratification to him to receive it, and particularly is he well gratified to receive it under the frank of my friend or of myself, or of any other member of Congress. To that extent and no further is the appropriation of any earthly use.

As regards the statistics which gentlemen claim are of such value, the high schools and institutions of learning which the States have organized for themselves are the places where valuable information is collected. But a gentleman stuck up here in the third or fourth story of some building in Washington, surrounded by a dozen clerks writing essays or compiling learned statistics to be sent to the constituents of my friend from South Carolina, [Mr. WHITTEMORE,] who never were inside a school-house, and who will not be able to read them for a year or two, and who will not be able to understand them for five years—of what earthly use is such information as that? This is not one of the proper functions of our Government, or if it is we should go further and establish departments of various kinds of science, a department of engineering, &c. The gentleman from California [Mr. HIGBY] did propose some time since to establish a department of mines and mining. We might better establish such a department as that than to vote supplies to support this one.

[Here the hammer fell.]

Mr. SCOTFIELD. The Committee on Education examined this subject and reported to the Committee on Appropriations, I believe unanimously, that they were in favor of as large an appropriation as this. I think that perhaps they went a little further. The Committee on Appropriations then investigated the subject carefully. They had Professor Barnard before them, and they listened to all the scandal which the President of the United States has condescended to throw around this man. The committee came to the conclusion that Professor Barnard stood in the same relation that do all the good men of this country who are assailed by the President of the United States. It is only the bad men of the country who have escaped the assaults of the highest office-holder in the land.

After a careful consideration of the matter the Committee on Appropriations thought it was little enough to recommend for the great educational interests of this country an appropriation of \$6,000. The gentleman from Illinois [Mr. FARNSWORTH] said last night that his fellow-members ought to be ashamed of themselves not to give \$1,200 each to the female clerks employed by the Government. Now, it seems to me that when only \$6,000 are asked for the great educational interests of this country, to pay a single professor and two first-class clerks, the lowest order of clerks, and only \$600 for contingent expenses, gentlemen should be ashamed to get up here and oppose it.

Mr. FARNSWORTH. I desire to correct the gentleman. I said last night that I was ashamed that gentlemen were not willing to vote as much pay to a woman for doing the same work as they would vote to a man. That is what I said.

Mr. SCOTFIELD. For the consolation of those gentlemen who are opposing this small appropriation I will say that I am instructed by the committee to propose, should my present amendment be adopted, a proviso which will limit the continuance of this office to the next fiscal year, leaving Congress free to make appropriations for this purpose or not, as may be deemed best. Mr. Chairman, I ask unanimous consent that debate be closed on the pending paragraph.

There was no objection.

Mr. FARNSWORTH's amendment to the amendment was not agreed to.

On agreeing to the amendment of Mr. SCOTFIELD, there were—ayes 60, noes 36; no quorum voting.

Tellers were ordered; and Mr. SCOTFIELD and Mr. FARNSWORTH were appointed.

The committee divided; and the tellers reported—ayes 81, noes 42.

So the amendment was adopted.

Mr. SCOTFIELD. I move to amend by adding the following to the paragraph just adopted:

Provided, That the office of Commissioner of Education shall cease at the expiration of the fiscal year ending June 30, 1870.

Mr. ARCHER. I raise the point of order that this amendment proposes new legislation, and is therefore not in order as an amendment to an appropriation bill.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

For cash system, maps, diagrams, stationery, furniture, and repairs of the same, miscellaneous items, including two of the city newspapers, to be filed, bound, and preserved for the use of the office; for advertising and telegraphing, for miscellaneous items on account of bounty lands and military patents under the several acts, and for contingent expenses under swamp-land act of September 28, 1850, \$8,000.

Mr. DICKEY. I move to amend by striking out at the beginning of the paragraph just read the words "cash system." I would like to know what those words mean.

The amendment was not agreed to.

The Clerk read as follows:

For surveyor general of Colorado and Utah, \$3,000, and for the clerks in his office, \$4,000, \$7,000.

Mr. CAKE. I move to amend by striking out in the paragraph just read the words "and Utah." I desire to call the attention of the committee to the fact that the salary of the surveyor general of Utah is provided for in another part of the bill.

The amendment was not agreed to.

The Clerk read as follows:

For surveyor general of Utah Territory, \$3,000; and the clerks in his office, \$4,000.

Mr. PRICE. I move to amend by striking out the paragraph just read.

Mr. BUTLER, of Massachusetts. There is no objection.

The amendment was agreed to.

The Clerk read as follows:

United States Patent Office:

For compensation of the Commissioner of the Patent Office, \$4,500; for chief clerk, \$2,500; for three examiners in chief, at \$3,000 each, \$9,000; twenty principal examiners, at \$2,500 each, \$50,000; twenty first assistant examiners, at \$1,800 each, \$36,000; twenty second assistant examiners, at \$1,600 each, \$32,000; one disbursing clerk, \$2,000; one librarian, \$1,800; one machinist, \$1,600; one messenger, \$1,000; making in all the sum of \$140,400.

Mr. KELSEY. I am instructed by the Committee on Appropriations to move to amend the paragraph just read by inserting after the clause appropriating the salary of the chief clerk the following:

One superintendent of drawings for the annual report, \$2,500.

I will state that this amendment and some others which I am instructed to offer to other items relating to the Patent Office have been agreed upon on consultation with the Commis-

sioner of Patents. He appeared before the Committee on Appropriations; and it was at his request that these amendments increasing to some extent the appropriations were agreed upon.

The amendment was agreed to.

Mr. KELSEY. I move to amend by adding \$2,500 to the gross amount at the end of the paragraph, so as to make it \$142,900.

The amendment was agreed to.

Mr. MYERS. I move to amend by striking out in lines six hundred and eighty and six hundred and eighty-one the words "\$1,800 each, \$36,000," and inserting "\$2,000 each, \$40,000," so as to make the clause read as follows:

Twenty first assistant examiners, at \$2,000 each, \$40,000.

This amendment proposes only a reenactment of the provision which passed this House in 1867. At the first session of the present Congress I introduced a bill adding twelve to the force of examiners in the Patent Office and adding \$200 to the salaries of each of the first assistant examiners, the class between the principal examiners, who get \$2,500, and the second assistants, who receive \$1,600 each. That bill went to the Senate. The business of the Patent Office was so pressing and the work so many months in arrear that the Senate passed the first section of the bill; but in the economy of its wisdom, I am sorry I cannot say in the wisdom of its economy, it struck out the second section.

The salary of these examiners was fixed in 1848. Since that time I need not say how much the cost of living has increased or how much better clerical ability has been paid than before; and it is too much to expect that we shall get men of the first order of ability, who are to act judicially upon questions involving the nicest legal discrimination and the highest knowledge of mechanical sciences, at \$1,800 a year.

The Patent Office, it is well known, is self-sustaining and can well afford to pay adequate compensation to its officers. When the bill I have mentioned passed this House the Patent Office fund was \$264,000, which by act of Congress has since been transferred to the Treasury.

In the five months ending January 1, 1869, the surplus of receipts over expenditures was \$53,000, and it is estimated that this year it will be over one hundred and fifty thousand dollars. The inventors of the country pay this money, and they should have men of the best capacity for this work. The improvident issue of patents alike with their improper rejection may result in much expense and litigation in the former case and great wrong in the latter. As the Government does not lose but the inventors pay all the costs, they are entitled to have the best talent, and it is to their interest it should be well paid.

[Here the hammer fell.]

The amendment was rejected.

Mr. MYERS. I move to strike out the last word, "dollars."

Mr. Chairman, I do trust the House will give this subject proper consideration, and that it will not be carried away by any false notions of economy. The laborer is worthy of his hire, and who more than these examiners?

Mr. SPALDING. I make the point of order that the gentleman must confine his remarks to his amendment to strike out the word "dollars."

Mr. MYERS. I will do so. This is a question of "dollars." [Laughter.] It is a question whether these Government employes shall receive fair and adequate compensation for the work they do. If the House means to stand by the law it passed in 1867, it will pay the examiners the sum I have named; and but for going beyond that decision, I would at this time move to add to the salaries of each class of examiners, for all deserve it, but these the most. How much has the work increased since 1848 when these salaries were fixed? Sir, as the Commissioner tells us in his report, in one room during the past year more applications have been decided than by the whole office in 1855. I made

a statement of the number of applications for patents in 1865 and 1866 when the bill I have alluded to was under discussion. In 1865 there were 10,664, and 6,616 patents were issued. In 1866 there were 15,269, and 9,450 patents were issued. But in 1867 the applications had increased to 21,227, and 13,015 patents were issued; and in 1868 the applications numbered 24,420, and the patents granted 13,378. The skilled men upon whom the brain work of these decisions is devolved ought to have better pay; and as neither the Treasury nor the public will lose by it, I do not see what good ground there is for refusing it to them. I withdraw the amendment, "dollars," in the hope that the committee will yet see the propriety of agreeing to my first amendment.

Mr. BUTLER, of Massachusetts. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SCHENCK reported that the Committee of the Whole on the state of the Union, having had under consideration the Union generally, and particularly the bill (H. R. No. 1673) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th June, 1870, had come to no resolution thereon.

WITNESSES IN CONTEMPT DISCHARGED.

Mr. BLAIR, from the special committee to investigate alleged frauds at the late presidential election in the State of New York, submitted the following resolutions; which were severally adopted:

Resolved, That David W. Reeve, arrested by and now in the custody of the Sergeant-at-Arms of the House for refusal to appear before the committee on alleged New York election frauds, be discharged from custody.

Resolved, That John H. Bell, arrested by and now in the custody of the Sergeant-at-Arms of the House for refusal to answer questions put to him by the committee on alleged New York election frauds, be discharged from custody on payment of costs of arrest.

Mr. BLAIR moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 2003) to authorize the county commissioners of Ada county, Idaho, to select a site for a territorial prison; and

An act (H. R. No. 2004) establishing the term of office of the house of representatives and providing for biennial sessions of the Legislative Assembly of the Territory of Montana.

LEAVE OF ABSENCE.

Leave of absence was granted to Mr. BUCKLAND for two days on account of illness in his family; to Mr. WOODBRIDGE for four days on account of illness, and to Mr. GARFIELD indefinitely on account of illness.

BRIDGES ACROSS THE OHIO.

Mr. WILSON, of Ohio, asked unanimous consent to introduce the following resolution:

Resolved, That the Committee on Roads and Canals be, and they are hereby, authorized to print the testimony taken on the subject of the proper length of span of bridges across the Ohio river.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. BUTLER, of Massachusetts. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the legislative appropriation bill.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of the bill (H. R. No. 1673)

making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870.

The Clerk read as follows:

For thirty-two clerks of class two, \$44,800.

Mr. KELSEY. I am instructed by the Committee on Appropriations to move to strike out "thirty-two" and insert "thirty-five," so that it will read "for thirty-five clerks of class two."

Mr. JENCKES. I move to amend the amendment by inserting "fifty-six" instead of "thirty-five." These appropriations are made necessary from the action of Congress at its last session when it took possession of the Patent Office fund, put it into the Treasury, and made all the expenditures for that office the subject of future appropriation. The Patent Office differs from any other bureau in this Government. It was created for the purpose of carrying out the provision of the Constitution giving protection to science and the useful arts. When the act of 1837, as amendatory of the act of 1836, was passed it was intended and expected that the Patent Office should be self-supporting, and that every person seeking the protection of the Government for his invention or discovery should contribute something to the support of that Department of the Government through which he obtained his aid. That office has been administered upon that principle. It has actually been self-supporting, and had in July last a large amount to its credit in the Treasury. By the act of July last that money was taken possession of as any other money. Previous to that time the Commissioner of Patents employed such clerks as he needed for carrying on this business. Now he reports to the Committee on Patents that he requires the service of these fifty-six clerks to transact the necessary business of the office. They do not take one dollar from the other revenues of the Government. They are all paid their salaries from the proceeds of contributions of inventors, and if the institution is to be carried on at all in the spirit in which it was founded and for the purpose for which it was intended the necessary force should be provided for so carrying it on. Every one knows who has done business at the office for six or seven years past that the force has at all times been insufficient to give prompt decisions upon the cases presented. At different times the business has been from six months to nearly two years in arrear, and if we cut down the present force by the sweeping diminution proposed by the bill—though it is somewhat modified by the amendment—we shall soon bring it to a dead stand; that is, it will be so far in arrear that it will be of little use for an inventor to attempt to obtain a patent in any reasonable or practicable time.

The Commissioner says he absolutely needs this force. He has furnished a list of the number of officers he requires, and without which he says he cannot transact the business. The committee have met him only part way. Unless we give him the requisite means to do the business why should he undertake to do it at all? There is no suggestion by the committee that the business ought not to be transacted, or that there is any reason on the ground of economy or anything else for the diminution of the force. It is a mere arbitrary rule applied to this Department without any useful result whatever.

[Here the hammer fell.]

Mr. KELSEY. Perhaps the committee will better understand this whole question if I send to the Clerk's desk and have read the series of amendments that I shall propose to this part of the bill relating to the force to be employed in the Patent Office. It will be seen that while the Committee on Appropriations have not given the Commissioner of Patents all the force he required, they have materially increased it from what it appears in the bill as it now stands. I send to the Clerk and ask to have read (a part of my remarks the amendments which I am instructed to offer.

The Clerk read as follows:

Page 29, line six hundred and ninety, strike out "thirty-two" and insert "thirty-five," and make the total sum \$49,600.

Page 29, line six hundred and ninety-two, strike out "twenty-six" and insert "forty," and make the total \$48,000.

Page 29, strike out lines six hundred and ninety-four and six hundred and ninety-five.

Page 29, after the word "dollars," on line six hundred and ninety-seven, insert:

For thirteen copyists of drawings at \$1,000 each, \$13,000; for fifty-three female copyists at \$700 each, \$37,100.

Page 29, line seven hundred and four, strike out "five," and insert "seven," and make the total \$6,300.

Page 29, line seven hundred and six, strike out "thirty" and insert "thirty-six," and make the total \$21,600.

Page 30, strike out lines seven hundred and eight, seven hundred and nine, and seven hundred and ten, and insert:

For two pages at \$432 each, and one washerwoman at \$300, \$1,164.

Page 30, line seven hundred and sixteen, strike out the words "and so forth, and so forth," and insert, "and other contingencies."

Mr. KELSEY. It will be seen that by those several amendments which I am instructed to offer by the Committee on Appropriations they have provided for nearly the amount of force which the gentleman from Rhode Island [Mr. JENCKES] thinks the Commissioner ought to have. I now ask for a vote on the amendments.

The question was put on the amendment to the amendment proposed by Mr. JENCKES; and there were—ayes 36, noes 59; no quorum voting.

Tellers were ordered; and Mr. KELSEY and Mr. JENCKES were appointed.

The committee divided; and the tellers reported—ayes 56, noes 62.

So the amendment to the amendment was rejected.

The question recurred on the amendment offered by Mr. KELSEY from the Committee of Ways and Means.

Mr. JENCKES. I move to amend the amendment by striking out "thirty-five" and inserting "fifty." It has been suggested that these amendments proposed by the Committee on Appropriations meet the approbation of the Commissioner of Patents. I am assured by him that they do not, except in part. He has exhibited to the Committee on Appropriations a list of the officers which he deems absolutely necessary for the purpose of transacting the business of the office, and the committee have reduced the number in all instances, and in some instances have reduced the grade, thus not only not furnishing him with a sufficient force to carry on the office as it now is but requiring a reconstitution of the office, either degrading clerks from their present positions to lower ones or appointing new ones to the new positions while the old ones are dismissed. Instead of giving him the means of transacting his business, they throw obstacles in his way that will make it impossible for him to carry it on.

Now, sir, I want the House to understand this question. The Commissioner of Patents is charged with the transaction of this business under the law. The funds which he needs for that purpose are not contributed by the Government or by the people from any other source of taxation. They are the voluntary contributions of the inventors of this country, who come here to seek protection under the law, and in many cases they are the contributions of those who do not obtain that protection; for whether the inventor's application for a patent is granted or rejected the fee required by law is paid and goes into the Treasury for the purpose of paying the expenses of this office. If, therefore, the office is to be carried on as it ought to be the Commissioner should be allowed the necessary force with which to do it. He is the proper person to say what number of clerks of one class he should have and what number of another class, assigning the different duties to each and arranging the whole so that the business of the office may be performed promptly and well. And hitherto, notwithstanding the Commissioner of Patents has had full power to appoint clerks, the business of that office has increased

to such an extent that he has not been able to have it promptly transacted. It has increased, and is still increasing. The applications filed in the office during the month of January last were sixteen hundred and ninety-seven; and for one week in February there were four hundred and thirty-four applications. And with this increase in the business of that Department the force which the Commissioner had last July would be incapable to meet the demands of the inventors of this country.

Now, instead of endeavoring to meet the wants of the country, the Committee on Appropriations, under the power which they now have, propose to withhold the necessary appropriations, and for what purpose? Is it for the purpose of raising revenue from these inventors? This is not money which has been paid into the Treasury from taxes raised from the people for any specific object, however necessary for the Government. It is not the money of the people that you are asked to vote away. It is the money of the inventors, earned by toil of brain and sweat of brow, which you steal from them.

Mr. MYERS. Money paid in for this very purpose.

Mr. JENCKES. Yes, money paid in for this purpose. The law made every cent of the money thus paid in a sacred trust in the hands of the Government, to be appropriated for the purpose the law designated. There is no economy in this; it is the reverse of economy; holding out to this class of people, the most meritorious among us, the promise of reward for their inventive talent, while at the same time you take away from them the means by which they can obtain that reward. I have named this addition to the force proposed by the Committee on Appropriations because I am satisfied from my own personal knowledge of the business of that office, as well as from the statement of the Commissioner, that unless he has this number of clerks to take up and carry on this business as it now is in some branches of that Department the business must be stopped.

[Here the hammer fell.]

Mr. BUTLER, of Massachusetts. I desire only that the Committee of the Whole shall understand this matter. Last year, finding that there was no excess of fees going anywhere; that every dollar the inventors paid in was being squandered; blank-books worth twenty-five cents being bought at twenty-five dollars, and blanks enough purchased at once to supply the office in advance for forty-two years, Congress took the matter in hand and ordered that all the money received for fees should be paid into the Treasury, so that a full and proper account might be kept of it and what was necessary to carry on the work might be appropriated for that purpose.

The Committee on Appropriations undertook to give the Commissioner what we thought he wanted. We found we had made a mistake. He came before us and we heard his statement. We appointed a sub-committee to go and confer with him. That committee came back and reported to us, and we concluded to increase the appropriation to the amount proposed by the amendment of the gentleman from New York, [Mr. KELSEY,] even giving the Commissioner \$200 for a washerwoman to wash the floors, and just as many copyists as he desires. We only take away from him that most mischievous and most terrible power, the power of appointing temporary and extra clerks without limit. We have given him all he used to have and all that he can make any good use of.

The argument of my friend from Rhode Island [Mr. JENCKES] kills itself. He says that with the unlimited power of appointment that the Commissioner had last July he could not appoint clerks enough to keep up with the business of the office. I know that is so, because he appointed clerks who never went into the office except to draw their salaries.

Mr. JENCKES. That is a slander upon the Commissioner.

Mr. BUTLER, of Massachusetts. That is

not a slander. The gentleman himself will agree that the man turned out of that office last July, as he knows and as I know, was corrupt from first to last. They have already fourteen hundred employes in that office.

Mr. MYERS. Will the gentleman yield to me for a question?

Mr. BUTLER, of Massachusetts. I have but a minute or two.

Mr. MYERS. I want simply to know what the last Commissioner has to do with the present one? And when the present Commissioner tells us that he needs this force why will not the Committee on Appropriations give it to him, especially when in one of the rooms the work is three months in arrears? I want the inventors of the country to understand whether their money is spent for their benefit or not.

Mr. BUTLER, of Massachusetts. There is no occasion for any heat in regard to this question. All I wish to say is that the inventors will find out, when we have a proper officer as Commissioner of Patents—and I have nothing to say against the gentleman now occupying the position, who is managing the office a great deal better than it has been managed for years past—the work will be attended to properly, and will not be behind. I agree that we did not give the Commissioner of Patents a sufficient number of clerks last year. But in this bill we have nearly doubled the number of clerks; we have allowed him copyists; we have given him every facility that we thought could reasonably be asked, but we do not believe it proper that we should confer on him this power of appointing temporary clerks whenever he may think them necessary. We have in this bill provided for all the force that we think necessary for the office; and if it turns out that more is needed, let the Commissioner of Patents during the next Congress bring in a bill to remodel the office.

My time is expiring; and I will conclude by asking unanimous consent that the debate with reference to clerks in the Patent Office be closed, otherwise we shall consume more time than the question is worth.

Mr. JENCKES. I object.

The question being taken on the amendment of Mr. JENCKES to the amendment of Mr. KELSEY, there were—ayes 20, noes 64; no quorum voting.

The hour of half past four o'clock having arrived, the Committee of the Whole rose informally; the Speaker resumed the chair, and the House took a recess till half past seven o'clock p. m.

— EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. SCOTFIELD moved that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of House bill No. 1673, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870.

The CHAIRMAN. When the committee rose, at the time of taking the recess, the gentleman from New York [Mr. KELSEY] had offered an amendment to strike out in line six hundred and ninety the words "thirty-two" and insert in lieu thereof "thirty-five;" so as to provide for thirty-five clerks of class two for the Patent Office. To this amendment the gentleman from Rhode Island [Mr. JENCKES] had offered an amendment to strike out "thirty-five" and insert "fifty;" so as to provide for fifty clerks of class two. On agreeing to the amendment to the amendment no quorum voted. The question will be again taken.

The question being taken on agreeing to the amendment of Mr. JENCKES to the amendment

of Mr. KELSEY, there were—ayes 9, noes 12; no quorum voting.

The CHAIRMAN. If there be no objection this question will be passed over for the present informally.

Mr. PETERS. I object.

Tellers were ordered; and Mr. JENCKES and Mr. KELSEY were appointed.

The committee divided; and the tellers reported—ayes 17, noes 20; no quorum voting.

The CHAIRMAN. No quorum having voted, the roll will be called.

The roll was accordingly called; and the following-named members failed to answer to their names:

Messrs. Adams, Allison, Anderson, Archer, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Barnum, Beck, Beck, Benjamin, Benton, Bingham, Blackburn, Blair, Boies, Boutwell, Bowen, Boyden, Boyer, Bromwell, Buckland, Roderick R. Butler, Cake, Callis, Cary, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Coburn, Cook, Corley, Covode, Cullom, Dawes, Delano, Deweese, Dixon, Dockery, Dodge, Donnelly, Briggs, Edwards, Eggleston, Eldridge, Thomas D. Elliott, James T. Elliott, Farnsworth, Ferriss, Ferry, Fields, Fox, Garfield, Glossbrenner, Gove, Gravelly, Griswold, Grover, Haight, Hamilton, Harding, Haughey, Hawkins, Heaton, Hill, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Ingersoll, Johnson, Thomas L. Jones, Kellogg, Kerr, Laffin, Lash, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marshall, Maynard, McCarthy, McCormick, McCullough, Mercier, Miller, Moore, Moorhead, Morrill, Morrissey, Myers, Newcomb, Newsam, Nicholson, Norris, Nunn, Orth, Paine, Pile, Polsley, Pomeroy, Prince, Pruyn, Randall, Raum, Robinson, Roots, Sawyer, Schenck, Selye, Shanks, Shellabarger, Sitgreaves, Smith, Starkweather, Stone, Sypher, Taffe, Taylor, Tift, John Trimble, Lawrence S. Trimble, Van Aernam, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Wyck, Vidal, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Welker, Thomas Williams, John T. Wilson, Stephen F. Wilson, Windom, Wood, Woodbridge, Woodward, and Young.

The committee rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole having found itself without a quorum he had directed the roll to be called, and reported to the House the names of the absentees.

The SPEAKER. Sixty-nine members only have answered to their names.

Mr. BUTLER, of Massachusetts. I think if the gentleman who is antagonizing the Committee on Appropriations will agree, these amendments can be considered as adopted and we can have a vote on them in the House. Does he agree to that?

Mr. JENCKES. If my amendments are adopted that is all I can ask. Of course any member can ask for a separate vote on them in the House.

Mr. KELSEY. We cannot agree to that. All we can do now is to adjourn or have a vote of the House. I move that there be a call of the House, and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 69, nays 46, not voting 107; as follows:

YEAS—Messrs. Ames, Archer, Arnell, Banks, Beaman, Beatty, Beck, Boutwell, Boyer, Broomall, Buckley, Burr, Benjamin F. Butler, Clift, Cobb, Cook, Corley, Dawes, Dickey, Dixon, Elia, Thomas D. Elliott, Ferriss, Getz, Golladay, Goss, Henton, Higby, Hotchkiss, Jencks, Johnson, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Koonz, William Lawrence, Miller, Moore, Kellogg, Koonz, William Lawrence, Perkins, Peters, Pierce, Pile, Plants, Poland, Price, Prince, Roots, Stokes, Spalding, Starkweather, Stewart, Trowbridge, Twichell, Upson, Henry D. Washburn, Whittemore, William Williams, and James F. Wilson—69.

NAYS—Messrs. Astell, Baker, Barnes, Blaine, Blair, Bromwell, Brooks, Callis, Churchill, Cornell, Cullom, Eckley, Eggleston, Farnsworth, French, D. Gravelly, Halse, Holman, Hopkins, Chester D. Hubbard, Hulburd, Humphrey, Thomas L. Jones, Ketcham, Kitchen, Knapp, George V. Lawrence, Loughridge, Marvin, McCormick, McKee, Mercier, Moorhead, Mungen, Myers, Phelps, Pike, Robertson, Ross, Sawyer, Stone, Taber, Taffe, Van Aernam, Van Trump, and William B. Washburn—46.

NOT VOTING—Messrs. Adams, Allison, Anderson, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Barnum, Benjamin, Benton, Bingham, Blackburn, Boies, Bowen, Boyden, Buckland, Roderick R. Butler, Cake, Cary, Chanler, Reader W. Clarke, Sidney Clarke, Coburn, Covode, Delano, Deweese, Dockery, Dodge, Donnelly, Briggs, Edwards, Eldridge, James T. Elliott, Ferry, Fields, Fox, Garfield, Glossbrenner, Gove, Griswold, Grover, Haight, Ham-

ilton, Harding, Haughey, Hawkins, Hill, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Kellogg, Kerr, Laffin, Lash, Lincoln, Loan, Logan, Lynch, Mallory, Marshall, Maynard, McCarthy, McCullough, Morrill, Morrissey, Newcomb, Nicholson, Norris, Nunn, Orth, Paine, Pettis, Polsley, Pomeroy, Pruyn, Randall, Raum, Robinson, Schenck, Selye, Shanks, Shellabarger, Sitgreaves, Smith, Sypher, Tift, John Trimble, Lawrence S. Trimble, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Wyck, Vidal, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Welker, Thomas Williams, John T. Wilson, Stephen F. Wilson, Windom, Wood, Woodbridge, Woodward, and Young—107.

So the motion was agreed to.

Mr. KELSEY moved that all further proceedings under the call be dispensed with.

The motion was agreed to.

LEAVE OF ABSENCE.

Mr. BOYDEN and Mr. LAWRENCE, of Ohio, were granted leave of absence for the evening session.

LEGISLATIVE APPROPRIATION BILL—AGAIN.

Mr. BUTLER, of Massachusetts. I hope that all debate in the Committee of the Whole on the state of the Union on the clerks of the Patent Office be closed within five minutes after the consideration of the bill shall be resumed.

Mr. MUNGEN. I hope that will not be agreed to.

The SPEAKER. Debate may be closed by a majority vote on the paragraph which has been read, but on the paragraphs which have not been read it will require a suspension of the rules.

Mr. BUTLER, of Massachusetts. I move to suspend the rules in order that all debate on the paragraphs in relation to the clerks and other employés in the Patent Office may be closed in five minutes after the consideration of the bill shall be resumed.

Mr. MYERS. I move to make it twenty minutes.

The House divided; and there were ayes—37, noes 76.

So the amendment was rejected.

Mr. BUTLER, of Massachusetts. I will modify my motion, and make it ten minutes.

The rules were suspended; and it was ordered accordingly.

Mr. BUTLER, of Massachusetts, moved that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of House bill No. 1673, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870.

The CHAIRMAN stated that the pending question was on Mr. JENCKES's amendment to Mr. KELSEY's amendment.

The tellers, Mr. KELSEY and Mr. JENCKES, resumed their places.

The committee again divided; and the tellers reported—ayes 42, noes 69.

So the amendment to the amendment was rejected.

The question recurred on the amendment of Mr. KELSEY to strike out "thirty-two" and insert "thirty-five;" and it was agreed to.

The Clerk read as follows:

For twenty-six clerks of class one, \$31,200.

Mr. KELSEY. I move, on behalf of the committee, to strike out "twenty-six" and insert "forty;" and to increase the amount of appropriation to \$48,000.

Mr. SPALDING. That is six more than they ask for.

Mr. AXTELL. I move to amend the amendment by substituting the following:

For forty female clerks, \$36,000.

Mr. BUTLER, of Massachusetts. Will the gentleman yield a moment?

Mr. AXTELL. For a question.

Mr. BUTLER, of Massachusetts. I wish to say that if the House shall vote that female clerks shall receive the same pay as male clerks

I will propose then that the bill be amended all through; to make one test question of it to save time.

Mr. AXTELL. I cannot yield any further. We have a test here presented for those who are in favor of economy and of fair play toward the females in employing them as clerks in the Departments. There is no provision in this Department for female clerks, and yet this labor can be performed as well by them as by male clerks, with a saving of the difference between \$48,000 and \$36,000. You have an opportunity now of throwing open the doors of this class of clerkships for which we now pay \$1,200 salary to females in the various Departments. I pledge myself, with the good sense of the House to back me, that you can get competent female clerks for these places. Following out the very able argument of the gentleman from Pennsylvania, [Mr. SCOFIELD,] that we ought not to pay more than the market price for labor, you can obtain female clerks at \$900 a year, thereby saving \$300 on each one of the forty clerks in this Department.

Now, sir, it is not a question of gallantry, I beg gentlemen to believe, when we propose to furnish employment to women. We thereby save these young men that are wasting their lives in this feminine employment with only the prospect of a bare subsistence and no future accumulation; we save them for the great realm of strong labor in the great West, in searching and digging for gold, in hunting the buffalo in Idaho and Montana, in following those pursuits that will develop their manhood. Let them leave these soft places to the women of America who are willing to work cheap. Let us come right down to the proposition and change society in this respect, giving to our sisters and daughters a chance here at the seat of Government and elsewhere to win an honest and comfortable livelihood. I hope the committee will seriously consider this proposition. I understand not only from the debate here, but also from the voice of the country, that the women of this country who are competent to do this work would be satisfied with \$900 a year, and I understand by bills and propositions constantly thrust upon this House that male clerks with families cannot live upon their present salaries, and are therefore continually asking for an increase.

Mr. BUTLER, of Massachusetts. Will the gentleman yield for a question?

Mr. AXTELL. For a question only.

Mr. BUTLER, of Massachusetts. I suggest to the gentleman whether he does not think the women are worth more in Idaho and Montana to raise children than here? [Laughter.]

Mr. AXTELL. I think that remark is not respectful to the ladies of Washington or to the women of America. Whenever they have acquired for themselves that honorable standing and position that opens the means of livelihood that will give to them men fit and worthy to be fathers to their children, I do not doubt they will become worthy and happy mothers. I hope they will here and elsewhere.

Mr. BUTLER, of Massachusetts. So do I.

[Here the hammer fell.]

The question being taken on the amendment to the amendment, it was agreed to.

The question recurring on the amendment of Mr. KELSEY, it was agreed to.

The Clerk read as follows:

For twenty temporary clerks, at \$1,200 each, \$24,000.

Mr. KELSEY. I move to strike out that paragraph.

The amendment was agreed to.

Mr. KELSEY. I move to insert after line six hundred and ninety-seven, the following:

For thirteen copies of drawings, at \$1,000 each, \$13,000; for fifty-three female copyists, at \$700 each, \$37,100.

Mr. MAYNARD. I move to amend the amendment so as to make the pay \$720. That will be even \$60 a month.

The amendment to the amendment was rejected.

Mr. FARNSWORTH. I move to amend the amendment by striking out "\$700" and

inserting "\$900" in lieu thereof. I do it for the purpose of inquiring of the gentleman from New York why he makes a distinction; why these clerks should not receive the same pay as clerks in other Departments receive?

Mr. KELSEY. Because these clerks are mere copyists, and the committee fixed their pay at \$700.

Mr. FARNSWORTH. But the clerks employed in other Departments are copyists too. Men are employed in other Departments at \$1,200 a year who do not do as much work as these clerks do. I object to the distinction. I do not understand the policy of this Committee on Appropriations, this cutting and slashing and making distinctions in the different Departments.

Mr. KELSEY. The Committee on Appropriations make a distinction according to the labor performed by the clerks.

Mr. FARNSWORTH. Well, the labor is writing, and just exactly the same kind of writing that is done in the other Departments at \$900 a year. Why make a distinction? If these clerks are to have only \$700 a year, put the others down to \$700. But there is manifest injustice in slashing about and cutting down here and covering up there, knocking a man down in one Department and knocking a man up in another, raising a salary here and lowering one there. I do object to it.

Mr. SCOFIELD. I would say to the gentleman from Illinois that these clerks were formerly paid by the folio. They will get much better pay if they are paid a salary in this way. They will not be so liable to be cheated as they were before. It was for the protection of these ladies that the committee concluded to pay them a salary, and under this system they will get better pay than they did under the old one. The money which we appropriate will all go to them instead of being divided between them and somebody else.

The CHAIRMAN. Debate is exhausted on all these paragraphs relating to the Patent Office.

The amendment to the amendment was disagreed to.

Mr. JENCKES. For the purpose of restoring the work in the Patent Office to its present condition I move to amend the amendment by striking out the last clause and inserting "for copyists, \$63,600."

The amendment to the amendment was rejected.

The amendment was then agreed to.

Mr. KELSEY. I now move to amend the paragraph beginning on line seven hundred and four, by striking out "five" and inserting "seven," and by striking out "\$4,500" and inserting "\$6,300;" so that it will read:

For seven skilled laborers at \$900 each, \$6,300.

The amendment was agreed to.

Mr. KELSEY. I move to strike out line seven hundred and eleven, as follows:

For one laborer, \$240,

and to insert in lieu thereof,

For seven laborers at \$600 each, \$4,200.

The amendment was agreed to.

Mr. KELSEY. I move to amend in line seven hundred and sixteen by striking out the words "and so forth, and so forth" and inserting in lieu thereof the words "and other contingencies;" so that the paragraph will read:

For contingent expenses of the Patent Office, namely, for illustrations of annual report, stationery for use of office, printing patents, furniture for rooms, repairs, advertising, books for library, international exchanges, plumbing, gas-fitting, and other contingencies, \$120,000, and no further or greater sum shall be paid or contracted to be paid for said contingent expenses; and it shall be the duty of the Commissioner of Patents to make a full and detailed report to each December session of Congress of the manner in which said contingent expenses have been disbursed.

The amendment was agreed to.

The Clerk read as follows:

For defraying the expenses of the Supreme Court and district courts of the United States, including the District of Columbia, and also for jurors and wit-

nesses, in aid of the funds arising from fines, penalties, and forfeitures, in the fiscal year ending June 30, 1870, and previous years, and likewise for defraying the expenses of suits in which the United States are concerned, including legal assistance to the Attorney General, and other special and extraordinary expenditures in cases of the Supreme Court of the United States in which the United States are concerned, and of prosecutions for offenses committed against the United States, and for the safe-keeping of prisoners, \$1,000,000.

Mr. BUTLER, of Massachusetts. I move, by instructions of the Committee on Appropriations, to amend the paragraph just read by striking out "\$1,000,000" and inserting "\$1,500,000." That is a decrease of \$500,000 from last year.

The amendment was agreed to.

The Clerk read as follows:

War Department:

For compensation of the Secretary of War, \$8,000; chief clerk; four clerks of class four; for additional to one clerk of class four, as disbursing clerk, \$200; for seven clerks of class three; three clerks of class two; eight clerks of class one; one messenger; three assistant messengers; one laborer, \$46,560.

Office of Adjutant General:

For three clerks of class four, nine clerks of class three, twenty-seven clerks of class two, twenty-six clerks of class one, and two messengers, \$90,480.

Office of Quartermaster General:

For four clerks of class four; eight clerks of class three; twenty clerks of class two; seventy-five clerks of class one; thirty copyists; superintendent of the building, \$200; one messenger; two assistant messengers; and six laborers, \$171,040.

Office of Paymaster General:

For chief clerk; four clerks of class four; one clerk of class three; also three clerks of class three, authorized by clause in the act of February 25, 1863, \$4,800; *Provided*, That said clerks shall not be continued after the 30th of June, 1870; twenty-six clerks of class two, thirty clerks of class one, and two messengers, \$69,660.

Mr. KELSEY. At the suggestion of the chief clerk of the Paymaster General's office, I move to strike out all of the paragraph just read under the head "office of Paymaster General," and to insert in lieu thereof the following:

1 chief clerk at \$2,200.....	\$2,200
5 division clerks at \$2,600.....	13,000
4 clerks of class four at \$1,800.....	7,200
20 clerks of class three at \$1,600.....	32,000
21 clerks of class two at \$1,400.....	29,400
6 clerks of class one at \$1,200.....	7,200
	<hr/>
	\$88,000

It will be observed that very nearly precisely the same amount, a little less, is appropriated by the amendment I have offered that is proposed by the paragraph in the bill. I move this amendment at the suggestion of the chief clerk of the Paymaster's office. While he reduces the number of clerks he increases their grade and pays them better. There is great complaint that many of these clerks are inadequately paid. He thinks the department will be more efficient if the number of clerks is reduced and clerks of a higher grade are employed.

Mr. UPSON. I would inquire what assurance we have that at another session we will not be asked for more clerks, and that this is but an indirect way of raising the salary of clerks under the pretense of reducing their number? What assurance have we that at another session they will not come in here and ask for an increase of the number of clerks?

Mr. MAYNARD. I desire to ask the gentleman from New York [Mr. KELSEY] another question. The provision in the bill contains this clause:

Also three clerks of class three, authorized by clause in the act of February 25, 1863, \$4,800; *Provided*, That said clerks shall not be continued after the 30th of June, 1870.

Why does that clause disappear from the amendment? Why is it not kept in? I would like to be informed upon that point.

The CHAIRMAN. No further debate is in order.

The question was taken upon the amendment of Mr. KELSEY; and it was not agreed to.

The Clerk read as follows:

Office of the Commissary General:

For one clerk of class four, one clerk of class three, ten clerks of class two, twenty clerks of class one, one messenger, and two laborers, \$43,440.

Office of the Surgeon General:

For one clerk of class four, one clerk of class three,

two clerks of class two, ten clerks of class one, one messenger, and one laborer, \$19,640.

Office of chief engineer:

For four clerks of class four, four clerks of class three, four clerks of class two, three clerks of class one, two messengers, and one laborer, \$25,080.

Office of chief of ordnance:

For two clerks of class four, one clerk of class three, four clerks of class two, six clerks of class one, and one messenger, \$18,840.

Mr. BUTLER, of Massachusetts. I am instructed by the Committee on Appropriations to move to strike out the clause under the head of "office of chief of ordnance" and insert in lieu thereof the following:

For chief clerk, three clerks of class four, three clerks of class three, five clerks of class two, eight clerks of class one, and one messenger, \$28,040.

The amendment was agreed to.

The Clerk read as follows:

Office of Military Justice:

For one clerk of class four, one clerk of class three, one clerk of class two, and two clerks of class one, \$7,200.

Signal office:

For two clerks of class two, \$2,800.

Mr. BUTLER, of Massachusetts. I am instructed by the Committee on Appropriations to move to insert the following after the clause just read:

Office of Inspector General and Inspector of the Military Academy:
One clerk of class four, \$1,800.

The amendment was agreed to.

The Clerk read as follows:

Contingent Expenses of the War Department.

Office of the Secretary of War:

For blank-books, stationery, labor, books, maps, extra clerk hire, and miscellaneous items, \$10,000.

Office of the Adjutant General:

For blank books, stationery, binding, and miscellaneous items, \$15,000.

Office of the Quartermaster General:

For blank books, stationery, binding, and miscellaneous items, \$10,000.

Mr. BUTLER, of Massachusetts. I am instructed by the Committee on Appropriations to move to insert after the last clause read the following:

Office of Commissary General:

For office rent, \$3,300; for fuel and lights, \$1,150; for repairs, \$500; for two watchmen, \$1,200; for two laborers, \$1,200; total, \$7,350.

The amendment was agreed to.

The Clerk read as follows:

For the general purposes of the Navy Department building:

For compensation of five watchmen and two laborers of the building, \$4,200.

Mr. BUTLER, of Massachusetts. I move to amend the paragraph just read by striking out "five" before "watchmen" and inserting "three;" and by striking out "\$4,200" and inserting "\$2,760;" so as to make the paragraph read:

For compensation of three watchmen and two laborers of the building, \$2,760.

The amendment was agreed to.

The Clerk read as follows:

Agricultural statistics:

For collecting statistics and material for annual report, \$10,000.

Mr. TROWBRIDGE. I move to amend the paragraph just read by striking out "ten" and inserting "fifteen;" so as to make the amount of the appropriation \$15,000. I desire to call the attention of the gentleman having charge of this bill to the fact that the Commissioner of Agriculture had some consultation with the chairman of the committee in reference to this matter, and the committee assented to the amendment.

Mr. BUTLER, of Massachusetts. Yes; the amendment was agreed to in the committee.

The amendment was agreed to.

Mr. TROWBRIDGE. I move to amend by inserting after the pending paragraph the following:

For improvement of the grounds around the new agricultural building, \$10,000.

I think this amendment also has the assent of the chairman of the committee.

Mr. BUTLER, of Massachusetts. Oh, no.

The amendment was not agreed to.

Mr. TROWBRIDGE. I move to amend by

inserting after the pending paragraph the following:

To enable the Commissioner to continue and complete the investigation of cattle diseases, \$15,000, which he is authorized to draw as soon as this act becomes a law.

Mr. Chairman, I am instructed by a unanimous vote of the Committee on Agriculture to ask for this appropriation. One of the diseases especially in the view of the committee in asking the continuance of this investigation is the pleuro-pneumonia, which prevailed so extensively in Massachusetts three years ago, and which, as I am informed by one of the members from that State, cost the State \$60,000 to get rid of it. The disease prevails to-day in four or five of the States intervening between Massachusetts and here, and is daily extending, so that it threatens to spread itself over the whole country. Within the last two or three weeks I have myself seen evidence of the prevalence of this disease all around us. There is scarcely a dairy in the vicinity of this city where it is not found. It is constantly spreading. Yet the disease is entirely curable and preventable. All that is necessary is that it be properly investigated and that the community be sufficiently informed as to the method of treatment. The Commissioner proposes that a thorough investigation shall be made.

In the next place it is contemplated to investigate the Texas cattle-fever, which prevailed so extensively in the western States last summer and fall, causing a loss during the season of over three million dollars in the actual deaths of cattle. This disease prevailed to such an extent as to create almost a panic in the public mind. The Board of Health of Chicago, the Board of Health of New York, the State authorities of Illinois and Ohio all took action directing public attention to this subject. I have some statistics with regard to the losses by this disease, which I might submit to the committee. There is no doubt that unless the disease be investigated and the necessary steps taken for its prevention it will be upon us again during the coming summer. The Commissioner ordered some time ago an investigation, which has progressed to some extent so far as to satisfy him and those engaged with him that the investigation must be made further south; that it must be made in the region where the disease originated. He is now able to avail himself of the services of a very scientific and thoroughly educated veterinarian, whom he desires to send to Texas where the disease prevails. The investigation has gone so far as to satisfy this investigator that the disease prevails in Texas and comes from there. The Commissioner of Agriculture desires to avail himself of this investigation immediately before the Texas cattle are moved to the North. I think I shall have the support of the Committee on Appropriations.

[Here the hammer fell.]

Mr. BUTLER, of Massachusetts. I thought my friend's argument was more potent than it is. I agree that Massachusetts paid \$60,000, but we came to one conclusion—that when we stopped the commission the disease stopped. [Laughter.] That was the general conclusion so far as I understand it. I appeal to my colleague, in whose county it started, whether I am not right? If we investigated it as a State let every other State investigate it. Why should we put it upon the Government? Why should we get up a commission to bring together the statistics from the different State agricultural societies to put them in a report next year on the subject? We have an Agricultural Department, and they have full power to investigate this matter.

The Committee on Appropriations heard an argument on this subject. My friend said all that could be said on the subject, and he thought he had convinced us, but unfortunately he did not convince us.

The committee divided; and there were—ayes thirty-three, noes not counted.

So the amendment was rejected.

Mr. TROWBRIDGE. I renew the amendment, reducing the amount as follows:

After line nine hundred and ninety-eight insert the following:

To enable the Commissioner to continue and complete the investigation of cattle diseases, \$10,000; which he is authorized to draw as soon as this act becomes a law.

Mr. SCOFIELD. I make the point of order that this is not germane to the paragraph to which it is moved.

The CHAIRMAN. The Chair overrules the point of order. It is all under the head of the Department of Agriculture.

Mr. TROWBRIDGE. Mr. Chairman, not desiring to antagonize the Committee on Agriculture in this matter with the Committee on Appropriations I appeared before the Committee on Appropriations and presented this subject to them. There were nine members present who requested me to bring this up in the House. They assented to it. I desire to say to this Committee of the Whole that the investigation of the Committee on Agriculture on this subject satisfies us that there is a general loss of stock of the country by curable diseases of over fifty million dollars, and that by taking proper action on the subject will enable us to save at least twenty-five per cent. of that loss. Not to resort to the means within our reach to secure this great saving upon the actual total loss in the stock of the country, because it will cost something in pursuing a penny-wise and pound-foolish policy. I am directed by unanimous vote of the Committee on Agriculture to submit this amendment, and it seems to me that it should need no more than the presentation of facts to secure for it the vote of the House.

Mr. HOPKINS. Does not the gentleman from Michigan know that the agricultural societies of the West have investigated this subject; and does he not know there are as able men attached to those societies as there are in the Agricultural Department in Washington?

Mr. TROWBRIDGE. No, sir; I do not know it. The President of the English veterinary society is in the United States, and his services can now be engaged. There is no regular veterinary surgeon in the United States. The Department of Agriculture can avail itself of the services of this one, and I think it should be allowed to do so.

Mr. BUTLER, of Massachusetts. It is a proposition to pay some veterinary surgeon to make this investigation to be published in the agricultural report next year.

Mr. TROWBRIDGE. I make no such proposition. This money is needed so that this investigation shall take place in Texas before the cattle are moved to the North. Unless it is done I am sure that as soon as the grass grows and the spring opens this disease will advance with the Texas cattle to the Northwest.

Mr. JOHNSON. I do not rise the purpose of discussing this proposition any further than to say, as one of the Committee on Agriculture, that I dissent from it *in toto*. The chairman states that he has been authorized by the committee to offer it. I have never heard of it before to-night.

Mr. TROWBRIDGE. If the gentleman will allow me, it was the action of the committee one day when he retired and said to us whatever we decided upon he would assent to. Therefore I gave his assent to the decision of a large majority of the committee present.

Mr. JOHNSON. I am entirely satisfied with the explanation of the chairman of the Committee on Agriculture. I did not intend to impugn his action at all in the matter; I know he intended to do right. But I will say in addition to what I have said that I not only dissent *in toto* from this provision, but I do not think this Congress ought to set itself up in the business of cow doctoring. One or two sessions ago it set itself up in the business of horse doctoring, and paid some gentleman whose name I do not remember \$25,000 a year to look

after the hoofs of horses in the military service. That gentleman is riding over the country feeding on the fat of the land, or traveling in Europe upon the salary that we pay him for doctoring horses' feet. Now, it is proposed to give \$15,000 to some fellow to look after diseases of cattle. Mr. Chairman, there is not an old farmer in California or in the country anywhere who does not consider himself competent to attend to the doctoring of his own cattle. That is something every farmer professes to understand, and I think Congress had better let that question alone, particularly when the Treasury is in the condition it is at present.

Mr. SCOFIELD. I hope we will take a vote on the amendment. I think all has been said that is necessary.

The amendment of Mr. TROWBRIDGE was disagreed to—ayes thirty-three, noes not counted.

The Clerk read as follows:

For labor and repairs in the experimental garden and purchase of plants for the same, \$10,000.

Mr. STOVER. I move to strike out "\$10,000" and insert "\$5,000." I think, in the present impaired condition of the finances, we should not needlessly expend any money. As far as my experience goes, all these plants that we have procured and cultivated at enormous expense in our experimental garden are nothing more than what grows wild all over our western prairies. If we are in favor of economy I think we ought to commence somewhere. We have been talking about it but have not been making a commencement.

Mr. BUTLER, of Massachusetts. We have expended a large sum in this experimental garden. I suppose it is the intention of Congress to keep it up. The committee so understood it, and have reported this item as the smallest possible expenditure.

The amendment was disagreed to—ayes seventeen, noes not counted.

The Clerk read as follows:

For purchase of new and valuable seeds and labor in putting them up, \$20,000.

Mr. NIBLACK. I move to increase the amount to \$40,000. I am willing to concede that a good deal of money has been wasted in the purchase of seeds for the Agricultural Department. But, sir, I am as well satisfied that a very considerable amount of money can be used to the very great satisfaction of the country and with eminent satisfaction to the farmers of the country in the purchase and distribution of valuable seeds. It is a well demonstrated fact, and every intelligent farmer understands it, that a constant interchange of seeds is necessary in every portion of the country for all kinds of planting, at least for all kinds that I am at all familiar with. Now, this interchange can better be initiated at all events here at Washington in a separate Department, like that we now have, than it can be by separate action of State or local agricultural societies. We have expended a large amount of money in the erection of a building for this Agricultural Department. It is a very creditable building and does honor to the Government and to those who have charge of its erection.

Mr. SCOFIELD. What has that to do with garden seeds?

Mr. NIBLACK. It is a building of very considerable size, in which a large amount of business can be transacted. If, then, we intend to keep up this building and make it of any service to the people of the country we must have it occupied in some way in connection with the purpose for which it was erected. If it be the intention of Congress to so cut down and cripple the operations of this department by cutting down the appropriations then we had better sell out this building and get rid of it; it is no use to keep so large an edifice for purposes so insignificant as the appropriation in this bill indicates. There is no branch of the public service in which the great mass of the people in the agricultural and rural districts take so much interest as this Agricultural

Department. They look upon it with peculiar pride and pleasure. They read everything with absorbing interest that comes from it. They receive every paper of seeds that is transmitted to them, either by members of Congress or by anybody else connected with the Government here, with the greatest interest, and cultivate them with the most sedulous care.

I can say, I think, with truth, that within the last month half the letters which I have received—and the number is not very inconsiderable I assure you—have been either in regard to the agricultural report, asking for copies of it or in regard to seeds and plants and other matters connected with the Agricultural Department. It was the intention of Congress some years ago when they authorized this building to make the building an ornament to the Government. It was their intention to make the Department one of usefulness and service to the people. If we really intend to do that we must appropriate some money for the purpose. If we do not intend to do that, then we may just as well sell the building and allow this Department to occupy some insignificant corner in some other building, as it used to do in the Patent Office building.

[Here the hammer fell.]

Mr. MULLINS. I move to amend the amendment so as to make the amount \$41,000. I offer this amendment to give a few ideas in regard to the material question under consideration. The provision in the bill is as follows:

For purchase of new and valuable seeds and labor in putting them up, \$20,000.

Now, Mr. Chairman and gentlemen of the committee, in my judgment we are upon one of the most important clauses in this bill. I ask the question of every member of this House, what is it that constitutes you a nation? What is it that makes you wealthy? To what must you look for the extinguishment of your national debt? I ask you if it is not the agricultural interests of your country? If your wealth lies in mines and mechanics, who is to feed your miners and mechanics? There is a terrible splutter made here every now and then about equalizing labor and doing justice to the ladies. If any man here feels more disposed to do that than I am he is entirely theirs and none of his own. [Laughter.] But tell me what will give your ladies more satisfaction than to find the harvest fields clothed in glorious luxury with the richest of harvests? What is it that makes your ladies and children look fine? It is that there are rich crops. You cannot have that without good seed. When you have that, then, my dear sir, when you go home your lady welcomes you to the warm fireside, and when you go to the supper table you find there the products of your labor. By expending a few thousand dollars you realize that, and it is a realization worth talking about. But without it you find only a little hoe cake there about a quarter of an inch thick. [Laughter.] and the children crying. And the next thing is the children have to be bound out to some trade, a saddler's or tailor's, for any trade is better than starving to death.

I trust, sir, that we shall increase this appropriation for the purchase and putting up of seeds to be distributed among our constituents, male and female. If there is any one solitary point in this bill that deserves more attention than any other, and which your constituents will give you more credit for than for any other act, it is this appropriation to send seeds all over our land, not little footy, dried-up, chaffy seed, but good, sound, plump, full seed, ears of corn as big as wagon hubs, and grain as big as iron wedges. And you will have none of these little crops that you had last year; you will not then have the wife fighting the husband and Barney belaboring the hooked cow that is so ugly because there is not enough for her to eat. [Laughter.] Give us this seed; give us the money to buy it. Other countries will know what you are for; they will look and see your harvests and go and do likewise.

You cannot expect, gentlemen, and it is

nonsense to calculate that you can plant the same seed on the same ground for fifteen or twenty years without its becoming deteriorated. You must change the seed; and how are you to do that without you foster the Agricultural Department? If you do that the whole United States will benefit by it. You should not expect more of the Agricultural Department than can honestly be asked of you. You cannot buy seeds without you have the means. When you have the means you can then buy seeds and distribute them to your constituents, who will rejoice and say that you have done right.

[Here the hammer fell.]

Mr. MILLER. This Agricultural Department is the most popular throughout the country of any Department connected with our Government, and it should be fostered by Congress. The proposition of the Committee on Appropriations is to give \$20,000 for the purpose of purchasing new and valuable seeds, putting them up, and distributing them over the country. It must be remembered that at this time these seeds must be distributed not only throughout the loyal States but also throughout the entire United States, and all that is provided by this bill for the purpose of purchasing and distributing over all the country new and valuable seeds is \$20,000. Now, I ask gentlemen here if that is sufficient? If you want to foster the agricultural interests of this country, is \$20,000 sufficient for the purpose of purchasing seeds? I know it has been said, and truly said by gentlemen, that a portion of the seeds heretofore purchased and distributed by that Department were of little value; that they comprised kinds that the people already had in plenty. But the proposition now is to purchase new and valuable seeds, not the kinds heretofore complained of. One gentleman asks, when are you going to get these seeds? I say we ought to get them immediately and distribute them.

Now, the question is what sum is necessary for this purpose? The Committee on Appropriations propose to give only \$20,000 for purchasing, putting up, and distributing new and valuable seeds throughout the agricultural districts of the United States. Now, I appeal to every member here to say if that is enough, if that is sufficient? A demand is now made from every section of the country upon the Commissioner of Agriculture for valuable seeds, and what is his response? "We have none; Congress has not furnished us with the means of purchasing seeds, and we cannot do so; we can only give a very small portion of seeds to each member of Congress for distribution." I propose, therefore, that you give a sufficient appropriation to sustain that Department, the most important of our Government. I am, therefore, in favor of raising the amount proposed here.

Mr. BUTLER, of Massachusetts. I now ask that debate may be considered as closed on this paragraph.

No objection was made.

The amendment to the amendment was withdrawn; and the amendment of Mr. NIBLACK, increasing the amount to \$40,000, was not agreed to.

Mr. SHANKS. I move to amend by inserting after the clause last read what I send to the Clerk's desk.

The Clerk read as follows:

SEC. —. *And be it further enacted*, That after the passage of this act it shall be the duty of the Secretaries of State, War, Navy, Treasury, and Interior, the Postmaster and Attorney Generals, Commissioner of Agriculture, Superintendent of Public Buildings and Grounds, and the officers of the House and Senate, to severally cause to be made alphabetical lists of all the employes in their respective Departments or forces, and to correct the same as changes shall be made, and to keep said lists in their several offices, respectively, subject to inspection.

SEC. —. *And be it further enacted*, That said lists shall contain the name, rank, and pay of the employes of the respective Departments or forces, date of employment, and residence, giving town, county, State, or Territory, designating those who have served in the Army or Navy of the United States.

SEC. —. *And be it further enacted*, That the several

congressional districts, organized Territories, and the District of Columbia shall be entitled to equal numbers and ranks of employes in the said several Departments and forces. No district or Territory shall have more than one of any rank until every district and Territory, as herein provided for, shall have at least one of the same rank; and all appointments in said Departments and forces hereafter shall be to equalize the number and rank of employes, as above provided for; said equalization of numbers and rank of employes from the several districts and Territories aforesaid shall be made by the 4th day of March, 1871: *Provided*, That nothing herein contained shall be construed to regulate the employment and service of day laborers and boys under the age of sixteen years.

Mr. KELSEY. I make the point of order that that amendment is not in order on this bill.

The CHAIRMAN. The Chair sustains the point of order.

Mr. MILLER. I move to amend by striking out "twenty" and inserting "thirty," so as to make this appropriation for seeds \$30,000. The amendment was not agreed to.

Mr. PETERS. I move to amend by inserting after the pending paragraph the following as a new section:

And be it further enacted, That this act shall not be so construed as to reduce the compensation of any employes of the Government below the amount allowed in the last appropriation bill.

Mr. SCOTFIELD. I make the point of order that this amendment proposes new legislation, and is not in order on this bill.

The CHAIRMAN. The Chair overrules the point of order. The amendment is clearly a limitation on the construction of the bill. It does not affect other legislation.

Mr. PETERS. Mr. Chairman, I confess to the House that this amendment is aimed at the proviso—

The CHAIRMAN. The Chair must state to the gentleman from Maine [Mr. PETERS] that the amendment is not debatable.

Mr. PETERS. Why not?

The CHAIRMAN. Debate on the pending paragraph, including amendments to the paragraph, has been closed. This amendment, although offered as a new section, is considered as an amendment to the pending paragraph.

The amendment was agreed to; there being—ayes eighty-five, noes not counted.

The Clerk read as follows:

Branch mint at San Francisco, California:
For salaries of superintendent, treasurer, assayer, melter and refiner, coiner, and six clerks, \$30,500.
For wages of workmen and adjusters, \$150,000.

Mr. AXTELL. I move to amend the paragraph last read by striking out "\$150,000" and inserting in lieu thereof "\$191,450." I desire to state to the committee that the sum which my amendment proposes to appropriate for these workmen and adjusters was allowed last year, and, as I understand, was found to be necessary. The sum which the bill proposes to appropriate for salaries of superintendent, treasurer, assayer, &c., is the same as that appropriated last year, \$30,500. The amount appropriated by the bill for incidental and contingent expenses, &c., is also the same as last year, \$69,000 in round numbers. This reduction of nearly forty-two thousand dollars is merely a blind, unreasoning cutting down under pretense of economy.

Now, sir, to carry out a just economy I will go "as far as he who goes the farthest." The word "economy," properly understood, means management, not simple hoarding. Economy on the part of the Government means the carrying on of all Government works with a just and liberal spirit toward the public employes, and particularly providing money enough to keep up those works in a proper manner.

The superintendent of the mint at San Francisco is no political or personal friend of mine; he is a gentleman with whom I never exchanged one word; but I know his character in the community, and he is as estimable, honorable, and upright a gentleman as there is in the city of San Francisco. He requires for properly carrying on that mint with its increasing business a certain sum of money which the Committee on

Appropriations propose to cut down to the extent of \$40,000. I desire that before this reduction be made the committee should at least inform us of the reasons of their action.

Mr. DICKEY. Mr. Chairman, the remarks I intend to make on the amendment may as well be made here, perhaps, as at any other point. I observe, from the estimates in reference to the independent Treasury and the paragraphs in the bill, that the Committee on Appropriations cut down these appropriations uniformly below the estimates for this and the appropriations of last year. I understand from a member of that committee that they have done this arbitrarily; they have done it without any evidence produced before them; they have done it from their own conceits as to what economy ought to be practiced. I have confidence, unbounded confidence almost, in the superior sagacity and the superior wisdom and profound knowledge of that committee, but when they overrule the estimates of the Departments of this Government, and when they undertake to cut down these appropriations below those of last year I know it will, if carried out, result in our having a deficiency bill next year. We have a deficiency bill of many millions now pending.

I say they are starting on an experiment with reference to the next Administration that is dangerous. General Grant has indicated his determination to enter upon an economical administration of the Government. I propose to give him an opportunity to exercise that economy. I do not propose to be controlled by the great wisdom of the great committee of ours in cutting down all the estimates of the effective general officers of the Government without any evidence. In the case of the San Francisco mint they have cut it down. In the case of the sub-Treasury at Boston they have cut down the appropriation from \$25,000 to \$15,000. In New York it was \$110,000 last year, and they have cut it down to \$75,000. The appropriation for the independent Treasury at Philadelphia last year was \$24,850, and in this bill it has been cut down. These estimates of the Secretary of the Treasury were based upon the estimates of the officers at the several points named, but the profound wisdom, the intuitive sagacity, which enables them to grasp this economy enables them to scale the appropriation for Boston down \$10,000, New York \$50,000, and Philadelphia \$15,000, without any evidence laid before them, as I am informed by the senior member of that committee. I do not propose to follow the Committee on Appropriations any further. I propose to adopt the estimates of the Departments unless the Committee on Appropriations can show cause why they should be reduced; Unless they have evidence showing why they should be reduced I do not propose to follow them in this false economy, which is to result in our having deficiency bills here at the next session.

Mr. BUTLER, of Massachusetts. This is an increase—

The CHAIRMAN. Does the gentleman propose an amendment to the amendment? Debate is exhausted on the amendment.

Mr. BUTLER, of Massachusetts. I move to strike out all but the first word of the amendment.

Mr. BROOKS. What is the first word?

Mr. BUTLER, of Massachusetts. "One."

Mr. BROOKS. Debate must be confined to that word.

Mr. BUTLER, of Massachusetts. No; I have moved to strike out all but that. [Laughter.]

Mr. Chairman, I merely wish to say that in 1856 the House commenced cutting down the expenses of the mint at San Francisco. They have cut them down every year since, and from that time to this there has not been a deficiency. We have made such a reduction as seemed to be in exact ratio with what they have been able to get along with. I desire to say no more on that part of the amendment; but I do not think the House wish to raise the

appropriation for the San Francisco mint to \$50,000.

My friend from the Lancaster district of Pennsylvania says that we have done this arbitrarily, without evidence. He is not quite correct. Let me tell him that in 1860, in Philadelphia, they had but one clerk at \$1,500 in the sub-Treasury. We have now given them \$15,000. In Boston there was one clerk at \$1,500, and we have now given them \$24,000.

Mr. DICKEY. Will the gentleman allow me to ask him a question?

Mr. BUTLER, of Massachusetts. I cannot yield, as I have not the time. In New York in 1860 they had \$24,000, but they have run it up to \$157,000 and we have cut it down to \$60,000. Now, what was the meaning of all this? It was that in 1862 a law was passed allowing just as many clerks to be appointed at just such salaries as the Secretary of the Treasury would agree to; and of course he agreed to a whole raft of them, and so the expense of this independent Treasury ran up more than quadruple.

Now, some gentleman says to me, "Why, very much more money now passed through the Treasury." Why, sir, it does not require but a moment more to put down a million than it does \$100,000. The amount does not make the difference. We have run up under that pernicious law—for all laws are pernicious that allow offices to be accumulated by anyone man to the extent they have in this case—we have run up the expenses of the sub-Treasuries and some of the offices connected with them almost indefinitely. The committee after full revision of the whole subject endeavored to bring to it the best judgment they could, and with no other interest than every other member of the House can have; no other interest than that which every member of the community has. Now, if gentlemen have any other or different knowledge than what comes to the committee of course they will vote upon that knowledge. But I pray gentlemen not to vote because a gentleman from Pennsylvania thinks it necessary to stand up for his State, or a gentleman from New York or elsewhere thinks it necessary to stand up for his State, or a gentleman of a given committee thinks it necessary to protect a Department of which his committee have charge. We of the Committee on Appropriations have no Department in charge. We have no constituency but the great people; we have no interest for any one except simply to give our best judgment.

Mr. SCOFIELD. I rise to oppose the amendment. I wish to say one thing in reply to my colleague, [Mr. DICKEY,] not to defend the committee whom he has assailed with some sharpness, because I am satisfied that when he has been here longer he will learn to have a better appreciation of the industry and labor of others and perhaps less confidence in his own intuitive knowledge of things, such as he says the committee have, than he has now. It is almost always the result of experience here that members learn to respect those with whom they are associated who have acquired in the House a reputation for industry and the faithful performance of their duty, and I am sure my colleague will learn in that school after awhile, because I know his high character at home, to appreciate the labors of others. But what I intended to reply to particularly was the statement made by him that possibly we would not need the large appropriations which he advocates; that possibly the necessities of the country will not demand it; but he says, "Give General Grant an opportunity to expend less money than the House appropriates, and so let the country see that he is an economical President." He proposes to make the appropriations larger than may be required so as to enable the President to make a reputation for economy. I hope the Republican members of the House will not be governed by any such policy. Let us perform our duty independently. When the necessities of the country demand a larger appropriation let us make it larger, and when they will admit of a smaller one let

us make it smaller. General Grant has reputation enough for economy already without adding to it by any such clap-trap as that. The best way always is to be direct and straightforward, and leave it to the country and to time to appreciate our motives and approve our action.

Mr. DICKEY. Will my colleague answer me a question?

Mr. SCOFIELD. Yes, sir.

Mr. DICKEY. Will he or any gentleman on the Committee on Appropriations tell me upon what evidence they cut down the appropriation last year for the independent Treasury at New York from \$110,000 to \$75,000, and that of Philadelphia from \$24,850 to \$15,000?

Mr. SCOFIELD. That question is not now before the committee. When it is, and that is the direct subject of inquiry, he will receive a fitting answer. If he had asked me about the one that is now pending, the appropriation for the mint at San Francisco—

Mr. DICKEY. Excuse me; I will ask it. Upon what grounds were the appropriations of last year and the estimate for this year for the mint at San Francisco cut down?

Mr. SCOFIELD. I was just going to answer that question before the gentleman asked it. The committee did have some evidence of the amount of business which this mint is performing and the expense in which it involves the country, and comparing the amount of work done with the amount of expense and comparing it with the mints at other places they came to the conclusion that the country could not afford and the mint did not require so large an expenditure of money. Much of this evidence that comes to the committee is parol evidence. We cannot always get it from the Departments. The head of the Department gets it from a clerk, and the clerk gets it from reports made by men interested in California; and with no desire to curtail the expenses in any particular portion of the country the committee have to weigh all the evidence that appears in the case and then present their best judgment to the House for its approval.

Mr. BUTLER, of Massachusetts. I withdraw the amendment to the amendment.

Mr. AXTELL. I vary my amendment so that it will make the clause read:

For wages of workmen and adjusters, \$175,000.

I propose to press a vote upon this amendment in the hope that the committee will sustain my present proposition to increase the sum allowed by the Committee on Appropriations \$25,000 only. If the gentleman from Pennsylvania [Mr. SCOFIELD] who last occupied the floor will give me his attention, I desire to say to him and to the committee that the salaries of superintendent, treasurer, assayer, melter and refiner, coiner, and six clerks remain as last year at \$30,500, showing that the business at the mint is rather on the increase than on the decrease. The salaries of these officers remain the same. The appropriation for incidental and contingent expenses, repairs, and wastage, remains at \$69,545, the same as last year. But when you come to the wages of workmen and adjusters, the poor men employed in the mint, for which last year we gave \$175,000—although the superintendent asked \$191,000—they reduce the amount to \$125,000.

Now, I understand from the gentleman who has charge of this bill that the superintendent has come out without any deficiency—that he got through with the \$175,000. I presume he can go through another year with that amount, but I do not think he could do with less than that. While the salaries of all the officers about the mint remain the same, and the contingent expenses remain as last year, do not let us cut off the workmen. I do not desire to trespass upon the patience of the committee. I desire a vote on my amendment, and I would be highly gratified if the committee would give us for the workmen the same amount which they gave us last year.

Mr. BUTLER, of Massachusetts. I ask

unanimous consent that debate be closed on this proposition.

Mr. HIGBY. I object.

Mr. BUTLER, of Massachusetts. I will yield for three minutes to the gentleman from California.

Mr. HIGBY. I want five minutes under the rule.

Mr. BUTLER, of Massachusetts. Very well.

Mr. HIGBY. The method in which, as the gentleman from Pennsylvania tells us, the Committee on Appropriations obtained information on which to make the appropriation for this purpose is very strange. He says that the committee do not place full reliance upon the information acquired through those who have charge of the Mint and its operation because it comes from interested parties, but they do rely upon the parol evidence which they receive outside of the information they get from those parties. The member from Pennsylvania, who is a member of the Committee on Appropriations, has given us nothing satisfactory upon this subject. He tells us to be sure that they had parol testimony. What is that? It is the declarations of individuals who appear before the committee. Is that evidence? We have the statements of the sworn officers of the Government before us, and I say that it is unsafe to go below what we find in their estimates. Here are the estimates:

Branch Mint at San Francisco, California.

For salaries of superintendent and treasurer, at \$4,500, act of July 3, 1852, (10 Laws, page 11, sec. 2),	\$9,000;
assayer, melter and refiner, and coiner, at \$3,000, (same act),	\$9,000;
six clerks, one at \$2,500, five at \$2,000 each, per same act, August 4, 1854, (10 Laws, pages 11, 201, 553),	\$12,500.....
For wages of workmen and adjusters.....	\$30,500 00
For incidental and contingent expenses, including wastage on gold and silver.....	122,000 00

Total amount of appropriations required, \$347,950 00

Now, sir, it is true that last year the amount appropriated was \$175,000 in place of this item of \$195,450.

Now, what does the superintendent of the branch mint at San Francisco say upon this subject? He says:

"You will notice that I have not made the usual deduction for the parting charge collected from depositors, which source of revenue has since the establishment of the branch been made available to be applied toward the expenses. I learn that a law was passed at the recent session of Congress requiring that hereafter all the available profits of the Mint and branches shall be covered into the Treasury, to be expended only by a specific appropriation. Whether the revenue derived from a charge made against the depositor of bullion for parting the same can be considered as profits is extremely questionable; but to provide against an adverse decision of the Department upon this point I have deemed it most wise not to permit that item to enter into the calculation of my estimates.

"I will take the opportunity to say that my figures are as nearly accurate as I can possibly make them, and that it would not be safe to reduce them."

Now, when he says that he learns that such a law was passed he states what is true. Such a law was passed to cover all the receipts of the Mint and branches into the Treasury.

The gentleman from Massachusetts [Mr. BUTLER] tells us that the Committee on Appropriations cut down the amount last year to \$175,000 and there was no deficiency. Therefore upon that ground they propose to cut down the amount this year still lower. And the member from Pennsylvania [Mr. SCOFIELD] tells us that they took parol testimony or declarations outside of the statements they obtained from these Departments, and that is the kind of testimony upon which the Committee on Appropriations have brought in during the last ten days of this session one of the most important bills before the House. They have made a mighty struggle, and this is what is brought forth by that committee during the last ten days of the session. They will not take the statements which they get from the department in San Francisco, verified by the Treasury Department in this city, but they have been laboring all this time getting outside testimony, parol testimony, on this subject. That seems to have been the business and labor of the great Appropriation Committee of this

House down to the last days of this session. I trust the amendment proposed by my colleague [Mr. AXTELL] will be sustained by the Committee of the Whole as it should be. This superintendent is a man of integrity and unimpeachable character, and it is beyond the power of the Committee on Appropriations to bring any charge against his character for integrity.

[Here the hammer fell.]

The CHAIRMAN. Debate is exhausted on the amendment to the amendment.

The amendment to the amendment was not agreed to; and the amendment of Mr. AXTELL was not agreed to.

The Clerk read as follows:

Branch mint at Denver:

For assayer, (who shall have charge of said mint,) \$1,800.
For melter and refiner and coiner, at \$1,800 each, \$3,600.

Mr. BUTLER, of Massachusetts. I am instructed by the Committee on Appropriations to move to amend the clause last read so that it will read:

For melter, \$1,800.

The amendment was agreed to.

The Clerk read as follows:

For two clerks at \$1,800 each, \$3,600.

For wages of workmen, \$12,000.

For incidental and contingent expenses, \$3,000: *Provided*, That after the 1st day of July, 1869, the branch mint at Denver shall be carried on as an assay office only, and all unexpended balance of appropriations shall be paid and covered into the Treasury of the United States; and all the offices not herein provided for are hereby abolished.

Mr. CHILCOTT. I move to strike out all relating to the branch mint at Denver and to insert in lieu thereof what I send to the Clerk's desk.

Mr. KELSEY. I raise the point of order that some of the paragraphs have already been passed and cannot now be stricken out.

The CHAIRMAN. The Chair sustains the point of order. The paragraph relating to incidental and contingent expenses is the only paragraph now pending.

Mr. CHILCOTT. Then I raise the point of order that the proviso of the pending paragraph is new legislation and not in order upon this appropriation bill, and is changing existing law.

The CHAIRMAN. The Chair sustains the point of order.

Mr. CHILCOTT. I move to insert after the paragraph last read what I send to the Clerk to be read.

The Clerk read as follows:

For superintendent, \$2,000; assayer, \$1,800; melter and refiner, \$1,800; three clerks, one of whom shall act as clerk to the Assistant Treasurer of the United States of the branch mint, \$5,400; wages of workmen, \$11,000; incidental and contingent expenses, \$2,400; additional salary of superintendent for services as Assistant Treasurer of the United States, \$500, or so much thereof as shall be necessary: *Provided*, The entire expenses of the branch mint at Denver for the fiscal year ending June 30, 1870, shall not exceed the sum herein appropriated.

Mr. CHILCOTT. I trust the Committee on Appropriations will not oppose this amendment. As I understand their proposition it is to change this into an assay office for the purpose of saving expenses to the Government. Now, I offer an amendment continuing this as a branch mint, at an expense less than that proposed by the Committee on Appropriations. The usual appropriation for the mint at the city of Denver has been between thirty and forty thousand dollars. The Committee on Appropriations propose to reduce it to an assay office, at an expense of \$26,300. I propose to retain it as a branch mint, but at an expense even less than the committee propose, \$24,900. We desire to preserve this as a mint for the purpose of a Government depository. When the mining products of Colorado are increasing, and increased last year between two and three hundred thousand dollars, we think it is not proper to reduce it to an assay office; and inasmuch as we propose to carry it on at a less expense than the committee propose for an assay office, I hope my amendment will be adopted.

Mr. Chairman, I wish to state another point. The assayer, who it is proposed shall have the whole charge of this mint, gives bonds to the Government in the sum of \$10,000. If he be intrusted with the management of this mint there will pass through his hands during the next fiscal year bullion amounting to perhaps \$1,000,000. In view of this fact, I ask whether it is proper to change this mint to an assay office, intrusting the assayer with this vast amount when he gives bonds in the sum of only \$10,000? I hope the amendment will be adopted.

On agreeing to the amendment, there were—ayes 23, noes 45; no quorum voting.

Mr. HOLMAN. I suggest to the gentleman from Massachusetts that he allow this amendment to be considered adopted, and then have a vote in the House upon it.

Mr. BUTLER, of Massachusetts. Very well; I will allow a vote to be taken on it in the House.

The CHAIRMAN. If there be no objection, the amendment will be considered as agreed to.

There was no objection.

The Clerk read as follows:

Branch mint at Charlotte, North Carolina:

For the care and preservation of the branch mint buildings, machinery, and materials, at Charlotte, North Carolina, including \$500 for necessary repairs, \$1,000.

Mr. DEWEESE. I move to amend the paragraph just read by striking out "one" and inserting "three," so as to make the amount of the appropriation \$3,000. This mint is now under the charge of an assayer, appointed by the President upon the recommendation of the Secretary of the Treasury, and confirmed by the Senate. It is necessary that the increased appropriation proposed in my amendment should be made in order to pay the salary of this assayer and to meet the other contingent expenses of this mint. It is situated right in the center of our large gold region which is now being explored, very considerable sums of money being expended for that purpose. If the committee will agree that this appropriation shall now be increased to \$3,000, I will promise that if by next year the mint shall have failed to return an income to the Government I will, when the appropriation bill comes up next session, no longer contend that the assayer at this mint shall be continued. The Legislature of my State addressed a respectful petition to Congress asking that this office might be kept up for one year longer; but through some negligence of our State officers that petition never reached this body. This assay officer having been confirmed and commissioned, and having gone to that place to attend to his duties, I most earnestly urge the committee that the assay office may be permitted to continue for one year longer.

I now yield the remainder of my time to the gentleman from Ohio, [Mr. MUNGEN.]

Mr. MUNGEN. Mr. Chairman, if I held the floor in my own right I would move to strike out this whole paragraph.

Mr. DEWEESE. I thought the gentleman was going to advocate my amendment. [Laughter.]

The CHAIRMAN. Does the gentleman from Ohio [Mr. MUNGEN] desire to oppose the amendment?

Mr. MUNGEN. I do; and I will give my reasons for opposing it. There has not been a half dollar or a dime or a five-cent piece coined at that mint within the last sixteen years. The gentleman's own company in the Army borrowed the fence belonging to the place and failed to bring it back again. [Laughter.] The gentleman, I understood, says there is a garden there, but he admits that the fence is gone. The act of July 23, 1866, contains a provision in regard to this mint to which I wish to call the attention of the committee. It is as follows:

For checks and certificates of deposit for office of Assistant Treasurer at New York and other offices, \$18,000: *Provided*, That the Secretary of the Treasury be, and he is hereby, authorized, at his discretion, to remove the whole or any portion of the machinery, apparatus, and fixtures of the branch mints of the United States at New Orleans, Charlotte, and

Dahlonega, to such other branch mints as in his opinion may require the same, or at his discretion to discontinue the branch mint at New Orleans, Charlotte, and Dahlonega, and to dispose of the property belonging thereto, if he shall deem it expedient, at public auction to the highest bidder.

Now, the fact in regard to this mint is that the confederates took possession of the building and used it as a workshop. After the close of the war the machinery left in it was removed by the Government to the Mint at Philadelphia. There is not a single thing there except the building, and the Secretary of the Treasury was authorized to sell that. He has been authorized to sell it ever since July, 1866, and I do not know why he has not done so. I do not see why we should keep this man there to look at this building. I shall make a motion to strike it all out.

Mr. NIBLACK. I move to amend the amendment by reducing it to \$2,000.

Mr. Chairman, I truly hope the committee will deal liberally with the gentleman from North Carolina, [Mr. DEWESE.] He is a constituent of mine, although claiming to represent a portion of the people of the State of North Carolina. [Laughter.] He is a gentleman in whom I feel a great interest, and in whom my constituents feel a deep interest, and inasmuch as he has not been able to do much so far for the people of North Carolina I hope, as an act of friendship, we will pass this amendment for him. He votes in my district.

Mr. MAYNARD. Do they not let any man vote in the gentleman's district who will vote on the right side?

Mr. NIBLACK. We do not make any objection except on account of race or color. In every other respect we are very liberal. If the gentleman from Tennessee should attempt to vote in my district it would be a very tight squeeze. [Laughter.]

Now, as a matter of liberality and courtesy to the gentleman hailing from North Carolina, but really from my district, I hope this amendment will meet with the favorable consideration of this committee. I wish to act liberally in this matter. I wish to appeal to the House as an act of courtesy to me to adopt this amendment. It would gratify my constituents at home very much; and furthermore, I have no doubt that if we shall discover gold in North Carolina, as my friend seems to believe we will, this man will be very much needed.

[Here the hammer fell.]

Mr. DEWESE. The gentleman claims me as one of his constituents. Like most of the members of his party, as he showed that he was never going to either resign or die, I had to go to North Carolina. [Laughter.]

Mr. NIBLACK. If he has left my district my people are not generally aware of it.

Mr. BUTLER, of Massachusetts. I appeal to the House to pass this bill to-night. We have only five or six pages left. If we do not debate for the sake of debate we can run through it to-night, and I pray the House to do so, as it ought to be in the Senate to-morrow.

Mr. NIBLACK. I withdraw the amendment to the amendment.

Mr. DEWESE's amendment to the amendment was disagreed to.

The Clerk read as follows:

For additional salary of the treasurer of the branch mint at Denver, \$500.

Mr. BUTLER, of Massachusetts. I move to strike that out.

The motion was agreed to.

The Clerk read as follows:

Territory of Dakota:

For salaries of Governor and superintendent of Indian affairs, chief justice, and two associate judges, and secretary, \$9,700.

Mr. BURLEIGH. I move to strike out "\$9,700" and insert "\$12,700;" so as to make the appropriation \$12,700. All the other Territories are allowed \$12,000 except Colorado, which has \$11,800; and I do not see why Dakota should be limited to \$9,700. We are often pinched and are compelled to resort to the closest economy. I make the amendment

so as to make the appropriation equal to that for the other Territories.

The amendment was agreed to.

The Clerk read as follows:

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, \$20,000: *Provided*, That hereafter the legislative sessions of the several Territories shall only be held biennially.

Mr. POLAND. I move to strike out that proviso and insert the following:

That hereafter the members of both branches of the Legislative Assemblies of the several Territories shall be chosen for the term of two years, and the sessions of the Legislative Assemblies shall be biennial; and each territorial Legislature shall at its first session after the passage of this act make provision for carrying it into effect.

Mr. BUTLER, of Massachusetts. That is all right.

The amendment was agreed to.

The Clerk read as follows:

For fuel, labor, furniture, stationery, and miscellaneous items, \$7,000.

Mr. MAYNARD. I move to strike out "\$7,000" and insert "\$10,000." That is the sum estimated for the Attorney General's office. The appropriation last year was not commensurate with the demands of the office. It is, perhaps, conducted with more economy than any other in the country.

Mr. SCOFIELD. We appropriate \$7,000 and the gentleman asks \$10,000.

Mr. MAYNARD. The gentleman is entirely mistaken; it includes the business of the Court of Claims.

Mr. SCOFIELD. Oh, no.

Mr. MAYNARD. Certainly it does; the clerks, messengers, and all.

Mr. AXTELL. I desire to state that in the nine Territories, for the judges' associates, and all the officers in each one of the Territories, the aggregate of all the expenses is only \$10,000.

The question being taken on the amendment, it was agreed to.

Mr. NIBLACK. I wish to move an amendment to the previous paragraph, in regard to the Territory of Wyoming.

The CHAIRMAN. It is too late.

The Clerk read as follows:

For salaries of the chief justice and six associate justices, \$42,500.

Mr. POLAND. I move to amend by striking out all after the word "justices" and inserting in lieu thereof "\$70,500, being \$10,500 for the chief justice and \$10,000 for each associate justice."

This amendment was given to me, with a request to offer it, by the gentleman from New York, [Mr. PRUYN.] I said to him that I hardly felt at liberty to advocate it, though if the present condition of things was to continue I thought the salaries of these judges ought to be raised.

Mr. CULLOM. I suggest to the gentleman to put it at \$8,000. I think that would perhaps meet the approval of the committee.

Mr. POLAND. I assume no authority over the amendment.

Mr. CULLOM. I will, then, move to amend the amendment by striking out "\$10,500" and inserting "\$8,000," and making the aggregate to correspond.

The amendment to the amendment was agreed to; and the amendment, as amended, was disagreed to—ayes nineteen, noes not counted.

The Clerk read as follows:

For salaries of the district judges of the United States, \$165,000.

Mr. CHURCHILL. I move to amend by adding the following proviso:

Provided, That the salaries of the district judges of the United States for the eastern and southern district of New York shall hereafter be \$5,000 a year.

A MEMBER. What are their salaries now?

Mr. CHURCHILL. Forty-five hundred dollars a year. The State judges in the city of New York are paid \$10,000 a year, and the justices of the peace \$6,000. Now, with the talent and industry required to fulfill the duties of the district judges of the courts of the United States in these two districts, I think it is

but right and just that we should pay them at least the sum proposed in this amendment. These judges are confined to the city of New York and Brooklyn continually during the year by the duties of their office. They are compelled to live in those cities with their families, and the expense of living there is very great; and the amount of labor that they are required to do makes this increase a proper one. The number of suits that were commenced in the district court of the United States for the southern district of New York in the year 1867 in which the United States was a party, was eight hundred and seventy-three. That is three times as many as were brought in any other district in the United States. It is but a fair example of the amount of labor performed in that district as compared with the other districts.

Mr. PILE. I rise to oppose the amendment for the reason that these judges are now paid better than the district judges of any other section of the country. The judge of the eastern district of Missouri gets \$3,000 and does a very large amount of business in his court at St. Louis. A very great number of maritime cases come into that court, arising out of the large amount of navigation on the upper and lower Missouri river.

Judge Treat, who I think has as much ability as any judge of the Federal courts in the State of New York, is engaged his entire time during the entire year in the transaction of the business of that court at a salary of \$3,000. The judge of the western district of the State gets also only \$3,000. I do not remember what the judges of the courts in the State of Illinois get. Now, unless there can be an equalization of the salaries of these judges all over the country, based upon the amount of time they are engaged and the ability they bring to the discharge of the duties of their office, I am opposed to the increase of the salaries of these judges in New York, making them an exception. I yield the remainder of my time to the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BUTLER, of Massachusetts. I really hope the salaries of these two judges will be raised, and for this reason: amid the corruption that has been poured into New York, and amid all that has been said against the judges in New York, the Federal judiciary has escaped without taint or blemish, and anybody who knows the expense of living in New York knows that \$4,500 is not enough. I admit that when the salaries were first fixed that amount was right, in comparison with the rest of the country. But I say again, that the only bright spot in the judiciary of New York is in the Federal judiciary, and I do hope the committee will raise these salaries. I think it would be economy. The State judges have \$10,000; the city judges have \$10,000; the justices of the peace have \$6,000. We have two judges there who have done their whole duty, and within the two months last past they have made two decisions in favor of the internal revenue which will save millions of dollars a year to this country in taxation alone. Judge Benedict and Judge Blatchford have brought to justice those who believed they could not be brought to justice. I hope we shall show our appreciation of such services by giving them a fair increase of salary.

Mr. POLAND. I move to amend the amendment by striking out the last word. Upon this subject of the salaries of district judges I have had some little experience, as it was mainly through my efforts that they were raised to what they now are. Until some two years ago the salaries of most of the district judges in the United States were \$2,000 a year. They ranged from \$2,000 to \$5,000. The salaries of the district judges at New Orleans and in California were \$5,000. No other was as much as \$4,000. I believe \$3,750 was the highest except those two. The salaries of more than half the district judges in the United States were but \$2,000. Now, in the Senate I introduced a bill to raise the salaries of the district judges, and I proposed to put them into two classes of \$4,000 and \$5,000. That bill was adopted as an amendment to an appropriation

bill, and it went to a committee of conference. That particular subject of the judges' salaries was a matter of conference, and the salaries of all the district judges throughout the United States were fixed as they now are, the lowest at \$3,500 and the highest at \$5,000. Now, I am opposed to raising the salaries of two particular judges, because we shall have to raise the others up to match them. It is said that these judges in the city of New York have to work very hard and to work all the time. So does the district judge in Boston. So does the district judge in Philadelphia. So does the district judge in Baltimore. Several of the district judges have to work as hard as have these judges in New York. They work all the time, and these judges in New York do not have to work any more. I submit that that is not much of an element in fixing a judge's salary. A judge cannot do any other business. It costs a judge as much to live and support a family when he does not work as it does when he does work, and rather more, as has been my experience. I insist that that is not much of an element in determining the amount of salary to be paid to these officers. And the idea of my friend from Massachusetts [Mr. BUTLER] that we must pay these judges in New York for being honest, I do not take any stock in at all. I insist that judges everywhere should be honest; and that we should not increase the pay of a judge merely because we find him to be an honest man. Now, if we raise the salaries of these two judges in New York we shall be pursued incessantly until we have raised the salaries of all the rest of the judges throughout the United States to correspond. I would have been better satisfied had the salaries been made last Congress somewhat higher than they were. But the salaries of these New York judges are as high in proportion as the salaries of the other district judges throughout the country. I now yield the remainder of my time to the gentleman from Indiana [Mr. NIBLACK.]

Mr. NIBLACK. I was one of the conferees on the part of the House on the occasion alluded to by the gentleman from Vermont, [Mr. POLAND.] The salaries as they now stand were determined upon by that committee of conference after a great deal of care and consideration, and also after a great deal of hesitation on the part of the committee. I am opposed to making any change in them at this time.

[Here the hammer fell.]

Mr. POLAND. I withdraw my amendment to the amendment.

The question was on the amendment of Mr. CHURCHILL.

Mr. JUDD. I move to amend the amendment by adding to it a clause making the salary of the judge for the northern district of Illinois \$6,000. And I propose to say a very few words upon that subject.

I do not concur in the suggestion of my friend from the St. Louis district [Mr. PILE] that the salaries of all these judges should be equal. I recollect the time in our State when the entire State composed but one district, and the courts were not held more than one week, or two weeks at the extreme, in a year; that was when I first went to the State. There was comparatively no business in the State. Since that time the business of the courts has grown with the growth of the State, and the development of commerce throughout the State. This is particularly the case with the business of the court in the northern part of the State. The entire business arising from the commerce of the lakes centers in the court in the northern part of the State. I know that the judge of that district is one of the most laborious judicial officers in the United States of America, working night and day and holding court the year round. I know, too, that with the expenses of living now prevailing in the city of Chicago it is utterly impossible for him to meet the current expenses of his family on his present salary of \$4,500; that is within my knowledge. I know, too, that he is one of the purest and most worthy

of the judicial officers that grace the bench. I ask this House to fix his salary at \$6,000 a year.

Mr. POMEROY. I move to substitute for the amendment of my colleague [Mr. CHURCHILL] the following:

The clerks of the district courts of the United States for the southern and eastern districts of New York shall hereby be allowed to pay out of fees of the said clerks to the judges of said district courts the sum of \$2,000 each annually, which said sum the said judges shall be allowed to receive in addition to the compensation now allowed them by law.

The effect of my substitute, if adopted, will be to make the additional compensation to the judges of \$2,000 per annum payable out of the fees of the courts. Those courts last year paid into the Treasury of the United States more than twenty-five thousand dollars of surplus fees. When gentlemen speak about the services performed by judges in other districts I desire to say that we know there are no two judicial districts in the United States, State or Federal, where the same amount of business is thrown upon the judges that is thrown upon the two United States district judges in New York city. I have not the pleasure of a personal acquaintance with Judge Benedict. But I have known Judge Blachford for many years; and I know there is no man of more pure personal character, of higher professional attainments, or of greater professional pride and industry. And the only wonder to me, knowing something of the amount of business thrown upon him in that court, is that he is able to endure it at all; that his health has held out to enable him to do it at all. He sits daily, having twelve stated terms during the year; and every day, when not sitting in stated term, he is doing chamber duty and hearing motions.

Now, while the supreme court judges throughout the State of New York receive by law but \$3,500, in the city of New York the judges of the supreme court, of the superior court, and of the court of common pleas, are paid a salary of \$10,000. Why is this? Because, as we know, \$4,000 in the city of New York will not pay the house rent and buy the fuel of a man who is fit to preside in court and dispose of the great public and private interests which are decided upon by those judges. Now, although \$6,000 cannot be called adequate compensation for the judges of the United States district courts performing duty in that city, it approaches nearer to the proper pay than the present allowance. The reason for making this discrimination as to judges residing in the city of New York is the greater expense of living in that city as compared with the expense throughout the State, it being impossible in fact for a man to live in that city upon the salary received by judges in the rural districts. Why, sir, the police judges in the city of New York receive \$6,000. The district attorney of the very court now under consideration is paid by act of Congress \$6,000, and he receives in addition fees amounting to more than his salary. The deputy clerk of that court receives under the law of Congress \$5,000; yet we propose that the man upon whom the great responsibility of the court falls, who decides questions of the weight and magnitude of those referred to by the gentleman from Massachusetts, shall continue to be outranked in compensation by the deputy clerk, who merely keeps the records of the court and assumes no responsibility whatever. I say it is a public wrong to ask a man to discharge the duties performed by Judges Benedict and Blachford for a salary of \$4,500. My friend from Vermont [Mr. POLAND] has spoken about the adjustment and equalization of these salaries. Let me tell him that by the adjustment of which he speaks the salaries of these judges in the city of New York were advanced the magnificent sum of \$250. In gold times the salary was \$3,750; and under this equalization the addition made to compensate for the changed condition of affairs in these latter days was \$250.

Mr. POLAND. Was it not \$750?

Mr. POMEROY. No, sir; \$250 was the only increase made in the salaries of these judges.

I say it is a shame and a disgrace to ask them to perform their onerous duties for the salary they now receive.

[Here the hammer fell.]

Mr. BUTLER, of Massachusetts. I rise for the purpose of making a motion with a view to closing debate.

Mr. CULLOM. Before that is done I would like to say a word. The judge in my district now gets \$3,500 a year. Since this salary was fixed there has been imposed on him an additional duty, the holding of a court at stated periods at a place three hundred miles away from the town where he resides and where his ordinary court duties are performed. I think it would be but just to grant him a small additional compensation. I would like to offer an amendment for that purpose.

Mr. VAN HORN, of New York. If debate is in order I would like to pass a eulogy on the judge in my district. [Laughter.]

The CHAIRMAN. The gentleman from Massachusetts [Mr. BUTLER] is entitled to the floor.

Mr. BUTLER, of Massachusetts. I yield for a moment to the gentleman from Pennsylvania, [Mr. O'NEILL.]

Mr. O'NEILL. Mr. Chairman, I cheerfully assent to the proposition made by the gentleman from New York, [Mr. CHURCHILL:] but I would like to have it amended or modified so as to include the judge of the district court for the eastern district of Pennsylvania. I wish to say in reply to my friend from New York, [Mr. POMEROY,] on the other side of the House, that the proper way to estimate these salaries is to estimate them by the amount of business done in the respective courts. In the eastern district of Pennsylvania the official duties of the judge occupy his whole time. I do not know whether he hears eight hundred cases in a term, but I do know that from the beginning to the end of the year that court is open and that judge is performing his duties. He is as much entitled to \$6,000 a year as the judge holding the United States district court in the city of New York.

Mr. BUTLER, of Massachusetts. I simply desire to close debate. After that is done gentlemen can move as many amendments as they choose.

Mr. POLAND. I object.

Mr. PILE. I move that the committee rise.

Mr. BUTLER, of Massachusetts. I hope the gentleman will withdraw that motion.

Mr. PILE. I withdraw it for the present.

Mr. BUTLER, of Massachusetts. I propose that by unanimous consent debate shall be closed on this paragraph.

Mr. POLAND. I object.

Mr. PILE. I move that the committee rise.

The motion was disagreed to.

Mr. CULLOM's amendment to the amendment was disagreed to.

Mr. CHURCHILL. I accept the substitute of my colleague [Mr. POMEROY] as a modification of my amendment.

Mr. JUDD. I move to amend by inserting the northern district of Illinois.

The amendment was disagreed to.

Mr. POLAND. I move to amend by including the district of Massachusetts, the eastern district of Pennsylvania, the district of Maryland, the northern district of Illinois, the southern district of Ohio, and the district of Missouri.

Mr. MILLER. Include also the western district of Pennsylvania.

Mr. POLAND. I will include that also.

Mr. PETERS. I rise to a point of order. We cannot establish in an appropriation bill the salary of an officer not in the Departments of the Government.

The CHAIRMAN. The Chair overrules the point of order. Such have been the previous rulings.

Mr. POLAND. I will also include the district of Indiana. There is just as much reason for raising the salary of all the judges in the districts I have included in my amendment as

the salary of the judges of New York. The judge in every one of those districts has to work hard all the year, and I have never heard any charge that they were not as honest as those in New York or did not make as sound decisions. I agree, in our present depreciated money condition, they have a hard time to live, and so we all have. I say that it is not fair to take up one judge and say he is a hard-working man and that we will raise his salary. These things should be fixed by some rule. I know they were all arranged under a law passed two years ago, and that the salary of all the judges was then raised except of those in California.

Mr. CULLOM. I ask the gentleman to include the southern district of Illinois.

Mr. POLAND. I am not so well advised in relation to the southern district of Illinois. In relation to the northern district of Illinois we had evidence that the judge of that district, at Chicago, works as hard as Judge Blatchford or Judge Benedict, and he is an able and efficient judge.

Mr. MOORHEAD. Include the western district of Pennsylvania.

Mr. POLAND. I have already.

Mr. BECK. I move to include the district judge of Kentucky, who does more work than any judge named.

Mr. BECK's amendment was disagreed to.

Mr. CALLIS. I move to include the northern district of Alabama.

The amendment was disagreed to.

Mr. POLAND's amendment to the amendment was rejected.

Mr. CHURCHILL's amendment was disagreed to.

Mr. POLAND. I have an additional section to this bill which I know will lead to debate and to a division, and as we have no quorum present I will move the amendment and let it go over until to-morrow.

The Clerk read as follows:

SEC. —. And be it further enacted, That the clerks, messengers, watchmen, and laborers, or other persons, male and female, now employed at Washington, District of Columbia, at a salary fixed by law or by regulations of a Department, in the State, Treasury, War, Navy, Interior, Agricultural, and Post Office Departments, including the Attorney General's office and city post office and the bureaus or branches of the several Departments herein named, who are paid at a rate not exceeding \$2,500 per annum, shall be allowed an additional compensation of ten per cent. on the amount of salary or pay received or that shall be received by them respectively during the past and present fiscal years; and that the necessary amount to pay the same be, and is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. BUTLER, of Massachusetts. I object to that as independent legislation altering the salaries; and it has never gone to the Committee on Appropriations.

Mr. POLAND. This proposition increases nobody's salary.

The CHAIRMAN. The Chair overrules the point of order upon the same ground that he overruled that made by the gentleman from Maine.

Mr. BUTLER, of Massachusetts. I then move that the committee rise.

Mr. HOLMAN. I desire to offer an amendment as a new section.

The CHAIRMAN. That is not in order.

Mr. FERRISS. I offer as an amendment to the amendment what I send to the Chair.

Mr. BUTLER, of Massachusetts. I will agree to accept the pending amendment and have a vote taken in the House.

Mr. FERRISS. I object.

Mr. POLAND. Allow something to be said upon it in the House.

Mr. BUTLER, of Massachusetts. Oh, no; we cannot afford to spend the whole time.

Mr. POLAND. How much time will you allow?

Mr. BUTLER, of Massachusetts. I will allow you to print anything. [Laughter.]

Mr. POLAND. I am not a printing man.

Mr. FERRISS. I offer the following as a substitute for the pending amendment:

SEC. —. And be it further enacted, That all such clerks, messengers, watchmen, laborers, and other

persons, male and female, as have families dependent upon them for support for which they respectively provide, and who were in their present employment at the close of the last fiscal year, and are now employed at Washington, District of Columbia, at a salary fixed by law or by regulations of a Department, in the State, Treasury, War, Navy, Interior, Agricultural, and Post Office Departments, including the Attorney General's office and city post office, and the bureaus or branches of the several Departments herein named, and who are paid at a rate not exceeding \$2,000 per annum, shall be allowed an additional compensation of ten per cent. on the amount of salary or pay received, or that shall be received by them respectively during the past and present fiscal year, and that the necessary amount to pay the same be, and is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. O'NEILL. Will the gentleman accept an amendment to his substitute providing for the clerks and employés of the city post offices at Philadelphia and New York?

Mr. STOVER. I raise the point of order that this is new legislation, and is retroactive.

The CHAIRMAN. The Chair overrules the point of order.

Mr. STOVER. Of its being retroactive?

The CHAIRMAN. Inasmuch as the same point of order has been made two or three times the Clerk will read the rule upon which the decision is made.

The Clerk read as follows:

"But it was also decided that the latter branch of the rule is not only permitted amendments increasing the salary, but was framed for that very purpose."

Mr. MYERS. I ask the gentleman from New York to accept an amendment to regulate the pay of employés of the Printing Office.

Mr. FERRISS. This has been gotten up to meet all possible objections that can be made to the proposition, and I therefore do not feel at liberty to accept the amendment. This subject has been before this House a number of times, and while we have increased the salary of the House employés twenty per cent. and have continued it, we have refused to allow any increase to the pay of the clerks in the different Departments. Now, in all the discussion I have heard on this question it has been very generally admitted that there are some clerks and employés who ought to have the additional percentage, but to find out who they are has been a difficult question. It seems to me that the amendment which I propose meets that difficulty as nearly as it is possible to meet it. It proposes to give ten per cent. additional to such employés as have families who are dependent upon them for support.

Mr. BUTLER, of Massachusetts. I desire now to move that the committee rise to close debate, unless it is closed by unanimous consent.

Mr. LOGAN. Allow me—

The CHAIRMAN. Is there objection?

Mr. POLAND. I object.

Mr. CALLIS. I wish to offer an amendment.

Mr. BUTLER, of Massachusetts. I will yield to have it read.

The Clerk read the amendment offered by Mr. CALLIS, as follows:

That the sum of \$2,000 be appropriated out of any money in the Treasury to pay the salary of Rev. Petroleum V. Nashy, postmaster at Confederate Cross Roads.

Mr. BUTLER, of Massachusetts. I insist on the motion that the committee rise for the purpose of closing debate.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration House bill No. 1673, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870, and had come to no resolution thereon.

Mr. BUTLER, of Massachusetts. I move that when the House shall again resolve itself into Committee of the Whole on the special order all debate on the pending proposition shall be closed in one minute after the consideration of the same shall have been resumed.

Mr. POLAND. I hope not.

Mr. HARDING (at eleven o'clock and five minutes p. m.) moved that the House adjourn.

The question was put; and the House refused to adjourn.

Mr. POLAND. I do not myself desire to debate the proposition pending in Committee of the Whole on the state of the Union, but there are one or two gentlemen who desire to say something upon the question, and I hope debate will not be entirely cut off. I hope the gentlemen will allow fifteen or twenty minutes.

Mr. BUTLER, of Massachusetts. I will modify my motion so as to allow five minutes.

Mr. POLAND. I cannot agree to that limitation.

Mr. BUTLER's motion, as modified, was agreed to.

Mr. BUTLER, of Massachusetts. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the legislative appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and resumed the consideration of House bill No. 1673, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870.

The CHAIRMAN stated that the question was on the substitute proposed by Mr. FERRISS for the amendment offered by Mr. POLAND.

Mr. LOGAN. I desire to say that I have always voted for this proposition to increase the pay of the clerks in the Treasury and other Departments heretofore, and I should probably have done so again if it had not been for information which has been given to me recently in reference to the clerks in the Departments. One of the chief clerks in the Treasury Department told me night before last that of seventy-five clerks discharged eighteen of them from his bureau were discharged because there was no work for them to do and no place for them to work, and because of general worthlessness besides. The Secretary of the Treasury sent them back; the head of the bureau refused to receive them; and the Secretary then sent them to the Third Auditor, with an order that he should receive them. Now, for that reason, as there is such a superabundance of clerks here, I propose to reduce the force first, and then if there is a necessity to increase the pay we can do it.

The amendment to the amendment was rejected.

The question recurred on Mr. POLAND's amendment.

Mr. O'NEILL. I move to amend the amendment by inserting after the words "city post office" the words "the clerks, carriers, and employés, male and female, of the Philadelphia post office."

The amendment to the amendment was rejected.

The question was put on Mr. POLAND's amendment; and there were—ayes 27, noes 52; no quorum voting.

Tellers were ordered; and Mr. POLAND and Mr. BUTLER, of Massachusetts, were appointed.

The committee divided; and the tellers reported—ayes 36, noes 48.

Several MEMBERS. "Give it up!" and "No further count is insisted on!"

The tellers resumed their seats; and the Chairman announced that the amendment was rejected.

Mr. HOLMAN. I rise to offer an amendment. I move to add to the bill what I send to the Clerk's desk.

Mr. POLAND. Do I understand the Chair to have decided my amendment lost? Is the question settled?

The CHAIRMAN. It is; because the tellers left their places on the announcement that a further count was not insisted on, and the Chair then announced that the amendment was rejected.

Mr. POLAND. The tellers reported the

number of votes on both sides, and I supposed that was the end of their duty.

The CHAIRMAN. The tellers were not released, and should not have left their places until so ordered on the announcement of the result by the Chair.

Mr. POLAND. What duty have the tellers to perform except to announce the vote?

The CHAIRMAN. If the gentleman from Vermont wishes to raise a question of order the Chair will endeavor to decide it; but he will not enter into any controversy with the gentleman. The Clerk will report the amendment of the gentleman from Indiana, [Mr. HOLMAN.]

The Clerk read as follows:

SEC. —. And be it further enacted, That the sum necessary to pay the compensation of the female clerks, as provided for in the first section of this act, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The question was taken upon the amendment; and upon a division there were—ayes 25, noes 43; no quorum voting.

Mr. PILE. I move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WILSON, of Iowa, reported that the Committee of the Whole on the state of the Union, having had under consideration the Union generally, and particularly the bill (H. R. No. 1673) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th June, 1870, had come to no resolution thereon.

NICKEL-COPPER COINAGE.

Mr. KELLEY. I move that the rules be suspended in order to allow me to report back from the Committee on Coinage, Weights, and Measures House bill No. 968, for the coinage of nickel-copper pieces of five cents and under. Pending the motion to suspend the rules,

CONSULAR, ETC., APPROPRIATION BILL.

Mr. BUTLER, of Massachusetts, submitted a report from the committee of conference appointed upon the disagreeing votes of the two Houses upon House bill No. 1576, making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1870, and for other purposes.

Mr. PILE. I move that the House now adjourn.

The motion was agreed to; and accordingly (at eleven o'clock and twenty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: Resolutions of the New York State Agricultural Society, praying that the duty on animals imported for breeding purposes be abolished.

By Mr. BANKS: The memorial of William Rullmann, praying for compensation for losses sustained in consequence of the occupation of his property in Baltimore, Maryland, as a camp by troops of the United States.

By Mr. CORLEY: The petition of Jesse See, a citizen of Lexington county, South Carolina, for a pension for services rendered as a soldier in the war of 1812.

By Mr. ELA: The petition of William A. Parker, for restoration to the active list of the Navy.

By Mr. EGGLESTON: A petition of the officers of the Cincinnati Academy of Fine Arts, praying that the authors of fine arts may be protected by copyright.

By Mr. GOSS: The petition of G. Cannon, a citizen of South Carolina, for removal of political disabilities.

Also, the petition of Henry M. Price, a citizen of Virginia, for removal of political disabilities.

Also, the petition of Jacob H. Briggs, a

citizen of Virginia, for relief from political disabilities.

By Mr. HUNTER: The memorial of Mrs. Julia A. Nutt, of Mississippi, for legalizing a trading permit.

By Mr. WILLIAMS, of Pennsylvania: The petition of William T. Sedwick, guardian of minor child of George F. Sedwick, deceased, late sergeant of company K, sixth regiment United States cavalry, for a special act allowing his pension to commence at the date of his father's death.

Also, the petition of Margaret Pizor, of Mercer county, Pennsylvania, mother of David W. Pizor, deceased, late private in company D, eleventh Pennsylvania reserve corps, for a special act allowing her pension to commence from the date of her son's death.

Also, the petition of A. Dodds and 276 others, citizens of Butler county, Pennsylvania, praying for such an amendment of the Constitution as shall recognize Almighty God as the source of all authority in civil government.

HOUSE OF REPRESENTATIVES.

THURSDAY, February 25, 1869.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read in part, when

Mr. BOUTWELL moved that the further reading of the Journal be dispensed with.

No objection was made.

DUTIES ON COPPER AND COPPER ORES.

Mr. SCHENCK. I submit the following resolution, which is privileged under the Constitution of the United States:

Resolved, That the Clerk of the House of Representatives be directed to present to the Secretary of State the act entitled "An act regulating the duties on imported copper and copper ores," together with the certificates of the Clerk of the House of Representatives and Secretary of the Senate, showing that the said act was passed by a vote of two thirds of both Houses of Congress after the objections of the President thereto had been received, and after the reconsideration of said act by both Houses in accordance with the Constitution.

The resolution was adopted.

ORDER OF BUSINESS.

The SPEAKER. The unfinished business pending at the adjournment yesterday was a motion submitted by the gentleman from Pennsylvania [Mr. KELLEY] to suspend the rules to enable him to report back from the Committee on Coinage, Weights, and Measures House bill No. 968, for the coinage of nickel-copper pieces of five cents and under. Pending that motion the gentleman from Massachusetts [Mr. BUTLER] submitted a report from the committee of conference on the consular and diplomatic appropriation bill. The gentleman from Pennsylvania [Mr. KELLEY] is entitled to the floor.

Mr. KELLEY. I yield for a few moments to the gentleman from Indiana, [Mr. JULIAN.]

MOSES F. SHINN.

Mr. JULIAN. I ask unanimous consent to report back from the Committee on the Public Lands Senate bill No. 467, to confirm an entry of land to Moses F. Shinn.

Mr. HOLMAN. That is a private bill, and I think should take its chance with other private bills. I therefore object to its consideration at this time.

Mr. KELLEY. I now yield to the gentleman from New York, [Mr. POMEROY.]

NATIONAL BANKS—NAMES CHANGED.

Mr. POMEROY. Some time since the House passed a bill (H. R. No. 1282) authorizing certain banks therein to change their names. The Senate has passed a bill precisely of the same character—Senate bill No. 968. I now ask that the Senate bill be taken up and passed.

No objection was made; and the bill (S. No. 968) authorizing certain banks named therein to change their names was taken from the

Speaker's table, and read a first and second time.

The first section of the bill provides that the name of the "City National Bank of New Orleans" shall be changed to the "Germania National Bank of New Orleans" whenever the board of directors of said bank shall accept the new name by resolution of the board and cause a copy of such resolution, duly authenticated, to be filed with the Comptroller of the Currency; provided that such acceptance be made within six months after the passage of this act.

The second section provides that all the debts, demands, liabilities, rights, privileges, and powers of the "City National Bank of New Orleans" shall devolve upon and inure to the "Germania National Bank of New Orleans" whenever such change of name is effected.

The third section provides that the name of the "Second National Bank of Plattsburgh" shall be changed to the "Vilas National Bank of Plattsburgh" whenever the board of directors of said bank shall accept the new name by resolution of the board and cause a copy of such resolution, duly authenticated, to be filed with the Comptroller of the Currency; provided that such acceptance be made within six months after the passage of this act.

The fourth section provides that all the debts, demands, liabilities, rights, privileges, and powers of the "Second National Bank of Plattsburgh" shall devolve upon and inure to the "Vilas National Bank of Plattsburgh" whenever such change of name is effected.

The bill was then read the third time, and passed.

Mr. KELLEY. I now yield to the gentleman from Massachusetts, [Mr. BOUTWELL.]

PUBLIC AFFAIRS IN GEORGIA.

Mr. BOUTWELL. I am instructed by the Committee on Reconstruction to report from that committee the evidence taken by them upon the condition of affairs in Georgia. It has already been ordered to be printed by the House, and I ask that it be laid on the table.

No objection was made, and it was ordered accordingly.

NICKEL-COPPER COIN.

Mr. KELLEY. I now resume the floor, and ask that the question be taken on my motion, pending at the adjournment last night, to suspend the rules to allow me to report back from the Committee on Coinage, Weights, and Measures a bill (H. R. No. 968) for the coinage of nickel-copper pieces of five cents and under. The bill contemplates the coinage of one, three, and five-cent coins as substitutes for fourteen representatives of value of the denomination of ten cents and under which are now in circulation.

The motion to suspend the rules was agreed to.

The SPEAKER. The question is now on ordering the bill to be engrossed for a third reading.

The bill was read. The first section provides that from and after the 1st day of June next, or sooner if practicable, there shall be coined at the Mint of the United States, and such of its branches as the Director of the Mint, with the approbation of the Secretary of the Treasury, may prescribe, the following pieces, to be composed of copper and nickel in the proportion of not less than twenty-five per cent. nor more than thirty-three per cent. of nickel, namely: a piece of one cent to weigh one and one half grams, or twenty-three and fifteen hundredths grains; a piece of three cents to weigh three grams, and a piece of five cents to weigh five grams, with such uniform devices as may be fixed by the Director of the Mint, with the approval of the Secretary of the Treasury; and such devices, when adopted, are not thereafter to be changed by those officers; and the present coinage of one, two, three, and five cent pieces, whether of bronze, nickel-copper, or silver, and the issue of Treasury notes of ten cents is thereupon to cease.

The second section provides that in adjusting the weight of the coins provided by this act there shall be no greater deviation allowed than three grains for the cent piece and four grains for the other pieces; and the materials for the said coins shall be purchased by the Director of the Mint in like manner as other materials for the use of the Mint are purchased; and in manufacturing the coins and accounting for the same and for materials used the same duties and responsibilities shall devolve upon the respective officers of the Mint as are now required by law.

The third section provides that the same legal penalties as are provided by act of May 16, 1866, in relation to the coinage of five-cent pieces shall be in force for counterfeiting any of the coins provided for by this act or knowingly issuing or passing any such counterfeit coins.

The fourth section enacts that any of the coins provided for by this act shall be a legal tender, except for duties on imports, to the amount of one dollar in any one payment, and no more.

The fifth section provides that the treasurer of the Mint (or branch mint) shall keep and render an account of the profits arising from the coinage provided for by this act; that is to say, the difference between the cost of the metal, the necessary labor and machinery, with the expenses of distribution of the coins, on the one hand, and the amount received for such coins on the other; and these profits shall, from time to time, be paid into the Treasury of the United States.

The sixth section enacts that the coins provided for by this act shall be procured and distributed in like manner as is now provided by law in regard to pieces of bronze or nickel-copper.

Mr. KELLEY. I am instructed by the committee to move to amend by adding two new sections providing for the redemption of these and other token coins by the Government. The amendment is to add the following:

SEC. 7. *And be it further enacted*, That it may be lawful for the Secretary of the Treasury to redeem, under such regulations as he may deem proper, the one and two cent coins heretofore issued with any of the coins authorized to be issued by this act.

SEC. 8. *And be it further enacted*, That it shall be lawful for the Treasurer and the several Assistant Treasurers of the United States to redeem in national currency, in sums not less than fifty dollars, under such rules and regulations as may be prescribed by the Secretary of the Treasury, the coins herein authorized to be issued, and also the one, two, three, and five cent coins heretofore issued by the United States.

Mr. Speaker, I propose to call the previous question on the bill, and then answer any questions that any gentleman may desire to put to me.

Mr. ALLISON. Before the gentleman calls the previous question I suggest that he modify the language of section eight, which he has just offered as an amendment, by striking out the words "national currency" and inserting "United States notes."

Mr. KELLEY. I am not tenacious in regard to the language of the bill, and I will modify the amendment by making the change the gentleman suggests.

Mr. WOODWARD. I wish to inquire of my colleague [Mr. KELLEY] whether this bill contains any provision making these small coins a legal tender in the payment of debts?

Mr. KELLEY. They are made a legal tender for sums of one dollar or less in any one payment, except for duties on imports.

Mr. WOODWARD. I had proposed to support the gentleman's bill, for I like this little currency very much; but if these coins are to be made a legal tender I cannot vote for the measure, for I doubt the right of Congress to make anything else than gold and silver a legal tender.

Mr. KELLEY. This bill proposes to make them a legal tender for one dollar or less in any payment for anything except duties on foreign imports.

Mr. WOODWARD. That involves a principle which is objectionable. I do not see

much importance in that part of the bill, and I hope the gentleman will agree to strike it out.

Mr. KELLEY. I cannot. I am now representing the committee. If the gentleman will hear me for a moment he will see there is no necessity for it.

Under the operation of this bill there will be no silver coin of less than three cents. In looking at the general question of coinage, I may be permitted to say on behalf of the committee that it is probable, when specie payments are resumed, the present quarter of a dollar and ten cent piece may both yield to a twenty cent piece which is decimal with our large coin of twenty dollars. Fractions under ten cents and may be under twenty cents can only be settled by token coinage.

Looking to the constitutional question, our Government has hitherto issued token coins but has refused to redeem them, so that parties might hold by hundreds and thousands of dollars' worth and there was no redemption for them. We have made this coin redeemable by the Government through many of its appointed agents, so as to save as near as may be the conscientious scruples of others, although the members of the committee recognize no constitutional difficulty in the way.

Mr. PILE. I ask the gentleman to yield to me to offer an amendment to the amendment.

Mr. KELLEY. I will hear it read.

The Clerk read as follows:

And said materials shall be, so far as practicable, of domestic production.

Mr. KELLEY. That amendment was under consideration by the committee, but was not embodied by it in the bill. I personally would not have any objection to it.

Mr. DICKEY. Allow it to be offered.

Mr. KELLEY. I have no objection to have it submitted to the sense of the House. Nickel, like copper, is found in perhaps one half of the States of the Union.

Mr. DICKEY. Does the gentleman allow it to be offered?

Mr. KELLEY. I do.

Mr. PILE. This nickel is widely diffused in nine or ten States of the Union. Large amounts are produced in several States, especially in my own State. In the southeastern part of Missouri there is a large nickel deposit. One hundred and twenty to one hundred and twenty-five hands are employed. The company working that mine expects largely to extend its operations in the coming summer. All I desire is to give the domestic production the preference under this bill as far as practicable consistent with the interests of the United States. I want preference to be given by the Government to metals produced by our own industry and labor.

Mr. KELLEY. I will now yield to my colleague on the committee.

Mr. FERRISS. Mr. Speaker, I think the original draft of the bill sent to the committee contained the provision of this amendment of the gentleman from Missouri. We had it under consideration, and the committee came to the conclusion that it was useless, inefficient legislation. I will go as far as the gentleman from Missouri or any other gentleman upon this floor to protect our home industry, to protect the manufactures of our own country. "So far as practicable" is a phrase that we objected to, and struck it out. It will amount practically to nothing at all. That was the opinion of the committee, and for that reason it was stricken out.

Mr. PILE. If the gentleman will suggest a better phrase I will accept it.

Mr. WOOD. This is an important question, and we desire to know what is being discussed.

Mr. PILE. I wish to say in answer to the gentleman from New York I think his objection to the phrase "as far as practicable" is not well taken. The officers of the Mint will understand that in the selection of metal out of which these coins are to be manufactured preference is to be given to that produced in this country if it can be obtained in sufficient quantities. I do not desire to tie up the authorities of the

Mint absolutely to the purchase of the home products, because if we do that the producers of nickel might raise the price and thus subject the Government to loss. But if we simply require the Government to give preference where it is practicable to do so we will avoid any such result.

Mr. HOOPER, of Massachusetts. I suggest to the gentleman whether he should not modify his amendment by inserting the words "at equal price." It seems to me the Government should not be at the disadvantage of having the price put up by being obliged to use only the native material.

Mr. PILE. I do not think the amendment would put the Government to that disadvantage, and I should dislike to confine it absolutely to the same price, because the policy of the Government I understand to be that even if it should cost a very little more preference should be given to the native product. We recognize that principle in the whole subject of the tariff. Now, if all should be required to buy the home product at precisely the same price as the foreign product there would be no protection. But if the Government can get the product at approximately the same price, so that the difference is not material, by giving the preference to the home product the Government would stimulate the development of that branch of industry, and in the end would benefit the country.

Mr. KELLEY. I will say to the House that the profit the Government will derive in this matter cannot be less than \$10,000,000. From the production of token coins during the last year the resulting profit was \$1,800,000, and all the coins were made at the Philadelphia Mint. There is a growing demand for these small coins.

Mr. VAN TRUMP. I would inquire of the gentleman, my attention not having been drawn to the reading of all parts of the bill, if there is any limit to the amount of coinage in this bill?

Mr. KELLEY. Hitherto there has been no limit, and such coins have been irredeemable. This bill limits it by making them redeemable by the Government, and providing for their redemption at the Treasury; so that it cannot be the interest of the Government hereafter to emit more than are actually needed. If it does they will come home to rest in its own vaults.

Mr. McCORMICK. It occurs to me that if we adopt the amendment requiring the Government to use no other nickel than that produced in the United States, the result will be that the metal will cost many thousand dollars more than it otherwise would.

Mr. PILE. My amendment does not require absolutely that the Government should purchase the home product. The amendment is:

And the said material shall be, so far as practicable, of domestic production.

Mr. KELLEY. I will now call the previous question; but will first yield to my colleague to offer his amendment.

Mr. WOODWARD. I move to strike out the fourth section, as follows:

That any of the coins provided for by this act shall be a legal tender, except for duties on imports, to the amount of one dollar in any one payment, and no more.

This is a small matter, I agree; but it involves a principle which is important. I do not understand my colleague to object to the amendment on other grounds than that the committee have reported the bill containing the provision. I wish to support the bill because I believe it is a good one, and I will do so very heartily if he will accept this amendment; but if the fourth section is retained I shall be obliged to vote against it, because the Constitution of the United States forbids us to make anything but gold and silver a legal tender in the payment of debts. That is my difficulty.

Mr. KELLEY. If the fourth section should be stricken out it would leave the settlement of balances among the masses of the people where petty suits are brought for the purpose of harassment very difficult, because the legal tender for small amounts could not be produced in gold

and silver. The act of 1861 made provision to meet that difficulty. I have no objection to this being reduced to an amount of fifty cents or twenty-five cents, but there will be no way of settling differences below ten cents if we do not make these legal tender for small sums. If we should adopt twenty-five cents, the amount of the smallest silver coin, all sums lower than that will be incomputable in any of the currency of the country. It is to meet that exigency, that necessity, that these must be made legal tender for a certain amount. I hope my colleague will modify his amendment so as to say in sums of not more than twenty-five cents, so as to cover the practical difficulty.

Mr. VAN TRUMP. That does not relieve the constitutional difficulty.

Mr. WOODWARD. The principal does not depend upon the amount. It is just as vicious in regard to twenty-five cents as in regard to one dollar. The inconvenience to which the gentleman alludes does not practically exist. There is no practical inconvenience in regard to these small debts. When legal tenders are demanded, something more than a dollar is due and something more than a dollar is demanded. I do not believe the gentleman ever knew an instance of a legal-tender demand of less than a dollar. I am sure I never did.

Mr. KELLEY. I have known them, and I have known a refusal to receive the bulk of a debt in gold because there was a larger amount than the law covered in base coin, it being under a dollar.

Mr. WOODWARD. Did you ever know an instance in which a creditor to whom a dollar or less than a dollar was due demanded that dollar in legal tender?

Mr. KELLEY. Yes, sir; I have known persons like Sir Giles Overreach, who wanted to drive out a poor tenant or do something else, take advantage of the least technical point of the law and object because a fraction of the amount offered in payment of a debt was not legal tender.

Mr. WOODWARD. I did not ask the gentleman to go into romance; I asked him about practical facts in actual life.

Mr. KELLEY. Although taking the name of a hero of tragedy I answered that I had seen real personages so act.

Mr. VAN TRUMP. As the difference between gentlemen upon the one side and upon the other seems to be a principle upon the one side and mere convenience on the other, I hope the gentlemen from Pennsylvania will yield and allow this section to be stricken out.

The SPEAKER. The gentleman from Pennsylvania has allowed the amendment to be offered. The bill being a report from a committee he cannot accept it.

Mr. JONES, of Kentucky. I desire to inquire of the gentleman from Pennsylvania if the bill proposes a new issue of coin in addition to the currency of the country or if it is merely to supply the place of paper currency to a certain extent?

Mr. KELLEY. It proposes the emission of new coins to absorb the fourteen different representatives of value less than ten cents; merely to take the place of the others and simplify the currency.

Mr. JONES, of Kentucky. Is there any limit to the amount?

Mr. KELLEY. I have already stated that there is a practical limitation in making it redeemable, so that if the Government issues an excess it will come home for redemption and rest in its own vaults. I now call the previous question on the bill and amendments.

The previous question was seconded and the main question ordered, being first upon the amendment offered by Mr. PILE to the amendment reported from the Committee on Coinage, Weights, and Measures.

Mr. PILE. I modify my amendment so as to read:

And in the purchase of the said materials preference shall be given to domestic production if at a cost not exceeding twenty per cent. more than the foreign materials.

The amendment to the amendment was agreed

to—ayes one hundred and two, noes not counted.

The amendment of the committee, as amended, was then agreed to—ayes one hundred and seven, noes not counted.

The next question was upon the amendment of Mr. WOODWARD, to strike out the following:

SEC. 4. And be it further enacted, That any of the coins provided for by this act shall be a legal tender, except for duties on imports, to the amount of one dollar in any one payment, and no more.

The question was taken; and the amendment was not agreed to upon a division—ayes twenty-one, noes not counted.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. KELLEY. My colleague on the committee, the gentleman from Illinois, [Mr. JUDD,] desires to be heard on a single point. I therefore yield to him before I call the previous question.

Mr. JUDD. I desire but a moment or two in relation to the constitutional question started by the honorable gentleman from Pennsylvania, [Mr. WOODWARD,] That question was discussed in the committee that reported the bill now under consideration, and I propose to state the views of the committee upon it.

The Constitution of the United States provides as follows, among other things, in the powers delegated to Congress:

"To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures."

Under that provision no reference is made to the material out of which the coinage of the United States shall be made. It is no restriction upon the power of Congress in regard to the material out of which the coins shall be made. Now I will read to the House the provision referred to by the honorable gentleman from Pennsylvania among the restrictions upon the powers of the States. It is the following:

"No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts."

Therefore the objection of the honorable gentleman from Pennsylvania applies to the prohibition of powers to the States in relation to making and emitting anything else than coin as a tender in the payment of debts. But there is no restriction in the Constitution as to the power of Congress to make coin out of what they see fit.

Mr. VAN TRUMP. Will the gentleman point to the provision of the Constitution where the express power is granted to Congress?

Mr. JUDD. I thought I had done so. The language of the Constitution is that Congress may "coin money, regulate the value thereof, and of foreign coin." There is not one word in the Constitution, so far as it relates to the powers of Congress, which indicates whether the coin shall be of gold, silver, copper, or nickel.

Mr. WOODWARD. Allow me to say one word in reply to the gentleman from Illinois, [Mr. JUDD,]

Mr. KELLEY. Certainly.

Mr. WOODWARD. Instead of offering any argument of my own in reply to my friend from Illinois I will offer an argument which ought to have more weight with him than any argument I could advance. I refer to the argument of Daniel Webster on the Treasury specie circular, in which he demonstrated that the States had no power to make anything but gold and silver a legal tender because of a constitutional inhibition, and that the Federal Government had no power to make anything else than gold and silver a legal tender from defect of power. In the one instance the power was not granted and in the other it was denied. Therefore, if the opinion of Mr. Webster is authority, the argument of the gentleman from Illinois is good for nothing.

Mr. KELLEY. I now call the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. KELLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RECORDING A VOTE.

Mr. GARFIELD. I move that the rules be suspended to allow me to record my vote on the bill (H. R. No. 1744) to strengthen the public credit, and relating to contracts for the payment of coin. I was sick yesterday when the vote was taken.

The rules were suspended; and leave was accordingly granted.

Mr. GARFIELD. I vote "ay."

LEAVE TO PRINT.

Mr. CARY obtained leave to have published with the debates remarks on the bill (H. R. No. 1744) to strengthen the public credit, and relating to contracts for the payment of coin. [See Appendix.]

Mr. HOOVER, of Utah, obtained leave to have printed with the debates remarks on the bill (H. R. No. 1625) to extend the boundaries of the States of Nevada, Minnesota, and Nebraska, and the Territories of Colorado, Montana, and Wyoming. [See Appendix.]

WITHDRAWAL OF PAPERS.

Mr. CHURCHILL asked and obtained leave to withdraw from the files of the House, without leaving copies, the papers relating to the application of Daniel W. Sims for a pension, heretofore referred to the Committee on Invalid Pensions.

LIGHTING THE OLD HALL OF THE HOUSE.

Mr. WASHBURN, of Indiana. I ask unanimous consent to submit the following resolution:

Resolved, That the Committee on Accounts be instructed to inquire into the expediency of causing gas-pipes, with electric gas-burners with lava tips, to be placed over the old Hall of Representatives, to be lighted by electricity from the battery now in use for lighting the Dome, Rotunda, and this Hall, and, if the same shall be deemed expedient, to authorize the work to be done under the direction of the architect of the Capitol extension, and that the expense be paid for out of the contingent fund of the House; *Provided*, That the same shall not exceed the sum of \$1,200.

Mr. ARNELL. I object.

CONSULAR, ETC., APPROPRIATION BILL.

Mr. BROOKS. I call for the regular order.

The SPEAKER. The House resumes, as the regular order, the consideration of the report of the committee of conference on the bill (H. R. No. 1570) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1870, and for other purposes. The report will be read.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 1570) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1870, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 6, 7, 13, 14, 22, 32, and 33, and agree to the same.

That the Senate recede from their amendments numbered 27, 30, and 31.

That the House recede from their disagreement to the second amendment of the Senate, and agree to the same with an amendment, as follows: "And to the end of said amendment add the following, 'and to continue while acting as minister to Uruguay;'" and the Senate agree to the same.

That the House recede from their disagreement to the twenty-eighth amendment of the Senate, and agree to the same with an amendment, as follows: Strike out all of said amendment, and insert in lieu thereof the following:

And be it further enacted, That the President is, on the recommendation of the Secretary of the Treasury, authorized to cause examinations to be made into the accounts of the consular officers of the United States, and into all matters connected with the business of their said offices, and to that end he may appoint such agent or agents as may be necessary for that purpose; and any agent, when so appointed

under the seal of the Treasury Department, shall, for the purpose of making said examinations, have authority to administer oaths and take testimony, and shall have access to all the books and papers of all consular officers. And any agent appointed in this behalf shall be paid for his services a just and reasonable compensation, not exceeding five dollars per day for the time necessarily employed, in addition to his actual necessary expenses, the same to be paid out of the sum appropriated for expenses of collecting the revenue, but no greater sum than \$5,000 shall be expended as compensation of such agent or agents in any one year. And the President of the United States shall communicate to Congress, at the commencement of every December session, the names of the agents so appointed, and the amount paid to each, together with the reports of such agents.

That the House recede from their disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: strike out all of said Senate amendment and insert in lieu thereof as follows:

Provided, That instead of a minister resident accredited as heretofore, a commissioner shall be sent to the Governments of Honduras, San Salvador, Nicaragua, and Costa Rica, in Central America, and to the Governments of Ecuador, Bolivia, Peru, and Uruguay, in South America, at a salary not exceeding \$300 a year each.

And in lines sixteen and seventeen, page 1 of the bill, strike out "\$316,000" and insert in lieu thereof "\$270,500;" and the Senate agree to the same.

BENJAMIN F. BUTLER,
WILLIAM H. KELSEY,
Managers on the part of the House.
L. M. MORRELL,
TIMOTHY O. HOWE,
Managers on the part of the Senate.

Mr. BUTLER, of Massachusetts. I demand the previous question on the adoption of the report of the committee of conference.

Mr. BANKS. I trust the gentleman will not insist on the demand for the previous question.

Mr. BROOKS. I rise to a point of order. If I understand the report of the committee of conference, it proposes to authorize the Secretary of the Treasury to appoint agents to administer oaths, to audit accounts, &c., which is new legislation, and was not referred to that committee.

Mr. BUTLER, of Massachusetts. It is not introduced in the report of the committee of conference for the first time. If the gentleman will look at the eleventh page of the consular and diplomatic appropriation bill No. 1570, he will find that this provision was passed by the House. It went to the Senate and was there struck out. It is now reported in this conference report.

Mr. BROOKS. Is it in the original bill?

Mr. BUTLER, of Massachusetts. It is.

Mr. BROOKS. Then I withdraw my point of order.

Mr. BUTLER, of Massachusetts. We authorize the President to do what the Secretary of the Treasury was authorized to do. I demand the previous question.

Mr. BANKS. I trust the gentleman will not press his demand for the previous question. There is one amendment that ought to be considered. The Committee on Foreign Affairs want to express its opinion of it.

Mr. BUTLER, of Massachusetts. I insist on the demand for the previous question, for want of time. I wish we could discuss it.

Mr. BANKS. I hope there will be good nature enough to let us have some consideration of this amendment.

Mr. BUTLER, of Massachusetts. We have no time for good nature. I should like to debate the question myself. I insist on the demand for the previous question.

The House divided; and there were—ayes 54, noes 54; no quorum voting.

Tellers were ordered; and Mr. BUTLER, of Massachusetts, and Mr. BANKS were appointed.

The House again divided; and the tellers reported—ayes 67, noes 70.

So the previous question was not seconded. Mr. BANKS. Mr. Speaker, I do not know that I understand the question just as it is presented to the House in the report of the committee of conference; but I wish to call attention to the fact that the report on the part of the Senate is not signed by the chairman of the Committee on Foreign Relations of that body. He does not sign it, and one of the conferees on the part of the House does not sign the

report. It is not, therefore, a unanimous report.

Now, sir, if it were not that there are material objections to one amendment in the report of the committee of conference I should not trespass upon the time of the House for one moment. It is a question whether the Government of the United States shall be represented as at present in the Central and South American Republics. The amendment approved by the House, and which was struck out by the Senate, reduced the eleven ministers resident in the Central and South American States to three, accrediting those three to certain Central and South American States and making up the representation by other diplomatic officers. The Senate disagreed to that amendment. By the report of the committee of conference it is adopted in another form, which is to reduce the eleven ministers resident at the Central and South American States to four; one to Guatemala, one to Venezuela, one to New Granada, and one to Chili, and commissioners are to be appointed as representatives of the Government of the United States to the other Central and South American States. We object to this because it is legislation on a most important subject, affecting our interests in Europe, Asia, and America in one of the general appropriation bills without an opportunity to consider it fully and carefully in all its extent, in all its bearing by the appropriate committees of the two Houses. We object to it on that ground.

We object to it on another ground. As far as it goes it is partial and unjust. It leaves full representation at places where it is not required, and withdraws it from places where it is required. If there is any one thing the United States ought to do it is to be fully represented at the republican Governments upon this continent. First, because their destiny is our destiny, and again that their interest is our interest. We might well spare a portion of our representatives in Europe, but we ought not to reduce our representatives on this continent, especially our representatives to Central and South American States, either in number or rank.

It may be asked why the Committee on Foreign Affairs has not presented this question to the House. The committee of the Senate more than a year ago, at great expense of time and money, obtained full information on all these subjects, and with careful study and deliberation they have prepared a bill upon this subject. When that shall come here we propose to give it a fair and full consideration. Then is the time for legislation on this subject. It was not becoming or proper for the Committee on Foreign Affairs of the House when this question was pending in the Senate, it never having been referred to us in any manner whatever, to anticipate the action of the Senate on the question or to present any other measure on the subject than that which would react upon that body, and for that reason we have been waiting patiently and very properly, I think, for the action of the Senate upon this question, embracing all its considerations.

Now, sir, let me ask the attention of the House to one fact. What does this bill do in regard to Central America? It reduces the number of our ministers in those States to one, who is accredited to Guatemala. I think there ought to be a minister at Guatemala. It is the parent of the Central American States, the first discovered by Columbus, and we could not withdraw a minister from that republic without giving reasonable and just ground of offense to the Government and people of that republic. But there are others just as much requiring representation as Guatemala. Nicaragua is the theater of the operations of the French Government, both for railway and canal across the Isthmus. Honduras also is a country where we have as great interests as we have in Nicaragua. It is a State where England is seeking to establish a canal across the Isthmus. Costa Rica has one or two propositions for a railway at present, and ultimately for a canal. And in

New Granada, which is provided for in this bill, and of which I will speak presently, there is a proposition for a canal on the part of the United States.

Now, here is an isthmus that connects the North and South American continents, which is the most important point of transit between the Atlantic and Pacific oceans, the point of transit between the European and Asiatic continents, of which the civilized world is struggling to obtain control and mastery, and where this day Europe is sending its very best men to represent the European interests; and yet the Government of the United States, upon the mere consideration of dollars alone, and that a very unimportant amount, is withdrawing its representation.

Now, sir, I hold that this ought not to be done. It ought not to be done either hereafter or now. If there is any one interest that the United States Government ought to ascertain by its ablest men and with its most constant endeavors, it is to know what is going on in the Central American States in regard to the ultimate solution of this great problem of the Pacific and Atlantic transit.

So much for the Central American States. Now look at the South American States. There are three ministers given to those States—one to New Granada, one to Venezuela, and one to Peru.

Mr. BUTLER, of Massachusetts. One at Chili.

Mr. BANKS. One at Chili. That was put in instead of Peru.

Mr. BUTLER, of Massachusetts. And one at Brazil and one at Paraguay.

Mr. BANKS. None at Paraguay; that is a commissioner. There are but four.

Mr. BUTLER, of Massachusetts. I beg pardon, there are four of these alterations.

Mr. BANKS. There are but four ministers accredited to the South American States.

Mr. BUTLER, of Massachusetts. Oh, you are mistaken; there is one at Venezuela, which is provided for in the bill; one at New Granada, which is not cut off by the bill; one at Chili, and one at the Argentine republic.

Mr. BANKS. I understand not.

Mr. BUTLER, of Massachusetts. I beg pardon; look at the bill. There is one at Brazil and one at Paraguay now.

Mr. BANKS. That makes four.

Mr. BUTLER, of Massachusetts. Six, if I understand it.

Mr. BANKS. If the House will attend a moment, I will show that these South American ministers are reduced by this report to four, namely, at New Granada, Venezuela, Chili, and Brazil. There are two ministers at Paraguay and the Argentine Republic, but if this conference report is adopted they will be cut off. That will leave the number of ministers resident of the United States in South America to these four States—Brazil, New Granada, Venezuela, and Chili. Now, sir, if we are to have ministers in these four republics, why do we take away the ministers from the other republics? I want the gentleman who has charge of this bill to answer me that question. Why do we give a minister to Peru and deny one to Chili?

Mr. BUTLER, of Massachusetts. It is just the other way. We give one to Chili and deny it to Peru.

Mr. BANKS. Then why give one to Chili and deny one to Peru? What claim has Chili over Peru in this regard? The bill as it passed the House was much better. It accredited ministers to Peru and also to the other republics. But this report of the committee of conference proposes to withdraw even these accredited ministers, and to leave South America, with a population of twenty millions, with ministers at only four of the republics in that part of the world, and send commissioners to the others. Why is it that one republic is entitled to a minister and the others only to commissioners.

Mr. Speaker, whatever may have been our

interest heretofore in this part of the world, from this day forth it is to be different and greater. The industry, the products, the commerce, the trade of these Republics are to be increased. They are introducing the new methods of transportation by canals and railways, and the productive wealth of those States is to be vastly greater than it has been heretofore. Up to this time we have had but little share in it. Great Britain and France have taken nearly the whole. The reason of that is apparent. We have been represented in these States in the past history of this country by men who had very little care for the development of the commerce of the country. The representative power has been mainly directed and controlled by the South, and the result of our representation has been that the commerce and productive wealth of these countries has been transferred to Europe, and we have had but a slight share of it.

In the future, with proper representation, this condition of things will be changed. The Government is now in the hands of men who represent those who are devoted and will be hereafter devoted to the interests of productive industry and commerce, and with proper representatives at those Governments their increased products will be largely to the United States instead of being carried, as now, three or four thousand miles across the water to Europe. Their railways, their canals, the roads that they are making into the interior, the improvement of the navigation of their rivers, all tend to the development of their productive wealth, and with proper representation we shall have our share of that trade hereafter. Gentlemen may say that we ought to have had it heretofore. Well, sir, it is perhaps true that we ought to have had it, but the reason we have not had it is very apparent. We have not struggled for it. Europe was first in its representation at these republics. It has always been represented there by its very best men. The Emperor of the French has sent to Chili and Peru within a very short time some of the ablest of the diplomatic representatives of France. England has upon the Pacific coast one of the best lines of steamers ever constructed, and they are thus, and have been for a hundred or two hundred years, maintaining their commercial interests in this part of the world while we have neglected ours altogether. It is not surprising, therefore, that they have maintained that which was theirs entirely at the start, or that we should not have increased ours when we have not given our attention to it. In the future, however, we cannot by any possibility fail of having an increase in trade and commerce between the United States and that part of the American continent.

There is a stronger reason why we should not withdraw our ministers at this time. There has been a contest between the American republics on the Pacific coast and the Government of Spain, which still continues. The United States has offered its mediation, and that mediation has been accepted.

Now, I ask the House upon what theory, or by what show of justice, when we have offered our mediation between these republics and Spain, can we withdraw our representatives and send officers there of the character to which I have referred? The same is true of the republics on the Atlantic side of South America. We have offered our mediation between Brazil and Paraguay, and that mediation has been accepted. Yet, at the very moment when our mediation is accepted, we withdraw our representatives from those republics in a manner which must give offense.

Mr. BUTLER, of Massachusetts. Paraguay and Brazil both have ministers residents now.

Mr. BANKS. Yes.

Mr. BUTLER, of Massachusetts. And the report of the committee of conference does not propose to withdraw them.

Mr. BANKS. The report of the committee of conference cuts off the minister to Paraguay.

Mr. BUTLER, of Massachusetts. It does not.

Mr. BANKS. Let me look at it.

Mr. BUTLER, of Massachusetts. Well, look at it.

Mr. BANKS. If I am wrong I will acknowledge my error to the House. With what show of justice can we now withdraw our representatives there? And what is it proposed to send in the place of our ministers? Commissioners. The amendment proposed by my colleague, [Mr. BUTLER,] who now has charge of this question, when the bill went to the Senate provided that where a minister was withdrawn from any of those republics the minister to some other republic should be accredited to the republic from which a minister had been withdrawn. There was under that arrangement some show of representation provided for; but there is no such provision in this report. Instead of a minister we are to send a commissioner. Now, in international law there is no such diplomatic officer known as a commissioner.

Mr. PAINE. Will the gentleman yield to me for a moment?

Mr. BANKS. Certainly.

Mr. PAINE. I desire to ask the gentleman a question for information. I desire to know whether this report proposes to send a commissioner to each of the Central American and South American States, or only one to the Central American States and one to the South American States?

Mr. BANKS. I understand the intention to be to send a commissioner to each of the States named.

Mr. PAINE. The language of that portion of the report is as follows:

Provided, That instead of a minister resident, accredited as heretofore, a commissioner shall be sent to the Governments of Honduras, San Salvador, Nicaragua, and Costa Rica, in Central American, and to the Governments of Ecuador, Bolivia, Peru, and Uruguay, in South America.

I desire to understand whether it is intended to send two commissioners to all those States or one to each of them?

Mr. BANKS. I understand that the proposition is to send a commissioner to each republic from which a minister resident is withdrawn. Now, what is a commissioner? In the list of diplomatic officers established by the treaties of Europe, and we are bound on this subject by those treaties, there is no such diplomatic officer known as that of commissioner. I could easily obtain a list of those officers, but a commissioner is not among them. Of the many hundred diplomatic officers of the United States in different parts of the world there is not now anywhere a commissioner. I know very well that commissioners have been occasionally appointed by this Government to transact its business with foreign nations from the beginning of the Government. Commissioners have been appointed to negotiate treaties, to arrange the details of treaties negotiated by appropriate diplomatic officers, to run boundary lines, to examine the condition of other countries, to adjust claims of citizens, and to perform a great variety of duties regarded as expedient or necessary by the Government. But they have never been regarded as strictly diplomatic officers. We have had commissioners also who have been charged with diplomatic and other offices and duties.

The United States, by its statutes and by its treaties with foreign nations, has provided sometimes for and appointed commissioners. Such commissioners were appointed to China and Japan, countries that were then regarded as barbarous, unchristian nations, not recognized by the family of Christian nations. And when we provided diplomatic representatives for those countries—China, Japan, and Turkey—it was upon a basis peculiar to itself, and not under any general international diplomatic regulations. For instance, the commissioner to China was a diplomatic officer. He was also a judicial officer. He was also an executive officer. He was also a legislator. He had the powers of these four distinct classes of officers,

and was properly called a commissioner. He was not a diplomatic officer protecting all American citizens under the laws of China, or Japan, or Turkey, as he did in other countries. But the commissioner to China, within the limits of five ports of China, executed the laws of the United States, extended our statutes there. If our statute laws were not sufficient, he extended our common law; and when the common law was not sufficient, he was authorized to legislate, in the American sense of the word, for American citizens in the five ports of China, where he was authorized to act. He was therefore an officer representing the United States in what was then considered a barbarous and unchristian country, not recognized by the family of Christian nations; and he exercised powers in these four capacities as a diplomatic officer, a judicial officer, an executive officer, and a legislative officer. In the statute passed upon this subject in, I think, 1848 it was distinctly declared that he was to be held responsible in these several and distinct capacities. Hence he was not in any sense a diplomatic officer exclusively. In the four capacities already mentioned he was to carry out our laws so far as they had been extended to that country by treaties or under statutes of the United States. A commissioner is very properly appointed to discharge duties of this kind; but we have no such case in the Central American or the South American republics. We have established there the ordinary diplomatic intercourse and representation; and if we withdraw our minister resident and send there a commissioner, an officer not known to the diplomatic law of the country, and never charged with diplomatic duties pure and simple, we shall give cause of offense to these republics, and we shall be called upon to make suitable explanations of the reason and policy of our action. If it be deemed best that we shall not continue to send to these republics diplomatic representatives let us withdraw them; but let us not send officers unknown to the diplomatic service or the diplomatic law to these friendly States on this continent who have the same interests to maintain with regard to commerce and government that we have.

Then, sir, look at Paraguay. Every member in the House is familiar with the transactions occurring in that country within the last few months. Our ministers have apparently been driven from the country; their attendants arrested and imprisoned; cut off from all communication with the people of this country. I do not know what may prove to be the exact state of facts in regard to this matter. If they are as reported to us in official communications this country would be justified in terminating all intercourse with Paraguay and declaring war against that Government. What is proposed by the committee of conference? It is that, after withdrawing our minister resident, we shall not terminate all communication with that country, not declare war, but send a commissioner.

Mr. BUTLER, of Massachusetts. That is not so.

Mr. BANKS. If it be not so, then I will make amends to the House for misleading it as to the facts. I understand the purpose is to send there a commissioner, an officer unknown to diplomatic regulations, because of the saving to be thereby effected. Now, what is the saving that is to result from this great change in our policy, a change applying alone to the republics on the American continent? What is to be saved by it? Not more than forty thousand out of a hundred or a hundred and forty thousand dollars. By this change, so suddenly sprung upon us, and affecting so greatly the interests of this country in the Central and South American republics, we save \$40,000 and no more.

I do not contend that we should continue indefinitely our system of representation as it exists in those republics; but I say that the saving proposed is not sufficient to justify us

in withdrawing our representation from these Central and South American republics at this moment, when the whole of Europe is struggling to get control of these keys of the commerce of the world. If such withdrawal should be agreed to by the House upon full consideration of the question, I should have nothing to say; but I desire that when we determine upon such a step we shall consider our relations with Europe and with Asia as well as with the South American and Central American republics.

I understand that the amendment reported by the majority of the conference committee of the two Houses does substantially that which I have stated. I think this amendment must be contrary to the judgment of the House. I hope the report will not be agreed to. Let the subject go to another conference committee, from which it may obtain certainly more time for consideration, and perhaps a wiser and better judgment.

Mr. BUTLER, of Massachusetts. I pray, Mr. Speaker, gentlemen of the House will observe that this debate has been forced upon the House by no motion of mine. It is a matter of considerable importance, and I wish to divest it, in the first place, of some of the bias and prejudice which have been exerted against it outside of this House.

In the first place, the question as it comes to us is, do we need or want representation in Central and South America? Then, if we do need any, how much do we need? The gentleman who has just taken his seat insists that we want every little State in Central and South America to have a minister resident or a minister plenipotentiary. Now, sir, that is the question now before us; and in order that the House may exactly understand it let me state how it is. We have now ministers resident at San Salvador, Honduras, Nicaragua, Guatemala, and Costa Rica, in Central America. We have ministers resident there. I will call the attention of the House to a much better authority than mine. I ask the Clerk to read a letter I have received from Mr. Squier, the American traveler and once minister resident in South or Central America. He was there for many years and tells us what is wanted.

The Clerk read as follows:

135 EAST THIRTY-NINTH STREET,
NEW YORK, January 7, 1869.

DEAR SIR: As one who has seen some service in what is called "diplomacy" (a remnant of the fossil period), I am obliged to you for making an earnest effort to abolish a number of useless missions out of which we get much trouble at a round rate of cost. When I went out to Central America under General Taylor I had all the five petty republics on my hands, at a pay of charge, \$4,500 a year, and at a time when there was something really to be done there. It was when the British were intriguing to get control of the Isthmus and the Nicaraguan transit; while they were building up their celebrated "Mosquito kingdom," seizing islands, &c. Then one had to travel from one State to another on muleback at great trouble and expense; yet I think the whole business we had in the country was as well done as what we now have there at a cost of \$37,500 a year.

I see that you have left Guatemala as an independent mission, for which, it appears to me, there is no good reason. Our interests there are next to nothing, and the trip from Nicaragua can be made in two days in case of need.

I was lately in South America. Peru, Bolivia, &c. The Ecuadorian and Bolivian missions are broad farces. They are kept up only to give patronage to the State Department.

I take the liberty of sending to you a copy of a letter which I addressed some time ago to Senator PATTERSON, and also an article of my own relating to this subject, in which you will find your views substantially indorsed. Should your remarks of yesterday in making the motion you did be printed in full may I ask you to send me a copy?

Respectfully, your obedient servant,

E. GEORGE SQUIER.

General BUTLER.

Mr. BUTLER, of Massachusetts. That letter came to me voluntarily. He had seen what I had proposed and what had been the action of the House sanctioning it. I have another voucher. The last minister we had at Bolivia was the present chief justice of the District of Columbia. He was sent out there under Mr. Lincoln, and remained there two years. He felt he could not stay there any longer, to use his own words, receiving a salary which he

neither earned nor enjoyed. His last communication to the State Department was in these words:

"It is difficult to state any reason why there should be a minister to this Government."

Mr. Speaker, I want to tell the House a bit of history in reference to the creation of this Chilean mission that we are told is of such importance. Let me tell the House how it came to be put in operation, and I speak whereof I know. In 1849, about daylight in the morning on the 4th of March, the House and the Senate sitting until seven o'clock, there was a man from Indiana, Mr. Hannegan, in the Senate who had an unfortunate habit, and as his term was out he had to be taken care of by the outgoing Administration, whereupon a bargain was made that he should be sent in for the Berlin mission, provided the dominant party would give the Chilean mission to the incoming Administration. The appropriation bill of that year I hold in my hand, and you will find by looking at it that that mission was put on. It was created that a position might be given to a certain Senator at the other end of the Capitol. That was the beginning of it, and yet it has continued from that day to this. We have had a minister there ever since at \$10,000 per annum.

Now, let us come to the Venezuela mission. We have a minister there, and yet when any business was to be done there we had to send down a man who could talk the language. We had them there at an extra expense and they had nothing to do, and the moment they had something to do a special commissioner had to be sent to make a treaty. And yet we are talking about the great necessity of these men there. We had a minister at Venezuela. Why did not he negotiate the treaty? Why did it require a man to be sent down there who knew enough to speak the language? What is the use of these men? They are isolated, most of them, from the people; they can neither write nor speak the language. They know neither the country nor the language. They have nothing to do except to take their salaries and spend them.

Now, before I pass to the question of Chili and Peru, I want to relieve this question of the argument to prejudice that has been made against it outside of this House. Gentlemen will do me the favor to remember that a year ago I moved in this direction and failed on a point of order. So when I brought it up at this time—of course a man can never find a good motive in the mind of another when he has none in his own—I was immediately assailed on the ground that I made the whole movement in order to get rid of an unfit man as minister at Chili. That would have been a good motive enough, but in order to take away all prejudice I agreed to the suggestion of the committee of conference on the part of the Senate. They said to me this: "Chili has \$30,000,000 of commerce, Peru has \$16,000,000; so you ought to change it from Chili to Peru. Send your commissioner to Peru and leave the minister at Chili, although he may be the enemy of all mankind." So I yielded to the suggestion because I desired a reduction in the expenses of this Government if it could be done. I yielded to the argument, and I chose to have a minister at the more important post, however he may stand in personal relations to me.

Now, then, I want the House to observe another thing, that this report is signed by all the members of both committees except the two chairmen of the Committees on Foreign Affairs. "Great is Diana of the Ephesians!" With them great are the Committees on Foreign Affairs and the chairmen thereof in their own estimation. They say this service ought to be changed. They have been chairmen for six years. Why has it not been changed? They say it wants consideration. Why has it not been considered? They say the service wants revision. Why has it not been revised? And when some of the rest of us attempt to do that which they ought to have done, and

which they admit they have left undone, why they come here and say, "Oh, you must not do that; and we will not do it."

But I do not stop there. What have we done? What have the gentlemen on the committee of the Senate and what have the gentlemen on the committee of the House who were not on the Committee of Foreign Affairs agreed to? The House sent the committee this proposition: that there should be but one minister in Central America, that there should be a minister to Peru, one to New Granada, one to Venezuela, one to Brazil, and one to the Argentine Republic, and they should be accredited to the other South American States. But it was said that we might have something for a minister to do in the other South American States; and therefore we agreed, as a compromise, that we would cut off the secretaries of legation, and having cut off the secretaries of legation at \$1,500 a year we would send a commissioner to each of these smaller States, where indeed there is nothing to do.

Now, the chairman of the Committee on Foreign Affairs has not examined this bill with his accustomed accuracy. Let me state that the bill now gives a minister to Guatemala, in Central America, and commissioners at \$3,000 a year each to the smaller States of Costa Rica, Honduras, and San Salvador. It gives a minister to Venezuela, and if I am not right I ask to be corrected. There is the record, and I know what I am talking about. It gives a minister to New Granada, it gives a minister to Chili, and it gives a minister to Brazil and to Paraguay. Why? Because Brazil and Paraguay are now fighting and we thought it best to have an American minister there to protect our citizens in their rights. We are to have a minister to the Argentine Republic, and to Ecuador, Bolivia, Uruguay, and the smaller States we send commissioners. That is what has been done. We give six full ministers against my will and wish. I think it all wrong. I think the ministers are perfectly useless. But why did I agree to the report? In order to compromise with the gentlemen of the Senate that we may go through the public business, and while I could not save \$125,000 to save \$75,000.

Now, then, sir, let us see what these States do. I have in my hand the report of the Committee on Foreign Affairs of the Senate, made by Mr. PATTERSON, of New Hampshire, and antagonized by the chairman of the committee. Here is a summary of how these States are represented here. Bolivia, Ecuador, and Paraguay have no representatives at all in Washington. Guatemala has half a representative in New York, and San Salvador has the other half of him at New York. Honduras has half a representative, and Nicaragua has half a representative. Costa Rica is only represented by a chargé d'affaires, and the United States of Colombia are only spasmodically represented. Venezuela has no representative resident in Washington. It therefore appears that while we send eleven full legations to these eleven States they only send one full legation to us, to wit: from the Argentine Republic.

These are plain facts which cannot be disputed or denied. Now, what is the argument put forward here by the learned chairman of the Committee on Foreign Affairs? It is this: that we must have full ministers there in order to prevent the European Powers from stealing those nations. Well, if they would civilize them after they stole them I would not have any great objection to the theft. Some of them are nomadic, half-civilized, with continual civil wars, with continual outrages, and with nothing in common with us. And when the gentleman says that our destiny is their destiny I deny it. We have the destiny of the Anglo-Saxon, the destiny of the people of the north of Europe. They have and must have the destiny of the people of the south of Europe, intermixed and intermingled with the Indian and with every other possible kind of people.

Their destiny is not our destiny. It may be our destiny that we shall have to take care of them; that is one thing. When that time comes I shall be willing to do my share of the work; but I object to putting ourselves on an equality with them by this diplomatic representation.

Now let us go a little further and see what is the ground on which the five ministers resident are to be kept there. It is to protect and enlarge our commerce. Now what do gentlemen suppose is our commerce with Peru to-day? Less than \$2,000,000 of imports and exports, all told, backward and forward. What is the extent of the commerce of Great Britain with Peru? About seven million dollars. And what kind of representation has Great Britain in Peru? A *chargé d'affaires*. What kind of a representative have we there? A full minister.

Now take the country of Chili. What commerce have we with that country, including the commerce of the Pacific coast? About one million six hundred thousand dollars. How much has France with that country? About four million dollars. Who represents us there? A minister resident, a gentleman traveling about this country delivering lectures, a minister plenipotentiary and envoy very extraordinary, I grant you. What representation has France there? A consul general only. So the rule in South America seems to be that the less the trade the bigger the diplomatic representation. What trade has anybody with Ecuador? None at all. What trade has anybody with Bolivia? None at all. What trade have we with Peru? A trade in guano only. Now I should think that guano was a matter that might be looked after by a commissioner. It seems to me to be an article that does not require a full minister resident. [Laughter.]

Now let us go back to Venezuela. A constituent of mine, a ship-master and a sailor, had his schooner on the coast of Venezuela. The people of that Government seized his crew and imprisoned them. He started back with his schooner, but being short-handed it was wrecked in a storm and lost among the West India Islands. My constituent made application to the State Department for reclamation on the Government of Venezuela. What answer do you suppose he received? We had nominally a minister there, and had paid his salary for something like seven years consecutively. The answer last September was that our minister was not there; that we had no such relations with Venezuela that we could make any reclamation.

Now, I ask where was our minister? I see before me a gentleman who knows whereof I affirm, the gentleman from New York, [Mr. PRYOR.] On inquiry I was told that the minister had gone away. With whom had he left his business? He had found a very intelligent young gentleman who was traveling there, and turned all the business of the legation over to him, while the minister went off about his own business and pleasure. And I am free to say, and I do say, I trust without prejudice, that young man did the business a great deal better than it would have been done had the minister remained there. This young man carried on the whole business without any salary. And yet we are to hold on to this sort of representation, are we? Why, sir, you can pick up a reliable traveler at any time to whom to intrust this business. We may not always be so successful as was our minister to Venezuela. But we can pick up a traveler at any time and get our business done better than it is done with our resident ministers. In making this statement I affirm that whereof I know. One gentleman in this House knows the exact truth of the statement.

Now, let us go a little further into this matter. It is said that it is our interest to continue these high diplomatic relations with these several States. But, as we see, they do not reciprocate. It is said that our interests in the great highway of the world, the Isthmus, must be protected by seven ministers to seven little

States that do not own any part of it. To this my answer is that we have just concluded a treaty which secures us the only practicable route across the Isthmus. It is said that all Europe has been trying to get the control of those States. Well, sir, Spain is not trying; Russia is not; Turkey is not; Greece is not; Austria is not; Prussia is not; Switzerland is not; Sweden is not; Norway is not. What nations then are trying to get the control of those seven States? It may be said England and France are trying. How are they trying? One by being represented by a *chargé d'affaires*, the other by a consul general only. These nations have no officer of any higher rank in those countries, where we propose to send, instead of a full legation, a commissioner at the pay of \$3,000 a year. Let me say again that I do not believe in paying even this much, but I feel obliged to assent to the proposition in order to meet the views of my friends in the Senate.

Now, let me say another thing. The report which was filed in the Senate July 2, 1868, and which I have read, proposes a bill which we have carried out almost precisely so far as we have been able. If gentlemen say to me that our missions in Europe ought to be cut down I heartily assent to the proposition. In cutting them down I will go as far as he who goes furthest. I think that nine out of ten of those missions are about as useful as a fifth wheel to a coach.

Mr. LOGAN. If the gentleman from Massachusetts will permit me, I desire to make a single remark. I have been listening attentively to this discussion, because I desire to get all the information that can be obtained. But, sir, in answer to the inquiry of the gentleman from Massachusetts as to the utility of sending ministers to these small Governments, I wish to say that according to my understanding our reason for sending ministers to these South American States has been that they have been trying to establish republican institutions like ours, and that we desired to encourage them in this effort; we desired to draw them to us as children of this great Republic of ours. We have not been influenced by any pressing necessity for ministers in those States, or by any great amount of business there; but we have believed it proper to extend over these infant republics a fatherly or, if you please, a maternal care; and we desire to have thoroughly amicable relations with them. This is the idea I have entertained in reference to this question. If there is any other theory I have never known it.

Mr. BUTLER, of Massachusetts. The gentleman from Illinois [Mr. LOGAN] is quite right as to the theory upon which we sent these ministers originally. When a Spanish colony had declared itself a republic we sent a minister to it in order to give it full recognition, in order to show our sympathy with it, and in order to protect it against the Government of Spain. But I call the attention of my friend from Illinois to the fact that this reason has passed away. The parent Government, Spain, is to-day weaker than either of these republics. Republican institutions are no longer in any danger on this continent. The smallest one of those States is to-day stronger than the Government of Spain.

Another reason why it is alleged that we should send ministers to those republics is that we may draw them to us. Why, sir, that sounds very well when we consider the recent action of this House. When one of the young republics adjacent to this country, San Domingo, came here and asked us to receive her we would not take her; nor would we agree to take her when she should come in the most formal manner.

All the eloquence of my friend from Massachusetts [Mr. BANKS] could not persuade us to take it, and yet we should have been glad to have had it for one reason, if for no other, that it laid close to us. I do not want Patagonia; I do not know who does. I did want

the Dominican republic. She lies at our door; she is a part of this continent; she belongs to the northern and not to the southern continent; she is under our wing. When she comes and asks us to take her I am ready to meet her. Yet we have never had anything but a commissioner there.

Ah, the word "commissioner" troubles my friend. He says that it is not a diplomatic word; he tells us that there is no such thing known to our statutes as "commissioner." Now, let me refer him to the statutes of the country, and a little reading of them will do him a great deal of good. On the 18th of August, 1856, the law was passed which is the foundation of our present diplomatic system. It enacts that "all ambassadors, envoys extraordinary, and ministers plenipotentiary, ministers resident, commissioners, *chargé d'affaires*, and secretaries of legation appointed to countries hereinafter named shall receive," &c. Ambassadors and envoys extraordinary and ministers plenipotentiary it was provided should receive the full amount specified, and ministers resident and commissioners seventy-five per cent., and *chargé d'affaires* fifty per cent. of the pay of a full minister. This, then, shows that commissioners are recognized in the statutes as of the same grade among diplomatic officers as ministers resident.

We sent a commissioner to China. But the gentleman tells us that she was not civilized. She was civilized centuries and tens of centuries before South America was known to any portion of the present civilized world. She is to-day far more civilized than the countries which are to-day half Indian and half Sambo or two thirds mestizo.

Does the gentleman mean to say that Hayti is not civilized? Does he mean to say that we send a commissioner to Hayti and not a minister because she is not civilized? That certainly would be a new argument for this side of the House. The color of the inhabitants is by no means darker in Hayti than it is under the equator in Ecuador and Bolivia. Does he mean to say that we send a commissioner to the Sandwich Islands because the Sandwich Islands are only half civilized? No, sir. When we send commissioners we send them where we need the exercise of diplomatic, executive, and judicial powers, and these half civilized nations are precisely the places where I want our representatives to have diplomatic, executive, and judicial powers to protect our citizens. Those powers are centered in a commissioner.

Now, Mr. Speaker, let us see exactly where we stand. We sent to the Senate one proposition of retrenchment and reform. It was a measure of economy. They did not agree to it; they sent it back to us. This House, by a vote of ninety to thirty-two, refused to concur in the action of the Senate. What did we do then? We sent it back to them and asked for a committee of conference. That committee of conference came together and agreed to a compromise proposition on the basis of the Senate bill. That proposition is now before this House in the report which I have just submitted. I may say that the proposition on which we compromised was presented by one of the Senate committee, and we of the House agreed to it after a long and animated discussion.

To this proposition there was no disagreement except on the part of the chairmen of the two Committees on Foreign Affairs, one in the Senate and one in the House. If ever I impute motives, which I never do when I can help it, I should say that the trouble was this: they felt if we should make this reform in the diplomatic service in this way it might possibly be a reflection on them that they had not done it, and therefore they were anxious that we should go on and pay this \$135,000 a year. I say \$135,000. The salaries are \$73,000 and the other expenses are very large, with an exchange sometimes against us of fifteen per cent., all these salaries and expenses having to be paid in gold.

Now, was not this a place where we could

save money to the Government? Where shall we begin our much-wanted economy? When we reach the President's salary that was not the place for it. When we reach the clerks' salary we were asked to increase it ten per cent. When we reach these diplomatic expenses we are told, oh, no! we cannot touch them. We are told that American honor demands that we shall go on incurring these useless and extravagant expenditures. No man will let his own specialty be touched. All of us must stand back when we touch the particular thing that is to be economized. When we touch the Indian department the Indian Committee comes in with a protest. When we propose to reduce the expenses of the Army we are told by the Military Committee that they must not be touched. Now we are told that we must not reduce these diplomatic expenses. Great is Diana of the Ephesians. In the meantime taxes are rolling up, in the meantime retrenchment is becoming a by-word, and we are to spend the people's money upon some possible hope—of what? My friend says the hope that we may have some influence down in Ecuador when they put a canal through the Andes or a railroad over them, because that is the only way they can ever extend any canal or railroad into their country.

Now, Mr. Speaker, I am sorry I have detained the House so long upon this question. I offered to divide my time, with the pressure of business from every side and with the second appropriation bill stopped *in limine*. I trust the debate will now be brought to a close.

Mr. CHANLER. Before the gentleman takes his seat will he allow me to ask him if I understood him correctly to make an allusion to the motives which actuated the criticism of gentlemen on this side of the House in reference to striking out the minister at Chili some time ago?

Mr. BUTLER, of Massachusetts. I never said one word about that side of the House.

Mr. CHANLER. Because in the course of that debate remarks were made by myself at the time.

Mr. BUTLER, of Massachusetts. Oh, no sir. I said an argument to prejudice was made outside of the House.

Mr. CHANLER. The motive of the gentleman was right and proper. I do not wish to question his motive. I suppose him to be one of the greatest reformers in this country in some respects. When he took New Orleans he not only took the city but everything in it according to common rumor. [Laughter.]

Mr. MUNGEN. Will the gentleman from Massachusetts allow me a few minutes?

Mr. BUTLER, of Massachusetts. I will yield three minutes.

Mr. MUNGEN. Mr. Speaker, the same reasons exist for refusing to allow consuls and ministers in other places besides the South American republics; and I cannot see why, when the committee of conference are cutting off ministers there, they do not propose to retrench and reduce the representation at Hayti and Liberia. Certainly the same reasoning that the gentleman uses will apply to those republics. We cannot speak the negro language any more than the Spanish, if that is any reason for cutting off the representation; and as to the matter of commerce we do not care much about that. The gentleman said we did not wish to bring ourselves on a level with these insignificant, mongrel States. And in describing the people the gentleman used some rather curious arithmetic. He said they were one half one thing, three quarters another, and two thirds, I believe, another. That makes more than a whole number. But no matter for that. I desire to offer an amendment to the report putting Hayti and Liberia on the same footing with these other republics.

Mr. BUTLER, of Massachusetts. It cannot be amended.

Mr. MUNGEN. If it cannot be amended then I shall vote against it, because while we are keeping up ministers resident at these black

republics, Hayti and Liberia, neither of them have anything more than a *chargé d'affaires* here.

Mr. BUTLER, of Massachusetts. I wish the gentleman to understand that I do not reject his amendment. I only say the report cannot now be amended.

The SPEAKER. The report must be agreed to or rejected as a whole.

Mr. BUTLER, of Massachusetts. I yield for a short time to the gentleman from New York.

Mr. PRUYN. Mr. Speaker, I entirely coincide with many of the views stated by the gentleman from Massachusetts, and perhaps I might go further in some directions than the report of the committee of conference. But I think the committee have made one or two errors in their recommendation. If we have a full minister at Chili we ought to have one at Peru. And while I agree that some of the Central American missions might be abolished, or one person accredited to two Governments, I think when we come to the South American States we will find it difficult to do this. Take the case of the United States of Colombia, and Venezuela, while although they adjoin each other still it takes about as much time to go from Caracas, the chief city of Venezuela, to Bogota, the capital of the United States of Colombia, as it does to go from here to Rome. Whether we should send officers to these Governments called "commissioners" is questionable. It would be better, I think, to invest them with the usual diplomatic title of minister resident or *chargé d'affaires* and graduate the salaries according to the duties. This, I think, is worthy of more consideration than it can have received at the hands of the committee. The office of "commissioner" does not carry with it quite the powers the gentleman from Massachusetts seems to suppose. No commissioner, indeed no officer accredited from one Government to another, can exercise judicial functions in the country to which he is accredited without the consent of that country. For instance, our ministers in Turkey and China exercise judicial functions, but it is by special arrangement between the two Governments.

Mr. BANKS. The powers attributed to our minister in China are especially conferred by the statute in execution of the treaty made with that country. They are not derived from diplomatic law.

Mr. PRUYN. If these functions are exercised it must be by the consent of the country to which the minister is accredited.

Mr. BUTLER, of Massachusetts. The commissioner to China was appointed before the treaty was made.

Mr. PRUYN. We opened all our negotiations with the East—with the king of Siam, with Muscat, with Japan, and with China—by means of commissioners appointed specially for that purpose. There is no doubt that the term commissioner in our diplomatic relations has become a title well known to us, but it is not well known to the other nations.

Mr. BUTLER, of Massachusetts. Let me say to the gentleman that the title of commissioner was agreed upon after great consideration by the committee of conference as being the best as between that and *chargé d'affaires*.

Mr. BANKS. It was objected to.

Mr. BUTLER, of Massachusetts. Yes, by you.

Mr. PRUYN. In looking into Wheaton to find the definition of commissioner, and his description of the powers and duties of commissioners, I do not find that they are so broad as the gentleman from Massachusetts has, no doubt inadvertently, stated them to be.

In regard to one of the missions to South America, to which allusion has been made by the gentleman from Massachusetts, [Mr. BUTLER]—and but for that allusion I certainly should not have referred to it—I can say, not only from my own knowledge of the circumstances, but from information from the State Department, that the duties of that mission, although they happen to have been very burdensome and unusually intricate and perplex-

ing during the last year, in consequence of a revolution which has taken place in that country, have been discharged to the entire satisfaction of the State Department by a person closely related to me, whose rank has been only that of *chargé* for the time being, and whose compensation has barely sufficed to pay the actual office expenses of the legation. I have no doubt that the duties of that post could be satisfactorily discharged by a person of the rank of a *chargé*, and consequently at a less expense to the Government than a minister resident, and this is probably the case with reference to several of the Central and South American Governments. I think that further consideration should be given to this matter, and prefer that the report should be disagreed to, that we may have a new committee of conference and see if some other result cannot be reached.

The brief time I have prevents me from presenting other considerations bearing upon this matter, and I must leave it at this point.

Mr. JONES, of Kentucky. I desire to ask the gentleman from Massachusetts [Mr. BUTLER] a question.

Mr. BUTLER, of Massachusetts. Very well.

Mr. JONES, of Kentucky. To what extent does the reform go that is proposed by the report of the committee of conference? To what extent has the number of representatives to these little republics been cut down; and how much are the expenditures of this Government diminished thereby?

Mr. BUTLER, of Massachusetts. I will answer the gentleman. There is no place to which either a minister or a commissioner is not sent; so that the number of representatives is not cut down. But the expense is reduced \$100,000 in gold.

Mr. PRUYN. Let me say one word right here. I do not know that particular allusion has been made in this debate to our promulgation of the Monroe doctrine, which imposes duties upon us in relation to the Central American and South American States which might not otherwise have existed. We do not mean that other nations shall interfere there.

Mr. BUTLER, of Massachusetts. In answer to that, I wish to say that when the Monroe doctrine was promulgated the first movement was the establishment of the Panama mission.

I now want to call the attention of the House to the fact that commissioners are well known and well understood diplomatic officers, and are made a part of our consular system. I do not desire to continue this debate longer. I desire merely to call attention to two or three other points in the report of the committee of conference. One point is that the report provides that the President may send out agents to oversee diplomatic officers where it is charged that they are not behaving well. We never have had that power before. That is a measure of great necessity and of great economy, one that was the cause of a great deal of discussion. The other points are minor ones. The only one to which I wish now to call attention is where we have struck out an amendment of the Senate that if adopted would have taken about \$40,000 more out of the Treasury. It is now agreed that that shall be stricken out. I hope the report of the committee of conference will be concurred in. We have so much business yet to do that this subject cannot well be debated further. And if we have another committee of conference there will probably be another debate on their report, which may peril the passage of the bill. I propose now to call the previous question.

Mr. BANKS. I desire a few minutes to make a statement to the House.

Mr. BUTLER, of Massachusetts. To which it may be necessary for me to reply.

Mr. BANKS. It makes no difference to me whether the gentleman replies or not.

Mr. BUTLER, of Massachusetts. I will yield out of my time.

The SPEAKER. The gentleman has eight minutes remaining of his hour.

Mr. BANKS. I do not demand any of the

gentleman's time. I want to speak in my own time; I want ten or fifteen minutes.

The SPEAKER. The Chair will inform the gentleman that having spoken once on this question he cannot, under the rules, be again recognized as entitled to the floor if any other gentleman desires it.

Mr. BANKS. I will not take the floor if any other member desires to speak now.

Mr. BUTLER, of Massachusetts. I will yield the remainder of my time, but a minute or two, to the gentleman.

Mr. BANKS. Very well; I will go on with what I have to say; I dissented from the report of the committee of conference, understanding it to be somewhat different from what it is. It provides for five ministers resident, and for sending commissioners to seven States. I did not sign and therefore did not read the report when it was submitted to me, but I understood the proposition when it was finally adopted in the conference of the two Houses to provide for four ministers resident and eight commissioners. It now stands five ministers and seven commissioners. Commissioners are to be sent to Honduras, Nicaragua, and Costa Rica, and our ministers withdrawn—the very States where we are now contending for the transit, while a minister resident is to be retained at Guatemala, further north and above all these States. And in South America, commissioners are to be sent to Ecuador, Bolivia, Peru, and Uruguay, at a salary of \$3,000 instead of ministers resident at \$7,500. The difference between these salaries of \$7,500 for ministers and \$3,000 for commissioners is all the economy in that respect provided for in this bill. It does not amount to \$40,000.

My colleague has said that probably the Committees on Foreign Affairs, or at least the chairmen of the committees of the Senate and House, might have been somewhat sensitive because we had not considered this subject as we ought to have done, and might regard it as a constructive censure if any measures of this character were approved by the two Houses. Let me say that I have no fears of that kind. The House of Representatives has never in any manner referred this subject to the Committee on Foreign Affairs. It has on the contrary specifically referred its consideration to another committee of the House. The Senate has referred it to a special committee of that body, and not to the Committee on Foreign Affairs. Thus, by specific orders of the Senate and the House, this subject was removed from the two Committees on Foreign Affairs and assigned to other committees. Hence it would not have been proper or right for the Committee on Foreign Affairs to act upon this question.

Now, I ask my colleague what propriety there is in the Committee on Appropriations taking cognizance of this subject which has never been referred to that committee, and which by the rules of the House it is forbidden to consider, and presenting in its report what, as appears from the statement of my colleague, appears to have been the result of the labors of other committees of the Senate and the House. My friend from Rhode Island, [Mr. JENCKES,] is a member of the committees by whom this subject has been considered, and I should be glad if he would give the House his views on this question, though I do not know what they are.

One word in reply to what has been said of the rank of diplomatic representatives. When we send ministers to the South American and Central American republics we send them under the general diplomatic regulations as understood and accepted by the civilized nations of the world. Our statutes, where they touch upon this subject, only repeat the general regulations adopted by all nations. The practice on this subject, so far as Europe is concerned, is found in the regulations established with regard to the rank of diplomatic agents by the Congress of Vienna, in 1815. It was there declared that—

"Those of *chargés d'affaires* accredited near to the ministers charged with foreign affairs. The ambassadors, legates, and nuncios alone have the representative character."

When we send diplomatic officers to the South American or the Central American republics, we send them under this law, recognized by all civilized nations as governing diplomatic intercourse; and when we withdraw from these eight republics our ministers resident and send to them commissioners, officers not recognized by the established and accepted diplomatic regulations, having a character quite different from ambassadors or other diplomatic representatives, we cannot deny that under the present circumstances at least we do that which will require explanation, and which may possibly give just cause of offense to our sister republics. I know that by the statute of 1856, to which I referred in my first remarks, we provided for the representation of this country in China and Japan by commissioners. But such officers had a distinctive character which took them out of the category of purely diplomatic representatives; and wherever we have provided for such officers we have assigned the reasons for such a course. In this case we can assign no reason which would justify the change proposed.

In regard to the general subject of our diplomatic representatives in foreign States, I say to the House that when it shall come before us I will consider it without prejudice either in regard to the Central and South American republics or to the States of Europe and Asia. But I deny the right of the Committee on Appropriations, without having this subject referred to them at all, to appropriate to themselves the labors of other committees which have had the subject under consideration by the direct order of the House. In view of this special reference of the subject the members of the Committee on Foreign Affairs are relieved from any censure whatever; they have not considered it proper for them to take the subject under consideration.

I have said that the sole retrenchment proposed in the report of the committee of conference is in the substitution of seven commissioners for seven ministers resident, the difference being \$4,500 in the salary of each officer, and that economy is not the only object which the House should have in view. One object at least should be to send to the republics on this continent at least representatives of such rank as to give them precedence over the representatives of European Governments. It is therefore of no consequence that some of the great Powers of Europe send there a *chargé* or a consul general. We desire in those countries an officer who shall take precedence of the representatives of other nations. When all Europe is struggling for the control of the isthmus lying between the Pacific and the Atlantic oceans it is wise for us to withdraw our ministers from each of the States where the transit, if it be at all possible, must be effected? Attention has been called to the fact that Great Britain and France alone have obtained charters. Now, let me say to the House that every European nation has a deep interest in controlling this transit, distinct from and adverse to the interests of the American republics.

China, when our statutes authorized diplomatic intercourse with her, was regarded as outside of European civilization. So was Japan. Both of these nations have come forward and asked to be recognized. They claim now the privileges of and assume the responsibilities imposed by international law. We have responded to their invitation; we have negotiated treaties and accredited to them diplomatic representatives, and now we are asked substantially to assume the rejected note of China, and withdraw our diplomatic representatives not from Europe, but from the republics of this continent with whom we ought to maintain the closest intimacy, and where our representatives are imperatively demanded by all our interests and every consideration of public honor. Such a result, if unhappily it shall be reached, cau-

not be in accord with the judgment of the House or the interests of the country.

Mr. BUTLER, of Massachusetts. I only desire to say that we have a minister to China because we have a great trade with that country, which is constantly increasing, and which ought to be protected, while we have no trade worth speaking of with these Central and South American republics. I am not afraid of England and France taking anything away from us. They will do very well if they can keep what they have got without seeking to get anything more North or South. I now demand the previous question.

The previous question was seconded and the main question ordered.

Mr. BANKS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 88, nays 93, not voting 41; as follows:

YEAS—Messrs. Ames, Anderson, Bailey, Baker, Baldwin, Beaman, Beatty, Beck, Benjamin, Benton, Boyer, Brooks, Broomall, Buckley, Burr, Benjamin F. Butler, Chandler, Churchill, Reader W. Clarke, Cobb, Corley, Cornell, Covode, Deweese, Driggs, Ela, Farnsworth, Ferriss, Fox, Getz, Glossbrenner, Goldaday, Grover, Hamilton, Harding, Haughey, Hill, Holman, Hopkins, Hotchkiss, Humphrey, Johnson, Alexander H. Jones, Thomas L. Jones, Judd, Kellogg, Kelsey, Kerr, Knott, Koontz, Lash, William Lawrence, Loughridge, Lynch, Mallory, Marshall, McCarthy, McCormick, Miller, Moore, Morrill, Mullins, Newsham, Niblack, Norris, Pike, Plants, Poland, Ross, Sawyer, Scofield, Spaulding, Stevens, Stokes, Taylor, Thomas, Tift, Trowbridge, Upson, Van Aiken, Van Trump, Ward, William B. Washburn, Welker, Thomas Williams, William Williams, Wood, and Woodward—88.

NAYS—Messrs. Allison, Archer, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Banks, Barnes, Bingham, Blackburn, Blair, Boutwell, Boyden, Bromwell, Roderick R. Butler, Cary, Sidney Clarke, Clift, Coburn, Cook, Cullom, Dawes, Dickey, Dixon, Dodge, Donnelly, Eggleston, Eldridge, Thomas D. Eliot, Ferry, Fields, French, Garfield, Goss, Gove, Gravelly, Griswold, Haight, Hawkins, Heaton, Higby, Hooper, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Kelley, Ketcham, Kitchen, Ladin, George V. Lawrence, Loan, Logan, Marvin, McCullough, McKee, Mercer, Moorhead, Mungen, Myers, Nicholson, Nunn, Orth, Perham, Peters, Pettis, Phelps, Pomeroy, Price, Raum, Robertson, Roots, Schenck, Shanks, Shellabarger, Starkweather, Stewart, Stover, Taber, Taffe, John Trimble, Twiehell, Van Aernam, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, Whittemore, James F. Wilson, Windom, and Young—93.

NOT VOTING—Messrs. Adams, Barnum, Blaine, Boles, Bowen, Buckland, Cake, Callis, Delano, Dockery, Eekley, Edwards, James T. Elliott, Halsey, Asahel W. Hubbard, Julian, Lincoln, Maynard, Morrissey, Newcomb, O'Neill, Paine, Pierce, Pile, Polsley, Prince, Pruyn, Randall, Robinson, Selye, Sitgreaves, Smith, Stone, Sypher, Lawrence S. Trimble, Van Wyck, Vidal, Elihu B. Washburne, John T. Wilson, Stephen F. Wilson, and Woodbridge—41.

So the report of the committee was rejected.

Mr. BANKS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

Mr. BUTLER, of Massachusetts, demanded the yeas and nays.

Mr. BANKS. I withdraw the motion to reconsider, and move that the House insist on its non-concurrence and ask for another conference on the disagreeing votes of the two Houses. I will say to the Speaker that I do not wish to be on that committee of conference. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. BUTLER, of Massachusetts, demanded the yeas and nays.

The yeas and nays were not ordered.

The motion was agreed to.

Mr. BANKS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Leave of absence was granted to Mr. CAKE for two days.

MRS. MITCHELL.

On motion of Mr. LAWRENCE, of Pennsylvania, leave was granted for the withdrawal from the files of the House of the papers in the case of Mrs. Mitchell.

LEAVE TO PRINT.

Mr. MILLER was granted leave to print a

speech on the aspect of the country. [See Appendix.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that that body had passed joint resolutions and bills of the following titles, in which he was directed to ask the concurrence of the House:

Joint resolution (S. R. No. 231) providing for the reporting and publication of the debates in Congress;

Joint resolution (S. R. No. 72) for the relief of John M. Broome and others, the band of the twelfth Kentucky infantry;

Joint resolution (S. R. No. 119) authorizing the Secretary of War to take charge of the Gettysburg and Antietam national cemeteries;

Joint resolution (S. R. No. 211) for setting apart a portion of the Fort Snelling military reservation for a permanent military post and the settlement of all claims in relation thereto;

Joint resolution (S. R. No. 230) authorizing the erection of brick buildings for military purposes at Fort Totten, in Dakota Territory;

Joint resolution (S. R. No. 201) to drop from the rolls of the Army officers absent without leave;

An act (S. No. 877) to remove the charge of desertion from certain soldiers of the second North Carolina mounted infantry;

An act (S. No. 959) to repeal the second section of the act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes, approved March 2, 1867;

An act (S. No. 830) for the relief of Orlando Brown; and

An act (S. No. 960) relating to freedmen's hospitals.

The message further announced that the Senate had passed without amendment the following bills of the House:

An act (H. R. No. 424) amendatory of an act entitled "An act for the relief of certain drafted men;"

An act (H. R. No. 1280) for the relief of Lieutenant Leonidas Smith, late of the twenty-second regiment Indiana volunteer infantry;

An act (H. R. No. 1868) for the relief of H. A. White;

An act (H. R. No. 1878) for the relief of George W. Short;

An act (H. R. No. 273) to amend the act of April 10, 1806, for establishing rules and articles of government of the armies of the United States;

An act (H. R. No. 1489) granting a portion of the military reservation at Sault Ste. Marie, Michigan, to the American Baptist Home Mission Society;

An act (H. R. No. 1323) for the relief of Walter D. Plowden; and

An act (H. R. No. 1872) providing for the payment of Captain Goldman Bryson's mounted company.

The message further announced that the Senate had passed the following bills of the House, with amendments, in which the concurrence of the House was requested:

An act (H. R. No. 1279) in relation to additional bounties, and for other purposes; and

An act (H. R. No. 1487) to declare and fix the status of the corps of judge advocates of the Army.

SUFFRAGE.

Mr. BOUTWELL. I rise to make the following privileged report:

The committee of conference on the disagreeing votes of the two Houses on the joint resolution (S. No. 8) proposing an amendment to the Constitution of the United States having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from their amendments and agree to the resolution of the Senate, with an amendment, as follows:

In section one, line two, strike out the words "or hold office;" and that the Senate agree to the same.

GEORGE S. BOUTWELL,

JOHN A. BINGHAM,

JOHN A. LOGAN,

Managers on the part of the House.

WILLIAM M. STEWART,

ROSCOE CONKLING,

Managers on the part of the Senate.

Mr. WOODWARD. I rise to a question of order. I had the honor of presenting a question of order the other day in regard to a committee of conference on this subject and it was overruled, upon the ground, as I understand and as it was reported I believe in the Globe, that legislation in regard to a constitutional amendment was legislation under the ordinary rules of this body, and that a committee of conference was as suitable to that kind of legislation as to ordinary legislation. My point was that this was extraordinary legislation, resulting merely in an expression of concurrence on the part of the two Houses, and did not come under the ordinary rules of legislation at all, and therefore could not go to a committee of conference. But I was overruled on that point. Now I make another point of order resulting from the position taken by the Speaker on that occasion. I hold that this report of the committee of conference must go to the President of the United States for his approval; and in support of the point I refer the Chair to that clause of the Constitution which declares that—

"Every order, resolution, or vote in which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States, and before the same shall take effect shall be approved by him, or being disapproved by him shall be repassed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill."

The Chair will observe that this constitutional provision makes the only exception from ordinary legislation in cases of adjournment. The Chair has already ruled that legislation in regard to a constitutional amendment is ordinary legislation. It is either an order, a resolution, or a vote; and if it be an order, a resolution, or a vote, then it must go to the President for his concurrence.

Mr. CULLOM. I would inquire whether the gentleman is making a point of order or a speech?

The SPEAKER. The gentleman is making a point of order; it is an important one and the Chair desires to hear it.

Mr. CULLOM. It is a very long one.

Mr. WOODWARD. The gentleman seems to be very impatient, but I hope the Chair will allow me to state it fully.

The SPEAKER. The gentleman having stated the point of order the Chair will decide it. It has been raised once before and decided by the Chair. He will repeat the substantial points of that decision, which he thinks will satisfy the gentleman that his point is not well taken, although based by him upon the Constitution of the United States. The question was raised distinctly in 1803 in the Senate of the United States on a motion that the then proposed amendment to the Constitution should be submitted to the President:

"On motion that the Committee on Enrolled Bills be directed to present to the President of the United States for his approbation the resolution which has been passed by both Houses of Congress proposing to the consideration of the State Legislatures an amendment to the Constitution of the United States respecting the mode of electing President and Vice President thereof, it was decided in the negative—yeas 7, nays 23."

On a distinct vote of 23 to 7 the Senate voted that the Committee on Enrolled Bills should not present the proposed amendment. This is a decision made by one of the early Congresses. But the Chair is not satisfied with having it rest on that; he is disposed to present higher authority in overruling the point of order.

In 1798 a case arose in the Supreme Court of the United States depending upon the amendment to the Constitution proposed in 1794, and the counsel, in argument before the court, insisted that the amendment was not valid, not having been approved by the President of the United States. The Attorney General, Mr. Lee, in reply to this argument, said:

"Has not the same course been pursued relative to all other amendments that have been adopted? And the case of amendments is evidently a substantive act, unconnected with the ordinary business of legislation, and not within the policy or terms of investing the President with a qualified negative on the acts and resolutions of Congress."

That was the remark of the Attorney General. But the Chair does not rest his decision upon that. He sustains it by the decision of the Supreme Court of the United States. The court, speaking through Chase, Justice, in reply to the Attorney General, observed:

"There can surely be no necessity to answer that argument. The negative of the President applies only to the ordinary cases of legislation. He has nothing to do with the proposition or adoption of amendments to the Constitution."

As the Supreme Court of the United States has settled this question by a decision, the Chair does not need to read further authorities. But this question came before the Senate of the United States recently, since the recent exciting questions have been before the country, and the chairman of the Judiciary Committee of the Senate [Mr. TRUMBULL] offered the following resolution:

"Resolved, That the article of amendment proposed by Congress to be added to the Constitution of the United States respecting the extinction of slavery therein having been inadvertently presented to the President for his approval, it is hereby declared that such approval was unnecessary to give effect to the action of Congress in proposing said amendment, inconsistent with former practice in reference to all amendments to the Constitution heretofore adopted, and being inadvertently done, should not constitute a precedent for the future; and the Secretary is hereby instructed not to communicate the notice of the approval of said proposed amendment by the President to the House of Representatives."

Upon that resolution the Senator from Maryland, Mr. Reverdy Johnson, who had been formerly Attorney General of the United States, made a speech which the Chair will not quote, corroborating, however, the opinion of the Chair, and the Senate adopted the resolution of Mr. TRUMBULL without a division and without the yeas and nays.

The Chair, therefore, thinks that the question is settled, not only by the practice of Congress, but by a decision of the Supreme Court of the United States, and therefore overrules the point of order.

Mr. BOUTWELL. I propose to let the House understand what this report of the committee of conference is. It is the original proposition of the Senate with the words "and hold office" stricken out; so that if the report be agreed to the proposed amendment will read:

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

I am happy to be able to say, as the report shows, that it is unanimous so far as the managers on the part of the House are concerned, and I presume that the House is ready to vote upon the report of the committee. I demand the previous question unless some gentleman desires to debate the report, which I hope will not be the case at this late hour of the session.

The SPEAKER. The Chair will state that it requires a two-thirds vote to agree to the report.

Mr. POLAND. I ask that the Clerk may read the proposed constitutional amendment as it will stand if this report is adopted.

The Clerk read as follows:

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

The previous question was seconded and the main question ordered.

Mr. NIBLACK. Do I understand the Chair to say that it requires a two-thirds vote to agree to the report?

The SPEAKER. It is the opinion of the Chair that every part of the proceeding must be covered by a two-thirds vote in both branches.

Mr. BOUTWELL and Mr. NIBLACK called for the yeas and nays on agreeing to the report of the committee of conference.

The yeas and nays were ordered.

The question was taken; and there were—yeas 144, nays 44, not voting 35; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Bowen, Boyden, Brewster, Broomall, Buckley, Benjamin F. Butler, Roderick R. Butler, Callis, Churchill, Reader W.

Clarke, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Cornell, Covode, Cullom, Dawes, Dickey, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Thomas D. Elliot, James T. Elliott, Farnsworth, Ferriss, Ferry, Fields, French, Garfield, Goss, Gove, Gravelly, Griswold, Hamilton, Harding, Haughey, Heaton, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburt, Hunter, Ingersoll, Jenekes, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Kelsey, Ketchum, Kitchen, Koontz, Ladlin, Lash, William Lawrence, Logan, Lynch, Marvin, Maynard, McCarthy, McKee, Mercour, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newsham, Norris, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pettis, Pike, Plants, Poland, Pomeroy, Price, Prince, Raam, Robertson, Roots, Sawyer, Seofield, Shanks, Shellabarger, Smith, Spaulding, Starkweather, Stevens, Stewart, Stokes, Stoyer, Taft, Thomas, John Trimble, Trowbridge, Twichell, Unson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Windom, and the Speaker—144.

NAYS—Messrs. Archer, Axtell, Barnes, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glessbrenner, Golladay, Gruber, Haight, Hawkins, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Thomas L. Jones, Kerr, Knott, Longbridge, Mallory, Marshall, McCormick, McCullough, Mungen, Niblack, Nicholson, Phelps, Pruyn, Robinson, Ross, Stone, Taber, Van Auken, Van Trump, Wood, Woodward, and Young—44.

NOT VOTING—Messrs. Adams, Baldwin, Barnum, Blackburn, Boles, Buckland, Cake, Delano, Dewees, Dixon, Dockery, Edwards, Halsey, Asahel W. Hubbard, George V. Lawrence, Lincoln, Loan, Morrissey, Newcomb, Pierce, Pile, Polsley, Randall, Schenck, Selye, Sitgreaves, Sypher, Taylor, Tift, Lawrence S. Trimble, Van Wyck, Vidal, Elihu B. Washburne, Stephen F. Wilson, and Woodbridge—35.

The SPEAKER. The Chair votes in the affirmative upon agreeing to the report of the committee of conference, which in the opinion of the Chair requires a two-thirds vote. Upon this question the yeas are 145, nays 44. Two thirds having voted in the affirmative, the report is agreed to.

Mr. BOUTWELL moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 273) to amend the act of April 10, 1806, establishing rules and articles for the government of the armies of the United States;

An act (H. R. No. 424) amendatory of an act entitled "An act for the relief of certain drafted men;"

An act (H. R. No. 1280) for the relief of Lieutenant Leonidas Smith, late of the twenty-second Indiana volunteer infantry;

An act (H. R. No. 1323) for the relief of Walter D. Plowden;

An act (H. R. No. 1489) granting a portion of the military reservation at Sault Ste. Marie, Michigan, to the American Baptist Home Mission Society;

An act (H. R. No. 1868) for the relief of H. A. White;

An act (H. R. No. 1872) providing for the payment of Captain Goldman Bryson's mounted company; and

An act (H. R. No. 1878) for the relief of George W. Short.

ORDER OF BUSINESS.

Mr. BUTLER, of Massachusetts. I desire now to move to go into Committee of the Whole on the appropriation bills.

Mr. LAFLIN. Will the gentleman yield to me for a moment?

Mr. BUTLER, of Massachusetts. Certainly. Mr. LAFLIN. I ask the special attention of every member of this House to the statement I am about to make. If the House desires that the debates of Congress shall continue to be reported and printed immediate action should be taken looking to that end. I therefore ask the gentleman from Massachusetts [Mr. BUTLER] to forego the consideration of the appropriation bills for a time, in order to give me an opportunity to call up the joint resolution on this subject adopted by the

Senate yesterday. If the House shall take upon itself the responsibility of delaying action on that resolution then the Committee on Printing cannot be held responsible. I hope that the House will not go into Committee of the Whole on the appropriation bills, but will at once proceed to the consideration of the joint resolution of the Senate in reference to the debates of Congress.

Mr. BUTLER, of Massachusetts. Let me make a single statement in regard to the business of the House. The legislative, executive, and judicial appropriation bill is one, as is well known to members, of some fifty printed pages. After it shall have passed the House it will take a long time to engross it. It must then go to the Senate, there to be considered by the Senate Committee on Appropriations, then passed by the Senate and returned to this House for action on such amendments as the Senate may make to it. Now, if we do not get the bill through the House to-day—instead of taking up this subject of reporting and publishing the debates, which will probably give rise to considerable discussion, as it did in the Senate—it will be almost impossible to pass the appropriation bills at all this session. I will therefore move that the rules be suspended and the Committee of the Whole discharged from the further consideration of the legislative, executive, and judicial appropriation bill for the purpose of considering the same in the House at this time. There is still pending an amendment offered by the gentleman from Indiana, [Mr. HOLMAN.] And I propose also to allow the gentleman from Vermont [Mr. POLAND] to offer an amendment, after the bill is in the House, in relation to the compensation of employés.

Mr. HOLMAN. I would also remind the gentleman from Massachusetts [Mr. BUTLER] that the Delegate from Colorado [Mr. CHILCOTT] desires to have a vote on his amendment relating to the branch mint at Denver City.

Mr. BUTLER, of Massachusetts. Certainly; unanimous consent was given in the Committee of the Whole that a vote should be taken on that amendment in the House.

The question was then taken on the motion of Mr. BUTLER, of Massachusetts, and, two thirds voting in the affirmative, it was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Accordingly the rules were suspended; and the Committee of the Whole were discharged from the further consideration of House bill No. 1673, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870.

The SPEAKER. The bill is now before the House for consideration with the amendments made thereto in Committee of the Whole. The gentleman from Massachusetts [Mr. BUTLER] is entitled to the floor.

Mr. BUTLER, of Massachusetts. I now yield to the gentleman from Vermont [Mr. POLAND] to offer his amendment.

Mr. POLAND. I move to amend the bill by adding thereto what I send to the Clerk's desk.

The Clerk read as follows:

Sec. — And be it further enacted, That the clerks, messengers, watchmen, laborers, and other persons, male and female, now employed at Washington, District of Columbia, at a salary fixed by law or by regulations of a Department, in the State, Treasury, Navy, War, Interior, Agricultural, and Post Office Departments, including the Attorney General's office, the city post office, and the bureaus and branches of the several Departments herein named, who are paid at a rate not exceeding \$1,800 per annum, shall be allowed an additional compensation of ten per cent. on the amount of salary or pay received by them respectively during the past and present fiscal years; and that the necessary amount to pay the same be, and is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. POLAND. A very extraordinary statement was made in Committee of the Whole last evening on this subject. I desire to have read a short letter from the Treasury Department bearing on it.

Mr. BUTLER, of Massachusetts. That would be in the nature of debate.

Mr. POLAND. It is in answer to a statement made here last night.

Mr. BUTLER, of Massachusetts. I cannot consent to any debate before the previous question is seconded.

The SPEAKER. The Clerk will report the amendment of the gentleman from Indiana [Mr. HOLMAN] which the House authorized to be offered.

The Clerk read as follows:

And be it further enacted, That the sum necessary to pay the compensation of the female clerks, as provided for in the first section of this act, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The SPEAKER. This exhausts the authority granted by the House as to the offering of amendments.

Mr. BUTLER, of Massachusetts. I yield to the gentleman from Pennsylvania [Mr. O'NEILL] that he may offer an amendment.

Mr. O'NEILL. I move to amend the amendment of the gentleman from Vermont [Mr. POLAND] by inserting after the words "city post office" the following:

The clerks, carriers, and employés, male and female, in the Philadelphia post office.

The SPEAKER. This amendment will be considered as pending.

Mr. McCULLOUGH. I desire to offer an amendment to that amendment.

The SPEAKER. It would not be in order without unanimous consent. An amendment to an amendment is already pending.

Mr. BUTLER, of Massachusetts. I now demand the previous question on the bill and amendments.

Mr. POLAND. I desire to have a separate vote upon the amendment adopted by the Committee of the Whole restricting the jurisdiction of the Court of Claims.

Mr. BUTLER, of Massachusetts. I propose that each amendment shall be voted on separately.

The SPEAKER. The amendments will be read in their order, and those upon which a vote is not demanded will be considered as adopted.

The previous question was seconded and the main question ordered.

The SPEAKER. If the gentleman from Massachusetts desires to speak on the bill he must speak before the House begins to vote on the amendments.

Mr. BUTLER, of Massachusetts. I propose, if there be no objection, that the hour allowed me for debate shall be consumed in the discussion of the amendments as we progress in voting upon them.

The SPEAKER. The rules require that the hour to which the gentleman from Massachusetts is entitled after the seconding the previous question shall be occupied before the vote is taken on the amendments. The gentleman asks unanimous consent that he may be entitled to an hour for the discussion of amendments as the vote upon them proceeds. Is there objection?

Mr. HOPKINS. I object.

Mr. BUTLER, of Massachusetts. I move to suspend the rules for the purpose of allowing me my hour in the manner I have stated.

The motion to suspend the rules was agreed to; and it was ordered accordingly.

The amendments were read and were adopted in gross, except those upon which a separate vote was demanded.

The Clerk read the following amendment of the Committee of the Whole:

Strike out the following proviso:

Provided, That no judgment of said court for any sum exceeding \$5,000 shall be paid unless the same shall be confirmed by Congress.

And in lieu thereof insert the following:

Provided, That no judgment of said court for any sum exceeding \$5,000 shall be paid out of this appropriation unless the same shall be confirmed by Congress.

Mr. BUTLER, of Massachusetts. I yield for five minutes to the gentleman from Vermont.

Mr. POLAND. Mr. Speaker, this amendment in terms proposes merely that out of this appropriation no judgment of the Court of

Claims exceeding \$5,000 shall be paid. It does not purport on its face to prohibit the court from rendering a judgment for a larger sum than \$5,000; but practically and really it is cutting down the jurisdiction of the Court of Claims to \$5,000. Whoever gets a larger judgment, instead of being entitled to be paid at once out of the Treasury has to come to Congress for a confirmation of his claim just as if it had never been adjudicated.

Now, sir, if this plan is to prevail, if this doctrine is to be established in relation to the Court of Claims, we had better repeal the law constituting that court and abolish it at once. I do not understand this constant carking at the Court of Claims. I have never heard a suggestion from any quarter that the judges of the Court of Claims were not as upright judges, were not as industrious judges, were not as learned judges, and were not as competent to decide the questions which came before them as any other tribunal in this land. In my judgment it is of the highest importance and of the highest interest to this Government that the Court of Claims should be sustained; and instead of narrowing its jurisdiction, I say that its jurisdiction should be enlarged. It is a matter of great importance to the Government that the claims which may be held and urged against it should undergo a careful, impartial judicial investigation. We all understand what sort of investigation claims receive that are brought before Congress. Ordinarily before committees they are considered and decided on *ex parte* testimony, instead of having witnesses on both sides brought together and confronted. Claims which come before the committees, I repeat, are examined on mere *ex parte* evidence, a great portion of which is not under oath at all. Indeed, a great portion of it is such as we get from interested persons at the corners of the streets.

I say that it is not only the interest of the Government but the interest of honest claimants which will be greatly promoted by having these cases subjected to a judicial investigation. And as I have said before I know no charge against the court. I have never heard a suggestion of want of integrity in regard to that court. On the contrary, I believe that in every single respect the greatest confidence is reposed in their integrity. It is, of course, scarcely possible that in the multitude of cases which have come before them they should not at some time have made some wrong decisions; but I have never heard but what their judgments stand as firmly as the decisions of any other tribunals in this country. Why, then, this attempt to black-ball and fly-blow the Court of Claims in this way?

I can understand that it is our duty to provide some tribunal where honest people can go to have their honest rights adjudicated. We should not subject small claimants to the vexations and delays incident to an examination before Congress. These small and honest claimants we should look after and protect, for the large claimants who can pay for a heavy lobby influence can get their cases through Congress, while the small claimants who have no money to spend will not find it so easy. These claims against the Government should be subjected to a judicial examination by an honest and learned court. It is due to the Government and it is due to the claimants against the Government.

[Here the hammer fell.]

Mr. BUTLER, of Massachusetts. I now yield five minutes to the gentleman from Pennsylvania.

Mr. SCOFIELD. Mr. Speaker, I should like, if I could get the attention of the House, to state the views which are held by the Committee on Appropriations on this subject. The gentleman from Vermont has discussed the character of the Court of Claims. I do not propose to do so unless it be to indorse it. The chief justice of that court is from my own State, and I know him well. He is an able judge and an honest man. The Committee on Appropriations make no charge against the court and

give no currency to any scandal which may have originated anywhere else against it.

Under the Constitution of the United States the President and Senate can make treaties by which millions of money may be expended. Who ever heard before of a bill being presented to Congress to cover all the treaties which the President and Senate might make in the future? For half of the treaties that are made they bring in a bill to pay the expenses. We have, under the law of nations and also by solemn treaty with foreign Powers, agreed that we will save all the judgments of our own courts in favor of foreigners where vessels have been wrongly seized by our Navy; damages of that kind go into our prize courts; but never did you hear of a bill being brought in in advance to pay all the judgments that might be rendered in the future. Whenever a judgment is rendered it is taken to the Secretary of State by the party interested, and then through him or the President a communication is sent to Congress, and we make the necessary appropriation.

Now, we have a Court of Claims which has to hear and pass upon certain cases. When it has decided and given a judgment in favor of a certain claim we say that under the Constitution an appropriation must be made to pay it. We do it just exactly as we make appropriations to meet the judgments of other courts and the action of the treaty-making power of the country. But in this thing the claimants are to be such a favored class and this court is supposed to be so preëminent above all other United States courts that we must make an appropriation in advance, not to pay any claim that is now pending, but any claim that can be fished up and a judgment rendered thereon. We have made an exception already according to the bill of the Committee on Appropriations of judgments of \$5,000. Where a claimant comes in and gets only that amount we allow this court to put its hand into the Treasury of the United States and pay it without Congress knowing anything at all about it or without rendering any account. But all larger judgments must come to Congress, the same as in the case of a judgment of a prize court or the same as in the case of a treaty, and an appropriation must be asked for. As matter of course, as a general thing the appropriation will be made. The claim seldom goes through an investigation by a Committee of Claims, and there is no further examination of it than is made by the Committee on Appropriations. But if there is reason to suspect anything wrong, I suppose there would be some investigation here.

No honest man ought to ask that you shall open the Treasury door that he may thrust his hands in slyly, unbeknown to the public, and take out the funds to meet a judgment. The only thing I know against this Court of Claims is that they ask us to anticipate what they may do, to indorse their action in advance, to appropriate money and put it at their disposition, so that they can pay over their judgments. A pure court ought only to decide upon a claim and be entirely indifferent whether it is ever paid or not.

Mr. POLAND. I desire to say that I do not speak in behalf of the court. I have never had a word of conference with any member of it on this subject.

Mr. SCOFIELD. I did not say that the gentleman did.

Mr. POLAND. The objection was that they asked this or that.

Mr. SCOFIELD. When the gentleman went on to tell us what a great court it was I concurred with him. I only say I want to treat them as we do all other courts.

Mr. POLAND. It is in the interest of the Government that I am speaking, not of the court.

Mr. SCOFIELD. We have now pending bills to appropriate money to pay the judgments of this court and members of Congress in favor of claims. Who ever thought of making appropriations for that court in advance? I say let them all stand alike. When judgments above \$5,000 are rendered in favor

of claimants, let them come in here and ask for appropriations to meet their judgments.

Mr. BUTLER, of Massachusetts. I yield three minutes to the gentleman from Missouri.

Mr. PILE. If the argument of the gentleman from Pennsylvania [Mr. SCOFIELD] is worth anything at all it is against making any appropriation. If it amounts to anything it goes to show that the whole bill is wrong, that the whole previous action of Congress in regard to this Court of Claims is wrong, and that no appropriation should be made except upon a judgment rendered. Now, if you appropriate anything at all is there any reason why you should appropriate money to pay a judgment for \$5,000 and withhold the payment of a judgment for \$5,200?

I object to this amendment, secondly, because all the judgments heretofore rendered, if I am correctly informed, in the Court of Claims will amount to \$100,000; I mean all the judgments of less than \$5,000 each. It is to be restricted to that amount. There is an unexpended balance now in the Treasury to the credit of the Court of Claims sufficient to more than pay all the judgments that will be rendered in the next two or three years, taking the past as a precedent. I object to the amendment also because the effect of it is, in all cases where the claim amounts to more than \$5,000, no appeal from the judgment of the court can be had to the Supreme Court either by the Government or by the claimant, because it takes the case from the Court of Claims to Congress, and the Supreme Court cannot and will not entertain the case.

[Here the hammer fell.]

Mr. BUTLER, of Massachusetts. I yield two minutes to my colleague on the committee.

Mr. SPALDING. I do not suppose that any person wishes to impugn the ability or the integrity of the Court of Claims, but I do hold that power is fast stealing away from the Representatives of the people. Under the Constitution and under the laws as they were first enacted under the Constitution all these claims were obliged to be passed upon by the Congress of the United States. Now Congress has given power to this Court of Claims to take jurisdiction of claims unlimited in amount. They can take jurisdiction of a claim against the Government of the United States to the extent of \$1,000,000 as well as of one of ten dollars. Are we prepared to say that Congress will no longer hold any supervision over any claim against the Government, no matter what may be the amount? The committee only mean by this proviso to say that this appropriation of \$100,000 shall be expended in small amounts. The Court of Claims may have their judgments satisfied out of it to the extent of \$5,000 each judgment. That is the idea.

Now, if there be judgments for a greater amount, for \$20,000 or \$50,000 or \$100,000, let those judgments pass under the supervision of Congress. Has the Court of Claims any right to complain of this? Has any friend of the court any right to complain? If the sum is not large enough, why raise it from \$5,000 to \$10,000, but let us hold, in the name of the people, some check upon this tribunal, no matter how pure it may be as at present constituted.

Mr. BUTLER, of Massachusetts. I yield five minutes to the gentleman from Ohio, [Mr. MUNGEN.]

Mr. MUNGEN. I am opposed to the amendment and the whole proviso bringing cases from the Court of Claims to Congress. The proposition to limit the judgment of the Court of Claims is wrong, because—

1. Claimants have been induced by the laws of Congress to present their demands against the Government to that court for adjudication without regard to the amount.

2. If this limitation is made claimants had much better go directly to Congress, especially those who have doubtful claims, where they can present their cases *ex parte* before the committees, where the rules of evidence are not enforced and witnesses are not likely to be

cross-examined. Claims that are obviously bad and such as are not founded on contracts are not presented to the Court of Claims. All such seek some other avenue through which to reach the Treasury. They cannot bear the investigations of a court which rigidly enforces the rules of evidence.

3. Such an enactment would in effect prevent appeals from the Court of Claims to the Supreme Court, as the judgment or decision in such a case would not be final, but would depend upon the future action of Congress. As well might you limit the jurisdiction of the Court of Claims to claims not exceeding \$5,000, or organize the Senate and House of Representatives into a grand court of claims from whose decision there can be no appeal. If the latter, the bondholders and bankers would be all right, but God help the poorer and more honest claimants.

4. It would be unjust to those claimants who have been induced to prepare their cases for the court when less exactness in the testimony would have been sufficient for committees.

5. If the Government is to be sued at all it should go into the courts on equal terms with other suitors and the judgments of the court should be binding on all alike. There is no good reason why a claim of \$3,000 for hire of a steamboat, for instance, should be paid any more readily than a claim for \$6,000 for the hire of the same steamboat. The principle involved in the limitation proposed is wrong, and in my opinion tends to work injustice and great inequality—tends to retard and hinder the ends and objects of justice rather than to advance and promote the same.

Instead of limiting the powers of the court it would be infinitely better to extend them. Their examinations and investigations are open and fair. The testimony in the court is all printed and open to inspection. The Government is there represented by able and vigilant attorneys; and there is but little probability of the Government being defrauded through that channel—certainly not half so much as where the investigations are carried on in comparative privacy and on *ex parte* statements and testimony. Sometimes obscure clerks in the different Departments dispose of hundreds of thousands of dollars every year with no established rules to govern them; and they doubtless often reject or allow claims and accounts without regard to the evidence, but merely on their own whim or caprice. It is in their power often to allow claims as a matter of favor or reject them from spite. Their proceedings are secret, and all that can be known about them is the conclusion to which they come.

But again, I am very clear that the legitimate business of this House and of Congress is quite sufficient to engross the attention thereof without assuming the judicial as well as legislative functions of the Government. It is a well-known fact that when the Court of Claims was first established it was merely a court to examine and report upon claims and their finding, whether *pro* or *con*, should be reported to Congress. When so reported and certified up the matter went into the hands of the Committee on Claims, and many just claims are yet slumbering from the year 1859—ten years ago. Those claims are, I fear, "sleeping the sleep that knows no waking." This kind of legislation is directly intended to throw obstacles in the way of honest claimants; but we have seen enough in the past few days to warrant the belief that when bankers and bondholders come before this House they are received with "hats off," and the utmost respect paid them. I sincerely hope that the amendment and the whole proviso will be defeated.

Mr. BUTLER, of Massachusetts. I now ask for a vote upon the amendment.

The question was put upon agreeing to the amendment; and there were—ayes 67, noes 49.

Mr. POLAND call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided

in the affirmative—yeas 87, nays 79, not voting 56; as follows:

YEAS—Messrs. Allison, Ames, Delos R. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Beatty, Benjamin, Blair, Bowen, Broomall, Buckley, Benjamin F. Butler, Roderick B. Butler, Callis, Clift, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dekey, Dodge, Donnelly, Driggs, Buckley, Ella, Thomas D. Eliot, James F. Elliott, Ferriss, Ella, Fields, French, Garfield, Griswold, Halsey, Harding, Hill, Holman, Hooper, Hopkins, Chester D. Hubbard, Hulbard, Hunter, Ingersoll, Kelley, Kelsey, Ketcham, Koontz, George V. Lawrence, William Lawrence, Logan, Loughridge, McCarthy, McKee, Moore, Newsham, Nunn, O'Neill, Orth, Paine, Perham, Pettis, Price, Prince, Raum, Sawyer, Scofield, Shanks, Shellabarger, Spalding, Stevens, Stokes, Taylor, Trowbridge, Upson, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, William Williams, and Windom—87.

NAYS—Messrs. Anderson, Archer, James M. Ashley, Axtell, Barnes, Beck, Benton, Bingham, Boyden, Boyer, Brooks, Burr, Cary, Chanler, Churchill, Corley, Dewees, Dixon, Dockery, Eldridge, Fox, Getz, Golladay, Gove, Gravely, Grover, Haight, Haughey, Hawkins, Heaton, Hotchkiss, Richard D. Hubbard, Jenckes, Johnson, Alexander H. Jones, Thomas L. Jones, Judd, Julian, Kerr, Knott, Mallory, Marshall, Marvin, Maynard, McCormick, McCullough, Mercer, Miller, Moorhead, Mullins, Mungen, Nickol, Nicholson, Norris, Peters, Pile, Plants, Poland, Pomeroy, Pruyn, Robertson, Robinson, Roots, Ross, Smith, Stewart, Stone, Stover, Taber, Taffe, Tift, Van Auken, Robert T. Van Horn, Van Trump, Whittemore, John T. Wilson, Wood, Woodward, and Young—79.

NOT VOTING—Messrs. Adams, Arnell, Barnum, Blackburn, Blaine, Boles, Boutwell, Bromwell, Buckland, Cake, Reader W. Clarke, Sidney Clarke, Delano, Edwards, Eggleston, Farnsworth, Glossbrenner, Goss, Hamilton, Higby, Asahel W. Hubbard, Humphrey, Kellogg, Kitchen, Lakin, Lash, Lincoln, Loan, Lynch, Morrell, Morrissey, Myers, Newcomb, Phelps, Pierce, Pike, Poislsey, Randall, Schenck, Selve, Sitgreaves, Starkweather, Sypher, Thomas, John Trimble, Lawrence S. Trimble, Twichell, Van Aernam, Burt Van Horn, Van Wyck, Vidal, Elihu B. Washburne, Thomas Williams, James F. Wilson, Stephen F. Wilson, and Woodbridge—56.

So the amendment was agreed to.

An amendment to the following paragraph was read:

Department of State:

For compensation of the Secretary of State, two Assistant Secretaries of State, for chief clerk, eight clerks of class four, additional to one clerk of class four as disbursing clerk, eight clerks of class three, three clerks of class two, three clerks of class one, one messenger, one assistant messenger, and seven laborers, \$58,140: *Provided*, That the pay of any messenger in either of the departments (legislative, executive, or judicial) of the Government employed during the whole year shall be \$840 per annum, and no more; the pay of any assistant messenger employed as aforesaid shall be \$700 per annum, and no more; and the pay of all laborers and watchmen (whether night or day) employed as aforesaid, shall be \$600 per annum, and no more.

The amendment was to strike out "\$600" and insert "\$720" near the close of the paragraph.

Mr. BUTLER of Massachusetts. I wish to briefly call the attention of the House to this matter, as there are quite a number of members here now who were not here when this amendment was made. The Committee on Appropriations fixed a scale for all the laborers and watchmen in all the Departments where the labor is by law fixed at eight hours a day; bringing the compensation down to what is now paid by private individuals for the same kind of service, we fixed the compensation at \$600 a year. The gentleman from Maine [Mr. PETERS.] offered this amendment, raising it to \$720 a year. We fixed it where we did for the sake of economy; he proposes to raise it.

Mr. PETERS. I understood the gentleman to say that these watchmen and laborers are employed only eight hours a day. Now, I am of the opinion that those employed in the Treasury Department, especially those in the Revenue Bureau, are engaged in service for twelve hours a day. Last year the minimum pay allowed them was \$720, the same as proposed in my amendment.

Mr. BUTLER, of Massachusetts. They are only engaged in watching twelve hours a day; but a day's work is by law limited to eight hours.

The question was then taken on the amendment; and it was agreed to.

Mr. SCOFIELD. With the permission of the gentleman from Massachusetts [Mr. BUTLER] I will say a word right here. I stated in debate the other day that the Fourth Auditor of the Treasury had been before the commit-

tee and we had consulted with him. I confounded him with another gentleman who appeared before the committee. He called on the committee this morning and desired that I should make this statement to the House. I suppose it is because his clerks and others employed by him might otherwise think that he came before the committee and endeavored to have their number reduced that he desires to have this impression corrected.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had passed without amendment a joint resolution (H. R. No. 460) in relation to the meeting of the House of Representatives at the first session of the Forty-First Congress.

The message further informed the House that the Senate had passed, with amendments in which the concurrence of the House was requested, a bill (H. R. No. 1327) to amend an act entitled "An act to exempt certain manufactures from internal taxes, and for other purposes," approved March 31, 1868.

The message further informed the House that the Senate had passed a joint resolution (S. R. No. 238) extending the time for the completion of the first twenty miles of the Cairo and Fulton railroad, in which the concurrence of the House was requested.

ENROLLED BILL SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

A bill (S. No. 968) authorizing certain banks named therein to change their names.

WITHDRAWAL OF PAPERS.

Mr. PERHAM asked and obtained leave to withdraw from the files of the House the papers relating to the application of James P. Earle for a pension.

Mr. PRUYN asked and obtained leave to withdraw from the files of the House the papers relating to the application of the heirs of General Solomon Van Rensselaer for a pension.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The House resumed the consideration of the legislative, executive, and judicial appropriation bill.

An amendment from the Committee of the Whole was read, to insert in the portion of the bill relating to the employés of the Treasury Department the following:

The compensation of the female clerks authorized by this section shall be the same as of clerks of the first class, and where employed on work performed by clerks of the higher classes they shall receive like compensation with the other clerks of such classes.

Mr. LOUGHRIDGE. I ask a separate vote on the amendment just read.

Mr. HOLMAN. Will the gentleman from Massachusetts [Mr. BUTLER] allow three minutes debate on this amendment?

Mr. BUTLER, of Massachusetts. I think there ought not to be any debate on it.

Mr. WARD. Does this amendment propose to increase the salaries of these female clerks?

Mr. BUTLER, of Massachusetts. It puts the salaries of all the female clerks in all the Departments up as high as the salaries of the male clerks.

Mr. HOLMAN. It puts the female clerks on the same footing with the male clerks so far as their salaries are concerned, nothing more.

Mr. BUTLER, of Massachusetts. On this amendment I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 89, nays 64, not voting 69; as follows:

YEAS—Messrs. Anderson, Archer, Arnell, James M. Ashley, Axtell, Baker, Baldwin, Barnes, Bingham, Boyer, Broomall, Burr, Callis, Cary, Chanler, Sidney Clarke, Clift, Cornell, Dawes, Dixon, Dodge, Donnelly, Eckley, Ella, Fox, French, Garfield, Getz, Golladay, Gove, Gravely, Grover, Haight, Hamilton, Harding, Haughey, Heaton, Higby, Holman, Hopkins, Chester D. Hubbard, Ingersoll, Jenckes, Johnson, Thomas L. Jones, Julian, Kellogg, Kerr, Knott,

William Lawrence, Lincoln, Mallory, Marshall, Maynard, McCarthy, McCullough, McKee, Mungen, Myers, Niblack, Norris, O'Neill, Orth, Paine, Perham, Plants, Pomeroy, Prince, Pruyn, Raun, Robertson, Robinson, Ross, Shanks, Smith, Starkweather, Stone, Taber, Tift, Twitchell, Van Auker, Van Trump, William B. Washburn, Whittemore, John T. Wilson, Windom, Wood, Woodward, and Young—89.

NAYS—Messrs. Allison, Ames, Delos B. Ashley, Bailey, Beaman, Beatty, Benjamin, Benton, Blair, Boutwell, Bowen, Buckley, Benjamin F. Butler, Rod-erick B. Butler, Churchill, Cobb, Cook, Covode, Cul-lom, Deweese, Thomas D. Eliot, Ferriss, Fields, Griswold, Halsey, Hooper, Hotchkiss, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Judd, Kel-ley, Kelsey, Ketcham, Koontz, Laffin, George V. Law-rence, Logan, Lougbridge, Mercer, Miller, Moore, Moorhead, Mullins, Peters, Pettis, Price, Sawyer, Scofield, Shellabarger, Spaulding, Stewart, Stover, Taffe, Taylor, Trowbridge, Upson, Burt Van Horn, Ward, Cadwalader, C. Washburn, Welker, Thomas Williams, and William Williams—64.

NOT VOTING—Messrs. Adams, Banks, Barnum, Beck, Blackburn, Blaine, Bole, Boyden, Bromwell, Brooks, Buckland, Cake, Reader W. Clarke, Coburn, Corley, Delano, Dickey, Dockery, Driggs, Edwards, Eggleston, Eldridge, James T. Elliott, Farnsworth, Ferry, Glossbrenner, Goss, Hawkins, Hill, Asabel W. Hubbard, Alexander H. Jones, Kitchen, Lash, Loan, Lynch, Marvin, McCormick, Morrell, Morrissey, Newcomb, Newsham, Nicholson, Nunn, Phelps, Pierce, Pike, Pile, Poland, Polsley, Randall, Roots, Schenck, Selye, Sitgreaves, Stevens, Stokes, Sypher, Thomas, John Trimble, Lawrence S. Trim-ble, Van Aernam, Robert T. Van Horn, Van Wyck, Vidal, Elihu B. Washburne, Henry D. Washburn, James F. Wilson, Stephen F. Wilson, and Wood-bridge—69.

So the amendment was agreed to.

The **SPEAKER**. The time for the recess having arrived, this bill, according to the usage of the House, will go over till to-morrow morn-ing as unfinished business. The hour of half past four o'clock p. m., having arrived, the House takes a recess till half past seven o'clock p. m.

EVENING SESSION.

The House reassembled, agreeably to order, at half past seven o'clock p. m.

MOSES F. SHINN.

Mr. **JULIAN**, by unanimous consent, re-ported from the Committee on the Public Lands a bill (S. No. 467) to confirm an entry of land by Moses F. Shinn.

The bill provides for confirming the entry by Moses F. Shinn, of the northeast quarter of section sixteen in township fifteen, north of range thirteen east, in the district of lands sub-ject to sale at Omaha, Nebraska, made on the 22d day of August, 1866, by cash certificate No. 1931.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. **JULIAN** moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POST ROADS.

Mr. **FARNSWORTH**, by unanimous con-sent, reported from the Committee on the Post Office and Post Roads a bill (H. R. No. 2006) to establish certain post roads; which was read a first and second time.

Mr. **FARNSWORTH**. This bill simply des-ignates post roads; it contains nothing in the shape of legislation. I ask unanimous consent that the reading of the bill in full be dispensed with.

There being no objection, the reading of the bill was dispensed with.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. **FARNSWORTH** moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. **PILE** obtained leave of absence from to-night's session on account of sickness.

DEFICIENCY APPROPRIATION BILL.

Mr. **SCOFIELD**. I rise for the purpose of moving that the House resolve itself into the

Committee of the Whole on the deficiency ap-propriation bill; but as preliminary to that motion I move that when the House shall re-solve itself into the Committee of the Whole upon that bill all general debate terminate in one minute.

The motion was agreed to.

Mr. **SCOFIELD**. I now move that the House resolve itself into the Committee of the Whole to proceed to the consideration of the deficiency appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole (Mr. **PRICE** in the chair) and proceeded to the consideration of the bill (H. R. No. 1911) making appropria-tions to supply deficiencies in the appropria-tions for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes.

The first reading of the bill was, by unani-mous consent, dispensed with.

The reading of the bill was then proceeded with by paragraphs for amendment.

The Clerk read as follows:

And hereafter there shall only be employed and paid for labor in the Treasury building and the five other buildings used by the Department for light-ing, cleaning, and general care and superintendence thereof, the following persons, to wit, one super-intendent, at a salary of \$2,500 per year; one clerk of class four and one clerk of class one; one engineer in charge of heating apparatus, at a salary of \$1,200 a year; five firemen, at a salary of \$600 each per year; one machinist and gas-fitter, at a salary of \$1,200 per year; one captain of the watch, at a salary of \$1,400 per year; one storekeeper, at a salary of \$1,000 per year; thirty watchmen, at a salary of \$820 each per year; thirty laborers, at a salary of \$600 each per year; seventy women as cleaners, at a salary of \$180 each per year. *And it is hereby provided*, That no account for contingent expenses at any of the bureaus of the Treasury Department shall hereafter be allowed except on the certificate of the general superintendent of the Treasury buildings that they are necessary and proper, and that the prices paid are just and reasonable; and the said superintendent shall keep a full, just, and accurate account in detail of all amounts expended under the head of contin-gent expenses for the several bureaus of the Treasury Department, which shall be transmitted to Congress by the Secretary of the Treasury at every December session. And the expenditure for furniture and re-pairs for the same shall be made by the said super-intendent, subject to the approval of the Secretary of the Treasury; and it shall be the duty of said superin-tendent to keep a just and accurate account in detail of all the amounts paid for the purchase of furniture, and also for the repairs thereof, as well as a full state-ment of the disposition of the old furniture; all of which shall be transmitted to Congress at every December session thereof by the Secretary of the Treasury. *And it is hereby provided further*, That hereafter there shall be no payment made by any Department of the Government out of appropria-tions made for contingent and incidental expenses for clerk hire, messengers, or laborers.

Mr. **WASHBURN**, of Indiana. I rise to a question of order. I make the point that the following proviso is independent legislation, and therefore not in order to an appropriation bill:

And it is hereby provided further, That hereafter there shall be no payment made by any Department of the Government out of appropriations made for contingent and incidental expenses, for clerk hire, messengers, or laborers.

The **CHAIRMAN**. The Chair sustains the point of order, and the proviso will be stricken out.

Mr. **SCOFIELD**. In the first part of the paragraph read by the Clerk I move to strike out the word "hereafter" and in lieu thereof to insert "after the present fiscal year."

The amendment was agreed to.

Mr. **KELSEY**. I see that seventy women are employed as cleaners. Is not that a mis-take? If it is intended to be so reported I move to reduce the number to twenty.

The amendment was agreed to.

Mr. **HARDING**. I move to strike out "six hundred" and insert "eight hundred;" so that the bill will then read: "thirty laborers at a salary of \$800 each per year."

Mr. **Chairman**, I submit to the House the propriety of adopting this amendment. We have heard the argument again and again why the salary of clerks in Washington should be increased. We all agree that it is difficult for men with families to live in this city on \$1,200 a year. Here, then, it is proposed to pay these

laborers \$600 a year, who work a great many hours a day more than clerks. If it is right that clerks should have enough to keep them-selves and families, I do not see why we should starve these laborers on a salary of \$600 a year. Now, for one, I do not propose to starve them, and therefore I have moved an amendment increasing their pay to \$800 a year.

Mr. **SCOFIELD**. Mr. **Chairman**, I am not disposed to consume time in the discussion of this item. It has been discussed at various times in the House. The committee were of the opinion, and I am sure they are right, that \$600 was more than these laborers could get from any other employer than the Govern-ment. If we make these salaries so much above the market price for this labor we will create a struggle for these places, and by pay-ing these sums to single individuals we do not help the great body of laborers who have to take the market price for their labor.

Mr. **FARNSWORTH**. This is not for labor-ers for the next fiscal year.

Mr. **SCOFIELD**. It is for the past and for the remainder of the present fiscal year; that is up to the 3d of June.

Mr. **FARNSWORTH**. Then this is to pay them what we agreed to pay them when they were hired.

Mr. **SCOFIELD**. The great mass of them are not hired in that way. All I have to say is, I am willing the committee shall decide this question, but I would like to have it disposed of without debate, for I am anxious to dis-pose of the bill to-night, if possible. If the committee want to pay these men \$800, of course they will do it. It is a question that is within the apprehension of every person upon a moment's consideration.

Mr. **ELDRIDGE**. Will the gentleman in-form the House how these persons are em-ployed? I understood him to say, in reply to the gentleman from Illinois, that they were "not hired in that way." Now, this is a defi-ciency bill, and I suppose it is to supply defi-ciencies in the appropriations, making up for what is lacking for the present fiscal year. How are these men employed? Are not their wages fixed by some law in existence at this time?

Mr. **SCOFIELD**. There is no law on the subject. We appropriate a round sum, and the Secretary of the Treasury has been in the habit of disbursing it as he sees fit, pretty much, giving no account. We have provided that hereafter we shall have a return of the whole disbursement of this fund, with the items and the persons to whom the money is paid. We have provided also the amount which he shall pay. I believe these women are paid by the week or month, about three dollars and fifty cents a week.

Mr. **FARNSWORTH**. Does the gentleman know how many laborers are employed?

The **CHAIRMAN**. Debate is exhausted on the amendment.

Mr. **AXTELL**. I move to strike out the last word of the amendment simply to say that in striking out these "seventy women" and reduc-ing the number to "twenty" the committee have made a mistake. There are seventy cleaners employed now. They come to the buildings after the offices are closed in the evening and do this work. They are poor women and get the magnanimous sum of \$180 a year for working two or three hours each day after the closing of the offices. If we strike out the appropriation for fifty of them I sup-pose they will be left to another Congress for their pittance to be provided for in another deficiency bill.

The **CHAIRMAN**. This is not before the committee.

Mr. **AXTELL**. It has been passed upon without the knowledge of many gentlemen. It only shows the necessity of watching these things.

Mr. **SCOFIELD**. Does the Chair decide that the amendment of the gentleman from New York [Mr. **KELSEY**] is carried?

The **CHAIRMAN**. It prevailed.

Mr. SCOFIELD. I thought it was lost. I ask unanimous consent to recur to it again.

Mr. KELSEY. I inquired whether there was not a mistake. I supposed so great a number could not be needed.

Mr. SCOFIELD. I will state that the word "seventy" ought to be reinserted. I will also say that the amount paid to these women is very small per year. The reason is they are not employed all the day. They have to come in and clean up all the rooms and halls of the Treasury buildings at night. There are several buildings, and there is a very large space to be cleaned. The pay corresponds to the service. I hope there will be no objection to reinserting it.

No objection being made, the word "seventy" was restored.

Mr. NIBLACK. I rise to a point of order, that from line thirteen to fifty-one it is new and independent legislation. It makes new provisions for the Treasury Department and changes existing law.

The CHAIRMAN. The gentleman is aware that the paragraph has not only been read but amended. The point of order is therefore too late.

Mr. NIBLACK. The whole of it?

The CHAIRMAN. The whole paragraph; and the last part of it has been stricken out upon a point of order raised.

Mr. ELDRIDGE. I move to strike out from lines thirteen to forty-eight inclusive.

The CHAIRMAN. That is not in order now; there is an amendment pending.

Mr. ELDRIDGE. Mine will be in order when that is disposed of, I suppose.

The CHAIRMAN. It will.

Mr. PAINE. Before the motion is made to strike out any part of the paragraph I desire to offer an amendment.

The question being taken on the amendment of Mr. HARDING, it was disagreed to.

Mr. PAINE. Before my colleague moves to strike out the entire paragraph I move to add at the end of the paragraph the following additional proviso:

And it is hereby provided further. That no part of the appropriation made by this act for contingent and incidental expenses shall be paid for clerk hire, messengers or laborers.

Mr. WASHBURN, of Indiana. I make the point of order on that amendment. It is the same thing that was stricken out just now on a point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. PAINE. I appeal from the decision of the Chair. There is a difference between the proviso I offered and the one which was originally in the bill.

The CHAIRMAN. The bill contained this proviso:

And it is hereby provided further. That hereafter there shall be no payment made by any Department of the Government out of appropriations made for contingent and incidental expenses, for clerk hire, messengers, or laborers.

The point of order was made upon that that it was independent legislation. The Chair sustained the point of order and the proviso was stricken out. The gentleman from Wisconsin now offers an amendment similar to that, as the Chair understands, and the Chair, therefore, rules it out of order. From this decision the gentleman from Wisconsin appeals; and the question is "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. SCOFIELD. I appeal to my friend from Wisconsin to withdraw his appeal, so as not to consume time. I had always supposed the rule to be that where the amendment is a qualification upon the present appropriation it is in order, but if the Chair thinks otherwise I hope time will not be consumed, because the amendment may be offered again in the House. This is only a qualification on the present appropriation, and is not a general law.

Mr. PAINE. That is just what it is.

The CHAIRMAN. The Chair will revise

his decision. There are two words contained in the amendment that escaped his attention. The amendment will be considered as pending.

Mr. PAINE. I want to say one word in support of my amendment. The gentleman from Indiana [Mr. WASHBURN] very properly objected to the proviso originally in the bill, and raised the point of order upon it, and it was ruled out because it covered not only this appropriation but future appropriations. The amendment which I propose is not obnoxious to any such objection as that, and it seems to me that we ought to incorporate into this bill precisely that provision, which will prevent the diversion of the appropriation meant for incidental and contingent expenses to the payment of clerk hire, messengers, or laborers.

The amendment was agreed to.

Mr. ELDRIDGE. I now move to strike out the entire paragraph, as amended, as follows:

And after the present fiscal year there shall only be employed and paid for labor in the Treasury building and the five other buildings used by the Department for lighting, cleaning, and general care and superintendence thereof the following persons, to wit: one superintendent, at a salary of \$2,500 per year; one clerk of class four and one clerk of class one; one engineer in charge of heating apparatus, at a salary of \$1,200 a year; five firemen, at a salary of \$600 each per year; one machinist and gas-fitter, at a salary of \$1,200 per year; one captain of the watch, at a salary of \$1,400 per year; one storekeeper, at a salary of \$1,000 per year; thirty watchmen, at a salary of \$820 each per year; thirty laborers, at a salary of \$600 each per year; seventy women as cleaners, at a salary of \$180 each per year. *And it is hereby provided.* That no account for contingent expenses at any of the bureaus of the Treasury Department shall hereafter be allowed, except on the certificate of the general superintendent of the Treasury buildings that they are necessary and proper, and that the prices paid are just and reasonable; and the said superintendent shall keep a full, just, and accurate account in detail of all amounts expended under the head of contingent expenses for the several bureaus of the Treasury Department, which shall be transmitted to Congress by the Secretary of the Treasury at every December session. And the expenditure for furniture and repairs for the same shall be made by the said superintendent, subject to the approval of the Secretary of the Treasury; and it shall be the duty of said superintendent to keep a just and accurate account in detail of all amounts paid for the purchase of furniture, and also for the repairs thereof, as well as a full statement of the disposition of the old furniture; all of which shall be transmitted to Congress at every December session thereof by the Secretary of the Treasury.

And it is hereby provided further. That no part of the appropriation made by this act for contingent and incidental expenses shall be paid for clerk hire, messengers, or laborers.

I make the motion because this is a deficiency bill, and it is manifestly improper to put upon such a bill independent legislation. A deficiency bill, it seems to me, ought not to cover anything but deficiencies.

At the suggestion of the gentleman from New York [Mr. KELSEY] I will modify my amendment and move to strike out from the word "and," in line twenty-nine, down to and including the word "Treasury," in line forty-eight, as follows:

And it is hereby provided. That no account for contingent expenses at any of the bureaus of the Treasury Department shall hereafter be allowed, except on the certificate of the general superintendent of the Treasury building that they are necessary and proper, and that the prices paid are just and reasonable; and the said superintendent shall keep a full, just, and accurate account in detail of all amounts expended under the head of contingent expenses for the several bureaus of the Treasury Department, which shall be transmitted to Congress by the Secretary of the Treasury at every December session. And the expenditure for furniture and repairs for the same shall be made by the said superintendent, subject to the approval of the Secretary of the Treasury; and it shall be the duty of said superintendent to keep a just and accurate account in detail of all the amounts paid for the purchase of furniture, and also for the repairs thereof, as well as a full statement of the disposition of the old furniture; all of which shall be transmitted to Congress at every December session thereof by the Secretary of the Treasury.

I do not propose to make any argument in favor of my amendment. It is apparent to everybody that this is legislation here for the purpose of sugar-coating the pill that this bill provides we shall take, or else it is to establish a different rule from that which is now provided by law. And I do not think that deficiency bills ought to contain any such provisions. They are intended to make up for what we have heretofore failed to appropriate; and

they ought to be strictly confined to that purpose. This idea of making appropriation bills cover all kinds of legislation is manifestly an absurdity, and I hope this portion will be stricken out.

Mr. SCOFIELD. I am not surprised that the gentleman from Wisconsin, [Mr. ELDRIDGE,] and other members of the House should be watchful of legislation in an appropriation bill, and especially in a deficiency bill, and I honor them for their attention. But they will observe that all the legislation which is proposed in these bills is in favor of a greater accountability on the part of the officers charged with the disbursing of these funds, and also in favor of a greater economy. Therefore, if they desire, as I have no doubt they do, to carry honesty as well as economy into all the branches of the public service, they ought not to oppose this proposed legislation.

The portion of this paragraph now proposed to be stricken out is simply a provision that the superintendent of the Treasury building shall certify that the expenditures are necessary and proper; and also that certain expenses which he himself incurs, such as the purchase of furniture, now made without the supervision of any one, shall hereafter be supervised by the Secretary of the Treasury, who shall himself, in turn, certify that this furniture was necessary and proper, and that an account of it shall be sent to Congress at its session in December next. My friend from Wisconsin will see that it is in the interest of economy and of honesty, although it may be, as he says, somewhat out of place in an appropriation bill.

Mr. ELDRIDGE. Allow me to suggest to the gentleman that here is a provision simply for appropriations that we neglected to appropriate heretofore. I suppose these expenses have been in fact incurred already, or arrangements have been made to incur them.

Mr. SCOFIELD. The gentleman is mistaken in that.

Mr. ELDRIDGE. The persons have been employed, and they have already earned their wages. Why, then, limit the action of the officers who are to pay them? Why not let them be paid under existing laws? And then, if the gentleman desires, I may go with him to establish the rule he seeks to establish here. But why put it on a deficiency bill? Why not keep those bills exclusively for deficiency purposes?

Mr. SCOFIELD. The gentleman is quite correct in his theory, but quite as much in error as to the fact. This appropriation is not for past expenses, but for future expenditures. The expenses which have been incurred up to the present time, and which will be incurred for some little time longer, will be paid out of money already appropriated. But this item of appropriation is to enable the Department to run until the 30th day of June next. They have had no right to anticipate this deficiency bill and to expend money not yet appropriated; and as a matter of fact, they have not done it.

The question was then taken upon the amendment of Mr. ELDRIDGE; and it was not agreed to.

Mr. SCOFIELD. I am directed by the Committee on Appropriations to move to amend this paragraph by adding to it the following:

To complete the north wing of the Treasury building and approaches, including all liabilities, \$163,599 20.

For repairs and preservation of public buildings, \$35,000.

The amendment was agreed to.

No further amendment was offered.

The Clerk read as follows:

For contingent expenses of the Treasury Department and the several bureaus, \$10,000.

Mr. SCOFIELD. I am instructed by the Committee on Appropriations to move to strike out the clause just read.

The amendment was agreed to.

The Clerk read as follows:

For necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes, \$400,000.

Mr. SCOFIELD. I am instructed by the

Committee on Appropriations to move to amend this paragraph by adding to it the following:

Provided, That no part of the money hereby appropriated shall be paid for clerk hire or other service, except to persons actually engaged in producing such issues in the Bureau of Engraving and Printing.

Mr. NIBLACK. I desire to offer an amendment to this clause.

Mr. SCOFIELD. The gentleman can offer his amendment after the one I have offered has been acted on.

The question was taken upon the amendment of Mr. SCOFIELD; and it was agreed to.

Mr. NIBLACK. I move to amend by adding to the pending paragraph the following additional paragraph:

And provided further, That no work shall be done in the Engraving and Printing Bureau for private parties or persons.

Mr. Chairman, I am reliably informed, although I have no personal knowledge on the subject, that Laban, Heath & Co., a Boston firm, are now having made at the Treasury Department for their own private purposes impressions of the different kinds of bonds and currency. The purpose, I understand, is to insert them in some book or to distribute them through the country in some form for private gain. The privilege which these parties are enjoying is one for which other parties are willing to pay \$50,000. The precise manner in which this privilege was obtained I do not know. I have heard various theories suggested in regard to the matter. It is said that this work is done without the knowledge of the Secretary of the Treasury, but with the consent or connivance of some of the subordinates of the Department. As to that I have no definite information. But of one thing I am quite certain, that impressions of this sort ought not to go into private hands and be used for private purposes. Hence out of abundance of caution, the proviso which I have offered should, I think, be adopted.

Mr. SCOFIELD. It has not come to the knowledge of the Committee on Appropriations that any such abuse has crept into this Department; but there can be no objection, so far as I can see, to the amendment. Certainly I shall raise none.

Mr. WELKER. If the gentleman from Pennsylvania [Mr. SCOFIELD] will allow me, I wish to make an inquiry of the gentleman from Indiana, [Mr. NIBLACK.] I would like to know from what source the gentleman from Indiana obtains his information?

Mr. NIBLACK. I get it from a gentleman who has been connected with the Treasury Department, and I believe still is, though I am not certain of that.

Mr. WELKER. The joint Committee on Retrenchment has been making a very thorough examination into all matters connected with the Printing Bureau of the Treasury Department, and so far as I know have obtained no information of any such fact as that stated by the gentleman from Indiana. I should be glad if the gentleman would put some member of the committee in possession of any information he may have upon the subject.

Mr. NIBLACK. Any gentleman who may feel himself aggrieved by the statement I have made can learn from me privately the source of my information.

The amendment was agreed to.

The Clerk read as follows:

For supplying deficiency in the fund for the relief of sick and disabled seamen, \$50,000.

Mr. SPALDING. I move to amend by inserting after the paragraph just read the following:

For temporary clerks in the Treasury Department, \$50,000.

This appropriation is in the estimates, and I am told it is indispensably necessary.

On the amendment, there were—ayes 16, noes 35; no quorum voting.

The CHAIRMAN. Does the gentleman from Ohio [Mr. SPALDING] demand a further count? Mr. SPALDING. I do.

Tellers were ordered; and Mr. SPALDING and Mr. FARNSWORTH were appointed.

Mr. FARNSWORTH. I desire to inquire whether this appropriation is embraced in the estimates for the present fiscal year or for the next?

Mr. SPALDING. It is in the estimates of deficiencies for the present fiscal year. I am told that these clerks are now employed, and this appropriation is to pay them for their services.

Mr. FARNSWORTH. Then I hope it will be adopted.

The CHAIRMAN. Debate is not in order while the committee is dividing.

The committee divided; and the tellers reported—ayes forty-two, noes not counted.

The CHAIRMAN. Less than a majority of a quorum voting in favor of the amendment it is not adopted.

The Clerk read as follows:

For amount required to supply deficiency in the appropriation for expenses of courts, \$400,000; and hereafter there shall be no authority to employ and retain counsel to assist district attorneys without the further order of Congress.

Mr. AXTELL. I raise a point of order upon the last clause of this paragraph, beginning with the words "and hereafter."

The CHAIRMAN. The Chair sustains the point of order.

Mr. BROOMALL. I move to insert the following:

There shall be no money paid out of this appropriation to employ and retain counsel to assist district attorneys without further order of Congress.

Mr. AXTELL. I make the point that this is new legislation, and therefore not in order to an appropriation bill.

The CHAIRMAN. The Chair overrules the point of order. The present reading of the amendment makes it clearly a limitation of the law and brings it within the rule.

Mr. SCOFIELD. Mr. Chairman, I do not know it is worth while to say anything on this amendment; but from the points of order raised on it there would appear to be considerable opposition to it. It came to the knowledge of the committee that, under a law passed during the war, when there was a great amount of business thrown upon the United States courts assistant counsel were employed by the district attorneys. In some districts I think they employed more than one. It came to the knowledge of the committee that these men were no longer needed.

Under that law a district attorney could employ an assistant counsel who would do all the duty of the office, while the district attorney paid no attention to it, but all the time drew a large salary. We thought that the law ought to be repealed and that the district attorneys should not be allowed to employ assistant counsel at all. It is not necessary at this time that they should have that power. The amendment was put on in a bungling way and was subject to the criticism of the gentleman from Wisconsin. It was put on for the purpose of doing good; for the purpose of effecting a reform and saving a large sum of money to the Treasury.

Mr. AXTELL. Let me ask the gentleman a question. If this amendment be adopted that assistant counsel shall not hereafter be employed, why then should we appropriate \$400,000 to pay for such counsel? If the committee determines that practice shall not prevail in the future is this appropriation necessary?

Mr. SCOFIELD. It is all needed. When I can get the floor to do so I shall move to increase it to \$500,000. I will say that it does not make any difference how much we appropriate in this clause, because it is all to be paid to judicial officers whose salaries are fixed by law. If we make it larger not a dollar can be paid except it is called for under the law.

Mr. BROOMALL's amendment was agreed to.

Mr. SCOFIELD. I now move to increase the appropriation to \$500,000.

Mr. McCORMICK. Why is that large increase necessary?

Mr. SCOFIELD. The Department has notified us that it is needed.

The committee divided; and there were—ayes 41, noes 15; no quorum voting.

Mr. BURR. We will withdraw all opposition if we can have a satisfactory explanation why the Committee on Appropriations have made this mistake of \$100,000.

Mr. SCOFIELD. I thought in reply to the interrogatory of the gentleman from Missouri I had answered that. The first estimate was for \$400,000. The President sent a message to the House covering a letter from the Secretary of the Interior requesting that the appropriation should be increased to \$500,000. It is to be paid on fixed salaries which cannot be enlarged or diminished. Perhaps the gentleman has read in the papers that the judges were not able to draw their salaries because the appropriation was exhausted.

The amendment was agreed to.

Mr. SCOFIELD. I move to insert the following:

For surveys of the Atlantic, Pacific, and Gulf coast, \$40,000.

Mr. Chairman, this appropriation is to enable the Coast Survey to be carried on during the spring and until the 30th day of June next. The appropriation for that purpose is nearly exhausted. We have the officers regularly employed at a salary, and all the materials for carrying on the work, and the professor in charge of the Coast Survey says that the work is about to be stopped from mere lack of expense money.

More than this sum was asked for, but when the Superintendent came before the committee he concluded that he could get along with \$40,000. Most gentlemen here know Professor Pierce, the Superintendent, who was mathematical professor at one of the New England colleges. He is a man of great learning. He is a man of probity, and we have the best assurance that the money will be carefully expended.

Mr. HARDING. This is a deficiency. How much has been appropriated during the year?

Mr. BENJAMIN. Nearly half a million. If I understand the gentleman correctly it is no deficiency, but an appropriation to continue that survey till the end of the present year. We appropriated for that purpose last year nearly half a million dollars, a very large sum, which in my opinion should be sufficient for any one year. I trust the amendment will not prevail.

Mr. SCOFIELD. I have now the appropriation for the last year. The whole sum for the Atlantic and Pacific coast was \$445,000. This is a deficiency for the Atlantic coast alone.

Mr. BENJAMIN. Does that include the item for repairs and maintenances of vessels, \$30,000?

Mr. SCOFIELD. That covers everything.

Mr. BENJAMIN. The law of last year provided for the survey of the Atlantic and Gulf coast, \$275,000; for the western coast of the United States, \$130,000; for publishing observations, \$5,000; for pay, rations, &c., \$10,000; and for repairs and maintenance of complement of vessels, \$30,000; approximating nearly to the amount I stated, namely, \$500,000 for the last year. And now we are asked to appropriate to continue the survey during the rest of the year \$50,000 more. It is certainly a degree of extravagance that is unnecessary, in my judgment, in the present state of the public Treasury.

Mr. SCOFIELD. The estimate sent us by the Department in the first place for this deficiency was \$160,000, and we have cut it down to \$40,000, which we think is pretty small. I expected to get some credit in the House for the zeal with which we have whittled down this item. While I always go for the smallest appropriation I could not find any way to dodge this, and so I had to vote for it myself. I believe the whole committee indorse it unanimously. The Committee of the Whole may do with it as they see fit.

Mr. HOLMAN. I move to reduce the

amount to \$25,000. I hope the amendment of the committee will not be adopted. If there is an extravagant feature in this Government, considering the nature of the duties performed, it is this Coast Survey. I have never known a gentleman connected with the Committee on Appropriations who was able to explain the cause of this everlasting expense. The constant tendency of this particular branch of the service is to a deficiency. The vessels are furnished by the Government, the officers are in the pay of the Government, and yet hundreds of thousands of dollars are appropriated annually for this purpose.

Mr. HARDING. Some civilians, I think, are engaged in this survey; it is not exclusively done by persons belonging to the Navy. That is my information.

Mr. HOLMAN. I supposed all the officers performing this duty were in some form or other salaried men and paid out of other appropriations, and that the whole amount expended under this appropriation was for contingent expenses. There has never been, so far as I am informed, an intelligent statement to the House of the cause of this enormous expenditure. It is a very proper branch of the service; it is indispensable; but it seems to me there is no necessity for expending so large a sum year after year without any explanation. I think we have a right to require some explanation.

Mr. BENJAMIN. I desire to make a slight amendment of the figures I presented a moment ago. I find there has been appropriated for the survey of the Atlantic and Gulf coasts, for the Pacific, and for the northern and northwestern lakes (I did not include the latter before) the sum of \$525,000.

Mr. HOLMAN. Add to that the salaries of the officers employed, the cost of the vessels brought into the service, and the expenditure for the Coast Survey runs up into millions annually. I trust this branch of the service, unexplained as it is, will be limited to the annual appropriation, and that the favor which is sometimes extended to other branches of the service will not be extended to this. I withdraw the amendment.

The question being taken on the amendment of Mr. SCOFIELD, there were—ayes 61, noes 26; no quorum voting.

Tellers were ordered; and Messrs. SCOFIELD and BENJAMIN were appointed.

The committee divided; and the tellers reported—ayes 92, noes 27.

So the amendment was agreed to.

The Clerk read as follows under the head of "House of Representatives:—"

To supply a deficiency in the appropriation for laborers, \$9,975.

Mr. SCOFIELD. I am instructed by the Committee on Appropriations to offer the following amendment, to come in after line seventy-two:

To defray expenses of joint Committee on Retrenchment, \$1,000, or so much thereof as may be necessary: *Provided*, That said sum shall be drawn from the Treasury upon the order of the Secretary of the Senate as the same shall be required, and any portion of the amount hereby appropriated that shall be allowed by said joint committee to witnesses attending before it or persons employed in its service for *per diem*, traveling, and other necessary expenses paid by said Secretary in pursuance of the orders of said committee shall be accordingly allowed by the accounting officers of the Treasury.

To pay balance due for twenty-four copies of the Congressional Globe and Appendix for each Representative and Delegate and one hundred copies for the House Library in the second session of the Fortieth Congress, \$13,420.

To pay for twenty-four copies of the Congressional Globe and Appendix for each Representative and Delegate and one hundred copies for the House Library and for pages in excess of one thousand five hundred in the third session of the Fortieth Congress, \$28,452.

To pay for reporting and printing the debates and proceedings in the Daily Globe, \$2,730.

To pay for complete sets of the Congressional Globe and Appendix for new members entitled to receive the same under the law of July 4, 1864, \$7,518.

Mr. AXTELL. I desire to make a suggestion to the gentleman from Pennsylvania in relation to these Congressional Globes. I am informed that they are not furnished to the judges of the Supreme Court, and I would like

the amendment to contain an appropriation for copies of the Globe for each one of the justices of the Supreme Court. I think it would be very proper.

Mr. SCOFIELD. I would inform the gentleman from California that the Committee on Appropriations have no power to contract with the printers of the Globe to furnish any other copies than those for which we have a contract. We make the appropriation just as the law stands.

Mr. FARNSWORTH. I desire to inquire if we did not appropriate money two years ago to pay for complete sets of the Globe for new members of the present Congress under the contract? Now, then, what new members are there that have come in since?

Mr. SCOFIELD. I will inform the gentleman from Illinois that there was such an appropriation two years ago, and the books were furnished in accordance with the contract made with the owners of the Globe to the amount of the appropriation. New members have since come in—the southern members and others who were entitled under the law to get these Globes. So far as this amendment relates to complete sets of the Globe it is to pay that deficiency.

Mr. FARNSWORTH. This is for new members who have come in since the commencement of this Congress?

Mr. SCOFIELD. It is.

The amendment was agreed to.

The Clerk read the following paragraph:

New Mexico:

For salary of the secretary of the Territory as *ex officio* superintendent of the public grounds, from July 28, 1868, to June 30, 1869, at \$1,000 per annum, \$920 38: *Provided*, That after the expiration of the present fiscal year the said secretary shall only receive \$2,000 per annum, and no more, in full compensation for all official services, whether as secretary or superintendent of public buildings and grounds.

Mr. PAINE. I move to strike out all that relates to the secretary of the Territory of New Mexico, and I will state to the committee why I make that motion. By the act passed July 27, 1868, it was provided that the annual salary of the secretary of this Territory should be \$2,000 from and after the 1st day of February, 1867, and by that act we gave him \$1,000 for his services as superintendent of public buildings and grounds. Now, in this same year, 1868, in the appropriation bill of July 20, 1868, we appropriated \$12,000 to pay the salaries of the Governor, secretary, chief justice, and two associate justices of that Territory; and what is their salary? The salary of the Governor, as it stands here in the law which I have before me, raised to its highest figure, is \$2,500; that of the secretary is \$2,000, unless you add the \$1,000 for superintending public grounds, which by this proviso we have no right to do; then the salary of the chief justice and two associate justices is \$2,000 each, making \$6,000; so that the entire amount of the salaries of these officers is \$10,500, if you do not allow the secretary \$1,000 for superintending the public grounds in addition to the \$2,000. Now, it appears to me that that proviso cuts off the addition, excludes the possibility of adding the \$1,000 to the \$2,000 allowed by law; but if you do add the \$1,000, then the entire salaries of these five officers will be \$11,500, and we appropriated \$12,000.

Mr. SPALDING. I would like to ask the gentleman a question. Has he the law before him creating this superintendency of public grounds?

Mr. PAINE. I have.

Mr. SPALDING. The committee looked at that law and concluded that it made the pay perpetual. The object of this provision is to repeal that act if we can do so.

Mr. PAINE. The gentleman does not understand me. I have moved to strike out the whole of the provision relating to this officer. Even if he is to receive a salary of \$3,000 we have already appropriated \$500 more than is required to pay all these officers, because, as I have shown, if you give this additional \$1,000 to this secretary the salaries for all the officers are but \$11,500. If you cut off this additional

\$1,000 you will then have to pay but \$10,500; and we appropriated \$12,500 in the act of July 27, 1868. Under either construction of the act there is no deficiency; put whatever construction you will upon it there is already a surplus and not a deficiency. I see, therefore, no reason for appropriating for a deficiency when none exists.

Mr. SPALDING. I cannot understand the reasoning of the gentleman. Suppose that we have appropriated \$11,000.

Mr. PAINE. Twelve thousand dollars.

Mr. SPALDING. Suppose the appropriation had been \$12,000 or even \$20,000; this secretary could draw only his salary as secretary, \$2,000, and as superintendent of the public grounds, \$1,000. If there was \$1,000 of the appropriation left he has no benefit of it. But he now comes in and requires us to pay the balance of the salary as superintendent. That is what we are providing for here, and we want to stop it hereafter.

Mr. PAINE. At the conclusion of the section of the act which gives the secretary of that Territory \$1,000 as superintendent of public grounds is found a proviso in these words:

Provided, That the annual salary of the secretary of said Territory shall be \$2,000 per annum from and after the 1st day of February, 1867.

Now, his salary never was \$2,000 a year before this act was passed; it was only \$1,800. Now, if you are to give him \$3,000, including \$1,000 for salary as superintendent of public grounds, I do not exactly understand what that proviso means. I hold that \$2,000 is the maximum of his salary. But I say that even if his salary is \$3,000 we have already made an appropriation sufficient to pay him and all the officers of the Territory and \$500 over.

The question was taken on the amendment of Mr. PAINE, to strike out the paragraph; and it was not agreed to.

No further amendment was offered.

The Clerk read as follows:

Colorado:

For supplying deficiency in the appropriation for the salaries of the Governor, judges, and secretary, caused by the increase of compensation to the judges, by act of March 2, 1867, \$1,000.

Dakota:

For amount required to pay the increased salaries to the judges of Dakota Territory, authorized by act of March 2, 1867, \$5,000.

Idaho Territory:

For amount required to pay increased salaries to the judges of the Territory of Idaho, authorized by act of March 2, 1867, \$3,000.

Mr. SCOFIELD. I move to insert the following after the last paragraph read:

For refunding to the appropriation for the legislative expenses of Idaho Territory the amount advanced from this fund and not accounted for by the secretary of said Territory, \$38,000.

The amendment was agreed to.

The Clerk read as follows:

Montana Territory:

For amount required to pay the increased salaries of the judges, authorized by the act of March 2, 1867, \$2,500.

Mr. SCOFIELD. I move to insert the following after the paragraph just read:

For amount required to pay outstanding liabilities on account of compensation and mileage of members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, \$20,000.

The amendment was agreed to.

Mr. HOOPER, of Utah. I move to insert the following after the amendment just adopted:

Provided, That from and after the 30th day of June next the salaries of the judges of Utah Territory shall be the same as now paid to judges in Idaho and Montana Territories.

Mr. SCOFIELD. I raise the point of order that this is not a deficiency and not in order on this bill.

Mr. HOOPER, of Utah. I hope no objection will be made to my amendment as it is certainly just and proper.

Mr. INGERSOLL. I have examined this matter and I am satisfied this amendment should be adopted.

The CHAIRMAN. The Chair thinks the amendment is in order.

On agreeing to the amendment there were—ayes 30, noes 37; no quorum voting.

Mr. INGERSOLL. I call for tellers. This

is a perfectly just amendment, and should be adopted. It simply puts this judge on an equality as to salary with other territorial judges.

Tellers were ordered; and Mr. INGERSOLL and Mr. SPALDING were appointed.

The committee divided; and the tellers reported—ayes fifty-seven, noes not counted. So the amendment was adopted.

The Clerk read as follows:

Wyoming Territory:
For the expenses of the Territory from January 1, 1868, to June 30, 1869, namely:
For Governor, \$1,500.

Mr. BURLEIGH. I move to amend the paragraph just read by striking out "1868," and inserting "1869;" so as to read "1869." This Territory was not organized as early as January, 1868.

The amendment was agreed to.

Mr. BENJAMIN. I move to amend by striking out the pending paragraph. I offer this amendment for the purpose of inquiring whether there is any territorial government of Wyoming. If not, why should we appropriate this considerable amount of money for this Territory? I believe there is as yet neither a Governor, a secretary, nor a Legislature in Wyoming. This is an appropriation from January 1, 1869, till June 30, 1869. The Delegate from Dakota directs my attention to the provision of a succeeding paragraph, that—

The compensation of the said officers of the said Territory of Wyoming shall not commence until they shall have been commissioned and qualified.

But there is an appropriation of \$10,000 for the Legislative Assembly of the Territory. I believe the Legislative Assembly of that Territory has never met. I ask the gentleman having charge of this bill whether a Legislature has been elected, and if so, whether it will assemble during the present fiscal year?

Mr. SCOFIELD. The Territory of Wyoming has been organized, but the officers have not entered on their duties because the selections of the President were not confirmed by the Senate. Under the supposition that officers would be appointed and would be confirmed by the Senate in accordance with the recommendation of the Department the committee inserted the appropriations necessary to pay their salaries; but they added a proviso that the salaries shall not commence till the officers shall have been actually commissioned. No portion of this sum can go to pay for services prior to the date of the commission.

Mr. COOK. I would like to inquire whether the act organizing this Territory did not expressly provide that it should not take effect till the territorial officers had been respectively appointed and qualified?

Mr. SCOFIELD. I think that is the fact. But this appropriation is not inconsistent with that legislation.

Mr. COOK. Is there not such an inconsistency in the appropriation for the salary of the secretary? for the proviso embraced in this bill does not cover that appropriation.

Mr. SCOFIELD. I yield for a moment to the gentleman from Wisconsin, [Mr. PAINE.]

Mr. PAINE. I was about to ask my friend from Pennsylvania [Mr. SCOFIELD] substantially the same question which has been put by the gentleman from Illinois, [Mr. Cook;] that is, whether the proviso in this bill covers the case of the secretary of this Territory? The proviso refers apparently to the officers named in the preceding part of the bill, and the appropriation for the secretary comes afterward. The same remark is true with regard to the officers of the Legislature for whom an appropriation of \$10,000 is made.

Mr. SCOFIELD. To remedy the difficulty which has been suggested I will at the proper time move an amendment to the proviso striking out the word "said" before "officers." The proviso was designed to apply to all the officers of the Territory.

Mr. POLAND. I wish to inquire whether these appropriations are not in some way affected by the provision we adopted last night making the sessions of the Legislatures of all

these Territories biennial? I understand that this appropriation is merely to pay the expenses of the territorial Legislature up to the end of the present fiscal year. But, sir, no Legislature has yet been elected.

Mr. SCOFIELD. That is a contingency. The gentleman will see that we make an appropriation for this territorial Legislature, and not for the others.

Mr. POLAND. Is there any reason to suppose there will be a territorial Legislature before the end of this fiscal year, so there will be a need for any appropriation at all? We made an appropriation for the next fiscal year in the bill which went through last night.

Mr. SCOFIELD. It is expected that the Legislature will meet there before the end of the present fiscal year.

Mr. BENJAMIN. I withdraw my amendment.

The Clerk read as follows:

For chief justice and two associate justices, \$2,500 each, \$3,750: *Provided*, That the compensation of the said officers of the said Territory of Wyoming shall not commence until they shall have been commissioned and qualified.

Mr. SCOFIELD. I move to transfer that proviso to the end of the appropriations for the Territory of Wyoming.

The motion was agreed to.

Mr. SCOFIELD. I move the following amendment:

For blank-books, stationery, book-cases, arms of the United States, seals, presses, flags, postages, and miscellaneous expenses of the consuls of the United States, including loss by exchange, \$15,000.

For the incidental and contingent expenses of Department of State:

For stationery, furniture, fixtures, and repairs, \$2,000.

For general purposes of the building occupied by the Department of State:

For rent, fuel, alterations, watchmen, and laborers, \$12,000.

The amendment was agreed to.

The Clerk read as follows:

Patent Office Building:

For casual repairs of the Patent Office building, \$5,000.

Mr. ELA. I move to strike that appropriation out of the bill, and I do this for the purpose of ascertaining whether this \$5,000 is appropriated to pay for taking up the tiling at the Patent Office and replacing it with marble. I understand that the tiling which was taken up was better and would sell for more than the marble blocks which were put down in its place.

Mr. SCOFIELD. I suppose not, but I have no knowledge on the subject. The Department sent in an estimate for \$5,000 as expenses to keep up the building during the remainder of this fiscal year. When we consider the large size of the building and its extensiveness, we thought that something about that amount would be required. No member of the committee, so far as I know, went into an examination of the details.

Mr. ELA. If I understand the question rightly, and I think I do, the Patent Office has been retiled at an expense of \$1 25 a foot, better tiling having been taken up than that with which it was replaced. And besides that unnecessary expense, walls along which the tiling was placed have been left in an incomplete condition, and a certain amount of masonry will be required to complete it. For that reason I desire to strike out the whole of that paragraph. I think the Committee on Appropriations will find the facts I have stated to be correct.

The amendment was disagreed to.

Mr. SCOFIELD. I move the following amendment:

For salary of the judge advocate of the Navy Department, from the 4th of March to July 1, 1869, \$1,167.

The office is abolished after the 30th of June next, and this appropriation is to pay the salary until that time.

Mr. STOVER. The gentleman moves an appropriation for four months which will make this man's salary about four thousand dollars a year.

Mr. SCOFIELD. That is the amount of the salary provided by law for that length of time.

Mr. LAWRENCE, of Ohio. There was no such office as judge advocate of the Navy Department prior to the war; but during the war such an office was created. The law, however, expressly provided that it should cease at the close of the war. When the war closed an appropriation was inserted in one of the appropriation bills making an appropriation for the contingency of the office for another year. This is part of the same scheme of continuing in office, which does not exist by law, and which is as unnecessary as a judge advocate of the House of Representatives would be. The office has expired by limitation, and this appropriation is a totally useless expenditure of public money. It is only another example of the tenacity with which men will cling to office long after the necessity for it has ceased. It is time that we should put a stop to such a practice.

Mr. TWICHELL. I move to strike out the last word. I know that it is unusual for the gentleman from Ohio to be mistaken, but he is mistaken in this instance, for this office does not expire by limitation until the 30th day of June next.

Mr. LAWRENCE, of Ohio. Where?

Mr. TWICHELL. There is a law of Congress. It is simply proposed to pay \$1,167 for the four months' service, the office being continued till the 30th of June by law.

The question being taken on the amendment, it was agreed to.

Mr. HOPKINS. I move to insert the following:

For the continuation of the work on the United States court-house and post office at Madison, Wisconsin, \$23,000.

I believe the Committee on Appropriations concede that this appropriation ought to be made.

Mr. FOX. I raise the point of order that this is new legislation.

The CHAIRMAN. The point is not made in time.

Mr. FOX. I made it as soon as I could.

The CHAIRMAN. Not till after the amendment had been debated.

Mr. HOPKINS. So far from this being new legislation I will inform the gentleman that the appropriation asked for by the Department for this building is \$50,000. The amount I move to insert is \$25,000. This building is about half completed. The materials are all on the ground. The money which has been appropriated heretofore is all expended, and unless we get this appropriation at this time the work must stop. The Government of the United States is paying a large amount every year for rent of offices in Madison, and it is economy for the Government to continue this work. With this \$25,000 we expect to be able to inclose the building this year. Unless we get it the completion of the house is delayed till another year. I do not believe there is a man in this House who, if he had this building to complete for himself, would hesitate to make the outlay. It is a matter of economy to go on with this work, and every member of the Committee on Appropriations concedes that the appropriation is proper. I trust there will be no opposition to it.

Mr. SCOFIELD. The Committee on Appropriations considered this proposition; they heard the argument of the gentleman from Wisconsin, and I believe they all thought there was a good deal of force in it. But they were beset on all sides for similar appropriations, and they feared if they opened the door to one which might seem a little more meritorious than another they must let them all in and the aggregate amount would be so large that the Treasury could not afford it this year. Therefore they concluded not to put in any of these propositions. Of course the Committee of the Whole can act upon the amendment as they see fit. They have heard what the gentleman says, and that is all there is of it I believe.

Mr. HOPKINS. The gentleman will admit that this is but one half the amount which has been estimated for by the Department.

Mr. SCOTFIELD. That is so.

Mr. PAINE. I would ask the gentleman from Pennsylvania whether there are other instances that have come to the notice of the committee where buildings are in process of erection as this is, so that the labor already performed would be in a measure lost if the appropriation is not made?

Mr. SPALDING. There are some eight or ten others.

Mr. BENJAMIN. I move to amend the amendment by reducing the appropriation to \$24,000, for the purpose of asking the gentleman from Wisconsin what amount was appropriated last year for this court-house and post office?

Mr. HOPKINS. The amount was \$100,000, and the estimate to complete the building was about \$250,000. The \$25,000 now asked for will put the roof on during the present year, and unless we get it the work will be delayed till another year, putting the Government to additional rent for the offices it now occupies.

Mr. BENJAMIN. Then it seems we have appropriated and have expended already during the present fiscal year \$100,000 for this building. If there is any necessity for this appropriation that amount must have been expended between the 1st of July last and the present time.

Mr. HOPKINS. I will state the reason for the expenditure. The materials for the building have been bought and paid for. The stone is on the ground, the lumber and the iron girders are ready, but the appropriation being exhausted we have nothing left to continue the work in the spring unless we get this appropriation. Everybody who knows anything about our northern climate knows that our seasons at best are very short, and unless we can commence the work in the spring, as this appropriation will enable us to do, we lose the whole season and the Government loses it. I am not speaking in behalf of myself, but because I know that it is for the interest of the Government to complete this building.

Mr. BENJAMIN. The gentleman has given the best reason in the world why the appropriation should not be made. We made a very liberal appropriation at the last session of Congress for this work. The parties in charge of the work should not have expended the entire amount, if they wanted to keep the laborers employed and the work going on, within the first six months of the year and then come here and ask for another amount in the deficiency bill. All of these public works that are being constructed by the Government, I presume, are in the same fix, and the gentlemen representing the districts where they are located come in and ask for deficiencies to continue the works, alleging that their appropriations are entirely exhausted; and it will require millions of dollars to continue them upon this principle. As I said before we appropriated \$100,000 for this court-house last year. I do not know, neither has the gentleman stated to us, how much more it will require to complete the building.

Mr. HOPKINS. I stated before that the estimate for this building—and it was known when the work was commenced—was \$250,000. That is no more than is required to build a respectable building and no more than has been expended for the same purpose in other places of the same size. I will state to the gentleman that nothing has been done on the part of the friends of this work that is unfair toward the House in keeping back any facts in reference to it.

Mr. BENJAMIN. Let me ask the gentleman from Wisconsin another question. How much money has been already expended?

Mr. HOPKINS. One hundred thousand dollars was appropriated by the last Congress, [Here the hammer fell.]

Mr. BENJAMIN. I withdraw the amendment to the amendment.

The amendment was agreed to—ayes seventy-seven, noes not counted.

Mr. CULLOM. I offer the following amendment, to come in immediately after the one just adopted:

For construction of a public building at Springfield, Illinois, for a court-house and post office and accommodation of officers of the United States, \$25,000.

I desire to state to the committee that there has been a little over two hundred thousand dollars expended by the Government for a building at the town in which I live, Springfield, Illinois. The building is erected so far as the walls are concerned. The roof is upon the building, the doors are in the building, and I believe the windows are in also. The building is in that condition. The Government is paying six or eight thousand dollars, I do not recollect the exact amount now, for rent for a court-house, for a post office, for a pension office, and for offices for the various revenue officers of the Government in that town.

I desire to say further—for I do not want to mislead the House in any way—that the amount appropriated for this purpose last year was not quite sufficient to put the building in the condition in which it now is, and that the superintendent, at my own suggestion, feeling that it was necessary to do it in order to protect the public property, went forward and put in the doors and windows and finished the putting on of the roof so that the building might not be injured, which results in there being an amount due to the laborers employed upon the building which the Government has not got the money to pay. There has been this amount expended. I do not think it necessary for me to take up the time of the committee in urging the importance of making this small appropriation so that the building may be completed and the Government may get the use of it for a court-house and post office and other offices. I believe that the Committee on Appropriations substantially coincide with me in the opinion that this small appropriation ought to be put in the bill, and I hope the amendment will be adopted.

Mr. SCOTFIELD. I will say that I thought the Springfield case was about the strongest of all; but I go against them all.

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. BENJAMIN. I move to reduce the amount called for by this amendment \$1,000. I do not know that it would be of any use for me to attempt to resist these various appropriations. I believe we all came here at the commencement of this session making loud professions of economy, declaring that we were going to endeavor to curtail the expenses of this Government and to reduce the taxes of the people.

Now, in regard to this Springfield court-house I desire to say that we made two appropriations for that purpose at the last session of Congress. In the first place we made an appropriation of \$25,000. Afterward we were asked by the gentleman who has proposed this amendment [Mr. CULLOM] to make a further appropriation of \$30,000. At the time he asked for that appropriation he said that only that amount was needed to complete the building. We appropriated the amount asked for, and provided in making it that that amount should complete the building. Gentlemen will find by reference to the act of July 20, 1868, the following clause:

"To complete the building used for a court-house and post office at Springfield, Illinois, \$30,000."

That makes \$55,000 that we appropriated last year upon the assurance that the building should be completed for that sum and in the manner provided for in the law. We are now called upon by the same gentleman [Mr. CULLOM] to make another appropriation. And he now states that this additional sum is necessary to complete the building. And unless some stop is put to this business it will go on in the same way from year to year. I am opposed to all these appropriations to continue these works except in cases where they are abso-

lutely necessary; and so far as my vote goes it shall be cast against any appropriation where we have provided by law that the amount heretofore appropriated shall complete the building.

Mr. CULLOM. Will the gentleman allow me to ask him a question?

Mr. BENJAMIN. Certainly.

Mr. CULLOM. Does the gentleman regard it as economy, after this building has been closed in at a cost of \$200,000, to let the building remain unfinished and rent other buildings merely because the words he has read are in some previous law?

Mr. BENJAMIN. If we state that the amount appropriated shall complete the building we should hold the party who has had charge of the work responsible for going beyond the direction made by the Congress of the United States.

Mr. CULLOM. That is a very good argument to make, but everybody knows that it is not carried out in any instance.

Mr. BENJAMIN. Then it is time it was carried out, and I know no better time for the purpose than the present.

Mr. CULLOM. I understand the Government has done the best it could in carrying on this work, but the building is not yet finished.

The CHAIRMAN. Debate is exhausted on the amendment to the amendment.

Mr. BENJAMIN. I withdraw my amendment to the amendment.

The question was on the amendment of Mr. CULLOM.

Mr. MULLINS. I move to amend the amendment by adding to it the following:

For a custom-house and post office building at Nashville, Tennessee, \$25,000.

Mr. SCOTFIELD. I raise the point of order that the amendment of the gentleman from Tennessee [Mr. MULLINS] is not germane to the amendment of the gentleman from Illinois, [Mr. CULLOM.]

The CHAIRMAN. The Chair sustains the point of order.

The question was then taken on the amendment of Mr. CULLOM; and upon a division there were—ayes 50, noes 31; no quorum voting.

The CHAIRMAN. A majority of those voting have voted in the affirmative. Is a further count called for?

Mr. BENJAMIN. Yes; let there be a further count.

Mr. SCOTFIELD. I hope the gentleman will not insist upon a further count, as it may break up the committee for want of a quorum.

Mr. BENJAMIN. I think if we are going on in this way the sooner we break up this committee the better.

Tellers were ordered; and Mr. CULLOM and Mr. BENJAMIN were appointed.

The committee again divided; and the tellers reported that there were—ayes 76, noes 40.

So the amendment was agreed to.

Mr. MULLINS. I move to insert after the amendment just adopted the following:

For a custom-house and post office building at Nashville, Tennessee, \$25,000.

I will detain the committee but a few moments in explaining this amendment. About fifteen years ago the Government of the United States appropriated \$100,000 for a building of this character in the city of Nashville. The location was made and the ground laid out by the engineer sent there by the Government, and a temporary building was put up; but that became so dilapidated that it was finally converted into a coal-house. [Laughter.] The United States courts are now held in the State capitol. A building in the neighborhood is rented by the Government for a post office; and that building is now in a disgracefully dilapidated condition, fit for nothing in the world but a den for gopher rats. [Laughter.]

Mr. NIBLACK. If the Government erects a new building, is there not danger that the Kuklux may take it for their headquarters? [Laughter.]

Mr. MULLINS. Why, sir, the present building is just such a one as is fitted to breed

Kuklux. [Laughter.] Tear it down and erect a proper building and in my opinion we shall get rid of the Kuklux. The present building, after you get above the first story, is as complete a wreck of a building as you can find perhaps in all Nashville. Yet the Government is paying to-day \$1,500 a year for the occupation of that building. The custom-house, I believe, is somewhere on the wharf; and a good many of the rats are devouring what little is there. The squabble between the excise officers and the gopher rats has become a pretty serious matter. [Laughter.] Last year an appropriation of \$25,000 for this building was adopted by this House; but when it went to the Senate it was reduced to five thousand or two thousand dollars, not enough to engage men to look up timber for beginning the work. I ask that the appropriation named in my amendment be made. When in Nashville last week I was assured that with this appropriation the work would be pushed forward forthwith. The erection of a new building would save the Government an annual expense of \$1,500 for rent, which has been running on for the last fifteen years. The Government should not be required to use that terrible rat-den any longer for a post office.

Mr. SCOFIELD. Mr. Chairman, the Department has not asked anything for this work. It is not in the estimates of any branch of the Government. In order that we may get through with this bill to-night I ask unanimous consent that debate be closed upon the last paragraph.

Mr. O'NEILL. I hope that will not be agreed to.

Mr. SCOFIELD. I ask, then, that debate be limited to three minutes on each amendment, two minutes to be occupied by the member offering the amendment, and one minute by any member wishing to reply.

The CHAIRMAN. Is there objection to the proposition of the gentleman from Pennsylvania, [Mr. SCOFIELD?]

There was no objection.

The question being taken on the amendment of Mr. MULLINS, it was not agreed to.

Mr. O'NEILL. I move to amend by adding the following:

For construction of appraisers' stores at Philadelphia, \$37,500.

Mr. BENJAMIN. I desire to know whether that work is authorized by any existing law? If not I raise a point of order upon the amendment.

Mr. O'NEILL. The Secretary of the Treasury has asked the appropriation of \$75,000 in this deficiency bill for the purpose of carrying on the construction of this building. It is now in an unfinished condition. Appropriations for this work have been made during the last two or three years; and the building is now up as far as the third story. If it be not pushed forward to completion, it will of course go to decay; and until it is finished the Government must continue to pay a rental of \$16,000 annually for the appraisers' stores necessary to accommodate the commerce of Philadelphia. So urgent is the necessity for this building, in the opinion of the Secretary of the Treasury, that he has asked an appropriation of \$100,000 more in the miscellaneous appropriation bill. Other gentlemen in advocating appropriations for similar works have very properly urged upon the House the duty of pushing to completion buildings of this description. It would be utterly wasteful for the Government to allow this building to remain but half finished. The work, so far as it has gone, has been done in the most thorough as well as the most economical manner; and when it is finished we shall have a suitable building for appraisers' stores, so that the present system of renting stores from private individuals may be discontinued. I hope the amendment will be adopted.

[Here the hammer fell.]

Mr. SCOFIELD. This is very much like the other propositions which the committee have adopted. The Department estimated \$75,000 for the deficiency in this instance, and the gentleman has moved an amendment for

one-half that sum. I suppose that as the others have been adopted this also will be agreed to.

Mr. BENJAMIN. I move to reduce it to \$1,000; and I wish to say a word on the subject.

Mr. SCOFIELD. The debate has closed on this amendment.

The CHAIRMAN. That was the order of the committee by unanimous consent.

Mr. BENJAMIN. Is not the amendment to the amendment debatable?

Mr. SCOFIELD. The time for debate on each original amendment was fixed, and the debate on this amendment has been exhausted.

The amendment to the amendment was disagreed to.

The committee divided on Mr. O'NEILL's amendment; and there were—ayes 39, noes 29; no quorum voting.

The CHAIRMAN ordered tellers; and appointed Mr. O'NEILL and Mr. BENJAMIN.

The committee again divided; and the tellers reported—ayes 69, noes 51.

So the amendment was agreed to.

Mr. RAUM. I move the following amendment:

For the construction of the public building at Cairo, Illinois, to be used as a post office, custom-house, and the United States court-room, \$25,000.

Mr. Chairman, that building is now well under way, and I have a photograph in my hand which discloses the condition in which it is at the present time. The second story is nearly completed. The stone is on the ground to build the second story, as well as the lumber for the entire building. The estimate is for \$50,000, and I have consented to the suggestion of the Committee on Appropriations to accept \$25,000. I hope the amendment will be sustained. This is an important work. It is for the post office, custom-house, and court-room. Buildings for these purposes are now rented at considerable expense to the United States. The post office there is a large one: the postmaster receives a salary of \$3,700. I earnestly desire that the House will adopt the amendment.

Mr. BENJAMIN. I move to amend the amendment by adding the following:

For the erection of a post office at Confederate Cross Roads, which is in the State of Kentucky, and repairing Bascom's grocery, \$25,000.

[Laughter.]

The CHAIRMAN. The amendment to the amendment is not in order.

Mr. SCOFIELD. This building at Cairo is in the same condition as the others for which appropriations have been made. The Department recommended \$50,000 and the gentleman asks for \$25,000. As the others have been adopted I do not see any good reason why we should reject this amendment.

The amendment was agreed to.

Mr. BARNES. I move to insert, as follows:

To secure the location of a post office and court-house in the city of Brooklyn, New York, \$100,000.

Mr. Chairman, the modesty of the Representatives from that section of the State has been such as to deprive their constituency from proper recognition in bills for the construction and completion of buildings of this character. It may not be generally known, but the city of Brooklyn has at this time a population of over four hundred thousand inhabitants, and is as deserving of the patronage of this Government as any other place in the United States; for it has paid during the last year into the national Treasury, in the shape of internal taxes, \$9,000,000. The Government now pays a rent of \$5,000 per annum for a post office building, and \$6,000, I believe, for a court-house. The Government does not own a single foot of real estate in the city of Brooklyn to-day, and it is a matter of much interest that it should secure a location for this building at the earliest possible moment. Every one familiar with the course of the values of property in that locality knows that there is not a single place in the whole country where property has advanced so rapidly as in the city of

Brooklyn. Since the proposition made last year for this purpose the location then fixed on has been enhanced in price one hundred per cent. It would cost to-day twice as much as it could have been bought for then.

I make these remarks for the purpose of attracting the attention of the House to this subject, so that in the future investigations of the Committee on Appropriations that portion of the Union may not be overlooked in the appropriations for the construction of these buildings.

Mr. LYNCH. I rise to oppose the amendment, and I wish to state the principle which will control my action on these subjects. I oppose this appropriation because it is for new work, but I will vote for the ten buildings estimated for because I believe really that is a matter of public economy. These buildings are from one half to two thirds completed, and the question now is not whether they shall commence, but whether they shall be completed and save the Government the money already expended. Until they are completed the Government will have to pay rent for the buildings now used. In my judgement it is a false economy to refuse to complete them when by so doing we could save the expense yearly of vast sums of rent.

[Here the hammer fell.]

The amendment of Mr. BARNES was disagreed to.

Mr. HULBURD. I move the following amendment:

For construction of custom-house at Ogdensburg, New York, \$12,500.

Mr. SCOFIELD. I rise to oppose the amendment. The gentleman has said all he desires to, and in opposition to it I will only say that this is on the same footing as all the others. If the rest come in this ought to. The Department recommends \$25,000 and the gentleman moves to insert half that amount.

The question being put on the amendment, there were—ayes 43, noes 31; no quorum voting.

Tellers were ordered; and Messrs. HULBURD and BENJAMIN were appointed.

The committee divided; but without any report from the tellers, Mr. HULBURD withdrew the amendment.

Mr. SCOFIELD. The committee continued here last night till near twelve o'clock. I find we cannot finish this bill to-night, as gentlemen insist on having a vote by tellers on every proposition. I therefore move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. PRICE reported that the Committee of the Whole on the state of the Union, having had under consideration the Union generally, and particularly the bill (H. R. No. 1911) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes, had come to no resolution thereon.

M'PHERSON MONUMENT.

Mr. LOGAN. I ask unanimous consent to offer a joint resolution (H. R. No. 466) donating condemned cannon and muskets for the McPherson monument, for present action. I am quite sure there will be no objection to it.

The joint resolution was read a first and second time. It authorizes the Secretary of War to furnish to the McPherson Monument Association of Clyde, Ohio, four pieces of condemned iron cannon, four of brass cannon, twenty-five cannon balls, and one thousand muskets with bayonets, to be placed about the monument.

Mr. SPALDING. I hope there will not be a dissenting voice.

Mr. ROSS. I object.

Mr. LOGAN. I move to suspend the rules. The motion was agreed to; two thirds voting in favor thereof.

The joint resolution was ordered to be en-

grossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LOGAN moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

And then, on motion of Mr. ROSS, (at ten o'clock and ten minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. BENTON: The petition of William A. Parker, to be restored to the active list of the Navy of the United States.

By Mr. ELIOT, of Massachusetts: Petitions of Daniel Ricketson and 37 others, of New Bedford, Massachusetts, and Caroline C. Metcalf and others, of Norton, Massachusetts, praying for right of female suffrage.

By Mr. MERCUR: A petition of 38 citizens of Bradford county, Pennsylvania, praying that the Constitution of the United States may be so amended as to acknowledge Almighty God as the source of all authority and power in civil government, and the Lord Jesus Christ as the Ruler among the nations and His revealed will as of supreme authority in order to constitute a Christian Government.

By Mr. MOORHEAD: Two petitions from citizens of Alleghany county, Pennsylvania, praying that the Constitution be so amended as to acknowledge Almighty God as the source of all civil power.

IN SENATE.

THURSDAY, February 25, 1869.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. DRAKE, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

PETITIONS AND MEMORIALS.

Mr. FERRY presented four memorials of citizens of the United States, remonstrating against the passage of the bill for the relief of Polly Hunt for the revival of an expired patent for paper collars; which were ordered to lie on the table.

Mr. OSBORN presented the petition of the president of the Pensacola and Louisville railroad, praying a grant of land to aid in rebuilding that railroad; which was referred to the Committee on Public Lands.

He also presented the petition of John W. Smith and Priscilla Smith, of Columbia county, Florida, praying compensation for property destroyed during the late war by the public enemy at Beaufort, South Carolina; which was referred to the Committee on Public Lands.

Mr. SAWYER presented resolutions of the Board of Trade of Charleston, South Carolina, remonstrating against the revival of extinct provisions of bankrupt laws; which were referred to the Committee on the Judiciary.

He also presented resolutions of the Board of Trade of Charleston, South Carolina, in favor of protection of private property at sea during war; which were referred to the Committee on Foreign Relations.

REPORTS OF COMMITTEES.

Mr. MORGAN. The Committee on Commerce have had under consideration a petition of Perry McDonough Collins, praying the aid of the Government and the right of way for the erection of a telegraph by way of the North Pacific ocean to Asia and a survey and soundings of the proposed route, and have instructed me to report it back, a bill having been reported on the subject, and ask that it lie on the table.

The report was agreed to.

Mr. GRIMES, from the Committee on Naval Affairs, to whom were referred the following bills and joint resolutions, asked to be dis-

charged from their further consideration; which was agreed to:

A bill (H. R. No. 728) relating to the Bureau of Steam Engineering in the Navy Department;

A bill (H. R. No. 616) extending the provisions of the act of July 17, 1862, relating to the naturalization of soldiers, to those who enlisted in the naval and marine service of the United States;

A bill (S. No. 590) to establish the assimilated rank of the staff officers of the Navy;

A bill (S. No. 172) making further provision for widows and heirs of officers of the Navy, and for establishing naval life insurance;

A bill (S. No. 44) to amend an act entitled "An act to define the number and regulate the appointment of officers in the Navy, and for other purposes," approved July 25, 1866;

A bill (S. No. 833) for the reorganization of the Navy of the United States;

A bill (S. No. 750) to regulate the rank of the medical staff of the Navy;

A bill (S. No. 749) to define and settle staff rank in the Navy;

A bill (S. No. 720) to reorganize and increase the efficiency of the medical department of the Navy;

A joint resolution (S. R. No. 185) for the relief of William B. Whiting, a captain, formerly a commander in the Navy of the United States on the retired list;

A joint resolution (S. R. No. 235) granting prize money to any officer, seaman, marine, landsman, or other person who served in the Navy of the United States and was captured in the line of his duty;

A joint resolution (S. R. No. 98) for the promotion of certain commodores on the retired list to rear admirals on the retired list of the Navy; and

A joint resolution (H. R. No. 342) for the restoration of Commander Greenleaf Cilley and Commander Aaron K. Hughes, United States Navy, to the active list from the retired list.

He also, from the same committee, to whom was referred the joint resolution (S. R. No. 225) authorizing the Secretary of the Navy to place a vessel at the disposal of the Commissioners of Charities and Corrections of the city of New York, to be used for the purposes of a nautical school, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the following petitions, memorials, letters, and reports, asked to be discharged from their further consideration; which was agreed to:

The petition of Dr. Edward Delafeld, president, and others, professors and students at the College of Physicians and Surgeons of the city of New York, in favor of the bill for the reorganization of the medical corps of the Navy;

The petition of the president, professors, and students of medicine of the University of New York, praying a reorganization of the medical department of the Navy of the United States;

A petition of iron manufacturers and engineers of Baltimore, praying that the rank assigned the engineers and other staff officers by the Navy Department be confirmed by law of Congress, and a continuation of the system of education of our naval engineers at the United States Naval Academy;

The petition of Hannah Tyndall, Hannah Lewis, and Susan Phipic, praying that the widows and orphans of seamen, marines, sailors, and others serving in the Navy of the United States may receive the same benefit as now enjoyed by relatives of soldiers as regards bounty;

The petition of the assistant professors of the United States Naval Academy, praying an increase of compensation;

The petition of R. B. Hitchcock, retired commodore United States Navy, praying to be allowed the rank of rear admiral in the Navy on the retired list;

The petition of professors and students of

medicine at the Jefferson Medical College of Philadelphia, praying a reorganization of the medical corps of the Navy;

The petition of Cincinnatus W. Harper and Clarence C. Harper, children and heirs-at-law of the late John Harper, deceased, praying compensation for the use and occupation of their land by the United States Government in the county of Norfolk and State of Virginia for hospital and navy-yard purposes;

The petition of E. R. Knorr, praying that the plates bought from E. & G. W. Blunt by the Secretary of the Navy for the Government be destroyed, and that in place of them new charts, not copies of the English, but improvements on them, be prepared from all reliable data;

The petition of William W. Wood and John L. Lay, inventors of an improved torpedo used in the destruction of the rebel ram Albatross, praying compensation therefor;

The petition of William C. Hanford, praying compensation for the invention of a machine for the protection of vessels from being destroyed by torpedoes;

The petition of John Guest, captain United States Navy, praying the passage of the bill (S. No. 172) making further provisions for widows and heirs of officers of the Navy, and for establishing naval life insurance;

The petition of naval officers at League Island, praying relief for Mrs. Jane Dean Bishop, widow of William S. Bishop, deceased, late a surgeon in the Navy;

The memorial of Henry O. Mayo, surgeon United States Navy, protesting against the passage of the bill making further provisions for widows and heirs of officers of the Navy and for establishing naval life insurance;

A memorial of line officers of the Navy, remonstrating against the passage of an act to reorganize and increase the efficiency of the medical department of the Navy;

A memorial of J. M. Muller, in relation to an improvement in steam engines;

The memorial of William B. Whiting, captain United States Navy, praying that Congress confer upon Rear Admiral Charles Stewart the title of admiral upon the retired list;

The memorial of medical officers of the United States Navy, praying the passage of an act to reorganize and increase the efficiency of the medical department of the Navy;

The memorial of J. H. C. Coffin, professor of mathematics in the United States Navy, &c., praying that his pay may be made equal to that of a captain in the Navy on shore duty;

The memorial of a committee of the American Medical Association, praying the enactment of a law to secure to the members of the medical and surgical staff of the Navy an equal distribution of prize money;

A memorial of American citizens residing in Japan, praying that the conduct of Captain David McDougal, of the United States steamer Wyoming, in the affair with the Japanese ships and batteries at Simonoseki, may be suitably recognized by our Government;

A report of the Secretary of the Navy, communicating, in obedience to law, information in relation to the sale of the vessels Catawba and Oneota;

A letter of David D. Porter, vice admiral United States Navy, in relation to the application of Commander B. B. Taylor for a higher rank in the Navy; and

A letter of James Park, jr., to Hon. GEORGE F. EDMUNDS, in relation to the testing of cast-steel for steam boiler purposes.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (S. No. 74) to promote greater efficiency in the postal service on the Pacific coast, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 956) to establish and declare the railroad and bridges of the New Orleans, Mobile, and Chattanooga Railroad Company, as hereafter constructed, westward from the city of New Orleans, a post road,

and for other purposes, reported it with amendments.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 146) for the relief of James C. Sloo, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of the American Colonization Society, praying that the Postmaster General be authorized to contract with that society to carry the mails to Liberia, and that the society be paid \$100 for every person of color who shall voluntarily go to Liberia under its auspices, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (S. R. No. 45) for the relief of Benjamin F. Small, postmaster at Carson City, State of Nevada, asked to be discharged from its further consideration; which was agreed to.

Mr. CHANDLER, from the Committee on Commerce, to whom were referred the following bills, reported them severally with amendments:

A bill (S. No. 563) for the preservation of the harbors of the United States against encroachment;

A bill (S. No. 916) to establish lines of American steamships between the United States of America and Europe; and

A bill (S. No. 934) to provide for the improvement of the river, bay, and harbor of Mobile, in the State of Alabama.

Mr. HOWARD, from the Committee on Claims, to whom were referred papers relating to the claim of Joshua Hill, submitted a report thereon, accompanied by a bill (S. No. 970) for the relief of Joshua Hill; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the bill (H. R. No. 1063) for the relief of Henry Barricklow, reported it without amendment, and submitted a report thereon.

Mr. HENDRICKS. If the Senator from Michigan will allow me, I ask that that bill be passed now. It is one about which there can be no controversy.

Mr. HOWARD. Let me get through with my reports.

Mr. HENDRICKS. Very well.

Mr. HOWARD also, from the same committee, to whom were referred the papers in relation to the claim of O. P. Cobb and Christie & Co., reported a joint resolution (S. R. No. 237) to refer the claim of O. P. Cobb and others to the Court of Claims; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the petition of Samuel Miller, submitted a report thereon, accompanied by a bill (S. No. 971) for the relief of Samuel Miller, of Campbell county, Virginia; which was read, and passed to a second reading.

BILL INTRODUCED.

Mr. OSBORN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 974) granting land to aid in rebuilding the Pensacola and Louisville railroad; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

MISS CLARA BARTON'S REPORT.

Mr. GRIMES. On the 10th of March, 1866, Congress appropriated \$15,000 for the reimbursement of expenses incurred by Miss Clara Barton in endeavoring to discover missing soldiers of the Army of the United States. I hold in my hand, and ask leave to present to the Senate, a very interesting report made by her, showing how that purpose of Congress has been executed. I move that a thousand extra copies be printed for the use of the Senate. That motion, of course, will go to the Committee on Printing.

The PRESIDENT *pro tempore*. It will be referred to that committee, under the rule.

TAXES ON NAVAL MACHINERY.

Mr. WILLIAMS. I move that the Senate

proceed to the consideration of House bill No. 1327.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1327) to amend an act entitled "An act to exempt certain manufactures from internal tax, and for other purposes," approved March 31, 1868.

The Committee on Finance reported the bill with amendments. The amendments were in line five to strike out the word "so;" in line six after the word "thereof" to insert the word "so;" and also to strike out the words "allow to manufacturers of naval machinery for the Government all the benefits conferred by said act upon other manufacturers and" and to insert the word "remit" in lieu thereof; and at the end of the bill to strike out the words "are hereby remitted;" so that the bill, if amended, will read:

That the act to exempt certain manufactures from internal tax, and for other purposes, approved March 31, 1868, be, and hereby is, amended in the second section thereof so as to remit all taxes upon such naval machinery which had not accrued prior to the 1st day of April, 1868.

The amendments were agreed to.

Mr. WILLIAMS. It will be necessary, to make the bill grammatical in its phraseology, to strike out the word "such," in the ninth line; and I make that motion.

The amendment was agreed to.

Mr. TRUMBULL. I should like to hear the bill read again as amended. It is short.

The Chief Clerk read the bill as amended.

Mr. TRUMBULL. I move to amend by adding the following, to come in at the end of the bill:

And that the tax heretofore collected on such machinery corresponding to that remitted by this act be, and the same is hereby, remitted.

If this bill is to pass, it is manifest, I think, that those persons who paid the tax on the naval machinery which was used during the war ought to have the benefit of it, if we are to remit the tax in favor of those who have not paid. In fact, the persons who complied with their contracts and delivered their machinery are in a worse condition than those who did not. Those who did not comply are to have the benefit of the remission of the tax upon the machinery imported, while those who fulfilled their agreements and paid up the tax and conformed to the requirements of the contract are not to have the benefit of the act. I hope the amendment I have suggested will be adopted.

Mr. FESSENDEN. I think there is every reason, and very much better reason if this bill is to pass at all, why, as the Senator from Illinois says, those who have already paid on their contracts should have the benefit of the act. I do not think that either of them ought to have it. I know one argument is made in favor of these men that in consequence of the change of system and the lapse of time, &c., labor cost them more. That is their own fault, in a very great measure, simply because they did not perform their contracts. They dragged along for several years with the contracts not performed; and labor and materials became more expensive than they were before. Thus they suffered in consequence of their own delay. The others did not suffer so much because they were prompt in performing their contracts. Now, if any distinction is to be made at all, it should be in favor of those who performed their contracts in time, as the Senator from Illinois suggests. But this matter has been debated once fully in the Senate, and the Senate has decided it; and I do not see any reason why the remission should be made in either case. In fact, the amount is paid by the Government; and there is no escaping from the fact that in the contracts which were made this tax was included, to be paid by the Government; and the Government has paid it, in point of fact, by its addition to the price of the contracts where the contracts have been performed. Where they have not been performed, or were not performed until a late day, the matter stands in precisely the same way, and the parties should not be allowed to avail them-

selves of their own neglect, and to claim that this amount should be refunded to them by way of making up to them what they lost in the increased value of materials, &c., occasioned by their own laches in not performing their contracts when they should have performed them. That is the way I look at it, and I hope the bill will not pass.

Mr. WILLIAMS. I do not propose particularly to controvert the correctness of the suggestion made by the Senator from Illinois, but this bill, including the amendment which he has proposed, was submitted to the House of Representatives, and that portion of the bill was stricken out and it passed the House, allowing these contractors to have the tax remitted upon all machinery that is not now completed or delivered. In that shape the bill passed the House, and these contractors so far as I know, anticipating that an amendment like that proposed by the Senator from Illinois would wholly defeat the bill, are content to take it as it came from the House. Therefore I hope the bill will not be amended as proposed by the Senator from Illinois, because at this time of course it will inevitably defeat the bill.

The House has decided upon this bill not to refund the tax that has already been paid the Government, but to remit the tax that is not now collected, which is altogether a different thing from that proposed by the Senator from Illinois. It is one thing to pay back taxes that have been collected, and it is another and a different thing to remit taxes that have not yet been collected.

So far as the objection made by the Senator from Maine is concerned, it is evident that if these taxes are remitted these contractors must inevitably suffer loss in the construction of this machinery; and that fact has been demonstrated to the Senate, because on a former occasion there was evidence here to the effect that they had lost forty per cent. upon the contracts which they had made, and the Senate passed a bill for their relief upon the ground that they had sustained loss in consequence of the contracts which they had made for the construction of this machinery.

These contracts were made in 1863, and any one who will refer to the prices of labor and materials subsequent to that time will see that these men must inevitably have lost upon these contracts. For instance, in January, 1863, bar iron was worth ninety-two and a half cents, and in 1864, the next year, it was worth \$1 30. There was so much rise upon that particular material. Common iron was worth eighty cents in January, 1863.

Mr. GRIMES. Where do you get that from?

Mr. WILLIAMS. I get it from a statement that is furnished of the different prices at that time, and I suppose there is no question about that. Any man acquainted with the history of this country knows that materials were higher in 1864, wages were higher in 1864, than they were in 1863, and gold was a good deal higher in 1864 than it was in 1863.

Under such circumstances these persons who had contracted to build this machinery and had devoted their establishments to that business could not take custom work and contract according to the prices that might rule at the time the application was made for custom work, but having made these contracts in 1863 they were compelled to go forward and complete them and to pay the increased price for all sorts of materials and for labor, and in that way they sustained losses; and the Senate has decided that they sustained losses in that way.

It is said that these contracts were made with a view to this tax. That is true of all contracts that were made prior to the date when the law was repealed putting tax upon manufactures in this country. Senators advocated here a bill to repeal the tax on manufactures; they struck down millions of taxes at a single blow and relieved the manufactures of the country; but in this particular case there was an exception made. Now, it is perhaps difficult to ascertain the exact amount to be affected by this act if it passes; but I have an estimate from the Com-

missioner of Internal Revenue, in which he says that it will not exceed \$165,000 that will be remitted to these persons if this bill passes as it has been reported from the committee.

Now, sir, it seems to me that if upon all other manufacturing establishments in this country the taxes could be properly remitted and the revenue of the country in that way deprived of millions upon millions, there ought not, so far as this particular class of persons is concerned, to be such a determination on the part of Congress to compel them to pay this tax simply because they had made contracts with the Government; as though men who were working for the Government were not entitled to the same consideration as men who were working for corporations or private individuals; and the argument amounts to nothing. You cannot pass any general law that will not operate to the advantage of some individuals and to the disadvantage of some other individuals. I presume in 1868, when this law was passed repealing the taxes upon manufactures, there were many persons who were greatly benefited by that act engaged in manufacturing pursuits, and others who were greatly damaged; but it was impossible to pass a general law without producing that effect.

Now, sir, I have examined this case. When the matter was referred to me I confess my prepossessions were against the bill; but after having examined all the documents and papers on the subject it is impossible for me to see why these manufacturers should not stand upon the same footing with other manufacturers in this country; and all the arguments that I have heard made against the repeal of this law apply with equal force to all other manufacturers in the country; and in fact, if there is any favor to be shown by Congress, it seems to me these persons are more entitled to consideration than any other manufacturers, because they made their contracts in 1863, and their efforts from that time forward were devoted to this particular business. If they had made no such contract in 1863 they could have made contracts with customers and fixed their prices according to the prices of labor and material at that time. But they could not do that under these contracts. They had to go on under the contracts of 1863 and pay twenty-five per cent. higher wages than they did in 1863, and also higher prices for all the materials that went into the composition of this machinery. I hope this bill will pass. I think it is right and just; and for that reason I have recommended its adoption by the Senate.

Mr. MORRILL, of Vermont. Mr. President, this seems to be the perfect paradise of Government contractors. If they make a bargain by which they make large profits of course they do not refund anything to the Government, but if they make a bad bargain they come to Congress for relief. The Senator from Oregon argues that these parties ought to have relief upon a contract which they took with the understanding that they were to pay the tax; and yet when we repealed the tax from all other persons, which benefited them, of course, and of which they had no right to complain, because it enabled them to produce their own manufactures at a cheaper rate, they come here and ask relief on this special contract.

Mr. DAVIS. I ask the honorable Senator from Vermont to suspend his remarks until the committees can further report.

The PRESIDENT *pro tempore*. Reports are out of order. When the Senate unanimously consent to take up a bill it cannot be interrupted by reports, or no business will be done.

Mr. POMEROY. If this bill is to be debated during the whole morning hour I think we had better lay it on the table.

Mr. MORRILL, of Vermont. I do not propose to debate it for any length of time.

Mr. POMEROY. We want to do some business in the morning hour.

Mr. WILLIAMS. I suppose the Senator has some particular business of his own that he wants to have done.

Mr. POMEROY. Not a thing more than any other Senator.

Mr. WILLIAMS. I do not know why this bill is not entitled to as much consideration as any other business.

Mr. POMEROY. We usually devote the morning hour to morning business and such bills as do not occupy time.

Mr. WILLIAMS. I gave way for reports and everything that anybody wanted to put in.

Mr. CRAGIN. I rise to a question of order. When the regular order has been gone through with, the presentation of petitions, reports of committees, introduction of bills and joint resolutions, and resolutions, and a motion is made to take up a bill, I contend that it is not then in order for any Senator to rise here and ask as a privilege in the morning hour to introduce a petition or make a report from a committee. The time for those things has already passed.

Mr. POMEROY. Any Senator has a right to move to lay this bill on the table, I suppose.

Mr. CRAGIN. Certainly.

Mr. MORRILL, of Vermont. These parties made contracts in 1863, and the whole of them, fourteen or fifteen in number, were to be completed in 1864. They will not consent now that the Government shall abandon their contracts, but claim that the Government shall fulfill them; and they want at this late hour to deliver their machinery according to the contracts, and yet to have this deduction of the five-per-cent. interest tax. The Senator from Oregon claims that these parties had to pay a much higher rate for iron in 1864 than was the price in 1863, and yet the fact is, not one of them completed his contract in 1864 nor in 1865. At least three years, as I am informed, elapsed before any one of them was completed; so that they had the advantage of the fall in prices in 1865. I do not know that they were quite as low as they were in 1863, but whether they were or not they took the contracts with their eyes open. I have a list of them here. There are eleven or twelve of them of \$400,000 apiece, all to be completed in 1864 save one, which was to be completed in 1865. There is another of \$700,000, to be completed September 24, 1864; another of \$680,000, July 24, 1864; another of \$700,000, October 26, 1864; and altogether they amount to nearly or \$8,000,000. The amendment proposed by the Senator from Illinois certainly has as much justice in it as any of these claims. Why should this tax be refunded to these parties? Simply because the Government is going to use the machinery, I suppose; but in this case the Government does not want this machinery, cannot use it if it has it, and yet they want to be paid for it according to the contracts. I trust, sir, we shall not set the precedent by passing a bill of this kind.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Illinois.

Mr. HENDRICKS. I hope that amendment will not be adopted, although on principle I should like to support it. It would be a burden on this bill which would probably defeat it. I wish to say, in reply to the Senator from Vermont, that I sympathize with the policy of this Government that would not allow the contractors for the iron-clads to be broken up, because they invested their money in a great enterprise for the good of the Government. I do not know these particular contractors, but I had some connection with the bill for the relief of a class of them, and it is my judgment that Congress has not done them half the justice that ought to have been done them. In one case a man was in the prisons in Boston under the insolvent laws, because of debts that were contracted in building one of the vessels that fought the battles of the country during the war. I do not believe in this thing of saving money for the great body of the people by breaking up men who have done great service to the people. When the Senator last year favored the abolishment of taxes upon manufactures I do not see why men who manufactured for the Government

should have been excluded from the benefit of that act. If a manufacturer of machinery had contracted with me, then the Senator's policy would have been to relieve him from tax upon it; but if he had contracted with the Government for the very same machinery the Senator would be in favor of keeping the tax upon him. Why? Upon that presumption that a man gets a better contract from the Government. If he goes upon that presumption, as a matter of fact, the presumption is not true. The men who during the war manufactured machinery for private individuals made fortunes, made money all the way through, while the men who made contracts with the Government in the year 1863, and had to do the work in 1863, 1864, 1865, and 1866, were all of them to a greater or less extent injured in their fortunes. This, in my judgment, is a strong case for relief, and I support it cheerfully.

Mr. GRIMES. These are not the iron-clad contractors. There are very few of the people that made iron-clad vessels who are interested in this subject. These are engine contractors in various parts of the United States. I think the Senator from Oregon is slightly mistaken when he says that they were not able to do any work outside of the work they were employed in in consequence of these contracts. I am somewhat familiar with this subject. The truth is that during the whole time of the war the men who were engaged in fulfilling contracts with the Government for building iron-clads and engines, while they were bound up strictly to their contracts, which none of them fulfilled, were yet limited in the amount of those contracts; and when our steamers needed repairs we were compelled to send them to their shops and their yards, and the result was that they fixed their own prices and most of them exorbitant prices; and when it was proposed to establish a yard at a proper place with shops and machinery, where we could have had our own repairs and made our own ships, they gathered around Congress and interposed all sorts of obstacles to the establishing of that place and the carrying out of that programme.

Now, what is the condition of this case? I ask the attention of the Senator from Indiana to the statement I am about to make. In 1863 the Secretary of the Navy made certain contracts for machinery, all of which were to be completed in the autumn of 1864 before the close of the war. Some of these contracts were completed in proper time. The men who made those contracts and completed them have paid their tax. They were honest, conscientious men, and fulfilled their obligations to the Government. These other men who made contracts at the same time for the same sort of machinery did not complete their contracts until 1868, and now they come to Congress and ask that we relieve them from the payment of the tax which the men who have conscientiously filled their contracts have already paid; and you say that the amendment proposed by the Senator from Illinois shall not be adopted to refund the amount of taxes that have been paid by the contractors who have honestly and conscientiously fulfilled their contracts. You will not put them upon the same level and in the same condition. You will not, in other words, do as well by them as you will by the man who has been five years negligent in the performance of his contract. That is what you will say when you reject the proposition of the Senator from Illinois.

On one side are parties who fulfilled their contracts according to the stipulations of them, and on the other parties who did not fulfill theirs until between three and four years afterward, and you propose to relieve those who were negligent in their duty and were so far remiss and you will not relieve those who fulfilled their contracts conscientiously and promptly.

Now, it is said that the Navy Department did not want these vessels because of the close of the war; but I say, in reply to that, that the Navy Department did want the vessels,

and never expressed any opinion to the contrary until long after the time had elapsed when the contracts were to be completed; but the war terminating in 1865, months after the contracts were to have been completed, of course they did not care anything about engines they had no use for; but the contractors ought not to take advantage of their own wrong in that particular. That ought not to be urged as an argument in behalf of their bill. If we are going to do justice let us include all the contractors; those who faithfully performed their contracts certainly as soon as those who were three years behind time.

Mr. DIXON. Allow me to ask whether in many instances those parties were not the same persons? The Senator makes a distinction between those who fulfilled and those who did not fulfill their contracts. Were they not the same identical parties?

Mr. GRIMES. In some instances they were and in some they were not.

Mr. DIXON. Were they not the same in a large majority of cases?

Mr. GRIMES. No, sir; but it does not make any difference if they were a majority. If there was a single man who was not included it would make all the difference in the world in this proposition, because that one man having fulfilled his contract to furnish one engine, he ought not to be called upon to pay tax which another person who did not fulfill his contract is exempt from paying.

Mr. CRAGIN. Mr. President, it will be recollected by every Senator that in March last Congress passed an act relieving manufacturers from the tax which had been imposed upon them, with the exception of the manufacturers of naval machinery. Now, what is sought to be accomplished by this bill is that the manufacturers then excepted shall have remitted to them the taxes which have been imposed upon them since the passage of that law; in other words, to make that law to include all manufacturers and all manufactures. The Senator from Illinois offers an amendment to this bill, going back to the date of the passage of the law in 1863, for the purpose of refunding to these contractors money which they had paid before. The men involved in this bill paid their taxes, whatever they were, prior to March, 1868, the same as all other manufacturers, and all that they ask now is that the tax which has accrued since the passage of that law may be remitted, so that there may be no exception whatever. If we are to go back to refund taxes to one class of manufacturers prior to the passage of the law of March, 1868, then we shall be called upon to go back and refund taxes to other classes of manufacturers. Why should not the manufacturers of iron and other products come in here and ask to have their taxes refunded? This bill seeks, and only that, to place all manufacturers upon the same ground from March, 1863, and not to go back at all.

For one I agree entirely with the Senator from Indiana [Mr. HENDRICKS] that these manufacturers of naval machinery and of iron-clads, &c., as a general rule deserve the consideration of Congress—deserve relief. But all that this bill seeks to do is to put all manufacturers upon an equality from the day we passed the act in March last.

Now, it is said by the Senator from Iowa that these other contractors who had completed their contracts and delivered their machinery prior to that time had complied with the contracts. He must be aware that nearly every one of them furnished that machinery after the time specified in the contracts.

Mr. GRIMES. They paid tax on it.

Mr. CRAGIN. So did the persons intended to be benefited by this bill pay their tax up to March, 1868, the same as all others, so far as they had gone.

Mr. GRIMES. They did not pay anything.

Mr. CRAGIN. "Actually paid" is the expression. I suppose it is not all paid at once. They pay as the work progresses on the portion finished.

Mr. GRIMES. Not until it is all done.

Mr. CRAGIN. At any rate I fail to see any reason why these manufacturers should not have the same benefits with all others from the time the law of March, 1868, was passed. That is all that this bill asks.

Mr. FRELINGHUYSEN. I desire to ask the Senator from Oregon or the chairman of the Committee on Finance what amount is involved in this bill; how much the tax which the bill proposes to remit amounts to, and how much is involved in the amendment which provides for the refunding of taxes?

Mr. WILLIAMS. I have a statement from the Commissioner of Internal Revenue in which he estimates that about one hundred and sixty thousand dollars of tax will be remitted by the passage of this bill; but as to the effect of the amendment proposed by the Senator from Illinois I am not able to make any specific answer, as I have not obtained any estimate; but I presume the amount would be doubled at any rate if that amendment were adopted. I presume the Government would be compelled to refund an amount equal to the amount remitted by the bill.

Mr. FESSENDEN. I want to state exactly what this question is, so that if anybody does not understand it he may understand it as I do, if I am able to state it. We agreed to pay these manufacturers so much money for so much work. Into that price went the amount of Government tax; that made a part of the price. They did not perform their contracts. Others did and received their price. These men did not; I do not know that they have done it to this day; and now they come and ask us to increase the price to them by paying them the amount of the tax. They already receive it as a part of the price in the first place, and now they ask us to add just so much more—because that is the effect of it—to the price because they did not perform their contracts.

Mr. HOWARD. Is this bill so drawn as to cover cases where the work has not been performed?

Mr. FESSENDEN. It covers nothing but those where the work was not performed according to the contract or for two or three years afterward, if it has been at all; and they put it upon the ground that we ought to do it, that is, increase the price by just adding the Government tax which we have already paid them or are to pay them, it being included in the price, by adding that same amount again, because in consequence of their not performing their contracts the material cost them more. That is the question, and the only question there is before the Senate.

Mr. WILLIAMS. Mr. President, to assume that the argument of the Senator from Maine is correct in this case is to assume that the bill as it was originally passed, repealing all taxes on manufactures, was an erroneous and improper bill to pass. All that this bill proposes to do is to put a certain class of manufacturers upon the same footing with all the other manufacturers, and not to proscribe men because they happened to be contractors under the Government while the benefactions of your law are extended to other manufacturers.

In 1868, when these taxes were remitted, no doubt there were millions of dollars of manufactures contracted for in this country, and the contracts were made with reference to the tax existing at the time the parties entered into the contracts; but when the property was delivered under those contracts this law had been passed, and the taxes were remitted and they received the benefit of the law. Now, it is simply proposed to put these manufacturers upon the same footing. Why should Congress in its legislation select a certain class of persons and say because they make contracts with the Government they shall not enjoy the same advantages that other parties had under the legislation of Congress?

Now, sir, it is an incontrovertible fact that these people did lose money upon these contracts. Gold in 1863 was worth considerably

less than it was in 1864, within the time when this machinery was to be delivered, and materials increased greatly in value, and these people were compelled to pay those high prices for their materials.

Mr. GRIMES. Allow me to suggest that these contracts, while they were made in 1863, when gold was high, were not completed until 1863, when gold was quite low and labor was very much depressed.

Mr. WILLIAMS. No matter about that.

Mr. GRIMES. But the other parties whom the Senator from Illinois seeks to benefit completed their contracts in 1864, according to the stipulations of the contracts, when gold and labor were both high, and the Senator objects to refunding money to them.

Mr. WILLIAMS. I object to it because I know that it will defeat the bill; for that reason and not because the principle is not correct. But is it true that because we are unable to do justice to everybody we shall therefore do justice to nobody? If it be true that these men are entitled to this relief they ought to have it; and it is no argument against this bill to say that you cannot relieve everybody. If it was possible to make the operation of this law equal upon every individual and under all circumstances, then, of course, the law would be so framed; but the law ought to stand now as it ought to have stood when it was passed, and instead of proscribing any particular class of manufacturers it should have included all manufacturers; it should have provided that all manufacturers are exempt from tax from and after the date of the passage of that law.

Now, sir, it is objected herethat these people did not fulfill their contracts. The Government can take advantage of that in any way they see proper. That does not concern the question whether or not they ought to pay their taxes. If the Government is willing to receive their work at this time, and if the Government has acquiesced in their failure to perform the contracts within the time specified, then it does not lie in the mouth of Congress to object to putting these men upon the same footing with all other manufacturers. I doubt very much whether any of this machinery was delivered within the contract time. Unless I am greatly misinformed none of it was; but on account of the high prices and on account of the difficulty of procuring labor it was impossible for these men to complete the contracts within the time fixed, and so the time was extended; but soon after the necessity for this machinery ceased, and the Government, as I understand, has fully acquiesced in this extension of time; and therefore there is no occasion, it seems to me, because all the persons who paid taxes cannot be relieved, that those should not be who are embraced in this provision.

Mr. SPRAGUE. If you compel these people to pay their taxes now you compel them to pay a very large amount more than if they had paid their taxes as other manufacturers pay. The Senate should, in my judgment, look at it in the light of a contract having been made in 1863 on the basis of a certain price, and when the delivery and payment are made the Government pays less than it contracted to pay.

Mr. FESSENDEN. The Senator will observe that the Government itself pays the tax by the contract, because it is included in the price.

Mr. SPRAGUE. It does not make any difference.

Mr. WILLIAMS. Let us have a vote on the amendment.

Mr. MORRILL, of Vermont. A single word further. The Senator from New Jersey inquired as to the amount this bill will take out of the Treasury. I suppose it is wholly impossible to make an accurate estimate either by the Commissioner or any one else. Last year, when the proposition was before Congress, the Special Commissioner of the Revenue estimated it at \$600,000. I believe in the Committee on Finance the estimates of the members differed very widely, some thinking it would amount to

four or five hundred thousand dollars, and some not so high as the amount estimated by the Commissioner of Internal Revenue.

Mr. WILLIAMS. I suppose the Senator does not wish to be understood that this bill in its present shape, without the amendment, would involve that amount.

Mr. MORRILL, of Vermont. I do not know what effect the amendment that has been made would have. It does not limit it as to time. It uses the word "remit" instead of "allow." I do not think that would change it very much. The amount that would be included by the amendment of the Senator from Illinois is wholly uncomestable. The expenditure for machinery since the commencement of the war amounts to millions upon millions. This very bill contemplates the remission of taxes upon from eight to twelve million dollars. I suppose we have expended hundreds of millions of dollars for machinery, on which we shall be compelled to refund taxes if the bill should pass.

Mr. FRELINGHUYSEN. Does the Senator say that the money refunded would amount to several millions?

Mr. MORRILL, of Vermont. No.

Mr. FRELINGHUYSEN. You said something about "eight millions."

Mr. MORRILL, of Vermont. This bill contemplates refunding the tax upon about eight millions.

Mr. CATTELL. That is the percentage on eight millions.

Mr. WILLIAMS. Oh, no; it is only about one hundred and sixty-five thousand dollars altogether.

The PRESIDENT *pro tempore* put the question on the amendment of Mr. TRUMBULL, and declared that the yeas appeared to have it.

Mr. TRUMBULL. I ask for a division on that question. It seems to me if we are to pass the bill the amendment should be adopted.

Mr. PATTERSON, of New Hampshire. Let the amendment be read.

The CHIEF CLERK. The amendment is to add the following words:

And that the tax heretofore collected upon such machinery corresponding to that remitted by this act be, and the same is hereby, refunded.

Mr. TRUMBULL. It does seem to me that Senators cannot understand this amendment, or they would not object to it. In 1863 certain parties entered into contracts with the Government of the United States to construct naval vessels and naval machinery. No tax was then imposed on the machinery.

Mr. SHERMAN and Mr. WILLIAMS. Yes; there was a tax of three per cent.

Mr. TRUMBULL. There was three per cent. at that time, it seems. A portion of these contractors have been relieved by the Government. The price of constructing vessels was so increased by the increased price of labor and material that the parties were unable to comply with their contracts, and the Government has relieved some few of them. I happen to know of a case of a party who constructed one of these vessels for the western waters who never had any relief, and who completed his contract and paid his tax and has been ruined by the contract. Now, there is a proposition here, to do what? To remit the tax upon this machinery in favor of parties who made contracts at the same time that they did, and who have not yet paid the tax. Because they were dilatory, and because the tax was not collected from them at the time when it should have been, they come in here and ask to have it remitted. Now, I propose that the man who completed his contract and who paid his tax in pursuance of his agreement shall not be put in a worse position than the man who failed to comply with his contract.

Mr. WILLIAMS. I wish to make one answer to that argument, and it is this: the law was passed in 1863 to be prospective in its operation and not retrospective, and all persons who had prior to that date paid their tax had to suffer that loss if there was any loss.

Mr. TRUMBULL. Why not those who are liable to pay it?

Mr. WILLIAMS. Because that law was intended to operate prospectively and to remit all taxes that had not been paid up to that time upon all sorts of manufactures in the country, and this is simply to put this class of persons on the same footing with all other classes and not to give them any special advantages; but to undertake to go back prior to that date and remit taxes paid would be to give them advantages over other manufacturers in the country.

Mr. FESSENDEN. The answer to that was made before when this matter was debated, and it is this: that with regard to contracts between individuals there was no mode in which we could reach it. We abolished the tax from a certain time, and we could not, by any machinery that we could use, change that matter. It must stand as it did. But with regard to contracts made with the Government, inasmuch as the Government itself paid the tax, we could reach and lay our hands upon them.

Mr. CORBETT. I suppose if there had been any exception at the time this law was passed the Senator from Illinois would not have offered this amendment; but as an exception was made of those articles that were contracted for by the Government at that time, and it is proposed now to remit those taxes, he proposes to offer this amendment to the bill. As I understand, the object of this bill is to place these manufacturers on the same level with other manufacturers. There were merchants who purchased goods of manufacturers to be delivered in thirty, sixty, and ninety days after the expiration of this tax who could come back with the same reason and ask the manufacturer to return the tax or relinquish the tax to them as that we should relinquish it to the manufacturer; but there is no discrimination made in that way. Consequently, every one who purchased goods of the manufacturer had to pay the manufacturer those taxes. You have struck a line; you have said that after a certain day these manufacturers should not be taxed. Now it is proposed to put these manufacturers on the same ground with every other manufacturer; and when you go beyond that it seems to me you are at sea, and you do not know how many will come in and ask for taxes to be remitted to them. It seems to me that this proposition of the Committee on Finance, placing these manufacturers upon the same level with other manufacturers, is no more than right. They will have the same advantage as any private manufacturers.

Mr. WILLIAMS. Let us have the vote.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Illinois, on which he asks for a division.

The amendment was rejected—yeas ten, noes not counted.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time.

Mr. FESSENDEN. I ask for the yeas and nays on the passage of the bill. I want to put myself on the record against it.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 25; as follows:

YEAS—Messrs. Abbott, Anthony, Cattell, Conness, Corbett, Cragin, Dixon, Drake, Ferry, Hendricks, Kellogg, McDonald, Morrill of Maine, Morton, Nye, Patterson of New Hampshire, Pool, Ramsey, Sawyer, Sprague, Sumner, Vickers, Wade, Warner, Welch, and Williams—26.

NAYS—Messrs. Bayard, Buckalew, Cameron, Cole, Conkling, Davis, Doolittle, Fessenden, Frelinghuysen, Grimes, Harlan, Harris, Howard, Howe, McGreevy, Morgan, Morrill of Vermont, Patterson of Tennessee, Pomeroy, Rice, Ross, Sherman, Tipton, Van Winkle, and Willey—25.

ABSENT—Messrs. Chandler, Edmunds, Fowler, Henderson, Norton, Osborn, Robertson, Saulsbury, Spencer, Stewart, Thayer, Trumbull, Whyte, Wilson, and Yates—15.

So the bill was passed.

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. The morn-

ing hour having expired, the unfinished business of yesterday is before the Senate, being the bill (H. R. No. 1741) granting an increase of pension to Emily B. Bidwell, widow of Brigadier General Daniel D. Bidwell, and Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman.

Mr. HOWARD. I should like to have that bill laid aside informally for a moment, in order to take up a resolution which was reported from the Committee on the Pacific Railroad some time ago, entitled a joint resolution (S. R. No. 202) more effectually to secure the faithful completion of the Union Pacific railroad and its branches according to law. I endeavored some time ago to get this resolution up, and have it considered and passed by the Senate; and I hope the Senator who has charge of the unfinished business will give his consent to lay it aside for a moment in order to take up this joint resolution.

Mr. MORRILL, of Maine. I ask what is the unfinished business?

The PRESIDENT *pro tempore*. The unfinished business is a pension bill granting a pension to Emily B. Bidwell and others.

Mr. MORRILL, of Maine. I move that that bill be postponed in order to proceed to the consideration of the unfinished business of yesterday prior to the recess, the Army appropriation bill, if the Senator from Massachusetts, the chairman of the Committee on Military Affairs, will give his consent.

Mr. WILSON. Certainly.

Mr. MORRILL, of Maine. I make that motion.

Mr. HOWARD. I hope the unfinished business will be laid aside.

Mr. MORTON. I ask the Senator from Maine to withdraw his motion for a short time. I think we can get a vote on this pension bill in a few minutes. It is a bill that passed Congress at the last session; but owing to some inadvertence inconsistent provisions were put in it so that it could not be executed at the Department, and I think the question can be settled in a very few minutes.

Mr. WILSON. I think the Senator had better allow that to go over. We can get it up at some other time.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine, to postpone all prior orders for the purpose of taking up the Army appropriation bill. The motion was agreed to.

Mr. HOWARD. I move that the pending order be laid aside informally with a view to take up the joint resolution which I have mentioned.

The PRESIDENT *pro tempore*. That can only be done by unanimous consent. The Senator from Michigan asks that the pending bill be laid aside informally. Is there any objection?

Mr. BUCKALEW. I should like to know what bill the Senator from Michigan proposes to take up.

The PRESIDENT *pro tempore*. A bill in relation to a railroad.

Mr. HOWARD. No, sir; it is the joint resolution reported by the Committee on the Pacific Railroad more effectually to secure the faithful completion of the Union Pacific railroad and its branches according to law. I do not think it will lead to much debate, perhaps none. It is a measure eminently deserving to be passed, in my judgment.

Mr. MORRILL, of Maine. I hardly think the Senator from Michigan would appeal to me to have the Army bill, which is now nearly completed, postponed.

The PRESIDENT *pro tempore*. Is there any objection to postponing it informally?

Mr. MORTON. Yes, sir.

The PRESIDENT *pro tempore*. Objection being made, the motion cannot be entertained.

Mr. HOWE. I ask the permission of the Senator from Maine to make a couple of reports.

Mr. MORRILL, of Maine. Certainly.

The PRESIDENT *pro tempore*. The Chair

will receive reports of committees at this time if there be no objection.

REPORTS OF COMMITTEES.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of members of the Senate and House of Representatives from the southern States, praying the passage of the bill to pay loyal citizens in the States lately in rebellion for services rendered in taking the United States census in 1860, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of James St. John, praying an appropriation for the payment of the reward offered for the capture of Jefferson Davis, asked to be discharged from its further consideration; which was agreed to.

Mr. DAVIS, from the Committee on Claims, to whom was referred the petition of Stuart Barnes, reported a bill (S. No. 972) for the benefit of Stuart Barnes; which was read, and passed to a second reading.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, reported a bill (S. No. 973) to establish certain post roads; which was read, and passed to a second reading.

Mr. HARLAN, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 309) to promote the efficiency of the Indian department, reported adversely thereon.

Mr. VICKERS, from the Committee on Commerce, to whom was referred the bill (S. No. 834) to incorporate the Southern Express Company, asked to be discharged from its further consideration; which was agreed to.

CAIRO AND FULTON RAILROAD.

Mr. RICE. The Committee on the Pacific Railroad, to whom was referred the petition of the Cairo and Fulton Railroad Company, asking for an extension of time for the completion of the first twenty miles of their road, have instructed me to report a joint resolution (S. R. No. 238) extending the time for the completion of the first twenty miles of the Cairo and Fulton railroad; and with the consent of the Senator from Maine I ask that the present order be laid aside temporarily with a view of passing this resolution at once. There is no objection to it in any quarter.

By unanimous consent, the joint resolution was read three times, and passed. It provides that in case the Cairo and Fulton Railroad Company shall complete the first section of twenty miles of its road by the 28th of April, 1870, and the Secretary of the Treasury shall be satisfied of such completion, the company shall be entitled to its lands in all respects and to the same extent as it would have been had the twenty miles been completed by the 28th of July, 1869, as provided by the law relating to the railroad company, approved July 28, 1866.

PAPERS WITHDRAWN.

On motion by Mr. MORGAN, it was

Ordered, That J. T. Wright have leave to withdraw his petition and papers from the files of the Senate.

On motion by Mr. WILLIAMS, it was

Ordered, That Mrs. Commodore Mitchell have leave to withdraw her petition and papers from the files of the Senate.

ORDNANCE REPORT.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution for the printing of the report of the joint Committee on Ordnance relative to experiments upon heavy ordnance, with accompanying documents, report it back and recommend its passage. I ask for its present consideration.

By unanimous consent, the Senate proceeded to consider the following resolution:

Resolved, That the report of the joint Committee on Ordnance relative to experiments upon heavy ordnance, with the accompanying documents and illustrations, be printed; and that two thousand additional copies be printed for the use of the Senate.

Mr. BUCKALEW. I should like to know how much this will cost.

Mr. ANTHONY. The printing of the usual number, which I suppose is a matter of course, will cost \$1,300. The additional two thousand

copies will cost \$400. I do not see the chairman of the Committee on Ordnance in his seat, but it is the judgment of the committee that the report ought to be printed.

Mr. BUCKALEW. This subject of ordnance is not one of general interest in the country, and I think it is unnecessary to print the two thousand additional copies.

Mr. ANTHONY. The printing, which I suppose is a matter of course, will cost \$1,300. The additional two thousand copies which the Committee on Ordnance have asked for will cost \$400.

Mr. BUCKALEW. This is hardly a book for popular distribution.

Mr. ANTHONY. No; but there is an immense amount of information in it of great value to that branch of the public service, as the committee informs me.

The resolution was agreed to.

REVISION OF RULES.

Mr. ANTHONY. I offer the following resolution:

Resolved, That a committee of three Senators be appointed to report any modification or change of the rules of the Senate which may be deemed necessary for the proper action of the Senate in conducting the public business.

I wish to state that there is no disposition to make a general revision of the rules, but there is one respect in which I think they are defective, and I know the Chair agrees with me; and there is one respect in which I think they contravene the Constitution of the United States, and I am fearful that if we do not alter the rules somebody will move to alter the Constitution, as that seems to be the favorite remedy for any trouble.

Mr. BUCKALEW. While we are establishing a committee to revise the rules, I suggest that we had better extend their authority to the joint rules.

Mr. ANTHONY. I have no objection to that if it does not require a joint resolution.

Mr. BUCKALEW. For instance we have a joint rule with regard to the counting of the electoral votes, which requires very careful attention.

Mr. ANTHONY. Would not that require a concurrent resolution?

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The Chair thinks this committee can be charged with all that relates to the action of the Senate on the subject. Of course any recommendation of the committee in regard to the joint rules would require joint action, but the committee need not necessarily be a joint committee in its appointment.

Mr. BUCKALEW. I move to amend by extending the authority of the committee to the joint rules. The Clerk will put it in form.

Mr. ANTHONY. I have no objection to that modification.

The PRESIDING OFFICER. The resolution will be so modified.

Mr. SUMNER. Allow me to say that while the committee are occupied with this subject I hope they will not forget to abolish the old and barbarous system of enrolling our bills on parchment, which is an additional expense and takes time unnecessarily. It has come down from distant ages, and I believe that the Legislature of the State of Massachusetts and the Congress of the United States are the only legislative bodies where it is preserved.

The PRESIDING OFFICER. The resolution, as modified, extends to the rules of the Senate and the joint rules of the two Houses.

Mr. TRUMBULL. It strikes me as very inappropriate to appoint a committee of the Senate to revise the joint rules. Certainly it had better be a joint committee for that purpose.

Mr. ANTHONY. We do not refer any other bills to a joint committee. We refer a bill that requires the assent of both Houses and of the President of the United States to the committees of the two Houses separately. I do not see the necessity of its being a joint committee.

Mr. TRUMBULL. But this is in regard to

the transaction of business in the two Houses, and a joint rule, it would seem to me, ought not to be considered in that way. It would be better to have a joint committee for that purpose. I have no objection to a joint committee or to a committee of the Senate. It is true there is nothing unparliamentary in it. I apprehend we may appoint a committee to consider the revision of the joint rules; but it would strike me as a singular mode of proceeding, and one not likely to attain its ends. To accomplish anything it would be much better to have associated with this committee a committee of the House of Representatives, and then when the report was made it would be understood in both Houses, and be much more likely to be adopted.

The PRESIDING OFFICER. The question is on adopting the resolution.

The resolution was agreed to.

ARMY APPROPRIATION BILL.

The PRESIDING OFFICER. The bill (H. R. No. 1803) making appropriations for the support of the Army for the year ending June 30, 1870, and for other purposes, is now before the Senate as in Committee of the Whole. When this bill was under consideration yesterday the Senator from Massachusetts [Mr. SUMNER] moved an amendment providing for the payment of a certain claim of the States of Massachusetts and Maine. To the reception of that amendment the Senator from Iowa [Mr. GRIMES] interposed a question of order. That question of order was submitted to the Senate under the sixth rule, and the Senate is to decide whether the amendment is admissible under the thirtieth rule. The question now before the Senate is whether under the provisions of the thirtieth rule this amendment is in order.

Mr. SUMNER. As this question has come over from yesterday, I hope the Senate will pardon me if I remind them of the point on which they are to decide. It is whether the claim of a State is a private claim or a public claim under the rule of the Senate. Now, sir, I submit to the Senate, what is a public claim if the claim of a State be not one? To what claim will you apply the words of the rule? I insist that the claim of a State is public in contradistinction to private, and that there is nothing in the circumstances of this claim to take it out of the general rule. It is public, according to the reason of the case. It is public also according to the precedents of this body. I reminded you yesterday of eighteen since 1854 that have found their way on the statute-book. Shall I cite them again? Shall I take more time to press them upon the Senate? There they are, precisely applicable to this case. If you decide now that the claim of Massachusetts is not a public claim you practically declare that all the legislation of the country since 1854, containing no less than eighteen such claims on appropriation bills, was contrary to the rules of the Senate.

Mr. CONKLING. Will the Senator permit me to ask a question about those eighteen precedents?

Mr. SUMNER. Certainly.

Mr. CONKLING. Are they, any of them, cases like this, in which the point of order was made and adjudicated in the direction that he argues?

Mr. SUMNER. I will answer the Senator; they are cases precisely like this.

Mr. CONKLING. But was the point of order made?

Mr. SUMNER. I will come to the point. They are cases precisely like this. Whether the point of order was made on the presentation of the claim I have no means of knowing. Suffice it to say, they find their place in Army appropriation bills. What more can be needed? If they were out of order they could not be there. The fact that they are on the Army bills is the answer to the question of the Senator. Now, let me call attention to the provisions in the cases of Maryland and Massachusetts, which are identical, so much so that,

as lawyers would say, the two cases go on all fours. The last appropriation for the principal of the claim of Massachusetts was made in the act of 1859, in these words:

"That for the purpose of executing a resolution approved May 14, 1836, the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the Commonwealth of Massachusetts, out of any moneys in the Treasury not otherwise appropriated, the sum of \$227,176 48, reported under said resolution to be due to said State by J. B. Poinsett, late Secretary of War, in a report dated the 23d December, 1837."

You will observe this is in 1859, and the report was in 1837—

"made to the House of Representatives the 27th of December, 1837: *Provided*, That in lieu of payment in money, the Secretary of the Treasury may, at his discretion, issue to said State United States stock bearing an interest of five per cent. per annum, and redeemable at the end of ten years or sooner, at the pleasure of the President."

Mr. CONKLING. There is no provision there for the interest.

Mr. SUMNER. There is no provision here for the interest, and it is for that very reason that I make the present motion; but observe, there is a provision to pay a claim according to a report bearing date 1837. Of course from 1837 to 1859 interest had been accumulating. Massachusetts part of that time at home was paying interest on her obligations, and according to the rule adopted at the Treasury Department she is entitled to interest on that claim.

Now, observe, sir, that this very claim was put on the Army appropriation bill in 1859—the claim for the principal. Now I come to the question of interest, and here I ask the attention of the Senate to the Maryland case, which will be found on the civil appropriation bill of March 3, 1857, as follows:

"That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to reexamine the account between the United States and the State of Maryland, as the same was from time to time adjusted under the act passed on the 13th May, 1826, entitled 'An act authorizing the payment of interest due to the State of Maryland,' and on such reexamination to assume the sums expended by the State of Maryland for the use and benefit of the United States, and the sums refunded and repaid by the United States to the said State, and the times of such payments as being correctly stated in the account as the same has heretofore been passed at the Treasury Department; but in the calculation of interest due under the act aforesaid the following rules shall be observed, to wit, interest shall be calculated up to the time of any payment made. To this interest the payment shall be first applied, and if it exceed the interest due, the balance shall be applied to diminish the principal; if the payment fall short of the interest, the balance of interest shall not be added to the principal so as to produce interest. Second, interest shall be allowed the State of Maryland on such sums only on which the said State either paid interest or lost interest by the transfer of an interest-bearing fund."

Now, sir, you will observe that here is an appropriation to pay interest to the State of Maryland for advances in the war of 1812, and that this appropriation appears on a general appropriation bill. The question on which we are to vote is one of order, and I ask your attention to this precedent as absolutely decisive of the question of order. It was the case of a State, and a claim for interest, and that claim was recognized on a general appropriation bill. How much further can you go? What further precedent is needed? You cannot vote the claim for Massachusetts' interest out of order without practically declaring that when this appropriation was put on an appropriation bill in 1857 it was in defiance of the rules of the Senate.

I began what I had to say by remarking that this was entirely in harmony with reason. Let me remind Senators, what we all habitually notice here, that resolutions from a State or any communications from a State have a peculiar precedence and preëminence in this body. They are always read at length, and they are printed as a matter of course according to the rules of the Senate. Such is the distinction accorded by our rules to a State. And now, sir, how vain it is to accord such a distinction in form if you refuse the distinction in substance. A State here has a claim; and shall you say, in order to exclude it from this bill, that it is private in character, when, according to the reason of the case, it is public, and

according to the precedents of the body it is public?

Mr. SHERMAN. Mr. President, the question presented as a question of order becomes exceedingly important in view of the consequences of opening the door to the admission of this class of claims on appropriation bills. The Senator from Massachusetts attempts to show that this is not a private claim by showing that claims of States have been paid upon Army and other appropriation bills. I could show more than a hundred cases where private claims of individuals for past debts have been put on appropriation bills; but that does not reverse the rule, nor enable him to violate the rule when the point of order is directly made. There are innumerable cases where private bills which he himself would admit to be private bills have been put on the appropriation bills; in some cases in violation of the rule by a majority overriding the rule; in some cases without objection; in other cases by committees of conference where there have been disagreements between the two Houses. A multitude of precedents might be shown, but that does not prove the point. The question is whether this amendment is to provide for a private claim; in other words, whether it is a private bill.

The distinction between a public and private bill is somewhat difficult to draw; but I must say that if this is not a private bill no private bill has ever been offered in the Senate Chamber. Mr. Barclay, at page 151 of his Digest, says:

"The line of distinction between public and private bills is so difficult to be defined in many cases that it must rest on the opinion of the Speaker and the details of the bill. It has been the practice in Parliament, and also in Congress, to consider as private such as are for the interest of individuals, public companies, or corporations, a parish, city, county, or other locality. To be a private bill it must not be general in its enactments, or for the particular interest or benefit of a person or persons."

That is the very case here. Here is a private claim for the benefit of a railroad corporation. It is shown by the official records of this Congress that the only ownership of this claim, equitable and legal, is in a corporation. The claim once belonged to the State of Massachusetts, which afterward transferred a portion of it to the State of Maine; and then the whole of it was transferred by both States for the benefit of a railroad corporation. It is for an alleged past due debt, not for a future expenditure; not to carry into execution an existing law. It is not pretended that any law justifies the payment of this money, but a law is sought to get the money from the Treasury of the United States. If we intend to abide by our rule this is clearly the case of a private claim due to a private corporation, money past due, and the reason and spirit of the rule exclude it from the appropriation bill.

There is no distinction whether the money is due to a State or to a corporation or to an individual. It is not a general bill, because it does not relate generally to all persons in like condition. If the State of Connecticut has such a claim, it would not be covered by this proposition, because this is confined to the claims of Massachusetts and Maine. It is local in its character, individual in its character, confined to the interests of a few, and not for the general interest of the whole people of the United States. It is undoubtedly the rule that this is a private claim; and I warn Senators that if we enter into the discussion of this claim, amounting, according to my computation, to over a million dollars, we shall open a wide and general field of debate that I do not wish to enter upon. It is only one of four claims that have been transferred to this railroad company, the aggregate of which is in the neighborhood of \$3,000,000. It was stated by one of their agents in 1864 at \$2,300,000, and with the accruing interest it must now amount to \$3,000,000. It is a claim for interest not according to or in the modes that interest was allowed to the State of Maryland, because the amendment of the Senator from Massachusetts is so framed as to extend it far beyond any precedent and to pay out of the Treasury of the

United States the interest on a claim fifty-three years old. It is the very principle of the Galphin claim, which almost destroyed an administration, where they attempted to pay interest on a private claim extending back to the period of the Revolution.

Here is a claim which from time to time has been allowed and paid off, and now it is proposed to pay the interest on it back to its origin. This principle, if adopted and applied to all claims, would swamp this Government and all the Governments in Christendom. Here was a claim of Massachusetts of over eight hundred thousand dollars which has been paid in full to the last dollar in various installments; first, a certain amount was allowed and paid, and next another amount, and finally, on a report made by Mr. Poinsett, a report which does not show whether the last sums paid were for principal or interest, the whole balance of the claim of Massachusetts, every dollar claimed by Massachusetts in 1837, amounting to \$227,000, was subsequently paid, and the whole account was squared.

Mr. SUMNER. Let me remind the Senator that according to this very text—

The PRESIDING OFFICER. It is the duty of the Chair to remind Senators that on the question of order the merits of the amendment are not to be debated.

Mr. SUMNER. According to the act of 1859 the amount was to be paid precisely according to the report of 1837, without any additional interest. That is the fact.

Mr. SHERMAN. The payment in 1859 was in full of the claim according to the report of the Secretary of War of 1837. If there was any interest due it was due then. No claim for it appears to have been made; and here we have the official documents showing that no claim had been made by Massachusetts for the interest during all this long course of negotiation.

Now, sir, it is wise, upon an appropriation bill at the heel of the session, to embark in the enterprise of paying interest on claims that accrued in the war of 1812, when the interest is now far greater than the principal? If this principle was extended to private parties as well as to States the Senators who propose it would themselves see the effect and the consequences to which it would lead. I have no objection to applying to Massachusetts the same rule that has been applied to other States; but if the Senator who offers the amendment will look into the subject carefully he will find that the claim of Massachusetts does not rest upon the same circumstances as the claim of Maryland. The peculiar equity and merit of the claim of Maryland was the fact that the State of Maryland had used trust funds, which were bearing interest, and had applied them to the payment of certain expenses during the war of 1812. This was made the ground of a special claim, and that claim was allowed and paid before the payment of the last installment to Massachusetts; and although Maryland had been paid and settled with, and the interest had been allowed here, as an exceptional claim, before Massachusetts was finally settled with, Massachusetts made no claim for the interest, because her claim did not rest upon the same circumstances and the same facts that induced the allowance of interest to the State of Maryland. Trust funds of Maryland had been diverted from their use; those funds bore interest and they were applied by the State; and this is the explanation of the last clause of the Maryland appropriation act declaring that no such interest should be paid except upon certain interest-bearing funds, which had been applied by the State.

I think it is wiser for the Senate to adhere to a rule which is founded in the strongest possible reason, and that is that at the close of the session our appropriation bills should not be encumbered with private claims not resting upon existing law or upon treaty stipulation for the benefit of States or individuals, but should be confined to what they purport to be, appropriations for the future expenses of the Government.

Mr. HENDRICKS. Mr. President, yesterday my colleague expressed himself very decidedly that a claim due to a State of necessity was a public claim. I do not purpose to question that; he may be right that the obligation to a State, like an obligation to a foreign Government, may be of such public character as that it does not within our rules come within the description of a private claim. But when the State has sold that claim to a private corporation, and it is pressed by that corporation, then, I think, it is clearly a private claim. It is no longer due the State; it is then due to private persons. This claim comes here, an old one, under very dignified management. It comes not from the Committee on Claims, who ordinarily investigate the obligations of the Government here, but it comes from the Committee on Foreign Relations, as I understand; and I suppose that is upon the ground that there are foreign relations between this Government and the States of Massachusetts and Maine. That is carrying the doctrine of State rights rather further than I am disposed to go.

Mr. SHERMAN. I will explain to the Senator why it came from the Foreign Relations Committee. This is only one of four claims. Among the claims is a large claim of I think one or two millions for cutting down some timber in the State of Maine, a claim which it is alleged grows out of the Ashburton treaty.

Mr. FESSENDEN. That has no connection whatever with this.

Mr. SHERMAN. But that gave the Committee on Foreign Relations jurisdiction of the subject, matter of the claim, and I presume that explains why it came from that committee.

Mr. HENDRICKS. As they have no connection, I am not able to see how the one carried the other there. But it comes with the indorsement of the Committee on Foreign Relations, upon which committee are the able Senators from these two States. I think the claim ought to share the fortunes of all other claims that come here and go to the committee that ordinarily investigates such matters. The Committee on Claims in this body, as I understand, persistently refuses to pay interest; and that has become almost the policy of the Government.

Mr. PATTERSON, of New Hampshire. Will the Senator allow me to explain how it happens to come from this committee?

Mr. HENDRICKS. I shall be very happy to hear it.

Mr. PATTERSON, of New Hampshire. Maine and Massachusetts had four claims on the Government; they were put together in a single bill. Two of those claims came up under the treaty of Washington of 1842; and hence the whole bill, including the four claims, was referred to the Committee on Foreign Relations, inasmuch as two of them properly and almost necessarily belonged to that committee.

Mr. HENDRICKS. Have not some of those been disposed of?

Mr. PATTERSON, of New Hampshire. One simply.

Mr. HENDRICKS. That rested on a treaty.

Mr. PATTERSON, of New Hampshire. Yes, sir; it was for lands given up under the treaty of Washington in 1842.

Mr. HENDRICKS. I am much obliged to the Senator from New Hampshire. He is also on the Committee on Foreign Relations, and a near neighbor of the State of Massachusetts and the State of Maine. It is very satisfactory to find that there is such harmony in that immediate neighborhood for paying upon a principle that we do not allow in regard to any other claim that is presented against the Government of the United States.

Mr. PATTERSON, of New Hampshire. Allow me once more. I will say that one motive with the Senator from New Hampshire was this: New Hampshire has received pay on precisely the same principle that is established in this amendment and now she wants to do justice to her neighbors in Massachusetts and Maine, having no State interest or personal interest in the matter whatever.

Mr. HENDRICKS. If one of the neighborhood has got that allowance which is denied to every other part of the country I think we had better stop it; the thing has gone about far enough. This claim has been paid. As is shown by the Senator from Ohio the balance of the claim has been paid, and then the States assigned interest upon that to a corporation and that corporation beseeches Congress for its allowance. I do not believe in that. I do not think States ought to assign claims against the General Government to private corporations speculating in these claims—claims that are entirely speculative, claims for interest after the principal has all been paid. Then, when such parties come here and present them, they should be regarded as private parties presenting a private claim and take the fortunes of every other claim. Thousands of persons have claims meritorious and not meritorious, it may be, depending before the Committees on Claims that cannot be considered; and they are not allowed under the rules of the Senate to present their claims upon the general appropriation bills, and it is regarded as a wholesome rule. Then, why ought it not to be applied to the railroad company that urges this speculative claim here against the Government of the United States?

Mr. FESSENDEN. I merely wish to enter my protest against the fling of gentlemen on this question of order—this talk about a private corporation. That does not affect the question of order at all, in my judgment, because Senators will see that the State of Massachusetts has been prosecuting this claim for years, and it is only since the prosecution of it began in this body that the interest in it has been assigned to this railroad company. Does that change the nature of the claim?

Mr. HENDRICKS. I will ask the Senator from Maine if the State of Maine did not receive the last payment as the balance of the claim, as stated by the Secretary of War?

Mr. FESSENDEN. I am not disputing that. They received the balance of the principal of the original claim; but I say they have been prosecuting this claim for interest for years before the assignment was made to this corporation; but the Senator states it as if this was an original claim by a company. It is not so in any sense of the word. I merely want this to be understood, because it does not affect the question of order.

Mr. PATTERSON, of New Hampshire. Let me say that this matter came up in the Thirty-Eighth Congress, of which I was a member, and again in the Thirty-Ninth Congress.

Mr. FESSENDEN. Long before any assignment of the equitable interest of it was made to any company. How anybody but the States of Massachusetts and Maine can be made the claimants in this case I am at a loss to make out.

Mr. CONNESS. Mr. President, the Senators who are advocating this claim know very well that while it is here in the name of the State of Massachusetts the State of Massachusetts has no possible interest in it whatever. They know that as a fact.

Mr. FESSENDEN. That we have admitted distinctly on the floor.

Mr. CONNESS. Very well, sir. They know another fact, that if when the claim was made before Congress for the principal the interest had been made a part of that claim, neither interest nor principal would have ever been allowed.

Mr. SUMNER. We do not know any such thing.

Mr. CONNESS. The Senator responds that he does not know any such thing. Well, Mr. President, I think he knows it about as well as he knows anything in heaven or on earth. And if in the argument of this case he denies that he does know it it only shows the anxiety that he has for the allowance of the claim. Massachusetts pressed this claim for years in Congress, and for a number of years it was not allowed. When it became comparatively worthless, by reason of its non-allowance, Massachusetts assigned it to a company; that company

came here and prosecuted it in the name of Massachusetts. I voted for its allowance. I had witnessed during my term in the Senate effort after effort repeated, and I concluded that perhaps it had merit enough, or at least we should get rid of it by allowing it; but after that allowance is made this company are here again in the name of the Commonwealth of Massachusetts and prosecuting the claim for interest upon that allowance. I hope, sir, it will not be made.

A question of order arises as to whether it is of a class of claims prohibited by a rule of the Senate. In the argument of that question of order the Senator from Massachusetts cites a dozen or more cases like it, he says, which have been allowed; and he says those laws are upon the statute-book. Why, Mr. President, it was the very prevalence of that habit that invoked the rule.

Mr. SUMNER. These are all since the rule.

Mr. CONNESS. Do I understand the honorable Senator to take up a statute absolutely smoky in its appearance in his hand and tell me that that book was printed since this claim was allowed and I voted for it?

Mr. SUMNER. I hope the Senator will understand me. I say the rule of the Senate is anterior to 1854. The eighteen precedents that I have cited applicable to the present case are all subsequent to that date.

Mr. CONNESS. Well, Mr. President, I was going to say, however the fact would be, my honorable friend would adhere to his statement; but I will not say that, because the Senator intends undoubtedly to be correct when he makes a statement.

Mr. SUMNER. I have cited the cases; I have the volumes.

Mr. CONNESS. It appears to me, sir, that we ought to have an end to this claim. I hope it will not be allowed.

Mr. CONKLING. Mr. President, after listening to the arguments made on this question of order I cannot doubt that the rule of the Senate prohibits the consideration of this claim in connection with this bill. Now, let me see in a very few moments whether I can assign my own reasons for this belief.

An argument has been made in its favor of two kinds, if I appreciate it right. Sometimes it is argued that this claim arises under an existing law—that argument was made yesterday—and sometimes it is argued that whether so or not, it is a claim not private in its character but public, and so it avoids the rule.

Mr. President, all the authorities which have been cited by the honorable Senator from Massachusetts, although they escape the criticism suggested by the Senator from California, make nothing, absolutely nothing, in my estimation upon this question; and why? Because they are instances which occurred by common consent just as to-day, long after the morning hour had expired, Senators in all parts of the Chamber were permitted, nobody objecting to transact that species of business falling, under the rule within the morning hour alone. Now, the Senator from Ohio [Mr. SHERMAN] will appreciate, perhaps, better than members of this body who have done no service in the other House the extent of the distinction practically which I state. It is a rule of the House of Representatives that no bill containing an appropriation shall be considered at all unless it goes to a Committee of the Whole. How many scores of times have the Senator and myself witnessed the consideration to completion of a bill containing an appropriation without going to a Committee of the Whole; and when the point of order was made only a moment too late, when some member rising, but too slowly rising to interpose an objection, was told by the Speaker that it was too late; it had passed the nick of time in which that objection could be made. So here, day after day, considerations take place of business which if one member called the attention of the Chair to the rule and insisted upon its observance could not occur. So it was in 1859, when this section, ominously silent for

the sake of the other branch of this argument in regard to interest, was added to an appropriation bill. Therefore, unless the Senator will show a case in which the Presiding Officer of the Senate or the Senate held such a proposition to be in order despite a point of order such as is made here, he shows, I submit, nothing in respect of authority cogent on this subject.

Now, take it in principle; and can it stand for one moment the criticism suggested by the rule? Is it a claim existing, substantiated by "existing law" within the meaning of the rule? What is the intention of the rule in that regard? I understood the honorable Senator from Massachusetts to make an argument yesterday substantiating this:

"Here is a claim against the Government; how can it exist? Only upon those principles which we generalize by the name of law; ergo, it is a claim under existing law."

Is that the meaning of the rule? So far from that, no man can read it and doubt that it designs to admit a claim substantiated by existing law only in the sense of an act of Congress. Is that true of this claim? The reverse is specifically true upon the section adopted in 1859, which has been read; and as the Senator frankly said this morning, because that statute is silent, because nothing can be derived from it as authorizing the Treasury Department to allow this interest, this legislation is sought.

If it is not a claim under existing law, then the honorable Senator sees that if he can argue the Senate into the belief that it is not a private claim, he having been authorized by his committee to move it, he brings himself within the rule. Is it a private claim? The question is whether a railway corporation shall receive a sum which I am told amounts to \$700,000 or thereabouts. That would make a claim very private in some senses certainly; but we are told that the Commonwealth of Massachusetts is the assignor of this claim, and therefore it cannot be private. Why? Because a State is not a person, not an artificial person, not a corporation *hac vice*. Let us admit that the State of Massachusetts having been originally the owner of this claim it has not taken upon itself the qualities of a private claim.

Mr. President, test that argument for one moment by familiar instances in our history.

Take the French spoliation claims, which, if they existed at all, existed by the law of nations. When those claims had become the property of private assignees, whether speculators or not, were they private claims against the Government? Take any claim, however public or general in its character, when it becomes the subject of private ownership by a natural or an artificial person—because a corporation is only an artificial person—is it not private in its character? When you have reduced it to personal or private possession; when the whole *jus disponendi* is in the hands of a citizen, and nobody else is interested, is not that a private claim? If not, why not? Because, argues the Senator, at some anterior period of history it was a public claim in its ownership and representation. I submit that that distinction is wholly unsatisfactory; that this is a private claim; and that if it be in order under the rule no claim is out of order. I would like some Senator to state any claim which the rule would act upon if it does not act upon this—a claim which, according to the argument yesterday, does not arise under existing law in the compendious sense of general law establishing duty, and could not exist at all. Therefore, as to that branch of the argument, every claim that exists must be in consequence of existing law. That I answer by saying it means an act of Congress establishing it, and there is no such act here.

If it be said that this is not a private claim because it comes from a party owning it originally, not a private party, then I submit that all the claims which have been talked about in Congress for the last half century, public in

their origin, although they have become peculiarly and some of them odiously private in their character, would be entirely void of offense against this rule. Now, sir, the proposition is that a railroad company deriving title, no matter how, pursues against the Government of the United States a demand of some hundreds of thousands of dollars. The merits of it I say nothing about, whether it should be paid or not; I speak simply of its character, and I submit to the Senate that it is clearly within this rule, and that it is idle for the Appropriation Committee to stand upon questions of order or anything else against appropriations at large unless the Senate will stand by the committee in resisting a proposition like this.

Mr. DOOLITTLE. Mr. President, the precedents which have been quoted by the honorable Senator from Massachusetts, it seems to me, are not met by the honorable Senator from New York when he says that it is to be presumed that those claims which have passed in a dozen instances or more by being put upon appropriation bills have passed without the objection being made that they were out of order. It is probable that no one did object that claims of this sort, in behalf of the different States of the Union, were private claims. I do not believe that the idea ever entered into the head of any Senator ten years ago to say that a claim by one of the States against the United States was a private claim at all. I do not believe the idea was ever conceived; it is a thing altogether of modern growth, a modern notion entirely, that States have become mere private corporations.

Mr. FRELINGHUYSEN. I desire to ask the Senator from Wisconsin this question—

Mr. DOOLITTLE. If my honorable friend will allow me I intend to occupy but a short time, and it is on this particular point.

Mr. FRELINGHUYSEN. It was only on that point that I wished information, whether there can be any doubt that if the Government would pay this claim to the States of Massachusetts and Maine, having notice that it belongs to a railroad company, the Government would in legal contemplation have no discharge of the claim whatever. In other words, it is a private claim, no matter who the nominal party may be.

Mr. DOOLITTLE. That is anticipating a point which I intended to mention before concluding; but I will go on with the order of my remarks as intended. I maintain that if there be any such thing as a public claim upon the Government of the United States it is the claim of a State of this Union. It is a claim as public in its nature as if that claim were in behalf of a foreign Power. If Great Britain had a claim against the United States it certainly would be public; we could not in any sense say that it was a private claim; and if any one of the States of this Union has a valid claim against the Government of the United States it is a public claim, just as public as if it were a claim against the Government of Great Britain or any one of the other Powers of the earth, because in our theory we have recognized the States as independent States, united under the Constitution it is true, having surrendered a portion of their sovereignty it is true; but yet, as among themselves and as between the States and the General Government, except where the Constitution has made it otherwise, they are public States like independent nations. The courts in all their decisions hold that States as between each other are like foreign States. The mode of receiving the records of the States proves it, they are received as coming from foreign States when duly certified.

Now, Mr. President, the question arises, what effect is to be given to the fact which I understand, and which has been stated here on the floor, that the State of Massachusetts and the State of Maine has pledged, by a public act of those States, the proceeds of this claim to aid a railway corporation in constructing its line from the State of Maine to St. Johns. Now does that make the claim as between us

and the State of Massachusetts and the State of Maine any less a public claim? Those States have a claim. It belongs to them. They, it is true, in advance have said, "If we receive the amount of this claim we will pledge it for a given purpose." What is that purpose? That purpose is not private. There is nothing in the pledge itself, nor in the purpose for which the proceeds are to be paid, which is private in its nature, so far as the States of Maine and Massachusetts are concerned, nor so far as the Government of the United States is concerned. I undertake to say that the purpose for which these very proceeds are pledged is public; it is important, and one of the most important things that can be considered; I mean that which builds up a connection between the New England States and Nova Scotia. We of the West certainly should be the last representatives in this body to stand back when the Government has any legitimate mode of aiding in the development of highways which shall bind, not only our States together, but which shall open to us the commerce of the world. I do not think there is a railway projected, unless it may be the Pacific railroad, of more public importance or more national importance than a railway which shall connect us at this moment with Nova Scotia. The railway, if once built, leading to Halifax, in Nova Scotia, will bind Nova Scotia to the United States in all its interests and in all its sympathies; and I, for one, am looking to the future on this question as well as to the present. It is all-important that that railroad should be built. Now, sir, we know very well that the United States have not public land in that direction which they can give to aid in the construction of these railways. The United States are not in a condition to give subsidies; but if the Government of the United States honestly owes the State of Massachusetts and the State of Maine this sum of money, and they, through public considerations, have in advance pledged the proceeds, not to put them into their own Treasury, but to build a great public work for the benefit of the whole country, why should we talk about its being a mere private claim?

Mr. GRIMES. Will the Senator inform me when this claim was first presented?

Mr. DOOLITTLE. I understand that Maine and Massachusetts have been claiming it for twenty or thirty years.

Mr. GRIMES. When was it first called to the attention of Congress?

Mr. SUMNER. In 1820.

Mr. GRIMES. Has the Senator the application here?

Mr. SUMNER. I have it not here; but I think it is a matter of history, and agents were appointed by Massachusetts in 1825 and 1826, not for the interest, but for what is called the Massachusetts claim.

Mr. PATTERSON, of New Hampshire. In the Thirty-Eighth Congress it was presented with other claims.

MEETING OF NEXT CONGRESS.

Mr. SHERMAN. With the consent of the Senator from Wisconsin I desire to call the attention of the Senate to the joint resolution authorizing the House of Representatives to meet at three o'clock on the 4th of March; which in order to make their arrangements to attend the inauguration, they desire to have passed now.

The PRESIDING OFFICER, (Mr. POMEROY.) If no objection be interposed that subject may be considered now.

Mr. FESSENDEN. There is some question whether that resolution can be passed with safety. If they do not meet until three o'clock and we meet at twelve we only meet as part of a Congress. We are not called together by the President.

Mr. SHERMAN. We can assent that they meet at three o'clock. I ask that the resolution be read; and if it is objected to as a matter of course I will not press it now.

Mr. SUMNER. The first statute provides for the meeting of the session at twelve o'clock;

and I understand this resolution will be in the nature of an amendment, authorizing the House of Representatives to meet at three o'clock.

Mr. SHERMAN. Yes; Congress will meet at three o'clock.

Mr. TRUMBULL. But Congress does not meet at twelve o'clock if this resolution is passed.

The PRESIDING OFFICER. If there be no objection the joint resolution will be read.

Mr. FESSENDEN. I have no objection to its being read; but I think it should receive a little consideration before it is acted upon.

Mr. SHERMAN. The House desire to have it acted upon in order to enable them to make their arrangements to attend to the inauguration.

Mr. FESSENDEN. Exactly so; but they cannot do it in consequence of the law as it stands. That is their matter.

The PRESIDING OFFICER. The joint resolution will be read for the information of the Senate.

The Chief Clerk read as follows:

Be it resolved, &c., That the time for the first regular meeting of the House of Representatives of the Forty-First Congress be, and is hereby, postponed from twelve o'clock meridian, on the 4th day of March, 1869, to the hour of three o'clock in the afternoon of the said day.

Mr. SHERMAN. I do not think there is any practical difficulty about it.

The PRESIDING OFFICER. Is there any objection to the present consideration of the joint resolution? The Chair hears no objection, and it is before the Senate as in Committee of the Whole.

Mr. TRUMBULL. It strikes me there is an insurmountable difficulty in passing the resolution. As the law stands Congress meets at twelve o'clock on the 4th of March. That is the law. Congress consists of the Senate and House of Representatives. Now, if you pass another law that the House shall not meet until three o'clock the Senate cannot meet at twelve o'clock, because it is only as part of the Congress that the Senate can meet here at twelve o'clock at all; and you must have the Senate here to superintend the inauguration ceremonies. If the Senate were convened in executive session it could get together; but the Senate cannot get together as a part of Congress unless the Congress is to meet at that time. I have certainly no objection to a law being framed so that the House will not meet until at a later hour if you can so frame it.

Mr. SHERMAN. It is manifest that the House desire first to participate in the inauguration.

Mr. TRUMBULL. There is no objection to that; that is all right; but can you do it by this resolution?

Mr. SUMNER. Why may not the case be met by a proviso: "Provided that the Senate shall meet at twelve o'clock on that day."

Mr. SHERMAN. The law requires that.

Mr. SUMNER. It would make it certain; it would remove ambiguity.

Mr. TRUMBULL. I submit to the Senator from Massachusetts whether, under the Constitution, you can provide for the Senate to meet by itself; whether it must not be by the Executive calling it together? You can provide that Congress shall meet at a certain time; but can you by law appoint a time for the Senate to meet? I have not thought of the question before.

Mr. SUMNER. Nor I either. The question is a new one.

Mr. TRUMBULL. The President can convene the Senate in executive session.

Mr. ANTHONY. If the only objection is the constitutional one I think the remedy is very easy. It is the one that we constantly apply when we meet with any difficulty. Let us propose a constitutional amendment on the subject. [Laughter.] We can pass it between this and the 4th of March without the least difficulty.

Mr. SHERMAN. I think there is no practical difficulty in allowing the House to meet at three o'clock on the 4th of March.

Mr. TRUMBULL. What is the Senate when it meets at twelve o'clock on the 4th of March? It certainly is not a Congress.

Mr. SHERMAN. It is the Senate of the United States whether the House meets or not.

Mr. TRUMBULL. Can you do that? Can you provide by law for the assemblage of the Senate of the United States?

Mr. SHERMAN. I do not think it is very important that the Senate should do anything before three o'clock.

Mr. TRUMBULL. The Senate must be here in some capacity if it is here at all. If it is here to swear in the Vice President and the new Senators it must be here legitimately. Now, we meet at twelve o'clock on the 4th of March to administer the oath of office to the incoming Vice President and to administer the oath of office to the new Senators. We must be here in some capacity with authority to do so. Fifty persons cannot get together and do it. How are we here? We certainly are not here in executive session convened by proclamation of the President. If we are here we are here as a Congress. Now, you propose to change the law so that Congress will not meet at twelve o'clock on the 4th of March.

Mr. CONKLING. I should like to make an inquiry of the honorable Senator if he will allow me. Is there any difficulty in the House taking a recess at twelve o'clock until such hour as they please?

Mr. TRUMBULL. None at all.

Mr. CONKLING. Then what is the occasion for this resolution?

Mr. SHERMAN. I will state the occasion for it, and my friend from New York will see it at once. Under the law as it now stands the House of Representatives will meet at twelve o'clock on the 4th of March. It will take them longer to call over the roll of members than the whole inauguration proceedings will occupy, and consequently they will be denied the right to participate in that which the law contemplates and the Constitution contemplates should be open and public. There is the difficulty. When they meet at twelve o'clock they cannot do anything except to call the roll of members. No motion can be made until that roll is called and they have found out who compose that House. The result is that the time between twelve and three o'clock, or at least an hour or two hours, will be employed in the necessary preliminary business which must precede even a motion to take a recess. Now, why deny the House of Representatives the opportunity to participate in the inauguration ceremonies? Why not allow them to meet at three o'clock? There is no doubt of the legality of the proposition. There is no law and no provision of the Constitution to prevent it. The members of the House are now waiting, before making their arrangements for the inauguration, for our action and our consent to this modification of the law. Otherwise, merely because we will not give them that, they will have to remain in their own Hall and call the roll of members and swear in members, and then take a recess after that until the inauguration ceremony is over.

Mr. SUMNER. I cannot, on reflection, doubt the legality of the proposed joint resolution. It seems to me that it is simply in the nature of an accommodation to the House of Representatives, enabling them to meet a few hours later than they would otherwise meet. But the Senator from Illinois asks the question whether, under the Constitution, the two Houses must not meet at the same time. I answer, the two, perhaps, must meet on the same day; but it is a familiar rule of law that unless under very peculiar circumstances the law will not inquire into fractions of a day.

Mr. TRUMBULL. Let me ask the Senator from Massachusetts what is the objection to their agreeing, by a common understanding, not to call the roll of the House at all?

Mr. SUMNER. I understand the law is imperative that the roll must be called at once. Not a motion can be made; members must be

in their seats; and then they must proceed to the election of a Speaker. There is, therefore, a difficulty in the conduct of the business of the House on that day.

Mr. SHERMAN. The law, which I have before me, requires that they shall meet at twelve o'clock meridian, and they cannot continue their existence except by taking a recess or an adjournment, and they cannot move a recess until they call the roll and ascertain who has the right to vote. That would more than occupy all the time during which the inauguration proceedings will take place.

Mr. SUMNER. I should say, under the joint resolution, the two Houses practically meet at the same time. They meet on the same day; but for the convenience of the other House it is arranged that it shall meet at the hour named. I think there can be no illegality in that. I would add, merely for the sake of caution:

Provided, That the Senate shall meet at twelve o'clock on that day.

Mr. SHERMAN. If the Senator thinks it necessary—

Mr. SUMNER. I do not think it necessary; but it seems to me it makes the joint resolution perfectly secure.

Mr. SHERMAN. I guess you had better not put it on; let it stand as the House want it.

Mr. SUMNER. Very well; I withdraw my proviso.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had passed a bill (H. R. No. 968) for the coinage of nickel-copper pieces of five cents and under; in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. No. 968) authorizing certain banks named therein to change their names.

The message further announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the joint resolution (S. R. No. 8) proposing an amendment to the Constitution of the United States.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. THAYER submitted an amendment intended to be proposed to the bill (H. R. No. 1808) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1870; which was referred to the Committee on Appropriations.

Mr. CRAGIN and Mr. STEWART submitted amendments intended to be proposed to the legislative, executive, and judicial appropriation bill; which were referred to the Committee on Appropriations.

ARMY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1808) making appropriations for the support of the Army for the year ending June 30, 1870, and for other purposes; the pending question being on the question of order raised on the amendment proposed by Mr. SUMNER.

Mr. DOOLITTLE. I was remarking that I saw nothing in the pledge of the proceeds of this claim by Maine and Massachusetts to the building of a public highway to Nova Scotia which made it private in its nature. The purpose for which the pledge is given is a public one, a national one, and the highway itself is to be national in its character, reaching from New England into a province of British North America, which it is essential we should bind if possible by railway communication to the United States. Why, Mr. President, in what condition do we now stand? I only refer to what is stated in the public newspapers and to nothing which transpires in the Senate in secret session. We know, if we are to rely upon the public statements on this and the other side of the water, that an important treaty lately nego-

tiated between Great Britain and the United States is likely to be rejected by the Senate of the United States. We know that the subject-matters involved in that treaty are of the most important character; our relations to Great Britain are the most delicate; and no man now can foresee what is to come out of the difficulties existing between Great Britain and ourselves. With our boundary line upon the Northwest still unsettled, and our claims upon Great Britain in reference to depredations committed by cruisers upon the high seas still unsettled, no man can know what is to come; but one thing we do know, that in view of our relations to the British provinces, especially to Nova Scotia, it is important that the Government of the United States should cultivate the most friendly relations with that province; and this public highway which is proposed to be built and to which the proceeds of this claim are pledged is, next to the Pacific railroad, one of the most important of the railways of the United States in a national point of view. I therefore maintain that neither when we look at the character of the claimants—the State of Massachusetts and the State of Maine, being States of this Union—nor when we look upon the purposes for which they pledge the proceeds of the claims, if they are granted, can we regard this as a private affair? It is public in all its bearings.

A single word further, and I am done. I think that when we have been sustained in the West by the States of New England in the free donation of the public lands to aid in the building of railways, and also in the giving of large subsidies in the building up of a railway from here to California; and when in more fortunate circumstances, with the national credit better restored, we may reasonably hope that the Government of the United States may aid in the construction of two other railways across the Territories, binding the Atlantic and the Pacific together, I think if there does exist a just claim upon the Government in favor of Maine and Massachusetts for this amount of money the representatives of the West certainly can have no reason to resist the payment of the claim of Maine and Massachusetts, even though they have pledged the proceeds to the building of this national highway.

Mr. PATTERSON, of New Hampshire, rose.

Mr. FESSENDEN. I wish to make an explanation before my friend from New Hampshire proceeds. There is a very great misapprehension with regard to the appropriation of this money. It is not absolutely assigned to this railroad company. The statute as it stands, as I am informed, and as I have no doubt, is simply a law that upon the completion of any ten miles of this railroad the State will appropriate \$10,000 for each mile as long as this money lasts. The State keeps the claim in its own hands; it keeps the money in its own hands; but simply says with regard to this great public work, "We will pay to you out of our treasury so long as the proceeds of this particular claim last so much per mile when you have completed a certain number of miles." Now, what in the world can that arrangement between the State and the persons engaged in building this railroad have to do in changing the nature of this claim because it has made that agreement to appropriate that money in a particular way? And yet gentlemen talk as if this claim had gone out of the hands of the State entirely, whereas it is retained in the hands of the State.

Now, I wish to answer the question put by my honorable friend from New Jersey, [Mr. FRELINGHUYSEN.] He asks how the discharges should be obtained. The discharges could be obtained from the States, and in no other way. This is an appropriation to pay a claim of Massachusetts and Maine. The Treasury Department would pay this money over to nobody but to those States and would get their discharge. That is the mode in which it is to be done and must be done, whether the States have assigned the claim or not. That is a matter between the State and the assignee.

Now let me answer the question of law which is raised here. How is it in regard to a note of hand not negotiable on its face, as we understand the term "negotiable" at the common law? That note may be sold. All the interest in it may pass and does pass, but how must you bring a suit in a court according to the common law? You must bring it in the name of the assignor, the original payee. Can the defendant set up that that has been assigned, and that the original assignor, the person to whom it was given, has not any interest in it; that it is brought in his name and he has no interest in it? That never would be held to be a good answer in a court of law.

Mr. FRELINGHUYSEN. I suppose the way a suit would be brought would be in the name of the assignor for the use of the assignee.

Mr. FESSENDEN. You would not say anything about the assignment.

Mr. FRELINGHUYSEN. You must at common law; and if a payment was made to the assignor by the party who owed the debt, and not to the assignee, I do not think the claim would be good. It is payable to the party who is beneficially interested if you have notice of it.

Mr. FESSENDEN. Very well; suppose that is the case. I do not know what the practice may be in New Jersey, but I know what the practice at common law is, and that you say nothing about the assignment in a suit; you simply bring your suit in the name of the assignor and the matter of the assignment to the assignee is not stated, and it cannot be pleaded that the assignee is not a party to the suit. That is no matter of consequence to the defendant in the case. But even supposing that it is as the Senator states, the business of the Treasury Department is to get the proper discharges; and if the discharge of the State is not enough, then they can get the discharge of the person to whom the assignment is made. There is no difficulty about that.

Mr. FRELINGHUYSEN. I did not apprehend there was any difficulty in getting the discharges. I only asked that question as a test question, to see whether this claim did in fact belong to the States or the railroad companies, as to where you must go for the discharge.

Mr. FESSENDEN. In getting the discharge we may do what we please; but as I said before the promisor of a note cannot take the point at all in any court of law. So far as he is concerned it is the claim of the original promisee, and he cannot inquire any further about it one way or the other. It is none of his business to whom it belongs. Moreover, I dispute the Senator's law. If the United States is notified by a party that it owns that claim it will have to have the discharge of the party; if it is not notified by any other party who owns that claim the discharge of the original owner is good.

Mr. FRELINGHUYSEN. That is certainly so; but we are notified in this case.

Mr. FESSENDEN. Very well; then they are entitled to both of their discharges.

Mr. FRELINGHUYSEN. That is not the question of discharge.

Mr. FESSENDEN. No, it is not a question of discharge; but it is the question which the Senator raised by way of testing the fact. I say, in answer to his question, so far as that is concerned it has nothing to do with it.

Mr. GRIMES. Now, will the Senator answer me a question?

Mr. FESSENDEN. I will try to do so.

Mr. GRIMES. Has it not been repeatedly decided by the Senate that claims of States came within the rule of the Senate, and that they would rule them out of order just like any other claim?

Mr. FESSENDEN. The Senator knows as much about that as I do. All I have to say is that the Senator from Ohio, the chairman of the Committee on Finance, has been hunting the records ever since last night when this amendment came up to find such an instance, and he has made his speech to-day and has not been able to find one.

Mr. GRIMES. I am not asking what the

Senator from Ohio has found in the records. I am only asking the Senator if it is not within his own knowledge and recollection that that has been done.

Mr. FESSENDEN. I have no knowledge and no recollection about it. If the Senator will show me a precedent I will admit it.

Mr. GRIMES. I recollect very well that it has been so decided, and that it was so decided by the Senate on my motion, when the Senator from Maine was conducting an appropriation bill through this body, and a proposition was offered in behalf of the State of Maine by the distinguished Senator from Wisconsin, [Mr. DOOLITTLE,] who I understand, although I was not here when he spoke, said no such thing had ever happened.

Mr. FESSENDEN. That was not a question of this kind.

Mr. GRIMES. It was a claim of the State of Maine.

Mr. FESSENDEN. It was a claim of the State of Maine, undoubtedly; but the point made by the Senator at that time, according to my recollection, was not that it was a private claim—

Mr. GRIMES. Yes, it was.

Mr. FESSENDEN. I remember the matter distinctly, and that the Senate decided against the admission of it. It was put to the Senate, and it was put to the Senate precisely in this way, "Will the Senate admit the claim?" It was not put as a decision whether it was a private claim or not. I remember the Senator's argument as well as his point, and I remember the case. The Senator's argument was thus: "Here it is, twelve o'clock at night of the last night of the session, and this is a bill!"

Mr. PATTERSON, of New Hampshire. I will ask the Senator if that was not an entirely different case? Was it not a claim of individuals for damages for land taken under the treaty?

Mr. FESSENDEN. I think it was.

Mr. SUMNER. It was.

Mr. FESSENDEN. That was the claim of individuals under the Eaton and other grants.

Mr. GRIMES. There are so many claims from the State of Maine that we may easily get them confounded, and I can pardon Senators for not comprehending exactly which particular claim was the one; but as I made the point myself, I think my recollection is quite good on that subject.

Mr. DOOLITTLE. My recollection is that it was under the treaty. There was a claim made, I think, to the amount of \$145,000.

Mr. FESSENDEN. No, sir; it was the claim of certain individuals whose land was taken under the treaty.

Mr. PATTERSON, of New Hampshire. And which the treaty provided should be quieted.

Mr. FESSENDEN. Yes, sir; it was to quiet their titles. That was that claim. I remember it now.

But, sir, with regard to this matter I endeavor to keep myself within the rules of order and to argue a question of order, as I think it should be, without going into the merits. But when my honorable friend from Iowa makes this fling about "so many claims of the State of Maine," he will allow me to say to him, with great respect, that he knows that that has nothing to do with this question of order; and if the Senator wants to meet me on that, or to have me meet him on that point, I am willing to talk about the claims of the State of Maine or the grabs of the State of Maine against Iowa or any other State in this Union. If you want the question discussed as to how much money has been taken from the public Treasury and the public property I am ready for it. We ask for the payment of a debt if one exists, not for gifts.

Now, with regard to the claim that is particularly spoken of, all I have to say is that although the Senator may have made the point that it was a private claim, and being for private individuals it was so, yet the manner in which the question was put was precisely this: "It is now twelve o'clock at night, the last night

of the session, and it is not right to bring up a question of this kind under these circumstances to be considered when the Senate has no time to consider it," and the mode in which the question was to be submitted to the Senate was, "Will the Senate allow the claim to go upon this bill?" and it was decided in the negative, and I do not know but that it was properly decided. Those are the facts.

Mr. PATTERSON, of New Hampshire. I do not wish to discuss the merits of the amendment upon the question of order as to the introduction of it; but I desire to answer the question of the Senator from Iowa. He wished to know when this claim was first presented. The claim for interest upon the advances made by Maine and Massachusetts in the war of 1812 was, so far as I know, first presented in the Thirty-Eighth Congress, but the claim upon the Government for the advances made in the war of 1812-15 has been before Congress almost ever since the peace after the close of that war. There have been three payments: a small payment made soon after the close of the war, a payment of over four hundred thousand dollars in 1830, and a payment of over two hundred and twenty seven thousand dollars in 1859. Now, the question is as to the interest on those principals. The reason why Maine and Massachusetts have not been here before asking interest is simply this: the last payment of principal was made in 1859; the civil war broke out immediately; and for one Congress, and one Congress only, the question went over. But in the Thirty-Eighth Congress they came and asked that they should receive interest on this principal just the same as Maryland, Virginia, Delaware, New York, Pennsylvania, South Carolina, Alabama, Georgia, Washington Territory, and New Hampshire had received it. Provision was made during the Mexican war for the payment of interest on all the advances made for that war by the States on the very principle upon which this claim rests. I will give you the language of that act. During the Mexican war a general provision was made in the following language:

"That in expending moneys under this act and the resolution which it amends, it shall be lawful to pay interest at the rate of six per cent. per annum on all sums advanced by States, corporations, or individuals, in all cases where the State, corporation, or individual paid or lost interest or is liable to pay it."

Now, all that Maine and Massachusetts ask is to have the interest paid on the advances which they made the same as it was paid to all these other States. The principle laid down in the law is this: that wherever a State advances money to the United States for the prosecution of a war it shall receive interest where the State pays interest or loses interest. That is all that Maine and Massachusetts ask in this case. The case has never been closed. Here is the language of the Third Auditor, under whose eye this claim came. He says:

"It does not appear by either of the statements that any interest was allowed; nor is there any evidence on file in this office that any demand was made by the State for interest."

That is all that he says. They did not demand the interest until they got the principal, and were very glad to get the principal; and they did not get that for nearly half a century; and now they simply come here and ask that the same measure of justice may be given to them which has been given to the other States.

Mr. FRELINGHUYSEN. We are on the question of order now.

Mr. PATTERSON, of New Hampshire. I am coming to that. The Senator from California [Mr. CONNESS] claims that this is not a public claim but a private claim; and to prove it he says that Massachusetts has no interest in the claim and never had, and having no interest in the claim she made over what nominal claim she had to these railroad companies. The very reverse of that is true. Massachusetts, as a State, felt so much interest in it that her late lamented Governor came here and called the two Committees on Foreign Relations together and addressed them

on the importance, the justice, and the honesty of this claim.

Mr. CONNESS. What I stated on that point was that Massachusetts held the claim in her own name while there was any prospect for pressing its payment successfully, but when that failed she assigned the claim. That was what I stated.

Mr. PATTERSON, of New Hampshire. Not at all. In the Thirty-Eighth Congress Massachusetts made over her claim to these railroad companies, and why? In order to meet an appropriation which had been made in New Brunswick of \$10,000 a mile for the building of a road from St. John's to the line, New Brunswick stipulating that she would give that amount to build this road if the States of Massachusetts and Maine would pay an equal amount to build the road from Bangor up to meet their road at the line. It is said that Massachusetts has no interest in this. This is a mistake; because it lessens one fourth the ocean path between this country and Europe and brings Boston two days nearer to Liverpool than she will be without the road. Does Boston feel no interest in the completion of this road? It brings over every pound of merchandise, it brings every passenger between London or Liverpool and this country two days nearer to New York, and brings them so much nearer to the constituents of the gentleman from Iowa; and therefore it is a matter of public interest, and the gentleman from Iowa ought to support it on that ground.

Mr. GRIMES. I fully understand the Senator now. He is putting it on the right ground. It is a question of building a railroad, not of paying a debt.

Mr. PATTERSON, of New Hampshire. It is a question of paying a debt in order to build a railroad. That is the point.

The PRESIDING OFFICER. This being a question of order, the Chair feels it his duty to remind Senators that they should confine themselves to that question.

Mr. PATTERSON, of New Hampshire. I am very glad that at last the Chair has come to that decision.

Mr. BUCKALEW. By a reference to the Journal I find that on the 26th of February, 1861, the following proceedings occurred while an appropriation bill was under consideration:

"On motion by Mr. LANE, from the Committee on Military Affairs and the Militia, to amend the bill by inserting at the end of the first section:

"For the payment of the coupons outstanding and now unpaid accruing between the 1st day of January, 1854, and the 16th day of August, 1856, upon the bonds of the State of California, issued for the payment of expenses incurred in the suppression of Indian hostilities prior to the 1st day of January, 1854, the redemption of which bonds was authorized by acts of Congress of August 5, 1854, August 18, 1856, and June 23, 1860, \$177,196 23; said coupons upon being certified by the Third Auditor of the Treasury to be those designated by this section to be paid by the Secretary of War to the holder or holders thereof.

"A question of order was raised by Mr. FESSENDEN, whether the proposed amendment was in order under the thirtieth rule.

"The PRESIDENT, (Mr. CLARK in the chair,) submitted the question of order to the decision of the Senate.

"Is the proposed amendment in order under the thirtieth rule?

"It was determined in the negative."

As far as I can perceive this was a case exactly like the present, in which the State of California was interested. At sundry times at that session and the two preceding sessions an amendment was offered by Mr. Simmons, of Rhode Island, providing for the payment of one of these four claims on behalf of Maine and Massachusetts, which was uniformly ruled out of order on the ground that it was inconsistent with the thirtieth rule of the Senate. I remember also that two sessions since this question of whether a claim by a State for moneys advanced to the Government was a private claim or not was considered at an evening session. It was a session either devoted to private claims or to private bills; and after debate it was ruled and adjudged by the Senate that that was a private bill or a private claim, and therefore in order to be considered at that session, and the bill was passed. I believe it was a claim by my own

State. That was a distinct decision within my recollection upon precisely the question of order raised here.

The PRESIDING OFFICER. Is the Senate ready for the question?

Mr. GRIMES. Let us have the yeas and nays upon it.

The yeas and nays were ordered.

Mr. SUMNER. Mr. President, I do not mean to say anything on the merits of this case. I simply wish to call attention to the point of order. It is on that we are to vote, and not on anything else. In the first place, is the character of this claim changed because Massachusetts has generously pledged it to a public work? Certainly not. It is the claim of Massachusetts; it is not the claim of this railroad company. They do not appear here. They cannot appear here. Suppose Massachusetts had pledged it to the charities of the State; pledged it to the construction of the roads of the State or to any other of those interests which she delights to protect; that would not have come within the cognizance of Congress. It is enough that the claim belongs to Massachusetts, and it is for her in her discretion to assign it to any party or company she sees fit. Therefore, sir, do I insist that because this claim has been generously pledged by Massachusetts to a public interest it is none the less a public claim.

And now, sir, pardon me if I refer to the Senator from New York, [Mr. CONKLING,] who did me the honor to attribute to me an argument and then at very considerable length to answer it. I took no such ground as he did me the honor to attribute to me. I made no allusion to this claim as arising under any existing law. From the beginning I have put it on one single ground, and on that I stand: that it is a public claim and not a private claim. Others in the course of the debate may have adopted the ground to which the Senator from New York paid so much attention; I have not. I have insisted that it was a public claim; that is all.

And this brings me to the Senator from Ohio [Mr. SHERMAN] who, quoting Barclay's Digest, read to us a passage which he seemed to consider decisive. It was as follows:

"It has been the practice in Parliament, and also in Congress, to consider as private such [bills] as are for the interest of individuals, public companies, or corporations, a parish, city, county, or other locality."

Those are the words, and they are copied from parliamentary law; but, sir, on simply listening to them you will see at once that they are inapplicable to the claim of a State. A State is not in the view of this language "an individual, a public company, a corporation, a parish, a city, a county, or other locality." A State does not come under the head of "another locality." This language is borrowed from the parliamentary law. I need not say that under that law no such thing as a State is known. The preëminence of a State is peculiar to our own institutions. Its title on this floor is recognized by the Constitution of the United States. Its precedence appears in the daily order of business. It does not, therefore, come within the text that has been cited. It stands by itself.

Now, you are asked to decide the question of order whether a claim in the name of a State can be voted out of order as a private claim. I ask again the question, if this be not a public claim, pray tell me what is a public claim? Where will you find one? I need say no more, sir. The question of order can be decided but one way. Senators have searched for cases the other way. Where are they? The Senator from Iowa alluded vaguely to one which took place, but there is no assurance that it was in point, whereas I bring to you eighteen cases on your statute-book directly in point.

The PRESIDING OFFICER. The Chair will state the question. A general appropriation bill being under consideration, the Senator from Massachusetts [Mr. SUMNER] moved an amendment to add to it a section providing

for a claim of the States of Maine and Massachusetts. The Senator from Iowa [Mr. GRIMES] raised the point of order that that was offensive to the thirtieth rule of the Senate. The Chair, under the sixth rule of the Senate, submits that question to the Senate. The question now before the Senate is, shall this claim be considered in order on the appropriation bill under the rule of the Senate?

Mr. WILLEY. I desire to state that I am paired off on this question with the Senator from North Carolina, [Mr. ABBOTT.] If he were here he would vote "yea" and I should vote "nay."

The question being taken, by yeas and nays, resulted—yeas 19, nays 21; as follows:

YEAS—Messrs. Anthony, Cragin, Doolittle, Fessenden, Fowler, Kellogg, McDonald, Morrill of Maine, Morton, Nye, Osborn, Patterson of New Hampshire, Pool, Rice, Sprague, Sumner, Vickers, Whyte, and Wilson—19.

NAYS—Messrs. Buckalew, Chandler, Cole, Conkling, Conness, Dixon, Drake, Edmunds, Ferry, Frelinghuysen, Grimes, Howe, McCreery, Morgan, Norton, Ramsey, Ross, Sherman, Trumbull, Van Winkle, and Williams—21.

ABSENT—Messrs. Abbott, Bayard, Cameron, Cattell, Corbett, Davis, Harlan, Harris, Henderson, Hendricks, Howard, Morrill of Vermont, Patterson of Tennessee, Pomeroy, Robertson, Saulsbury, Sawyer, Spencer, Stewart, Thayer, Tipton, Wade, Warner, Welch, Willey, and Yates—23.

The PRESIDING OFFICER. In the judgment of the Senate the amendment is not in order.

Mr. DAVIS. I offer as an amendment to insert as an additional section the following:

And be it further enacted, That the rank by brevet appointment in the Army shall be merely honorary, and shall confer no command or rate of pay or any other emolument.

Mr. DOOLITTLE. I should like to call the attention of the honorable Senator from Massachusetts, the chairman of the Military Committee, to this amendment. I think it is rather too sweeping in its character. Where persons of the same rank mingle together those of brevet rank have command conferred upon them by their brevet, and this amendment goes so far as to prevent that. I call the attention of the Senator from Massachusetts to it.

Mr. WILSON. We abolished brevet rank last night. We passed a bill which clears the matter out, and I think the Senator had better let it stand as it is.

Mr. DAVIS. Does that bill obliterate all existing brevet rank?

Mr. WILSON. There will not be any more brevets unless they are for service on the field of battle and bear date from that time specially.

Mr. DAVIS. I understand that proposition to be entirely prospective, and to leave the numerous cases of brevet rank in existence. At the time that I drew the amendment the proposition to which the honorable chairman of the committee refers had not passed, and I had no knowledge that it was passed, otherwise I might have omitted to offer this amendment; but I think the true spirit of brevet promotion is embodied in the amendment which I propose. It ought to be, like the Cross of the Legion of Honor instituted by the first Napoleon, entirely honorary in its character. This brevet rank has been very much abused in the Army of the United States. It has not been conferred in a great many instances upon the pure consideration of merit and of eminent military services, but has been the reward of favoritism and of undue influence by the persons who received brevet promotion with the appointing power. It has given rise to a great deal of discontent, and just discontent, among the officers of the Army. Young, inexperienced, and comparatively unfledged officers of the Army, by the exercise of enterprise and invoking the influence of men who had influence with the appointing power, have frequently got brevet rank that gave them the right to control and the right to rank men of much more age, much greater talent, and much more solid merit than themselves. A great many officers of the Army have made complaints in that regard. I think their complaints are just.

Mr. DOOLITTLE. If the honorable Senator from Kentucky will allow me I will state

that on consultation with the chairman of the committee I understand he has no objection to the amendment, and I do not interpose any myself.

Mr. DAVIS. Very good.

The amendment was agreed to.

Mr. MORTON. I move to strike out the third section of the bill.

The Chief Clerk read the section proposed to be stricken out, as follows:

Sec. 3. *And be it further enacted, That until otherwise directed by law there shall be no new appointments and no promotions in the Adjutant General's department, in the inspector general's department, in the pay department, in the quartermaster's department, in the commissary department, and in the medical department.*

Mr. MORTON. I think that section is not a good one. It cuts off absolutely all promotion in these several departments. I think the right of promotion should be allowed to remain. The amendment offered by the Senator from Massachusetts [Mr. WILSON] yesterday, which was adopted, authorizes the President of the United States to reduce the Army. But whether in his judgment the Army ought to be reduced this year, next year, or the year following is not known. Here is an absolute provision that cuts off all promotion in the Adjutant General's office, the inspector general's office, the quartermaster's department, the commissary department, and the medical department. It seems to me to be entirely unjust and improper.

Mr. MORRILL, of Maine. I desire to say that this section came to us in the bill from the House of Representatives. It is general legislation, and did not for that reason commend itself particularly to the Committee on Appropriations of the Senate. But as the effect of it was not particularly understood it was amended by the committee in regard to the ordnance department and allowed to remain. I do not see but that the criticism of the Senator from Indiana is equally applicable to all the other departments; but unless the chairman of the Committee on Military Affairs objects to its going out I raise no objection myself to the motion.

Mr. WILSON. I think this section had better stand as it is. I am clearly of the opinion that we have now six or seven hundred more officers in the Army than we shall need in a few months when the Army is reduced down, as it will be probably in six months, to about thirty or thirty-one thousand men. The number of officers was based upon an Army of about fifty-five thousand. We shall have taken off from twenty to twenty-five thousand within six months from this time. The number of the Army is now reduced to about thirty-seven thousand men. The term of enlistment for many of these men is rapidly expiring. We have more officers than we need, and we want to prevent the appointment of more officers into the Army and retire other officers as fast as we properly can.

I am against the wild warfare of which we have heard so much against the Army. I think the officers of our Army have served the country with great fidelity. Many of them bear honorable wounds. I think we owe them gratitude rather than hostility. But we must reduce the number of officers in the Army. The Senator from Indiana, if I understood his motion, proposes to strike out the third section entirely.

Mr. MORTON. Yes, sir.

Mr. WILSON. That section will prevent the appointment of any more officers in the quartermaster's, commissary, and pay departments of the Army. We struck out the engineer department and ordnance department because we shall graduate in a few weeks at West Point perhaps forty or fifty cadets, and it may be that some four or five of these young men ought to be appointed in the engineer and ordnance departments, the scientific departments of the Army; but certainly in the quartermaster's department, the commissary department, the pay department, and the medical department we do not want any new appointments; and I think it would be just as well not

to have any promotions until we get the Army down, for I think we have got to have some legislation on the subject in a very short time. The amendment that I offered and which was adopted yesterday authorizes the President to consolidate the forty-five infantry regiments into thirty regiments, so that we shall have fifteen regiments less, and the officers are to be assigned to the other regiments and we are to stop the appointments. We have no more cavalry regiments than we absolutely need. They are to be reduced in the number of men. But those regiments are on the frontier, in the Indian country, in sections of the country where they are compelled to move over large spaces. The number of artillery regiments is certainly not too large. It is proposed to reduce the Army, and by the plan as it stands it will be reduced in a very few months down to thirty-one thousand men. We certainly have five or six hundred too many officers, and the question is how to get rid of them and do it fairly and deal justly with them. I think we had better let the section stand as it is.

Mr. MORTON. The reduction of the Army has not begun; and even should the amendment that was passed yesterday be accepted by the House it leaves the matter entirely discretionary with the President. But even if the Army is to be reduced it seems to me there can be no propriety in providing by law that hereafter there shall be no promotions. Why, sir, the right of promotion, the hope of promotion goes to the very essence of the service; it is the stimulus to duty. But we here provide that as to all these departments there shall be hereafter no promotions. This section applies it to the adjutant general's department, the inspector general's department, the quartermaster general's department, and the commissary department. The committee have stricken it out in regard to the ordnance department and the engineer department. Why strike it out in reference to those two and not in reference to the others? But, sir, the principle of cutting off the chance of promotion is especially wrong. The question of reducing the Army has nothing at all to do with it. Whenever a man is entitled to promotion by means of great service or great ability in his department, and it is to the interest of the service that he should be promoted, the right to promote him should exist, and the number of officers has nothing to do with it. The question of making new appointments is another thing. It seems to me it would be very bad policy and would work great injustice to say that there shall hereafter be no promotions.

Mr. GRIMES. As the bill came from the House of Representatives it provided that there should be no promotions in any of the staff corps of the Army. I have no doubt that it could have been much more perfect, and would have been, had it said that there should be no promotions until each of the staff corps should be reduced to a certain number in each grade; but that was not the way the House of Representatives sent it to us, and the Committee on Appropriations, not being a military committee, did not choose to tamper with the proposition except that upon my suggestion the words "ordnance department and engineer department" were stricken out; and I can tell the Senator from Indiana why that was done. We graduate a certain number of young men at the Military Academy every year. A few of the best scholars, those who are best educated and best fitted for that department of military life, are assigned to the engineer and ordnance corps. If the section had remained in the bill as it stood they could not have been promoted from a cadetship into those corps. The officers of the other staff corps of the Army are not selected thus from the Military Academy; they are selected from the line or from civil life; and it was to meet that trouble and allow the corps of engineers and ordnance officers of the Army to be kept full from the academy that on my suggestion those words were stricken out.

The Senator, I think, is mistaken in suppos-

ing that there is a surplus of engineer officers. Why, sir, if we had passed the river and harbor bill we had before us the other day as we had finally amended it, I think we should have been compelled to add a very considerable number in addition to the present engineer corps of the Army in order to make the surveys authorized by that bill. I suppose there is no surplus in that corps and probably no surplus in the ordnance corps.

Mr. MORTON. It seems to me the explanation made by the Senator from Iowa makes this section more objectionable than it was before; and I wish to speak of it now, in connection with a part of the amendment offered by the Senator from Massachusetts yesterday. His explanation is that into the engineer and ordnance departments promotions are made from the graduates of West Point; but these other departments are made up, not of graduates of West Point, but of persons appointed from civil life.

Mr. GRIMES. I did not state what the Senator attributes to me. I said that those officers in other corps were appointed from civil life and from the Army. And I say now, in reply to the statement of the Senator, that three fourths of them are appointed from the regular Army into those staff corps. There is not an officer in the inspector's department, there is not more than one I think in the adjutant general's department, hardly any in the commissary department, and very few in the quartermaster's department who have been appointed from civil life; so that that portion of the argument which is addressed to the populace seems to rather fall to the ground.

Mr. MORTON. I simply make the statement as I understood the Senator to make it. He now explains that a considerable portion of the appointments; especially in the inspector's department, he says, are made from the regular Army; but he knows, and I know, that so far as the quartermaster's department and the commissary department are concerned, and, in fact, in the other departments, a considerable proportion of them are from the volunteer service appointed from civil life.

Mr. GRIMES. There is not anybody in the inspector's corps, only one in the adjutant general's corps, and not more than one or two in the commissary corps taken from civil life.

Mr. MORTON. I call attention to a portion of the amendment offered by the Senator from Massachusetts, which was adopted and which escaped my attention yesterday:

"That all officers rendered supernumerary by the provisions of this act shall be assigned to vacancies which may occur in their respective grades; and no appointments other than the graduates of the Military Academy shall be made to fill vacancies in any grade until all such supernumerary officers of that grade shall have been so assigned."

Now, Mr. President, if I had had my attention called to that section before it was passed I certainly should have objected to it. I am not in favor of slamming the door absolutely in the face of every man from the volunteer service. There are men who are not now in the Army, but who have rendered distinguished service during the war, young men, some of them I have a knowledge of, who are eminently qualified, who are brave and brilliant soldiers, who if there should be a chance presented should be in some way recognized. There are men who have served with great distinction during the late war; and if from time to time an occasion should occur when an officer of that kind can be recognized it ought to be done, at least there ought to be no provision of law that will prevent the Government from doing it.

But, sir, the section which I have moved to strike out seems to me to be in every respect improper. As I said before, promotion is the great stimulus to service; it is the great stimulus to the performance of duty, and as the Army has not been reduced and may not be reduced for the next five years, and the bill allows the President to refuse to reduce it at all until he sees proper, there can be no propriety, it seems to me, in cutting off all promotion in

these departments. Promotion is left free in other departments. The President may make brigadiers out of colonels; he may make major generals out of brigadier generals. Promotion in all the higher grades of the Army is left free, but in these lower departments it is utterly cut off by this bill; and promotion is just as dear to subordinate officers as it is to those of higher rank.

Mr. WILSON. The opposition to that amendment made by the Senator from Indiana is no new thing here. Nearly two years ago an effort was made to prevent appointments in the Army because we had to reduce the force. We were under the necessity, of course, of stopping appointments, and we passed a bill to that effect; and it met this stern opposition and this talk about volunteer officers. We do not want any additional volunteer officers, and we do not need any more West Point officers, and I am willing to strike the whole of them out; but we want to stop appointments in the Army. We should have had one hundred or one hundred and fifty less officers to support in the Army, whom we do not need, if our bill had passed a year and a half ago. We have got to-day at least six hundred more officers than we need; and the question is how to get them out of the Army without doing injustice to them. The first thing is to stop appointments. We tried to do it. Then we held back, and I have now in my desk here a great number of nominations that have been held back all this session because we do not need more officers. The nominees are good men, first-rate men. It is a hard thing to have the President sending here the names of young men for appointments in the Army when we do not need them, and then have them come around us and beg to be confirmed and impose upon us the unpleasant task of refusing to do it; but until we decide that we shall make no more appointments we shall be afflicted in this way. If we want to reduce the officers of the Army the first thing to be done is to stop appointments.

The exception with regard to West Point graduates was made on this ground: we shall graduate forty, perhaps fifty, young men at West Point in a few months. We have educated those men for a specialty, for the Army; and if we say none of them shall be appointed they are out entirely and cannot be appointed.

When we reorganized the Army after the war we provided that half the officers should be appointed in these regiments from the men who had served in the volunteer forces. We have been just and generous to the volunteers. I would as soon have a volunteer as a man who comes from any other quarter. We required that a man should have been in the service to be appointed. We cut off all the men who had been educated at colleges, or wherever they were educated in the country; we said "No person shall be appointed into this Army unless he shall have served so long in the war." There never was a law framed in this country or in any other in the interest of volunteers who had served their country equal to that. We said to all the young men of the country, "No matter how well educated you are, no matter how well you understand military science, no matter how much you may desire to go into the Army, unless you have served two years in the war you shall not have a commission." That is the law of 1866. Volunteer officers were appointed and filled up the Army. Now, our Army has been reduced more than one third already. We have cut the Army down from fifty-six to thirty-seven thousand, and we propose to cut it down to thirty-one thousand; and the House proposed in the bill as they sent it to us to cut it down to twenty-four or twenty-five thousand. There is no doubt that that is too great a reduction for the present, at any rate. Perhaps it may be done a year hence. The size of the Army depends on the condition of the country and the needs of the public service; and you must change it from time to time, reduce it or increase it, according to the wants of the country.

Therefore we have got too large a number of

officers on hand. We want to get rid of them. It was proposed by one Senator, I do not know whether he made the motion or not but he has an amendment to that effect, to offer officers of the Army a year's pay to induce them to resign from the Army. I wish that seven hundred of the officers of the Army would to-day resign. This exception was put in simply in regard to the West Point graduates, and if the Senator desires to strike that out I have not the slightest objection in the world, but I do insist upon it that this Congress shall put its foot down and say that we will have no more appointments in the Army. The exception was made with regard to the class at West Point who are to graduate this year; we have educated them specially for the Army, and it seemed to be a strange proceeding to throw out the very men we had educated for this special service. I am willing, however, that they shall go, if the Senate so decides.

The Senator says that the higher branches are not touched. By our amendment we propose to cut the brigadier generals down to eight; that is, we strike off two brigadier generals of the Army. Of course their places cannot be filled. I have no objection to cutting them down to a lower number if it is thought necessary. We strike off by this bill, if the President carries it out—and I have no doubt he will, and will do it in the next three or four months—fifteen colonels, fifteen lieutenant colonels, and fifteen majors; forty-five of the high officers. We consolidate the forty-five regiments of infantry into thirty regiments. Of course these officers have got to go out in some way, for we must reduce the number of officers in the Army in some form.

Now, if the Senator desires to strike out this exception in favor of those who are appointed from West Point I will not object, for I take it this bill will not last over a year. The exception only applies to the class about to graduate. We have got to reorganize and reconstruct and reduce the Army, and the number of officers must be reduced and brought down to a peace establishment, and that can be done, especially if our Indian wars disappear, and we hope they will, for we understand that there is to be a new policy in regard to the Indians; and we are all looking for peace and education and civilization of the Indians under the new policy that is soon to be put in operation. Then we may not need an Army of even thirty thousand, and may be able to bring it down to twenty thousand. But I do not think there ought to be any more appointments in the staff department of the Army, for we have too many there already. I think it would be better not to make promotions, but let the whole thing stand at present until we get the Army worked down lower and get out of it what officers we can, and then we can provide for the future. If the Senator desires to strike out the exception in favor of those at West Point in the amendment which has been adopted in committee, I have not the slightest objection in the world to his making that motion when the bill comes into the Senate and the question arises on concurring in that amendment.

Mr. MORTON. I do not desire to argue this question. I can only state that while it may be important to reduce the officers in the Army I am opposed to a declaration by law which will prevent the President from recognizing the services of any soldier, no matter what may be his merits, unless he is a graduate of West Point. This absolutely forbids any appointments hereafter except of graduates of West Point. I do not want to say so by law, and will not by my vote. The question of the reduction of the Army has nothing to do with that principle.

Mr. GRIMES. I should like to inquire of the Senator what he proposes to do with the next class of graduates at West Point? I understand the Senator to be in favor of reducing the Army, but he wants it applied to soldiers who are appointed from civil life as well as to graduates of West Point. Now, what does he propose to do with them?

Mr. MORTON. So far as they are concerned I presume they will be taken care of in the same way. They will have some kind of employment, and I have no doubt they will be provided for.

Mr. GRIMES. But their term at the Academy will expire next June, and if they are not promoted into the Army we shall lose their services in the future. Now, what does the Senator propose to do with them?

Mr. MORTON. This has nothing to do with their rights. It does not give to them a new right of promotion, but it simply cuts off the right of everybody else. That is a very different thing. It is a declaration by law that nobody shall hereafter be appointed in the Army except a graduate of West Point. That is the whole of it.

Mr. GRIMES. The Senator professes great desire for economy. He is in favor of reducing the Army; he has urged arguments in favor of reducing the Army; and yet he insists that persons in civil life shall be appointed in it. His argument would be very good if you wanted to increase the Army; but you do not want to increase the Army. Everybody is anxious to reduce it. Here are thirty young men on whom we have expended \$10,000 apiece in preparing them for service to be rendered the public in their future life as military men. Is it wise, I ask the Senator from Indiana, to say that we shall dispense in all future time with their services; that we shall not avail ourselves of their education, but will turn them loose, as will be done if you do not admit them into the Army? Have you any right to insist upon it that they shall simply remain cadets with a compensation of \$500 a year after they shall have completed their education in a sort of chrysalis state between promotion and cadetship. I am as much in favor of economy as the Senator; I want to reduce the Army; but I want the country to avail itself of the services of those young men whom we have educated, and I do not know of any way to do it except by appointing them to the Army as they shall graduate.

Mr. MORTON. The Senator says that I make great professions of economy. I beg the Senator's pardon; I do not make any professions of the kind. I hope I shall practice economy, and that my votes in this body will show that I am in favor of retrenchment and reform; but I certainly have made no great professions on that subject. He inquires what we shall do with these graduates of West Point if they are not to be appointed in the Army. This section does not confer any right of appointment on them. They have got that now. This is not intended to confer a right of appointment as to them that does not already exist.

Mr. GRIMES. Where does it exist?

Mr. MORTON. But this section gives them the right of appointment over everybody else; it makes an exception as to West Point; that is it. That is a very different thing.

Mr. GRIMES. I would inquire of the Senator if it was not for that exception, if the section should stand without the exception, could any West Point cadets be appointed?

Mr. MORTON. Certainly it would then cut off everybody. Therefore the section in itself is not necessary. It does not give any new right to appoint West Point men; that right exists now; but it cuts off the right of everybody else, and that is what I am opposed to. Even if there should be no men appointed from civil life, if there should be none of the volunteer officers or soldiers of the late Army recognized, still the right of the President to recognize the services of those who have greatly distinguished themselves should be allowed to exist.

I say the thing is wrong in its principle, but as to the other section, the one I have moved to strike out, it contains two provisions; the first is that there shall be no new appointments; the second is that there shall be no further promotions. Promotions do not increase the number of officers, but give the right to appoint one of a lower grade to a higher grade

where there is a vacancy or where an officer is entitled to it on account of distinguished services; and I say that the right of promotion and the hope of promotion is the great stimulus to the successful performance of duty. I think that that provision would be essentially impolitic and unwise if adopted, and it has not anything at all to do with the question of reducing the Army. It takes away the right of promotion as to all of these subordinate officers.

Mr. SPRAGUE. Promotions give pay; and in time of peace it is not honor that the officer seeks in promotion; it is the pay. The point urged by the Senator from Massachusetts is correct in this, that he does reduce the expenses of the Army in retaining the pay as it exists now. As to the appointment of civilians in the Army, those who come to me urging influence for appointments in the Army are invariably discouraged. I would confine the appointments to the Army to men from the military school, because I believe that in time of peace it is no place for a useful, energetic, and enterprising American citizen. His place is in the workshop or in the field; his place is in and among the enterprises which lay open to an American citizen beyond the citizen of any other country in the world; and promotions here simply increase the expenditure of this Government and the taxes of the people, when the service of those whom you propose to promote is of no greater value when they are promoted than before the promotion takes place.

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from Indiana.

The amendment was rejected.

Mr. WILSON. I move to amend the bill by inserting after line one hundred and eighty-three:

For surveys for military defenses, \$200,000.

I will simply say that the estimates were for that amount. I have here a letter from the Secretary of War, and one from the General-in-Chief of the Army, urging very strongly that we shall make this appropriation. I will have them read if it is necessary.

Mr. MORRILL, of Maine. They had better be read, as the proposition is to increase the appropriation.

Mr. WILSON. Let General Humphrey's letter first be read.

The Chief Clerk read as follows:

HEADQUARTERS CORPS OF ENGINEERS,
WASHINGTON, D. C., January 19, 1869.

GENERAL: In the regular annual estimates submitted by me for the operations of the corps of engineers for the fiscal year ending June 30, 1870, there is an item for military surveys, \$200,000, that has been placed in the river and harbor bill, but which ought to be in the Army bill, since it is for the regular expenditures of the corps in connection with military operations and defensive purposes.

From the appropriations made under this head are carried on all the reconnaissances, explorations, and surveys in connection with the military operations and the establishment and maintenance of the military posts and depots in the interior; all the geographical and geological explorations, which are as essential for military as for other great national uses, and all the surveys, such as we are now making on the Pacific frontier, required for the preparation and execution of plans for sea-coast defenses.

The appropriations heretofore made for military surveys will be exhausted in two months time, notwithstanding the efforts made to economize strictly in all the operations.

The appropriation asked for is necessary to carry on the engineering part of the regular military duties referred to, and I beg leave to request that the item named may be transferred to the Army bill from the river and harbor bill, and the appropriation urged as an essential Army expenditure.

I beg leave further to suggest that provision be made in connection with this item for the preparation and publication of the results of these surveys, under the direction of the Secretary of War, the expense to be borne from any balance of appropriation for the War Department that may not be required for other purposes.

Very respectfully, your obedient servant,

A. A. HUMPHREYS,
Brigadier General of Engineers Commanding,
Major General J. M. SCHOFIELD,
Secretary of War.

WAR DEPARTMENT, January 22, 1869.

The Secretary of War has the honor to submit to the Senate of the United States the accompanying communication from the chief of engineers, asking

that the item of \$200,000 for military surveys, estimated for in the annual estimates of the engineer department of the Army for the next fiscal year, be transferred from the river and harbor appropriation bill, in which it has been put by Congress, to the Army appropriation bill, it being required for military purposes.

J. M. SCHOFIELD,
Secretary of War.

The amendment was agreed to.

Mr. WILSON. I move the following amendment, to come in after line one hundred and eighty-three:

And the Secretary of War is hereby authorized to have prepared and published the report of the results of the exploring expedition and survey of the line of the fortieth parallel: *Provided*, That the cost of the same shall be defrayed out of existing appropriations in the War Department: *And provided further*, That the letter-press work shall be done at the Public Printing Office.

Mr. MORRILL, of Maine. Is that covered by the letter?

Mr. WILSON. Yes, sir.

Mr. DAVIS. I wish to ask the chairman of the Committee on Military Affairs, or some gentleman who has looked at this work, to tell us what is the object of surveying the fortieth parallel any more than the forty-ninth or forty-third? What are the national consequences of it? What is the consequence in point of policy connected with the Army?

Mr. WILSON. I call for the reading of the letter of the General-in-Chief of the Army.

The Chief Clerk read the following letter:

HEADQUARTERS ARMY OF THE UNITED STATES,
WASHINGTON, D. C., January 26, 1869.

SIR: Understanding that your committee have struck out of the appropriations for river and harbor improvements the sum of \$100,000, I take the liberty to express to you the opinion that it would be of great public advantage to have that amount restored, and the total sum of \$200,000 transferred from that appropriation to an appropriation for military surveys, &c.

A work of vast importance to the mining interest of the country has progressed from the Pacific coast eastward to the east end of Salt Lake, taking in a belt of country one hundred or more miles in width along the line of the Pacific railroad. The appropriation here asked for is necessary to complete this work to the plains east of the Rocky mountains. When done, and published for the information of the public, the miner and the agriculturalist will have complete information of the resources of the country described agriculturally and mineralogically. In military operations, should any be necessary, the information will be of vast importance.

I would add to this recommendation the further recommendation that authority be given to the Secretary of War to publish the results of these surveys, when completed, and to pay expenses of the same from any unexpended appropriations under his control.

I have the honor to be, with great respect, your obedient servant,

U. S. GRANT, General,
CHAIRMAN COMMITTEE ON APPROPRIATIONS,
House of Representatives.

The amendment was agreed to.

Mr. SPRAGUE. I wish to offer an amendment as an additional section.

Mr. MORRILL, of Maine. Before that motion is put, as we have but ten minutes left, I move that the order for a recess be suspended, and I will renew it again if necessary.

The PRESIDING OFFICER. The Senator from Maine moves that the order relating to a recess at four o'clock be postponed until the conclusion of this bill.

Mr. CONNESS. I hope we shall finish something. This bill will be finished in a little while if Senators will consent to stay. It will not take long. Of course we can adjourn at any time.

Mr. HENDRICKS. We stay here until about half after ten at night. We ought to have some little time for rest.

The question being put, it was declared that the motion appeared to be agreed to.

Mr. HOWE. What is the motion?

The PRESIDING OFFICER. The motion agreed to was that the time for taking a recess, fixed for four o'clock to-day, be suspended until the Senate reach a determination of this subject.

Mr. HOWE. That is not agreed to.

Mr. FESSENDEN. That may be a very indefinite period. The Senator from Massachusetts intends to renew his amendment.

Mr. MORRILL, of Maine. I want to finish this bill to-night.

Mr. SUMNER. I expect in the Senate to renew the proposition which I have already moved relative to the Massachusetts claim.

Mr. CONNESS. That need not extend the time if the proposition be renewed. The discussion has been all had, and the Senate is more full, and can vote upon it.

The PRESIDING OFFICER. If the Senator is not satisfied with the vote, a division can be had.

Mr. MORRILL, of Maine. So far as I am concerned, I express the most entire satisfaction. [Laughter.]

The PRESIDING OFFICER. The Chair said the motion was carried, which was to suspend the time for taking a recess from four o'clock until a decision should be had on this bill.

Mr. GRIMES. I am not satisfied with that.

Mr. HOWE. I ask for a division.

Mr. GRIMES. I wish to say that we are informed here that this Massachusetts claim is to be brought up again and pressed: That will keep us all night.

Mr. MORRILL, of Maine. I modify my motion, and move to suspend the order for taking a recess altogether.

The PRESIDING OFFICER. The Senator from Maine moves that the order for a recess be rescinded.

Mr. MORRILL, of Maine. Yes, sir; that is my motion.

The PRESIDING OFFICER. Is the Senate ready for the question on that motion?

Mr. HOWE. I am ready for the question; but I do not want the Senate to agree to that motion. I have no objection that the hour for taking the recess be postponed fifteen or thirty minutes, or an hour for that matter, if it is necessary; but I fear that the effect of the motion now made will be on a question of order inevitably to use up this evening. I suggest that the Senator take half an hour.

Mr. MORRILL of Maine. My only object is to secure the passage of this bill because we have spent so much time on it and I have another bill to consider to-morrow; but I am willing to experiment with half past four o'clock; I will modify the motion in that way.

The PRESIDING OFFICER. The Senator moves that the time for taking a recess be extended until four and a half o'clock.

The motion was declared not to be agreed to, there being on a division—ayes 18, noes 19.

Mr. CONNESS. I call for the yeas and nays.

The yeas and nays were not ordered.

Mr. MORRILL of Maine. Now I move a suspension of the order for a recess.

Mr. BUCKALEW. I object.

Mr. HOWE. I shall have to call for the yeas and nays on that motion.

The PRESIDING OFFICER. The yeas and nays are called for.

Mr. BUCKALEW. I objected to the motion. I should like to know whether it is in order.

The PRESIDING OFFICER. This motion can be entertained by unanimous consent, there being another question before the Senate.

Mr. MORRILL, of Maine. What is the other question?

The PRESIDING OFFICER. The Army appropriation bill.

Mr. MORRILL, of Maine. I suppose it is competent for me to move a suspension of the order.

The PRESIDING OFFICER. The Army bill may be laid aside informally for that purpose, no objection being made.

Mr. BUCKALEW. I object.

Mr. STEWART. I believe I have a question that is privileged above the other.

Mr. MORRILL, of Maine. I object.

Mr. STEWART. That will not do any good.

Mr. MORRILL, of Maine. I will try it on. I propose to hold on to the Army bill or nothing. If the Senate does not propose to pass the Army bill, be it so—

The PRESIDING OFFICER. The report of a committee of conference is not a privileged question; and the Chair understands that

that is what the Senator from Nevada wishes to present.

Mr. STEWART. Will the Senator from Maine listen to what I have to say?

Mr. MORRILL, of Maine. No; I do not listen to anybody now.

Mr. STEWART. Then I will address the Chair if I am in order. I wish to say that I expect this evening to call up a privileged question; that is, the constitutional amendment. I wish to make a report from the committee of conference on that question and have it acted on. I want to give notice so that Senators may be here. That is what I wish to say.

The PRESIDING OFFICER. The Senator from Maine moves that the order for a recess be rescinded, and on this question the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. HOWE. I want my friend, the Senator from Maine, to understand that my only reason for opposing a suspension of this order is my conviction that it is going to rule me out.

Mr. MORRILL, of Maine. I have not the slightest idea of trespassing on the Senator's time, but I want to finish this bill.

Mr. HOWE. I know the Senator has no disposition to trespass on my time, but it is clear to me that that is going to be the inevitable effect; it will take the whole of the evening to dispose of this bill.

Mr. MORRILL, of Maine. No, sir.

The PRESIDING OFFICER. The roll will be called.

The Chief Clerk called the name of Mr. ABOTT.

Mr. RAMSEY. I call the attention of the Chair to the fact that it is four o'clock.

The PRESIDING OFFICER. It is not quite four o'clock. The call will proceed.

Mr. BUCKALEW. I should like to know what has become of my objection to entertaining this motion pending the consideration of the Army bill.

The PRESIDING OFFICER. The Chair said it would be entertained if there be no objection.

Mr. BUCKALEW. I objected. I suppose it will be in order to move an adjournment.

The PRESIDING OFFICER. The Senator from Pennsylvania can make that motion.

Mr. CONKLING. The roll-call has commenced.

The PRESIDING OFFICER. No response was made, and so the call has not commenced.

Mr. McCREERY. The hour of four o'clock has arrived.

The PRESIDING OFFICER. It is now four o'clock, and the Senate will take a recess until seven o'clock.

EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report from the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 23d instant, reports upon the free-port system of Mexico upon the Rio Grande and the frauds upon the revenue connected therewith; which was referred to the Committee on Finance.

HOUSE BILL REFERRED.

The bill (H. R. No. 968) for the coinage of copper-nickel pieces of five cents and under was read twice by its title, and referred to the Committee on Finance.

O. P. COBB AND OTHERS.

Mr. HOWARD. I wish to call up a joint resolution that I presented to-day for the reference of the claim of Cobb and others to the Court of Claims. I move that it be taken up.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 237) to refer the claim of O. P. Cobb and others to the Court of Claims.

The joint resolution was reported to the Senate without amendment, ordered to be

engrossed for a third reading, read the third time, and passed.

MEMPHIS AND EL PASO PACIFIC RAILROAD.

Mr. HOWARD. Now I ask the Senate to take up House joint resolution No. 465, granting the right of way to the Memphis and El Paso Pacific Railroad Company from El Paso to the Pacific ocean, merely for the purpose of reference. I desire to have it referred to the Committee on the Pacific Railroad.

The motion to take up the joint resolution was agreed to.

Mr. MORTON. I hope that resolution will not be referred to any committee. It is a resolution that contains no subsidy, no grant of land, but simply gives the right of way. It has been acted upon by the House of Representatives, and it is important that it should pass the Senate this session. I trust, therefore, that the Senator will not ask to have it referred to any committee.

Mr. HOWARD. It is a bill of considerable importance, and I think it ought to be looked into by the committee; and I can assure the Senator from Indiana that it will be reported back to-morrow from the committee if it is referred, so that no time will be lost.

Mr. MORTON. It has already been reported, I believe, by a committee.

Mr. HOWARD. A committee in the House, not in this body. I think it had better take that course. It will not delay it at all.

The PRESIDENT *pro tempore*. The joint resolution will be referred to the Committee on the Pacific Railroad if there be no objection.

ORDER OF BUSINESS.

Mr. HENDRICKS. I ask the unanimous consent of the Senate to take up Senate bill No. 953, which I suppose will not occupy much time.

Mr. HOWE. I wish the Senator from Indiana would let me go on.

Mr. HENDRICKS. I did not know the Senator had come in.

Mr. HOWE. This evening has been set apart for the consideration of bills reported from the Committee on Claims.

Mr. HENDRICKS. I will not interfere with the Senator.

EDWARD E. SHEAD.

Mr. HOWE. I move that the Senate proceed to the consideration of House joint resolution No. 265.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 265) for the relief of Edward E. Shead, of Eastport, State of Maine. It directs the Secretary of the Treasury to issue to Edward E. Shead, of Eastport, State of Maine, two six per cent. coupon bonds, for the sum of \$500 each, in lieu of two bonds destroyed by fire, bearing date 18th of August, 1864, numbered 19,747 and 19,748, payable in 1881.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MRS. ELLA E. HOBART.

Mr. HOWE. I move that the Senate proceed to the consideration of House joint resolution No. 280.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 280) for the relief of Mrs. Ella E. Hobart. The bill provides that Ella E. Hobart, who was appointed as chaplain to the first regiment of Wisconsin volunteer heavy artillery, shall be entitled to receive the full pay and emoluments of a chaplain in the United States Army for the time during which she faithfully performed the services of a chaplain to the regiment the same as if she had been regularly commissioned and mustered into service.

Mr. HOWE. The committee ask to be discharged from the further consideration of that bill, as the same subject is reported upon favorably by the Committee on Military Affairs.

The PRESIDENT *pro tempore*. The committee will be discharged.

MARY A. FILLER.

Mr. HOWE. I move that the Senate proceed to the consideration of House bill No. 425. The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 425) for the relief of Mary A. Filler. The preamble recites that Sergeant Henry Drenning, late of company K, fifty-fifth regiment of Pennsylvania volunteers, was killed at Cold Harbor, in Virginia, on the 3d of June, 1864, leaving no widow nor heirs lineal or collateral; but he was the adopted and foster son from childhood of Mrs. Mary A. Filler. The bill therefore provides that she shall be entitled to receive the back pay due to him at the time of his death, and the bounty to which he would have been entitled by law, and in these and all other respects shall have the same rights and benefits as if she were his natural and lawful mother.

The Committee on Claims reported an amendment to the bill, to strike out after the word "law," in line six, the words "and in these and all other respects shall have the same rights and benefits as if she were the natural and lawful mother of said Henry Drenning."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill read a third time. The bill was read the third time, and passed.

GEORGE KAISER.

Mr. HOWE. I move that the Senate proceed to the consideration of House bill No. 1367.

The motion was agreed to; and the bill (H. R. No. 1367) for the relief of George Kaiser was considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay George Kaiser the sum of \$181 50 for labor and material furnished in building a hospital at Parkersburg, West Virginia, in 1861.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ISAAC WATTS.

Mr. HOWE. I move that the Senate proceed to the consideration of House bill No. 1128.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1128) for the relief of Isaac Watts. It directs the proper accounting officers of the Treasury and pay department to pay to Isaac Watts all arrears of pay, bounty, or other allowances due from the United States to his adopted son, Samuel Watts, late a private of company H, eighty-first regiment infantry, Ohio volunteers, the same in all respects as if he had been the son of Isaac Watts.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

N. A. SHUTTLEWORTH.

Mr. HOWE. I move that the Senate proceed to the consideration of House bill No. 284.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 284) for the relief of N. A. Shuttleworth, of Harrison county, West Virginia. The bill directs the Secretary of the Treasury to pay to N. A. Shuttleworth, of Harrison county, West Virginia, late captain in third regiment Virginia volunteers, the sum of \$550 65, to reimburse him for the same amount paid by him for the transportation of recruits in 1861.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANTHONY BUCHER.

Mr. HOWE. I move that the Senate proceed to the consideration of House bill No. 1326.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1326) for the relief of Anthony Bucher. It authorizes the Secretary of the Treasury to investigate and, if in his opinion it shall appear proper, issue to Anthony Bucher a Treasury note for fifty dollars, to supply such a note as shall appear to have been destroyed by fire (and belonging to him) in the summer of 1867.

Mr. HOWE. That bill has passed the House; but the Committee on Claims of the Senate reported adversely upon it. I shall move that it be indefinitely postponed; but I do not know but that it would be fair that the report should be read, that the reasons of the committee for disagreeing with the House should be made known to the Senate. There may be some question about the propriety of it.

Mr. EDMUNDS. Do not read the report unless somebody calls for it.

Mr. HOWE. Well, I move that the bill be indefinitely postponed.

The motion was agreed to.

H. G. AUKENY.

Mr. HOWE. I move that the Senate proceed to the consideration of House bill No. 1130.

The motion was agreed to; and the bill (H. R. No. 1130) for the relief of H. G. Aukeny, late captain fourth Iowa infantry, was considered as in Committee of the Whole. It proposes to instruct the Secretary of War to reimburse to H. G. Aukeny, late captain fourth Iowa infantry, the sum of \$299 50 out of any appropriation made or hereafter to be made for the recruiting service of the United States Army.

Mr. HOWE. I make the same motion in regard to that bill, that it be indefinitely postponed.

Mr. HARLAN. I would rather it should go over until I can look at it.

Mr. HOWE. I have no objection.

The PRESIDENT *pro tempore*. The bill will be passed over if there be no objection.

CHAMPE CARTER, JR.

Mr. HOWE. I move that the Senate proceed to the consideration of House bill No. 1255.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1255) for the relief of Champe Carter, jr. It directs the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands to pay to Champe Carter, jr., late sub-assistant commissioner of the bureau for the counties of Robertson and Milam, in the State of Texas, the sum \$526 50, being the amount due to him for services as sub-assistant commissioner from the 17th of March, in the year 1866, to the 29th of August, 1866.

Mr. HOWE. I make the same motion in regard to this bill; and I will state the case in one word. This claimant was appointed a sub-assistant commissioner of freedmen in Texas, and served two months. It turned out that he had been an officer in the rebel army, and the officers of the bureau refused, as they were obliged to refuse, to pay him for his services, because there was no authority of law for paying him. The case shows that he did his duty well; and the chief of the bureau, General Howard, certifies that he would have paid him if he had had authority; but the committee did not feel authorized to recommend the payment to the Senate. I therefore move the indefinite postponement of the bill.

The motion was agreed to.

GEORGE W. ASHBURN.

Mr. HOWE. I now move that the Senate proceed to the consideration of House joint resolution No. 36.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 36) for the relief of George W. Ashburn. The preamble recites that George W. Ashburn

seized certain property belonging to F. Stewart, in the State of Tennessee, which property was being used by the southern confederacy; that the property was afterward confiscated by the district court of the State of Tennessee, under the provisions of the act of Congress of August 6, 1861, and was by the order of the court sold and the proceeds placed in the Treasury of the United States, including the portion that belonged to Ashburn, under the provisions of the act, which amount still remains in the Treasury. The joint resolution therefore directs the Secretary of the Treasury to pay to George W. Ashburn the sum of \$3,888 37, the amount belonging to him under the act according to the decree of the district court.

Mr. HOWE. I move the indefinite postponement of the joint resolution.

The motion was agreed to.

S. AND H. SAYLES.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate bill No. 957.

The motion was agreed to; and the bill (S. No. 957) for the relief of S. and H. Sayles, was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of War to pay the sum of \$88,688 15 to S. and H. Sayles, of Killingly, Connecticut, in full satisfaction and discharge of all claims and demands whatsoever upon the Government of the United States arising out of a contract made by them in the month of March, 1865, to furnish clothing for the Army of the United States.

The bill was reported to the Senate without amendment.

Mr. COLE. I have many doubts about the propriety of the passage of this bill. It arises out of a contract in the quartermaster's department; and, as I remember the facts, the Sayles Brothers entered into the contract with an understanding as to the quality of the cloth which was to be furnished, and the contract when accepted by them and by their agents was binding upon them; and to require the Government to pay the extravagant sum of \$88,000 for a refusal on the part of the Government to accept their cloth because it did not come up to the standard required in the contract seems to me, to say the least, unreasonable. The quartermaster had the power to accept or reject the materials that were furnished in pursuance of the contract. It was a matter of clear discretion with him. When the cloth did not come up to the standard specified in the contract, he exercised that discretion and rejected it. These parties now claim damages arising to them, as they allege, because of the rejection of the material which they were to furnish under the contract. I do not believe that the amount of damages that is claimed in this case can be sustained. The cloth that was alleged to have been furnished or brought forward by the contractors, Sayles Brothers, was sold at a very low rate. They were to have \$1 50 a yard from the Government. That same cloth, on being put into the market, was sold at a very low rate, I think at not more than about one third of that price, which is some sort of evidence of the want of value of the article. They may have put it on the auction stand and had it disposed of at a lower rate than it would have brought in the market, where there could have been more deliberation in reference to the purchase; but they sold the same product that was assumed to have been made for the Government at a very low figure; the chairman of the committee can state how much a yard, but I believe it was only about one third of \$1 50.

Mr. HOWE. From sixty to seventy cents a yard.

Mr. COLE. From sixty to seventy cents a yard, I am informed. If we are to make good to all contractors losses which they allege to have sustained by reason of a failure on the part of the Government or on the part of the contractors themselves to comply with the contracts we shall find ourselves in many difficulties beyond this. This will be regarded as a precedent for others who have not come up to

the standard required in the contract for the articles they were to furnish, and they, too, will come upon the Government to be remunerated at some extravagant rate for losses which they allege they have sustained.

None of this cloth, by the way, was received by the Government. If I remember the contract, it contained certain specifications that the cloth was to possess a certain amount of strength when stretched lengthwise and a certain amount of strength when stretched laterally and a certain amount of strength when tested by a diagonal power applied to it; but the cloth did not come up to the standard, and was for that reason rejected. It is true that a portion of the cloth that was to be furnished, a portion of the two hundred and fifty thousand yards, was sent to Cincinnati, where the bidding was made. I think one hundred and fifty thousand yards are alleged to have been sent there and offered to the Government; but none was received, for the best reason in the world, that it did not come up to the standard specified in the contract. Now they allege that the standard of cloth mentioned in the contract was higher than that required by the Army generally; that cloth of that particular strength was never furnished; but it is to be presumed that they entered into the contract expecting to perform it according to the letter of the contract; and having made the contract, I do not know why they should not be required to comply with it, or suffer the consequences the same as all other contractors of the Government.

Mr. HOWE. I would not take a moment to explain this case but for the amount involved, which is considerable. I have examined a large volume of testimony in the case which shows the facts which I will briefly state, for the whole gist of the case is in a very small space. These claimants reside in the State of Connecticut. The quartermaster at Cincinnati, in 1865, advertised for proposals to furnish sky-blue Army cloth—Army kersey. He required that the cloth to be furnished should be according to samples which he stated in his advertisement were on exhibition in his office and could be seen there; and he required that each bidder should exhibit a sample of the cloth he proposed to furnish. The claimants, the Sayleses, made a bid through agents in Cincinnati, and proposed to furnish cloth at \$1 50 per yard, and furnished a sample of the cloth that they would furnish. That was in March, 1865. Their bid was accepted for two hundred and fifty thousand yards, and their agents notified them at once by telegraph that their bid was accepted. In a few days after that the quartermaster put up a printed note notifying them officially that their bid was accepted. That notice was directed to them at New York instead of at Killingly, and they never received it. It came from New York to the dead-letter office, and from the dead-letter office it was returned to the quartermaster at Cincinnati.

Some five days after the awarding of this contract to the Sayleses, the quartermaster drew up a contract in form, and in the written contract he inserted specifications as to the kind of cloth that should be furnished—specifications which never had been heard of before by the contractors nor by their agents. The specifications required that the cloth should be equal to bearing a certain strain in each direction. That contract was misdirected and went to New York instead of to Killingly. That contract they did not get for weeks. After they had been notified that theirs was accepted, and after they had entered upon the performance of their contract, when they received the written contract, they said at once, "We cannot comply with these specifications; no cloth can be made equal to them;" and they proposed to refuse the execution of the contract. They were advised by their commission merchants, however, that they had better sign the contract and send it to their agents at Cincinnati, to be delivered only in case the quartermaster would waive the written specifications and stand upon the samples on which the bid was made. Acting upon that

advice they sent the contract with their signature attached to their agents, and their agents delivered it to the quartermaster; and they say it was understood between them and the quartermaster that the written specifications were to be waived. The quartermaster was before us. He did not recollect that he ever specifically waived the specifications, but says he thinks it very likely he did, for he supposed at that time that the specifications were substantially the same thing as the samples.

The contractors went on making their cloth. The first installment was to be delivered the first week in May, and was delivered and was received. My friend, the Senator from California, is mistaken in saying it was not received by the Government. It was received by the quartermaster and stored in the Government warehouse. The contract required that the first installment should be delivered in the first week in May and be delivered in weekly installments as nearly equal as possible from that time until the whole was delivered. They went on manufacturing and shipping to Cincinnati until one hundred and fifty thousand yards were received. The contract required that it should be inspected as fast as received or without unnecessary delay. The evidence shows that not a yard was inspected until some time in July; I think it was the 20th before a single yard had been inspected. Not all of it had been delivered at the Government warehouse, but they delivered and received at the Government warehouse just as much as their warehouse would hold, and they had said to the agents of the manufacturers that they must not deliver any more because they could not store it, and therefore they kept the balance in their warehouse. When the cloth began to be inspected in July it was found it was not equal to the specifications contained in the contract; it would not bear the strain which the specifications required that it should bear. The evidence in the case satisfies us that there never was any cloth made in the world which would bear it.

Mr. FERRY. The Senator ought to state that it was equal to the sample and better than the sample.

Mr. HOWE. All who have inspected the cloth concur in two things: first, that it was better than the sample furnished by the bidders and better than the samples kept by the quartermaster as the Army standard. And they concur in another thing, and that is that it was the best cloth ever purchased and delivered at that depot in Cincinnati. Those three things they establish; but they all agree that it was not equal to the specifications; and the testimony satisfies me, and I believe the committee—it satisfied the board which was called to examine the subject in the War Office—that there never was any cloth made that was equal to the specifications, and, in point of fact, that the specifications were a blunder.

The assistant quartermaster at Philadelphia, who recommended the adoption of these specifications by the Quartermaster General, testifies that he is satisfied he was mistaken about it, and was deceived by the machine which was furnished him to test cloth. As I said, no inspections were made until the 20th of July; then there was some doubt as to whether they would stand by the specifications or would inspect cloths according to the samples. The Quartermaster General finally decided to stand by the specifications, of which these parties were notified in August; and thereupon they delivered no more cloth. One hundred and fifty thousand yards were all that they had manufactured up to that time, for which they should have had \$1 50 a yard if it had been accepted by the Government. It was not accepted, and they were obliged to sell it. They sold it after free conference with the Secretary of War and by his permission, he not taking any responsibility about the sale, but saying that he should take no advantage of it. The Government did not take the cloth; it was sold by commission merchants in New York. The committee have an account of the

sales, and they have awarded to the contractors just the difference between what the cloth brought in the market and the amount which they were to have. The contractors say that it will not nearly make them good because they had a large amount of material on hand, purchased in view of this contract and with which to fill it on which there had been an immense decline in price owing to the close of the war; and yet the committee declined to consider these items, and have reported a bill here to pay the claimants just the difference between what they got for these goods and what they were to have, and that upon the ground, which seems beyond all question, that the cloths were better than the samples furnished either by the bidder or by the quartermaster, and which were descriptive of the real articles to be manufactured under the contract.

Mr. COLE. It seems, after all, that these parties entered into this contract with their eyes open. They, according to the statement of the honorable Senator from Wisconsin, were advised to enter into the contract after their hesitating to do so by their agents in New York, but with directions given at the same time to parties in Cincinnati not to deliver the contract if the specifications were still adhered to. These specifications appearing upon the face of the contract were seen, not only by the parties now claiming relief, but also by their agents in Cincinnati, and with these specifications before them they go on and furnish this cloth by installments, so many yards per week, and continued this until they have furnished one hundred and fifty thousand yards. We are now told that this cloth, after all, was better than any that had been furnished at that quartermaster's station previous to this. That is not a very good argument in favor of this, in view of the fact that during the war a very large amount of cloth was furnished the quartermaster's department of the Army that was of very little value. There was a great deal of shoddy furnished, and all that may have been furnished at that particular quartermaster's station prior to this may have been of very inferior quality.

If these parties have recourse upon anybody it seems to me it ought to be upon their agents and not upon the Government. If they were deceived by their agents in Cincinnati or by their consignees in New York, their recourse ought to be in that direction, and not against the Government of the United States. They knew at the time they entered into the contract whether they could comply with it or not; and if their agents still went on, and if they continued to act under the contract and in pursuance of it in all respects except as to the quality of the cloth, their recourse is certainly elsewhere than against the Government of the United States. I think we are setting a very bad precedent in relieving these contractors of the Army at the distance of four years after the war is ended, a distance of five or six years, it may be, after the contract has been made, from the alleged injury that they claim they have sustained by reason of any fault on the part of those who may have been acting on behalf of the Government.

I have no doubt that if we pass this claim others who have made contracts with the Government, not merely for cloth but for all of the ten thousand objects that have been comprehended in contracts with the Government, will come forward with their claims in like manner. I cannot, therefore, but regard it as an exceedingly dangerous precedent to be established at this time, and I hope the bill will not pass this body.

Mr. HOWARD. Mr. President, I will say one word in relation to this claim. The committee had it under consideration a considerable time and bestowed upon it very careful attention; and I came to the conclusion as a member of the committee that the claim was meritorious, and I think so still.

The objection which is most strongly urged by the honorable Senator from California is based upon the written contract which was

signed by these gentlemen. It is a sufficient reply, at least sufficient in my judgment, that the contract which they thus signed was a very broad departure from the contract into which they entered with the Government at the time of the bidding in Cincinnati. The contract was not made out until some time after the Sayleses' were notified by their agent that the contract had been awarded to them. On receiving a telegraphic dispatch to that effect, they proceeded at once to make preparation for going on and performing the whole of the work by going into the market and purchasing the wool and the materials necessary for the manufacture of the cloth. They had thus invested a pretty large amount of money before the contract, so called, was transmitted to them in writing. When they came to examine the written contract which was thus submitted to them they saw at once that it did not contain the same specifications which were referred to in the advertisement under which they made their bid and under which they really entered into the contract and upon the enterprise itself. The written contract upon which the Senator so much relies, as I remarked before, a broad departure from the one into which they had already entered; but in order to go on and effectuate their bid they were in some sort constrained to sign the contract which was submitted to them, but not until a considerable time had elapsed after they had entered upon the performance of the work itself.

It struck me that inasmuch as this written contract thus entered into contemplated a different kind of cloth from that which they had agreed to manufacture, and was a far harder and more stringent contract than they had any grounds to expect they would be compelled to perform, and they having under these circumstances of pressure and necessity entered into the bargain so far as they were concerned, the contract became a hard one, imposing on them a hardship and duty which they found it impossible to perform. They did not perform it; they could not perform it. It was not contemplated when their bid was accepted at all, and was never insisted upon. No notice was ever transmitted to them that they would be expected to perform the terms of this written contract with strictness. And under the circumstances it has struck me that it would be a grievous and great hardship to require of these contractors the performance of an impossibility, such as the written contract required them to perform. They entered into and signed that contract, as I have remarked, by a pressure which they could not get rid of.

Mr. COLE. Will the Senator allow me to interrupt him for a moment?

Mr. HOWARD. Yes, sir.

Mr. COLE. Was it any authority of the Government, or the Government in any sense, that constrained them to enter into the contract? It was, as I understood, their own agents who urged them to enter into it. Am I correct in that?

Mr. HOWARD. I think not. The truth is the contract was completed and became a binding contract both upon the Government and upon the Sayleses, at the time the Sayleses were notified that their bid had been accepted by the Government. There was the end of the contract as between the contractors and the Government, and they performed that contract acceptably and sufficiently, and they neither could nor would submit to perform the contract which was afterwards presented to them and which turned out, in proof before the committee, to have been practically an impossibility.

Mr. COLE. Will the Senator from Michigan be so good as to tell us who did constrain them to enter into that written contract?

Mr. HOWARD. They were constrained by circumstances. This contract was presented to them. They had purchased a large quantity of wool for the purpose of manufacturing the article according to their bid and had it on hand, and had other materials on hand purchased for the same purpose, all of which would have been less valuable in their hands

if they had not obtained the contract and been permitted to go on with the manufacture of the article. It struck me, Mr. President, as being one of those hard bargains from which equity ordinarily relieves a contractor.

But this written contract, as I remarked before—and here is my principal point—was not the contract into which the Sayleses had entered, and it was one to which they ought not to have been held.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1570) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1870, and for other purposes; further insisted upon its disagreement to the amendments of the Senate to the said bill; asked a further conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. G. S. ORTH of Indiana, Mr. G. W. SCOFIELD of Pennsylvania, and Mr. S. B. AXTELL of California, managers at the same on its part.

The message also announced that the House had passed the bill (S. No. 467) to confirm an entry of land of Moses F. Shinn.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 968) authorizing certain banks named therein to change their names;

A bill (H. R. No. 273) to amend the act of April 10, 1806, for establishing rules and articles for the government of the armies of the United States;

A bill (H. R. No. 424) amendatory of an act entitled "An act for the relief of certain drafted men;"

A bill (H. R. No. 1280) for the relief of Lieutenant Leonidas Smith, late of twenty-second regiment Indiana volunteer infantry;

A bill (H. R. No. 1323) for the relief of Walter D. Plowden;

A bill (H. R. No. 1489) granting a portion of the military reservation at Sault Ste. Marie, Michigan, to the American Baptist Home Mission Society;

A bill (H. R. No. 1868) for the relief of H. A. White;

A bill (H. R. No. 1872) providing for the payment of Captain Goldman Bryson's mounted company; and

A bill (H. R. No. 1878) for the relief of George W. Short.

CONSULAR AND DIPLOMATIC EXPENSES.

On motion of Mr. HOWE, the Senate proceeded to consider its amendments to the bill (H. R. No. 1570) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1870, and for other purposes, further disagreed to by the House of Representatives; and

On motion, by Mr. HOWE, it was

Resolved, That the Senate further insist upon its amendments to the said bill, and agree to the further conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon.

Ordered, That the conference on the part of the Senate be appointed by the President *pro tempore*.

O. N. CUTLER.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate bill No. 591.

The motion was agreed to; and the consideration of the bill (S. No. 591) for the relief of O. N. Cutler was resumed as in Committee of the Whole. It proposes to appropriate \$50,000 to O. N. Cutler, in full compensation for two hundred and sixty-eight bales of cotton seized by order of General Ulysses S. Grant, at Lake Providence, Louisiana, the property of Cutler, and used for military purposes in

equipping the steamer Tigris for running the blockade of the Mississippi river, at Vicksburg, in the month of April, 1863, and destroyed.

Mr. EDMUNDS. I should like to inquire of the chairman of the committee whether this involves the principle that was so much discussed in the case of Miss Sue Murphey. If it does it had better be laid over.

Mr. HOWE. Let the report be read.

The Chief Clerk read the following report, made by Mr. HOWE on the 6th of July, 1868:

The Committee on Claims, to whom was referred the claim of O. N. Cutler, have examined the same, and submit the following as their report:

On the 5th day of March, 1863, one William C. Wagley made a written contract with John G. Klinek, assistant quartermaster, for the picking, ginning, and baling of cotton then growing on the lands about Lake Providence, in the State of Louisiana, which had been abandoned by the rebel owners and occupants, and then lately brought within permanent Union lines by the advance and occupancy of the Federal forces.

This contract was approved by Major General McPherson, commanding that district.

By the terms of the contract Wagley was to gather, gin, bale, and deliver at a certain point of shipment certain unpicked and abandoned cotton in and about Lake Providence at his own expense. This cotton, when so picked, ginned, and baled and delivered, was to be equally divided, and the Government to have one half and Wagley the other half, and Wagley to have the privilege of shipping his cotton to Memphis, Tennessee, on Government transports, he paying freight therefor.

On the 3d day of April, the same year, after having picked, ginned, and baled a considerable quantity of cotton under the contract, Mr. Wagley assigned his interest in the contract to Mr. O. N. Cutler, the claimant in this case, then a citizen of Hannibal, Missouri, who thereafter prosecuted the work, and a large amount of cotton was delivered under the contract at Lake Providence, and there divided, an officer of the Government taking charge of the one half belonging to the Government, and assigning to said Cutler the other half.

While this cotton was lying at Lake Providence awaiting transportation to Memphis General Grant required transportation for his army across the Mississippi river, below Vicksburg. To furnish this it was necessary to run steamboats through the blockade at Vicksburg. To run this blockade it was necessary to so furnish the boats as to protect, as far as possible, their machinery from destruction by the enemy's fire; and by General Grant's order his quartermaster took Cutler's cotton, and with it equipped the steamer Tigris to run that blockade. The Tigris and her equipment of cotton were lost on the voyage.

The amount of claimant's cotton so taken and used is shown by Captain B. F. Reno, assistant quartermaster, the officer who seized it under General Grant's order, to have been two hundred and sixty-eight bales.

The weight of the bales is not clearly proven. The claimant states his account as two hundred and sixty-eight bales weighing one hundred and thirteen thousand nine hundred pounds, being four hundred and twenty-five pounds to the bale, and he puts it at twenty-five cents per pound, amounting to \$82,645.

The original contractor, Wagley, was a citizen of Illinois, employed in this enterprise under the inducement held out by our authorities and the cotton was the price paid for his labor and risks. The claimant and assignee was then a loyal citizen of Hannibal, Missouri, took the contract off Wagley's hands, and completed the work.

The Government employed them to do the work, paid them for it, and before they could remove the proceeds of their labor and convert it it was seized by the Government for military purposes and destroyed.

It seems to your committee to be a case of private property taken for public use, freed from the complications and questions ordinarily attending claims for the use and destruction of property in an enemy's country in time of war, and should be paid for.

Your committee have had some difficulty in fixing the value of the cotton, but have agreed to report the accompanying bill appropriating \$50,000, and to recommend its passage.

Mr. BUCKALEW. I am opposed to all these bills in which the committees of the Senate attempt on *ex parte* evidence before them to fix values. Here is the large amount of \$50,000; and so far as we are informed this amount is fixed on papers presented by the claimant to the committee. It seems to me very strange if this cotton was taken for the purposes of the Army that there was no appraisal made at the time of the amount, no receipt given for it, no statement made contemporaneous with the transaction of the quantity of cotton appropriated. That is a very singular fact. Ordinarily when property is taken either by the quartermaster's department or by their authority under military orders there is some ascertainment of the amount so taken; at all events of the amount, even if the value should not be ascertained. Now, there is another singular thing on the face of this

claim; and that is that fifty or sixty thousand dollars' worth of cotton was taken for the purpose of protecting the machinery of a single steamer, so far as we can ascertain from the report which has been read. The report must be inaccurate or the thing upon its very face must be absurd. If the chairman of the committee has any explanation to make I will give way to him.

At all events where large amounts are involved, where there has been no Government survey or appraisalment of the property, I think it ought to be a rule that the subject should be sent to the Court of Claims. If the claim is to be recognized and paid bills ought to be drawn providing for the payment of the claim and referring it to the Court of Claims and ascertaining in the regular manner the amount of injury which the party has sustained, the value of the property taken, and possibly under some circumstances where there is doubt as to the facts an ascertainment also by that court of the liability of the Government.

Mr. EDMUNDS. On hearing the report read I do not see that it involves the Sue Murphey question at all; and if the facts reported are correct I confess I do not see how we can avoid paying the claim.

The bill was reported to the Senate and ordered to be engrossed for a third reading.

Mr. HENDRICKS. I do not think this bill had better pass now. It is a large sum of money, and it grows out of one of the cotton speculations during the war. It seems to have been a contract between a quartermaster and a man named Wagley, by which certain cotton that was claimed to have been abandoned was to be ginned and baled and they were to share it. If the cotton was abandoned cotton under the law it belonged, I suppose, to the Government. This man did not own this cotton. There was no way for him to become the owner of this cotton; he never bought it. It was a speculation by him without investment, and when it was taken to the banks of the river General Grant used it, it seems, for lining one of his boats; and I do not believe it took any such quantity of cotton to line the boat. The committee have been imposed upon in some way. The report says that on the 5th of March, 1863, Wagley made a written contract with Clinck, a quartermaster, for picking, ginning, and baling certain abandoned cotton. By the terms of the contract Wagley was to gather, gin, bale, and deliver at certain points of shipment certain abandoned cotton in and about Lake Providence at his own expense. It was his share, I suppose, which was taken to line the boat. While it is so difficult to get claims through the House or the Senate in favor of parties who have made advances to feed and clothe the soldiers during the war I do not think we ought to be in haste to pass one of the cotton speculation cases. This man seems to have been an adventurer down there, taking his chances of getting cotton that did not belong to him; that he did not pay for except as he gathered it and packed it and ginned it. That is all the pay he was to make out of it. I do not think we ought to pass the bill; but I am not going to spend any time in discussing it.

Mr. FESSENDEN. It strikes me that my honorable friend from Indiana has rather a queer notion of equity. Had the Government a right to this cotton? The Government claimed the right to take it under a law passed by Congress as abandoned property. It had no means to avail itself of the property unless it should be picked and ginned and prepared for market. It seized it, as it had a right to do, as abandoned rebel property. Then, in order to make it available, the Government contracts with a man that he shall do the necessary labor in order to enable the Government to avail itself of the property thus seized; that he shall take it and gin it and bale it and put it in order for the purpose of enabling the Government to get something out of it; and they make a contract that for doing that work he shall have one half and the Government the other half.

The Senator calls him an adventurer. The report says that he is a loyal citizen of the State of Illinois. He assigned his contract to Mr. Cutler, well known as a loyal citizen and a man of respectability in the State of Missouri. I happen to know him myself; and the way I became acquainted with him was this: on the very highest recommendations I appointed him a special agent of the Department under the law to make purchase of cotton at New Orleans, and he was as good and faithful and valuable an officer as was in the employ of the Department during that time.

Mr. EDMUNDS. When was that?

Mr. FESSENDEN. When I was in the Treasury, after this occurrence. He is a man of the highest respectability and a man of capacity. He took this contract and he did the necessary work; he picked the cotton, he ginned it, he baled it, and he made it possible for the Government to receive something out of it. The Government and he then divided it according to the contract. The Government took its share and availed itself of it and sold it, giving him his share. After giving him his share, he being in possession of it, the Government needing it for its own purposes seized it and put it on board a vessel, and that vessel was sunk. Now, to carry out the idea that under these circumstances, he being the man who enabled the Government to get the other half, the Government now shall not pay him for his half which they delivered to him and which they took from him by force for their own purposes, is setting up a rule of justice and equity such as I never heard of before.

A word as to the amount. The price claimed is twenty-five cents a pound. The number of bales is certified to by an officer of the Government, and in order to make sure that they do not give too much the committee deduct the amount of \$12,500 from what it would come to on the statement made to the committee, and that is said to be so uncertain that it ought not to be done. Mr. President, it certainly must strike any man who looks at it calmly and without prejudice that a clearer case could not possibly be stated of a righteous claim against the Government of the United States.

Mr. HOWE. I will simply state, on the question of damages, the committee were guided in fixing the value of the cotton by the testimony, which seemed quite satisfactory, laid before them of the value of the cotton at Cincinnati and of the cost of transportation from Vicksburg to Cincinnati, and we deducted a little from that, according to my recollection.

Mr. HENDRICKS. At this session there was a bill before the Judiciary Committee extending the limitation for two years within which proceedings might be instituted by parties whose cotton was taken by public officers. The Judiciary Committee refused to recommend the passage of the bill upon the ground that there ought to be an end to such claims; that there had been sufficient time for the parties to assert their rights under existing laws.

Mr. HOWE. Allow me to say to the Senator from Indiana that there is no existing law that I know of under which this claimant could have sued for this cotton. Cotton which was taken and turned over to the Treasury Department and sold, and the proceeds put in the Treasury, the law authorized loyal persons to sue and recover the money for. This was not sold, it was not turned over to the Treasury Department, and I know of no law which would authorize this man to go to the Court of Claims.

Mr. HENDRICKS. I was not going to say that this case would come within that law. I was going to say, however, that the sentiment, the opinion of that committee upon proceedings for the recovery of cotton claims so long after the cotton had been taken had been expressed in rejecting that bill. This is no more meritorious—clearly not—than where property of a citizen was taken and sold and the money turned over to the Treasury; it is not a stronger case certainly, and the Judiciary Committee refused to approve a bill to extend the time

within which parties might bring their suits in such cases. This is a case that could have been brought, as I suppose, in the Court of Claims.

Mr. HOWE. No, sir.

Mr. HENDRICKS. I do not see why not.

Mr. EDMUNDS. They only have jurisdiction over contracts aside from the cotton statute.

Mr. HENDRICKS. It is a claim for property taken and used by the Government. There is an implied contract that it shall be paid for.

Mr. EDMUNDS. The statute which gives jurisdiction to the Court of Claims only allows them to proceed upon contracts. My friend from Indiana will not assert, I take it, that where property is taken by *vis major*, as lawyers call it, any contract can be implied unless the property is converted into money, when you can sue for money had and received.

Mr. HENDRICKS. But there was a contract in this case between this man and the quartermaster that he was to have half the cotton.

Mr. FESSENDEN. That was executed and the property was divided and his half was turned over to him.

Mr. HENDRICKS. And his half was to be transported, was it not? I ask the Senator from Maine if under his contract his part was not to be transported?

Mr. FESSENDEN. He had a right to have it transported upon Government boats, but the Government was under no obligation to take it and transport it for him.

Mr. HENDRICKS. The Government instead of transporting his portion of the cotton used it. There is a contract. What sort of a contract it is, whether a very good one or a very shabby one, I will not undertake to discuss; but that it has the forms of a contract, and that this man's loss occurred before all the terms of that contract were fully complied with, appears plain enough, because it was to be carried for him and delivered to him at some other point. I do not think it is a safe bill to pass, but I shall content myself with voting against it.

Mr. WARNER. I should like to ask the chairman of the Committee on Claims what State Mr. Wagley was a resident of at the time he made this contract.

Mr. HOWE. I have forgotten.

Mr. HENDRICKS. The report says Illinois.

Mr. HOWE. The report states that Mr. Wagley was from Illinois.

The bill was read the third time.

Mr. FESSENDEN. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 9; as follows:

YEAS—Messrs. Anthony, Cragin, Dixon, Doolittle, Edmunds, Ferry, Fessenden, Harlan, Howard, Howe, Morrill of Maine, Morrill of Vermont, Rice, Osborn, Patterson of New Hampshire, Ramsey, Nye, Stewart, Van Winkle, Wade, Warner, Welch, Willey, Williams, and Wilson—25.

NAYS—Messrs. Buckalew, Cole, Davis, Hendricks, McCreery, Morgan, Morton, Norton, and Ross—9.

ABSENT—Messrs. Abbott, Bayard, Cameron, Cattell, Chandler, Conkling, Conness, Corbett, Drake, Fowler, Frelinghuysen, Grimes, Harris, Henderson, Kellogg, McDonald, Patterson of Tennessee, Pomeroy, Pool, Robertson, Saulsbury, Sawyer, Sherman, Spencer, Sprague, Sumner, Thayer, Tipton, Trumbull, Vickers, Whyte, and Yates—32.

So the bill was passed.

SUFFRAGE CONSTITUTIONAL AMENDMENT.

Mr. STEWART submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the joint resolution (S. R. No. 8) proposing an amendment to the Constitution of the United States, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows: That the House recede from their amendments and agree to the resolution of the Senate with an amendment, as follows: in section one, line two, strike out the words "and hold office;" and the Senate agree to the same.

W. M. STEWART,

ROSCOE CONKLING,

Managers on the part of the Senate.

GEORGE S. BOUTWELL,

JOHN A. BINGHAM,

JOHN A. LOGAN,

Managers on the part of the House.

Mr. STEWART. I move that the report be

made the special order at a quarter past twelve o'clock to-morrow.

Mr. HENDRICKS. What is the proposition?

The PRESIDENT *pro tempore*. The proposition is to make the report of the committee of conference on the disagreeing votes of the two Houses on the constitutional amendment the special order for to-morrow at a quarter past twelve o'clock.

Mr. HENDRICKS. It would be better to say one o'clock.

Mr. STEWART. I will say half past twelve.

Mr. HENDRICKS. You had better say one, and all will be here.

Mr. STEWART. I want to make it the special order for half past twelve.

Mr. HENDRICKS. I move to amend the motion by saying one o'clock instead of half past twelve o'clock.

Mr. STEWART. I expect to get a vote before one o'clock.

The PRESIDENT *pro tempore*. The longest time will be put first; and the question is on making this report the special order for one o'clock to-morrow.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question now is on the motion to make it the special order for half past twelve.

The question being put; there were, on a division—ayes 24, noes 6; no quorum voting.

Mr. STEWART. We shall have to have the yeas and nays to get a quorum.

Mr. ANTHONY. There is a quorum here. I ask that there be another division.

Mr. STEWART. There will be a quorum if all will vote.

Mr. BUCKALEW. I desire to make one remark. I have no objection to making this the order at one o'clock to-morrow, by which time the Senate will be full.

Mr. STEWART. I do not want to antagonize it against the regular business of the day.

Mr. BUCKALEW. I do not think it will be debated.

The PRESIDENT *pro tempore*. The question is on the motion to make the report of the committee of conference the special order for half past twelve o'clock to-morrow. The Chair will put the question again.

Mr. STEWART. I will modify my motion and say one o'clock.

Mr. BUCKALEW. The call for a division is withdrawn on that motion. There is no objection to fixing one o'clock.

The motion was agreed to.

CENSUS OF 1860.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate bill No. 614.

The motion was agreed to; and the bill (S. No. 614) to pay loyal citizens in the States lately in rebellion for service in taking the United States census of 1860 was considered as in Committee of the Whole. It provides that the claims of loyal citizens in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, for services rendered as United States marshals and their assistants in taking the eighth census in the year 1860, may be paid out of any unexpended balance of any moneys hitherto appropriated for the payment of United States marshals and their assistants for services rendered in taking the eighth census in the year 1860; but no part of any such balance is to be paid to or on account of any claimant who participated in the late rebellion or gave to it aid or comfort.

Mr. EDMUNDS. Who is to decide who was a loyal citizen under this bill; who is to be the judge?

Mr. HOWE. The same tribunal passes upon the question that settles the other marshals' accounts.

Mr. EDMUNDS. Who is that?

Mr. HOWE. I do not know.

Mr. EDMUNDS. I think that bill had better be thought of a little. I move to lay the bill on the table.

The motion was agreed to.

JOHN F. STEWART.

Mr. HOWE. I move to take up for consideration Senate bill No. 35.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 35) for the relief of John F. Stewart, which proposes to authorize the Secretary of War to pay him the full amount of pay and emoluments as second lieutenant of company A, fourth United States volunteers, from July 22, 1865, to June 19, 1866, the date of the muster-out of his company.

Mr. FRELINGHUYSEN. That bill was reported back by me with a recommendation that it should not pass; there is a printed report which, if it is desired, can be read.

Mr. HOWE. I move its indefinite postponement.

The motion was disagreed to.

COOLEY AND BOSWELL.

Mr. DAVIS. I ask the chairman of the Committee on Claims if it was not a bill for the benefit of Stewart Barnes he intended to call up?

Mr. HOWE. No, sir.

Mr. DAVIS. I wish he would propose it.

Mr. HOWE. I will presently. I move that the Senate proceed to the consideration of Senate joint resolution No. 163.

The motion was agreed to; and the joint resolution (S. R. No. 163) for the relief of Benjamin Cooley and James W. Boswell was read the second time, and considered as in Committee of the Whole. It recites that the amount of mail matter carried over routes Nos. 3293 and 3304 from Washington city, in the District of Columbia, to Poolesville, in the State of Maryland, during some portion of the time under the contracts for carrying the mails thereon from July 1, 1860, to June 30, 1864, greatly exceeded any anticipated quantity of mails to be carried over those routes at the time the contracts were made, on account of the large number of troops stationed at Poolesville and vicinity, and which could not have been foreseen by the contractors; and it therefore purposes to empower the Postmaster General to examine and adjust the claims of Benjamin Cooley and James W. Boswell, who were contractors, respectively, for carrying the mails upon the routes named during that period, and to award them such compensation for carrying the increased bulk of mail matter under those contracts as may seem to him just and proper, not to exceed the sum of \$1,200 to either.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BARTHOLOMEW COUNTY SOCIETY.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate bill No. 185.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 185) for the relief of the Bartholomew County Agricultural Society, in the State of Indiana. The bill proposes to pay to the Bartholomew County Agricultural Society, in the State of Indiana, for damages done to the grounds, buildings, fences, trees, and shrubbery of said society, while the same were used as a military encampment or rendezvous for the organization of the tenth regiment of Indiana cavalry and other regiments, the sum of \$2,000, in full satisfaction for all claims of the society against the Government of the United States.

Mr. HOWE. The report is adverse, and I move that the bill be indefinitely postponed.

The motion was agreed to.

COLUMBIA TURNPIKE COMPANY.

Mr. HOWE. I move the indefinite postponement of the joint resolution (S. R. No. 73) for the relief of the Columbia Turnpike Company for use and occupation of their road during the late rebellion.

The motion was agreed to.

RICE AND NOTEWARE.

Mr. HOWE. I move the indefinite post-

ponement of Senate bill No. 257, for the relief of Clement T. Rice and Chauncey N. Noteware, late register and receiver at Carson City, Nevada.

The motion was agreed to.

CAPTAIN JAMES KELLY.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate bill No. 928.

The motion was agreed to; and the bill (S. No. 928) for the relief of Captain James Kelly was read the second time, and considered as in Committee of the Whole. It provides for the payment to James Kelly, captain of the thirty-fourth United States infantry, of the full pay of a captain from the 24th day of June, 1864, to the 31st of October, 1866.

The bill was reported to the Senate.

Mr. HOWE. I ought to say that while I asked the Senate to proceed to the consideration of the bill, I am not in favor of its passage. It was not reported by me; it was reported, however, by a majority of the committee. I will state briefly that it is to pay the salary of an officer who was dismissed from the Army wrongfully and subsequently restored, to pay him his salary during the time of the dismissal, during the time he was out of service. I am entirely satisfied that the dismissal was wrong; the Department was satisfied of that, and restored him to his command; but he was out of the service for some two or three years, I think; and this bill is to pay him his salary during that time. I could not agree with the majority of the committee.

Mr. WILLEY. It is a matter of indifference to me whether the Senate pass the bill. This was a gallant officer of the celebrated Irish brigade, who was detailed for recruiting service in consequence of severe wounds received in the battle of Antietam. By some kind of oversight he was mustered out of service without any trial and without his knowledge. He continued drawing his pay as a lieutenant colonel, and was addressed and treated as a lieutenant colonel after being mustered out of service without his knowledge; and for so doing, when it was found out, he was dismissed the service without trial and without his knowledge. On coming to Washington and making the facts known to the Department he was reinstated with his commission as captain, dating back to the date of his dismissal from the service, fully acknowledging that he had been improperly removed. The evidence shows that he had been so, and was a brave and gallant officer.

The bill makes provision for his payment, not for the time he was out of service, but from the time of his wrongful dismissal to the date of the order restoring him, during which time it is in proof that he was in Washington taking the necessary means to redress his grievances, ready and willing at all times to render service, and asking to be allowed to do it, at least a good portion of that time. For a portion of that time he was actually in service serving the country after he had been dismissed, the order for his dismissal not having been served upon him for a considerable length of time. Under these circumstances, a gallant officer having been wrongfully dismissed and put to the trouble of coming to Washington to have himself restored, and being restored and the dismissing power being in error upon its own acknowledgment, and he having been ready and willing to serve the country, a majority of the committee thought he ought to have the pay of a captain just the same as if he had been in service; and that is the whole case.

Here was a brave and gallant officer, furnishing as may be seen in the record the highest testimonials of gallantry, and who was wounded almost to the death. If it is the opinion of the Senate that he should not be paid for the time of his wrongful dismissal, when he was engaged in correcting the error and having himself restored to credit and to the ranks of the Army, they will say so. That is all there is in the case. He was taken out of the regular service for his courage and

appointed a lieutenant colonel of volunteers. He was a captain in the regular Army, and was taken out of the regular Army and made lieutenant colonel in the volunteer service, and being wounded at the battle of Antietam, he was detailed for recruiting service in Michigan. While there, without any knowledge or notification on his part, he was mustered out of the service, and was subsequently dismissed the service, without any notification or trial. He served the country after his dismissal; in point of fact, gallantly in the South for some time. Because he drew his lieutenant colonel's pay after being mustered out of service up to the time of his dismissal, not being notified of his muster-out, he was dismissed the service, and then was put to the trouble of coming to Washington to reinstate himself. The error of the Government was acknowledged; he was reinstated to his position as captain in the regular Army, and as soon as a vacancy occurred he went back again into the service. He asks compensation only from the time of his dismissal up to the time he was reinstated; not from the time of his reinstatement up to the time when a vacancy occurred when he went back into the service. I think it is due that this gallant officer should be paid up for that time. It is a matter for the Senate to decide.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. HOWE. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 16; as follows:

YEAS—Messrs. Anthony, Buckalew, Cole, Corbett, Cragin, Davis, Dixon, Fowler, Harlan, Harris, Hendricks, Howard, Nye, Ramsey, Rice, Ross, Tipton, Van Winkle, Vickers, Wade, Welch, and Willey—22.

NAYS—Messrs. Cattell, Conkling, Conness, Doolittle, Edmunds, Fessenden, Frelinghuysen, Howe, McCrery, Morgan, Morrill of Maine, Morrill of Vermont, Norton, Patterson of New Hampshire, Trumbull, and Williams—16.

ABSENT—Messrs. Abbott, Bayard, Cameron, Chandler, Drake, Ferry, Grimes, Henderson, Kellogg, McDonald, Morton, Osborn, Patterson of Tennessee, Pomeroy, Pool, Robertson, Saulsbury, Sawyer, Sherman, Spencer, Sprague, Stewart, Sumner, Thayer, Warner, Whyte, Wilson, and Yates—28.

So the bill was passed.

STEWART BARNES.

Mr. HENDRICKS. I move to take up Senate bill No. 953, a bill for the relief of Blanton Duncan.

Mr. HOWE. I hope the Senator will not press that motion for a little while yet.

Mr. HENDRICKS. It is a private bill reported by me from the Judiciary Committee which I have tried for a number of days to get up.

Mr. CONKLING. Was not this evening set apart for bills from the Committee on Claims? If it was not, there are two private bills on the table that I should like to call up that came from the Post Office Committee.

Mr. HENDRICKS. I should like to know how that is.

The PRESIDENT *pro tempore*. The evening was set aside for reports from the Committee on Claims.

Mr. HENDRICKS. I thought it was for private claims generally.

Mr. HOWE. No, sir.

Mr. HENDRICKS. I withdraw my motion.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate bill No. 972. I must have unanimous consent, because it was reported to-day.

No objection being made, the bill (S. No. 972) for the benefit of Stewart Barnes was read the second time, and considered as in Committee of the Whole. It recites in its preamble that Stewart Barnes, late captain and assistant quartermaster in the United States Army, Connecticut volunteers, had his office at Plymouth, North Carolina, when it was captured by the rebels, with a large quantity of quartermaster stores, for which he has received credit by the proper authority, and the committee being satisfied that there was captured at the same time in the office of Barnes the sum of \$674 72, money of the United States, the bill directs

that the proper officers of the Government, in the settlement of the accounts of Barnes, shall credit him with the sum of \$674 72.

Mr. BUCKALEW. That would be rather a queer bill on the statute-book. It talks about "the committee." One looking at the statute-book will not know what committee is meant. It says "the committee" is satisfied that the claim is right. I suggest that there be some change of phraseology in the preamble.

Mr. HOWE. Let the bill be read again.

The Chief Clerk read the bill.

Mr. HOWE. I think it should be amended. I move to strike out the preamble and make the proper correction in the phraseology. I move that the bill be amended so as to read:

That the proper accounting officers of the Government, in the settlement of the accounts of Stewart Barnes, do credit him with the sum of \$674 72, being the amount of money captured by the rebels while in his custody and charged to him on the books of the Treasury.

The amendment was agreed to.

Mr. WILLIAMS. Will the Senator state whether or not Mr. Barnes received this money from the United States and was charged with it?

Mr. HOWE. Yes, sir; he stands charged with it on the books. He cannot get his pay because of the difficulty in settling his money accounts.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

PAY OF DEPUTY COLLECTORS.

Mr. CATTELL submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1812) to allow deputy collectors and assistant assessors of internal revenue acting as collectors or assessors the pay of collectors and assessors having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses as follows:

That the House recede from their disagreement to the amendment of the Senate and agree to the same. They further agree and recommend that the title be changed, so as to read: "An act to allow deputy collectors of internal revenue acting as collectors the pay of collectors, and for other purposes."

ALEXANDER G. CATTELL,
WILLARD WARNER,
J. S. MORRILL,
Managers on the part of the Senate.
ROBERT C. SCHENCK,
LEONARD MYERS,
Managers on the part of the House.

Mr. CATTELL. I will simply say that the bill stands precisely as it passed the Senate.

The report was concurred in.

ELLEN SIMMS.

Mr. WILLEY. I move that the Senate proceed to the consideration of Senate bill No. 924.

The motion was agreed to; and the bill (S. No. 924) for the relief of Ellen Simms was read the second time, and considered as in Committee of the Whole. It proposes to refer the claim of Ellen Simms against the estate of York Williams, late deceased, for boarding and nursing him during his last illness, and for personal expenses and physician's bills paid by her, to the Second Comptroller, to be audited and settled by him, and to provide for paying to her such sum as the Comptroller shall find justly due to her on account of her claim, but the total amount so paid to her is not to exceed the sum of \$300.

The bill was reported to the Senate.

Mr. WILLIAMS. I should like to hear the Senator state why the United States should pay Miss Simms for taking care of Mr. Williams.

Mr. WILLEY. This is an old woman ninety years of age, living in Baltimore—a colored woman. There was a soldier named York Williams who went out of the service in the spring of 1865 very much disordered. He had a loathsome disease; he had no friends to take care of him. This old lady was distantly related to him. York Williams applied to the old lady to take him in and nurse him, promising that he would pay so much per week out of his back pay and bounty when they should be received by him. She did take him in and nursed him until he died, making a consider-

able account before he died for board; and also she paid his physician's bills and his funeral expenses. Application was made to the Freedmen's Bureau by this old lady for payment. There was about forty-nine dollars back pay, which the Freedmen's Bureau paid to her; but a certificate for the bounty, it seems, had been issued a little while after the death of York Williams, and it was decided by the Comptroller that this money was not subject to administration, and that it reverted to the Government. If he had lived a little longer he could have received the bounty; and he would, under the contract—which is pretty clearly proven—have been bound to pay the old lady this bounty, as far as it extended, for the expenses of nursing him and boarding him and the physician's bills which she paid for him. The Committee on Claims thought it was a hard case that this old lady should not receive anything for her services to him; and they reported the bill accordingly providing that the matter be referred to the Second Comptroller, who, upon proper proof such as shall convince him, is to pay the amount that is due to the old lady for nursing York Williams, provided that sum does not exceed \$200, the amount of the bounty. That is all there is of it.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MATHILDA VICTOR.

Mr. WILLEY. I move the Senate proceed to the consideration of Senate bill No. 875.

The motion was agreed to; and the bill (S. No. 875) for the relief of Mathilda Victor was read the second time, and considered as in Committee of the Whole. It provides for the payment to Mathilda Victor of \$5,000 in full satisfaction of all her claims for use of and damages done to certain property and the appurtenances thereunto belonging to her, situate in the town of Baton Rouge, in the State of Louisiana, and known as St. Mary's Female Academy, by the United States military forces in the years 1863–64.

Mr. WILLEY. I suppose this bill will require some explanation. There is a printed report with the bill, a pretty long report, which gives the whole history of the case. I ask that it be read.

Mr. HOWARD. I hardly think it necessary to read the report in that case. Unless the Senator presses it I hope the reading will be dispensed with. I apprehend the Senate understand the merits of this case very well. I certainly do, for one.

Mr. WILLEY. I do not desire that the report should be read unless the reading is called for.

Mr. HOWARD. I think it a most meritorious claim.

Mr. COLE. The Senator who reports it ought to give some explanation of it. My own judgment is that the bill is too large as reported.

Mr. HOWE. I am opposed to the payment of this sum of money myself, and I will state in a word the point upon which I oppose it. This lady lived in Louisiana. There is no question but that she was an ardent friend of the United States—no question in my mind, and I believe none in the mind of any one. She owned a school-house there, and she had been a teacher. Our troops took possession of her property, and they found it necessary to destroy one of the buildings to give a range to their guns. Another building was used for quarters. Rent was paid, but I believe that it is alleged that not enough was paid. The point in the case upon which I am not satisfied is this: under other circumstances I should be in favor of paying everything that she lost; but the property that this bill proposes to pay for is property which was destroyed by the Government in the prosecution of the war, and not property which the Government took for its use. So far as we used her property I have no doubt we ought to pay for it, as I thought we ought to pay for property that we took in

Decatur; but this bill proposes to pay not merely for property used, but for property destroyed as a necessary incident of the war. It is on that point that I differ with the committee. I think she is a very deserving lady, and if the Government was prepared to meet its obligations to all loyal people I think the Government should meet its obligations to her.

Mr. WILLEY. The Senator from California thinks that this sum is too large. I think it is very much too small. The Senator from Wisconsin has said that there can be no question in regard to this lady's loyalty. That is a matter settled beyond controversy. She was in 1863, not in the beginning of the war, but *in medias res*, the owner of a very handsome property at Baton Rouge, in Louisiana—a female seminary. In that year that property was taken possession of. It was used first as a hospital and at different times as a hospital for United States troops. It was then used for several months as a place for contrabands, where the United States authorities placed contrabands and kept them; and the latter part of the time it was used as a stable for horses. Two military commissions were appointed for the purpose of examining into the rental value of this property, and also to ascertain the damages done in the use of it by the United States authorities. Before the finding of the award of the first commission had been thoroughly consummated the events of the times carried the troops and authorities away, and it became necessary to institute another commission. Another commission was thereupon appointed, Mr. WASHBURN, now a member of the House, being at the head of that commission, and I do not know that I can state more succinctly the merits of this case than by reading their finding. After a personal examination of the premises, and after a careful investigation of the testimony which is among the papers, they conclude their report as follows:

There being no further evidence to introduce the commissioners then proceeded to deliberate upon the facts as herein set forth, and to determine upon the several points in question as directed in the special orders hereto prefixed; and having considered and deliberated upon all the evidence adduced, and after a careful examination and inspection of the premises and the property in question, for which Miss Mathilda Victor claims damages from the United States, the commission has determined upon the following conclusions, namely:

1. That the claimant, Miss Mathilda Victor, is the legal owner of the property known as the St. Mary's Female Academy and the grounds thereto belonging, situated in the town of Baton Rouge, Louisiana, and bounded north by private land, east by St. Mary's street, south by North street, and west by St. Hypolyte street; also, the ground situated on the westside of the aforesaid piece, bounded north by private lands, east by St. Hypolyte street, south by North street, and west by the United States lands, as set forth in the copy of the warrant deed hereto attached and marked A; also, a cottage house, situated on the last-described land at the time the town of Baton Rouge was occupied by the United States forces in June, 1862: *Provided*, That there is a mortgage or lien on said property or lands to the amount of \$3,240, together with the interest thereon at eight per cent.

2. That previous to the rebellion the academy building and cottage building were in good condition, and that there were fine improvements upon the grounds thereto belonging, and that the total value of the said property, exclusive of the land, amounted to about fifteen thousand five hundred dollars.

3. That during the rebel occupation of Baton Rouge the academy buildings and the grounds were occupied for educational purposes till the month of May, (27th day,) 1862, when the United States forces took possession of the town; and during such rebel occupation (from August to December, 1862) the academy building was occupied in part as a dwelling by private parties for the period of three weeks, more or less, and that the same stood vacant for the balance of the time.

4. That by the authority of Brigadier General Williams the academy building was occupied in part as a hospital for United States troops in the months of June, July, and August, 1862, and that by the authority of the commanding officer or officers respectively of the United States troops at the post of Baton Rouge, Louisiana, the said academy buildings were occupied as quarters for "contrabands" or negroes from the month of December, 1862, or January, 1863, for a period of more than one year, when they were vacated by the "contrabands," and were left exposed to destruction from the vandal hands of negroes and from the troops, or temporarily occupied by the United States troops as quarters.

5. That rent is due from the United States for the academy buildings for the period of sixteen months.

That is up to the time of this report. The

evidence further shows that after the date of this report it was occupied as stabling for the United States troops for an additional period of about four months.

6. That the amount due from the United States for rent is \$2,500.

7. That all the academy buildings and the cottage house and the many improvements upon the grounds surrounding and thereto belonging have been damaged to the extent of almost total destruction by the United States military authorities and by the United States troops and "contrabands" without authority, and by other circumstances consequent upon the state of war and the occupation of rebel territory.

8. That the United States Government or its officers are responsible for damages done to the said property of Miss Mathilda Victor in and for the following amount, namely:

For destruction of cottage house on the corner of Hypolyte and North streets, and out-houses, fences, and other improvements thereto belonging, \$2,400.
For damage to and destruction of the academy building, and the out-houses, fences, shrubbery, and other improvements appertaining thereto, \$11,600.

Recapitulation.

Amount due from the United States for rent.	\$2,500
Amount due from the United States for destruction of the cottage building, &c., by fire.	2,400
Amount due from the United States for damages to and destruction of the academy building, improvements, &c.	11,600

Total amount of rent and damages due from the United States.....\$16,500

And finally, the commission concludes that the larger portion of the damages done to the academy buildings or premises has been inflicted since September, 1863, when the former commission appointed to investigate the same case submitted a report upon the same, which report, indorsed by the commanding general of the department of the Gulf, is hereto attached and marked B.

And it further appears from an order, a copy of which is hereto attached and marked C, issued by Major General N. P. BANKS, commanding department of the Gulf, that the claimant, Miss Victor, has already received from the quartermaster's department the payment of the sum of \$1,500 on account of her said claims against the Government. The commission therefore recommends that this payment of \$1,500 be deducted from the final payment of the said claims as herein set forth.

The commission then adjourned *sine die*.

H. D. WASHBURN,

Colonel Eighth Indiana Volunteers,
President of Commission.

BENJAMIN F. HAYS,

Lieutenant Colonel First Indiana Artillery.
S. E. ARMSTRONG, Captain First Indiana Artillery
Volunteers, Recorder of Commission.

The finding of the commission is thus indorsed:

HEADQUARTERS DISTRICT OF BATON ROUGE,
LOUISIANA, June 1, 1864.

Respectfully forwarded. After a careful examination of the evidence, I am satisfied that the finding of the commission is right, and that the allowance of the claims would be a simple act of justice to a meritorious and truly loyal and patriotic lady.

W. P. BENTON,
Brigadier General Commanding.

HEADQUARTERS POST AND DISTRICT OF
BATON ROUGE, LOUISIANA, June 2, 1864.

I have read with attention and care the evidence in the foregoing case, and have made a personal examination of the property upon which the claim for damages is founded. I am also informed of facts, outside of the record, which are cumulative and add strength to the equity of the case. I strongly urge favorable action as due to a woman who has been, through good and evil report, a fast and unflinching friend of the Government under circumstances where interest and the promptings of selfishness would have constrained to a contrary line of conduct.

FITZ HENRY WARREN,
Brigadier General Commanding.

DEPARTMENT OF THE GULF,
June 15, 1864.

The foregoing proceedings of the military commission have been examined and hereby approved.

N. P. BANKS,
Major General Commanding.

In addition to that, as is shown by the testimony of Colonel Martindale among the papers, subsequent to this finding and to the execution of this commission, this property was occupied by the United States for stabling and other purposes nearly the term of four months; and he testifies further that such a use of such a property would be worth \$500 a month.

Now observe, Mr. President, this finding of this military commission distinguished between what would be a reasonable rent and the damages to the property. In finding \$2,500 rent due they did not include in that amount any-

thing for the extraordinary character of the use of the property, necessarily leading to great damage to the property, because in a distinct and separate item they found the damages by themselves; so that in ascertaining what would be a fair rent they did not take into consideration the use. Everybody knows that for the purposes of a seminary and other ordinary purposes a proprietor of property would rent it for much less than he would rent it for the purpose of being occupied by troops or to be occupied as a stable or to be occupied by contrabands. In making up their estimate of the value of the rent for this time the commission did not take these things into consideration, because they found the damages in a distinct item.

The commission found \$16,500 to be due to this lady for rent and damages, and in that they did not include the four months' additional occupation which took place after the finding of the commission. The Committee on Claims has whittled the thing down to the paltry sum of \$5,000, for which no man who would have occupied that property would have rented it. If we are to make no other compensation we are in duty bound, if we are to pay any rent at all, to increase the rent which this commission found in consideration of the extraordinary use to which the property was applied since. In the estimating of that rent the commission did not take the extraordinary use to which it was applied into consideration, but found the value of the rent independent of any damages.

I say that this lady is entitled to more for rent, for the period of sixteen or twenty months during which time this property was occupied by United States troops than what she has already received and than what this bill gives her. It is an inadequate consideration; it is a paltry consideration; and I for one, as a member of the committee, was almost ashamed to be the organ of the committee to introduce to the Senate a report rendering to this loyal lady a consideration so paltry. Why, sir, she has the testimony here of Admiral Farragut and of various other distinguished officers who knew her. Admiral Farragut took her upon his vessel from the violence of her enemies, the violence of the enemies of the country, and carried her to New Orleans for safety, together with her sister; and he recommends in the strongest terms that Congress should do this loyal lady justice.

Now, sir, after this lady has been deprived of all her property; after we have destroyed a beautiful estate belonging to her; after we have broken up her business and turned her out penniless upon the charity of the world, when we come in here with a paltry bill giving her not one third of the amount to which she is entitled, we are met by the answer that it ought not to be allowed. If anything be allowed this amount is much too small. I hope the Senate will not hesitate one moment to vote this sum of only \$5,000. It should be more. I would be willing to double it, so far as I am concerned.

Mr. HOWARD. Mr. President, I have looked into the claim of Miss Victor as carefully as I have been able, and I am satisfied that the bill presented to the Senate by the Committee on Claims ought to pass. If there be any fault it consists in the insufficiency of the sum to indemnify that lady for her losses. Gentlemen about me have inquired whether this be not exactly such a claim as that of Sue Murphey, which has become somewhat famous in the history of our discussions. I can assure them that there is very little if any analogy between the two claims. In the first place, as to Sue Murphey, she was a disloyal person, although she palmed herself off upon a committee of this body as being a loyal lady and based her claim upon that assumption, which since the discussions here has turned out to be a very false assumption indeed. Sue Murphey was a rebel at heart, a rebel in action, and belonging to a rebel family; and I have the best reason to suppose that the land which was

conveyed to her and for which she asked compensation was transferred to her as a mere cover by a rebel owner for the purpose of protecting it against possible confiscation. At all events, the character of that claimant was very different from the character of Miss Victor. Miss Victor was a native of Pennsylvania. At an early day she removed to Ohio, and from Ohio emigrated to Louisiana and settled very near Baton Rouge, where she established a seminary and was engaged in the business of instructing young ladies. She from the beginning has been strictly loyal in word and in deed, in conviction, in sympathy, in action; and so far as loyalty is concerned, there can be no doubt whatever as to the character of the claimant.

She was not a mere neutral in politics. She did not merely remain at home inactive and indifferent apparently to the success of the one party or the other. She was active and energetic in what she said and did. She devoted her time to taking care of the sick and wounded Union soldiers. She showed her faith by her acts over and over again under circumstances of difficulty and trial such as would have discouraged and crushed an ordinary woman. Her loyalty was active, outspoken, courageous, and heroic from the beginning to the end. Her property was taken and much of it destroyed by the Union Army in the course of their operations. I was a little surprised, I must confess, to hear the Senator from Wisconsin say that the case of Miss Victor differed from the case of Miss Murphey in this, that the property in the case of Miss Victor was taken and destroyed by the Union Army in the regular course of the operations of the war. Was not that true also in the case of Miss Murphey? Certainly it was. The property of both these claimants was taken and destroyed in the regular operations of war.

Mr. HOWE. I had forgotten that I made any allusion to Miss Murphey's case.

Mr. HOWARD. You laid down a principle which would cover both.

Mr. HOWE. It would not be at all strange if I did. I have alluded to it several times before, [laughter,] but I did not this evening.

Mr. HOWARD. I am perfectly aware—

Mr. HOWE. I only want to remind my friend from Michigan that the only point on which I hesitated to recommend the payment of this claim was that the damage done for which this bill is reported is first for a building which was not used by the Government, but knocked to pieces to give range for our guns.

Mr. HOWARD. Would you refuse compensation on the ground of the necessity such as you describe? Would you refuse compensation because the necessities of war made it necessary to knock the claimant's building to pieces for the purpose of giving range to the guns?

Mr. HOWE. No; I do not think I would myself if I was to settle the law, but I understand the law to be settled that the Government is not to make good the ravages of war, although they touch your friends; and a great deal harsher doctrine than that was contended for, since I was born, on this floor and by that gentleman.

Mr. HOWARD. I do not wish to have any discussion with the Senator respecting abstract principles. It is sufficient for me that this was a loyal woman; and superadded to her loyalty she performed acts useful and advantageous to the Government and the country, showing by her acts her devotion to the flag—a thing which Miss Murphey did not do.

Now, sir, whenever I find a case of this kind where, within the rebel country during the operations of war, a Union man or Union woman performed such acts of devotion to his or her Government as to leave his or her loyalty beyond all question, I am willing to render reasonable compensation; and this is what I have always said. I would make it an exceptional case. It does not come strictly within the rule of war; but because of such meritorious acts and such meritorious conduct I would reward it.

Mr. MORRILL, of Vermont. The only difference that has been exhibited in this case has been, I believe, this: this is a sort of Sue Murphey case, junior, and whereas the Senator from Wisconsin was for Sue Murphey, senior, he is against Sue Murphey, junior, and my friend from Michigan, who was against Sue Murphey, senior, is for Sue Murphey, junior.

[Laughter.] I trust we may vote to postpone this question until to-morrow. I move that the bill be postponed until to-morrow.

Mr. DAVIS. I understand from the honorable Senator from Vermont that the Senator from Michigan has taken the young lady, then.

Mr. MORRILL, of Vermont. Certainly. [Laughter.]

Mr. DAVIS. Instead of the old one. [Laughter.]

Mr. HOWARD. Allow me to say one word to my skillful and experienced critic from Vermont, who designates this case as a Sue Murphey case, junior, whereas the other case was a Sue Murphey case, senior. I have endeavored to shed the light which was necessary to convince his understanding that there was no analogy between the two cases. It is possible that I have failed, but I beg to repeat, that while Sue Murphey was a rebel, while she received the title of the property that was conveyed to her from rebel hands, while all her sympathies were with the rebellion and all her acts evinced her rebellious proclivities, the condition of Miss Victor was entirely the reverse, and instead of remaining even a neutral in the rebel territory she was engaged actively and constantly in rendering essential aid and assistance to the Union armies by assisting in taking care of the sick and wounded and defying the rebels. Now, sir, is this a case of Sue Murphey, senior? Mr. President, that scorn and that scoff, let me say to the honorable Senator from Vermont, is not to be received as argument. It can convince nobody.

Mr. MORRILL, of Vermont. I desire to ask the Senator from Michigan if the Senator from Wisconsin [Mr. Howe] and the Senator from Rhode Island [Mr. Anthony] were not brought forward to testify that Sue Murphey was as loyal as he testifies now to the loyalty of Miss Victor?

Mr. HOWE. Will the Senator from Michigan allow me to answer that question, so far as one of the Senators alluded to is concerned?

Mr. HOWARD. Yes, sir.

Mr. HOWE. I take great pleasure in informing my friend from Vermont that the Senator from Wisconsin was not brought forward to testify to any such assertion, and did not testify to it; but, on the contrary, said that he had serious doubts about the loyalty of Miss Murphey, and recommended that the bill be recommitted to the Committee on Claims to investigate that question.

Mr. MORRILL, of Vermont. But during the Senator's speech that testimony was introduced, as I understood it, by the Senator from Rhode Island, and various documents were read from officers to prove that she was loyal.

Mr. HOWE. A former Committee on Claims had examined the question of her loyalty, had become satisfied of it, and had reported that fact. It was not reported by the Committee on Claims of which I was chairman, but it was the committee of a former Congress.

Mr. FRELINGHUYSEN. I ask the Senator from Wisconsin—I think we understand this subject alike—whether the Sue Murphey case was not this, and argued on the assumption that she was loyal, and that the Government was called upon to pay for removing some of her buildings and occupying the lands in erecting fortifications? This is another case where the claimant is loyal but where the Government does not occupy her lands but destroys her building in order to make room for the play of artillery. I certainly think the Sue Murphey case is the stronger, altogether the stronger, on principle, of the two.

Mr. WILLEY. The Senator from New Jersey

is utterly mistaken about this case. The bill as reported asks nothing at all for the property destroyed to make room for the play of artillery. It is for the use and occupancy of the property by the United States troops, &c. The principal ground of the argument which I endeavored to make was not to say one word about damages, but to show that the amount reported in this bill was not more than a fair rental value of this property, considering the purposes to which it was appropriated by the United States.

Mr. COLE. Then comes in the point I made at the outset, that the sum named in the bill is too large, because the amount charged for rent is only half the amount reported, or \$2,500.

Mr. DAVIS. The honorable Senator from West Virginia [Mr. Willey] and the honorable Senator from Wisconsin [Mr. Howe] satisfied my mind beyond all doubt that the claim of Miss Sue Murphey ought to have been allowed by the Senate, and to-night the honorable Senator from West Virginia and the honorable Senator from Michigan [Mr. Howard] have produced exactly the same deep conviction in my mind in relation to the claim of Miss Mathilda Victor. I think that the arguments of the gentlemen have irrefragably established the truth and justice of both claims, and they ought both to be allowed.

Mr. MORRILL, of Vermont. I made a motion to postpone it until to-morrow.

Mr. CONKLING. Make it an indefinite postponement.

Mr. MORRILL, of Vermont. I make it indefinitely.

The PRESIDENT *pro tempore*. Then the question is on the indefinite postponement of the bill.

Mr. HOWE called for the yeas and nays; and they were ordered.

Mr. EDMUNDS. As we are about to put ourselves on the record, I wish to see if I understand this case. I listened the other day with great interest to the conclusive argument of the honorable Senator from Michigan to show, not only by the laws of nations and of war, founded in justice and the nature of things, that a claim for the destruction of property in the course of warlike operations could not be entertained, but also to show that a claim in the nature of rent for use and occupation could not be maintained by a loyal claimant who resided at the time within the limits of military operations. He cited authorities; he appealed to reason; and as far as a complete legal argument can demonstrate anything he appeared to me to demonstrate, and the authorities that he referred to went to show, that cases of damage in the course of military operations were further on the other side of the line of recovery than cases of mere occupation which might be claimed to be in the nature of rent. It was on that ground or some other—I suppose that ground—that we recommitted that bill to the Committee on Claims.

Now I find him, considerably to my astonishment, maintaining a cause which is further off from the right of recovery than that of Miss Sue Murphey, assuming the loyalty of both ladies. Here, differing from the Murphey case, instead of the United States merely occupying property for the convenience of their operations after they had taken possession, it appears from the petition itself—I have not had time to read the whole of it—

"That she continued"—

And I now read from the petition:

"That she continued to occupy the said property as a school until the 27th day of May, 1862, when the buildings were damaged by shell and the school broken up by the bombardment of the town by the United States naval forces, commanded by Admiral D. G. Farragut, when she was compelled to leave."

It then proceeds to say—it is quite long, and I will not occupy time in reading the rest of it—that after bombarding her school-house and seminary and driving her out of town the conquerors took possession of it and used it, or some part of it; and that she has been paid down to a certain time for the rent proper

under the direction of the officers of the Army; and now she claims additional rent in the nature of damages; that the board of survey, or whatever you call it in military operations, only fixed the rent upon the theory of rent as such; and that they failed to take into consideration the fact of the severe use, as the committee style it, to which the property was put; that is to say, it was put to the use of being a barracks for Admiral Farragut's men in bombarding the town, and it was cleared off to make range for their artillery when they got possession, according to the statement of the chairman of the committee.

I should be glad to know upon what principle it is that the honorable Senator from Michigan—and he always has some good distinction in his own mind, and I speak seriously for information—reconciles the claim, stated as this is in the petition, with the law that he so thoroughly demonstrated to my mind the other day. I pause for a reply.

Mr. HOWARD. I endeavored to state when I was up before the ground upon which I put this claim. First, I will repeat what the ground was not. It was not because this lady was at heart a loyal lady, but remained neutral and inactive during the war in her neighborhood. If that had been her attitude I could not vote for the claim. But instead of remaining neutral, inactive, utterly inefficient in respect to the cause of the Government, this lady was active, and devoted herself and rendered her services for the benefit of the Union cause in a rebel country, thus incurring great risk and bringing upon herself great perplexity, great trouble, great difficulty, by her devotion to the flag of the country. And I say again that where I find a person who has actually rendered such services to the country, evinced by acts of devotion so decided and patriotic, I will, as a measure of generosity, not to say justice, make good the loss of such a person. The principles of the law of war which I insisted upon in regard to the case of Sue Murphey are undoubtedly the true principles, as general principles; but this, as I remarked before, is an exceptional case where the claimant has actually rendered important service and shown great devotion in the midst of great difficulties to the common cause. I put it, not upon the ground of law, not upon the ground of international law or right, but upon the ground of common justice and common gratitude to the claimant. I trust that the Senator does not now misunderstand me.

Mr. EDMUNDS. I understand now that it is put upon the ground of a bounty, so to speak, on account of the eminent services that this lady rendered in support of the war. If it were put upon that ground in the bill, and it could be demonstrated that that ground was tenable in point of fact, it would present an entirely different question from what we have here; but the petition does not put it upon any such ground; the facts set out in the report do not put it on any such ground; the report of the committee, as far as I have had time to read it, does not put it upon any such ground; and it is only, as it seems to me, the opinion, the sentiment of good will, of admiration for patriotism which is embosomed in my friend from Michigan that induces him to put it upon any such ground. If we had a distinct bill here for a bounty for services rendered by this lady in the southern States during the rebellion, and should investigate the facts and find that her services had been so extraordinary, so much greater than those of thousands of other Union people there, then it would be a question whether she ought to have a gratuity or a bounty given to her. But the only thing that appears in her petition is what I read before. She makes a claim against us, having been paid her rent, or the largest part of it at the time as rent, that the damages that were done to her property were of such an excessive and extraordinary nature, by being bombarded, that she is entitled to further compensation, which, as a matter of convenience and adroitness, she prefers to style "rent and damages."

Then, as to her service, it does appear here

in the letter of a Mr. Elliott, a lieutenant colonel, as follows:

"Immediately after General Williams landed Miss Victor called on him and through me tendered the use of her academy for soldiers."

I do not think that was a very great stretch of benignity on the part of this lady, after we had to take the town through a battle and had marched in and the house, as she claims, had been badly knocked to pieces and her students had all gone. I do not think it was any great concession, I must say, on the part of this patriotic lady to tender the use of this conquered seminary to the commanding general who had just conquered it to let the soldiers come in and sleep over night. But then she did something else, it seems:

"I know of her house having been used for some weeks and her servant having done all the cooking for some dozen patients without any compensation."

If the committee will change this into a bill to pay Miss Victor the proper compensation for her servant having cooked for a dozen soldiers for some weeks, then it will be a fair subject for consideration. But all this—my friend from Michigan must pardon me for saying it as to everybody but himself—must be an afterthought. The petition does not pretend to put it upon any such ground. There is no fact upon which you can base it in this paper which would warrant putting it on any such ground. My friend goes very far in his sympathy for this lady, and she certainly has mine; and if it were my money, as some members of committees frequently say, and I had enough of it, I should be glad to pay her claim and everybody else's; but it is not; it is the people's money.

We have here a case on the report of the committee that is perfectly bare of the distinguishing features upon which it was attempted in the Murphey case to take that claim out of the acknowledged principles of law and justice relating to belligerent operations. This is flatly within the very authorities that my friend from Michigan read; and that he seems to concede, by changing the ground and attempting to put it upon the fact that she graciously permitted the soldiers to occupy this house in a conquered town and that her servant cooked for a dozen soldiers for some weeks.

The PRESIDENT *pro tempore*. The question is on the indefinite postponement of the bill, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 12, nays 16; as follows:

YEAS—Messrs. Cattell, Conness, Corbett, Edmunds, Frelinghuysen, Harlan, Howe, Morgan, Stewart, Vickers, Williams, and Wilson—12.

NAYS—Messrs. Buckalew, Cole, Cragin, Davis, Fowler, Howard, McCreery, Nye, Osborn, Ramsey, Rice, Ross, Tipton, Van Winkle, Wade, and Wiley—16.

ABSENT—Messrs. Abbott, Anthony, Bayard, Cameron, Chandler, Conkling, Dixon, Doolittle, Drake, Ferry, Fessenden, Grimes, Harris, Henderson, Hendricks, Kellogg, McDonald, Morrill of Maine, Morrill of Vermont, Morton, Norton, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Pool, Robertson, Saulsbury, Sawyer, Sherman, Spencer, Sprague, Sumner, Thayer, Trumbull, Warner, Welch, Whyte, and Yates—38.

The PRESIDENT *pro tempore*. There is no quorum voting.

Mr. NYE. I move that the absentees be sent for.

Mr. EDMUNDS. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, February 26, 1899.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. SPALDING, from the Committee on Appropriations, reported a bill (H. R. No. 2008) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, and for other purposes; which was read a first and second time, ordered to be

printed, referred to the Committee of the Whole on the state of the Union, and made the special order for to-morrow, and from day to day until disposed of.

PERSONAL EXPLANATION.

Mr. PETTIS. I rise to a privileged question. The Daily Globe, in the proceedings of day before yesterday, represents me as voting in the negative upon the passage of the bill to strengthen the public credit and to legalize gold contracts, reported from the Committee of Ways and Means by the gentleman from Ohio [Mr. SCHENCK.] I voted in the affirmative on that bill, and ask that the Journal be corrected if it records my vote as it is recorded in the Globe.

The SPEAKER. The Journal will be corrected, if there is any error in it.

ORDER OF BUSINESS.

The SPEAKER. The Committee on Appropriations desire to finish the deficiency appropriation bill, which was not completed last evening.

Mr. LAFLIN. I object.

Mr. SCOFIELD. I move to suspend the rules for the purpose of resuming the consideration of the deficiency bill in Committee of the Whole.

Mr. LAFLIN. I will withdraw the objection if it is understood that I have the floor after the deficiency bill is finished.

Mr. CHANLER. There is no quorum here, and we will have a division on the question.

The SPEAKER. There can be no understanding as to the assignment of the floor.

Mr. LAFLIN. Then I withdraw the objection.

The SPEAKER. The Chair is very much embarrassed in regard to privileged questions at this period of the session, but in the pressure of public business at the close of the session it is usual to give the appropriation bills priority, and if there is no objection the deficiency bill will be given priority to-day.

No objection being made, it was so ordered.

PRINTING OF EVIDENCE.

Mr. GARFIELD. I ask to have printed the testimony taken before the Committee on Military Affairs of officers of the Army in regard to the reduction of the Army and the accompanying report of the committee.

There was no objection; and the order to print was made.

Mr. KERR. I would ask the House to make an order that the evidence taken by the Committee on Roads and Canals, in reference to the navigation of the Ohio river, may be printed. It is very important.

There was no objection, and the order was made.

POSTAL LAWS.

Mr. FARNSWORTH. I ask unanimous consent of the House to introduce a bill to amend the postal laws, for the purpose of putting it upon its passage.

Mr. LAFLIN. I object.

Mr. CHANLER. I call for the regular order.

ORDER OF BUSINESS.

Mr. PERHAM. If the motion of the gentleman from Pennsylvania, [Mr. SCOFIELD,] to go into Committee of the Whole on the state of the Union on the deficiency bill should prevail, what will become of the opportunity that the Committee on Invalid Pensions were expecting in this morning hour to make reports? We have some bills which we feel that it is absolutely necessary to pass before the adjournment, and we very much desire a little time.

The SPEAKER. The Chair stated some time since that in the great press of business before the House there would probably be no more morning hours except on Monday, when the morning hour is absolutely reserved by the rules against unanimous consent being asked, or a suspension of the rules. The House was acting under the operation of the previous question upon the legislative, &c., appropri-

ation bill, which was postponed by unanimous consent to go into Committee of the Whole on the state of the Union, to finish the deficiency bill.

Mr. PERHAM. I give notice that at some favorable opportunity I will endeavor to get the floor to have some time assigned for the consideration of reports from the Committee on Invalid Pensions.

LEAVE OF ABSENCE.

Leave of absence was granted to Mr. VAN TRUMP from the evening session of to-night on account of sickness.

DEFICIENCY BILL.

Mr. SCOFIELD. I now insist on the motion that the House resolve itself into the Committee of the Whole to proceed to the consideration of the deficiency appropriation bill. The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole (Mr. PRICE in the chair) and proceeded to the consideration of the bill (H. R. No. 1911) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes.

The Clerk resumed the reading of the bill for amendments.

Mr. SCOFIELD. I am instructed by the Committee on Appropriations to offer the following amendment, to come in at the end of line one hundred and fifty-three:

To supply deficiency in the appropriation for lighting the Capitol and President's House, and the public grounds around them and around the executive offices, \$12,000.

The amendment was agreed to.

Mr. MULLINS. I offer the following amendment:

For custom-house and post office building at Nashville, Tennessee, \$20,000.

I desire to say a few words in addition to what I said last night in regard to the merits of this case. The Government is laying out of the use of \$100,000 which was appropriated about fifteen years ago, and is paying in addition to the loss of that fund \$1,500 annually as rent for a building for the post office, which is very illy fitted for that purpose. The ground there belonging to the Government is used as a common. The building material that was got together previous to the war has been wasted away measurably, and now is an auspicious time for the Government to provide for a suitable building at this point. A building for a custom-house and post office at Nashville is unmistakably needed, and the amount I propose to appropriate is far less than has been appropriated for a similar purpose at other places since this bill has been under consideration, or even for years past.

And is it possible that Tennessee is to stand here and no be ignored in this character and style for to other reason than because she is Tennessee? I can see no other reason for it. The argument is that the Department has not made a demand that this should be done. I will reply to that argument that in all human probability, as the parties stand now related to the property occupied and rented for the present post office business and all the Departments on one side of politics, you never will have a request for an appropriation there, because parties are interested in the renting of this property and are now possibly getting one hundred per cent. more from the Government than they could get from other parties.

This is not fit property for the business done or intended to be carried on by the Government there; it is only fit to be a drunken grocery. The lot that is paid for in part by the Government is one of the most eligible sites in the city. It is a point that all parties are satisfied with and will be satisfied with. I trust the appropriation will be made.

Mr. SCOFIELD. There has been no estimate for the appropriation covered by this amendment. No Department of the Govern-

ment asks for it. I hope the amendment will not be agreed to.

The question was taken on the amendment of Mr. MULLINS; and it was not agreed to—ayes twenty-six, noes not counted.

Mr. WINDOM. I offer the following amendment, to come in after the four paragraphs under the heading "Post Office Department:"

For construction of custom-house at St. Paul, Minnesota, \$25,000.

Mr. HOLMAN. I raise the point of order that this is for the commencement of a new work.

Mr. WINDOM. It is not; it is estimated for as other custom-houses were for which we made appropriations last year. It stands upon precisely the same footing as did those that were voted in by the Committee of the Whole last night. I ask for but half the amount estimated for by the Department. This building is now under construction, and, as I have already stated, it is upon precisely the same basis as the amendments we adopted last night. I desire my amendment to stand with those already made or to fall with them.

Mr. SCOFIELD. This amendment is offered under the estimates of the Post Office Department. I suppose if the Committee of the Whole are to put it in this bill we ought to go back to where we started this morning and have all the amendments of this character grouped together.

Mr. WINDOM. Let me state why I did not put it in there.

Mr. SCOFIELD. I ask unanimous consent that if any of these appropriations for buildings estimated for by the Department are adopted at this place they may be transferred to the part of the bill where similar amendments were inserted last night.

Mr. BENJAMIN. I shall object to that unless the gentleman will permit debate upon these amendments. Debate was closed upon the paragraph under consideration last night. Amendments offered to the paragraph now under consideration will be open to debate, while if they are offered to the other paragraph they cannot be debated.

Mr. SCOFIELD. If my request be acceded to all these amendments will be open to discussion just the same.

Mr. BENJAMIN. Then I will not object. No objection being made, it was ordered accordingly.

The question was upon the amendment offered by Mr. WINDOM.

Mr. SCOFIELD. In relation to the amendment offered by the gentleman from Minnesota, [Mr. WINDOM,] I will say that it stands upon the same footing as the amendments adopted by the Committee of the Whole last night. The Department estimated for a deficiency of \$50,000. The gentleman from Minnesota moves that fifty per cent. of the estimate be appropriated, as was done in the other cases. Although I am opposed to all these amendments, if any of these amendments are to be adopted I suppose this should be.

Mr. BENJAMIN. I move to amend the amendment by decreasing the amount asked for to \$10,000. I move this amendment for the purpose of saying that I hold in my hand the report of the supervising architect of all those buildings, from which it appears that for this custom-house at St. Paul, Minnesota, there is available of the amount appropriated in the annual appropriation bill of last year a sum of over twenty-seven thousand dollars not yet expended. That, I think, is a sufficient amount for the balance of this fiscal year.

Mr. WINDOM. Does the architect state that that is a sufficient amount for the balance of this year, or is it merely an inference of the gentleman?

Mr. BENJAMIN. The architect states that there was expended some fifty-seven thousand dollars, and that there remains unexpended the sum of twenty-seven thousand dollars and over.

Mr. WINDOM. What is the date of that report?

Mr. BENJAMIN. The date of the report is October 31, 1868.

Mr. WINDOM. This work is in precisely the same position as the others. There was a surplus at that time.

Mr. BENJAMIN. Mr. Chairman, this bill, it must be remembered, is a deficiency bill. It is not the annual appropriation bill. We made liberal appropriations for all these works last year; and as to all of them or nearly all of them there is a balance of appropriation yet unexpended. In no instance is there any suspension of work in consequence of the want of funds. On one or two of these custom-houses there has been a suspension of work for other causes, but no suspension for want of funds. In the case of the court-house at Springfield there is a balance unexpended; and for the court-house at Cairo, Illinois, for which we appropriated last night \$25,000, there is an unexpended balance of over twenty-five thousand dollars—sufficient, I apprehend, for the continuation of the work. If it is necessary to appropriate for these works we can do so in the regular appropriation bill for the fiscal year ending June 30, 1870; but to add to the large appropriations made last year these that are now asked in this deficiency bill is not, it strikes me, required by any exigencies of the public service. I withdraw my amendment.

On the amendment of Mr. WINDOM there were—ayes 30, noes 45; no quorum voting.

Tellers were ordered; and Mr. WINDOM and Mr. BENJAMIN were appointed.

The committee divided; and the tellers reported—ayes 64, noes 56.

So the amendment was agreed to.

Mr. AXTELL. I move to amend by inserting the following:

For constructing branch mint building at San Francisco, \$125,000.

I desire to say to gentlemen of the committee that this appropriation stands upon precisely the same ground as the others that have been adopted both last night and to-day. The estimate for this work is \$250,000. Since 1866 the site has been procured and the foundation has been laid, the stone is being quarried and the work is going on. We have still on hand some money that we are using. The supervising architect has estimated that \$250,000 will be required for this year. But in accordance with the understanding arrived at in this House, that at this time we will not ask more than one half the estimated amounts for works of this kind, the object being that the works may not be discontinued and go to decay, I have named in the amendment \$125,000, and I hope the committee will adopt the amendment.

Let me add a few words as to the necessity of this appropriation. During the fiscal year ending June 30, 1868, the mint at San Francisco coined \$15,072,000, while during the same period the Mint at Philadelphia coined \$5,998,137. I make this comparison for the purpose of showing the committee that our mint transacts a very large amount of business. During the fiscal year ending June 30, 1866, there was refined in California bullion to the amount of \$49,020,250, on which the tax paid to the Government was \$294,121 50, while in Pennsylvania the amount of bullion refined was only \$4,044,218, on which the tax paid to the Government was \$23,265 31.

The building at present occupied as our mint is very small, being only sixty feet square. It was not originally constructed for a mint building. It is inconveniently situated upon a by street in a disagreeable and unwholesome neighborhood. But above all it is insufficient in size. We are compelled to hire for storage and for offices of the superintendent other buildings, some adjoining and some in different parts of the city, at an expense to the Government of \$1,000 in gold monthly, or \$12,000 per annum. This is not a matter that concerns more the citizens of San Francisco than the other citizens of the United States.

[Here the hammer fell.]

Mr. SCOFIELD. The gentleman from California [Mr. AXTELL] is correct in saying that the Department has made an estimate for an appropriation of \$250,000 for this work to be inserted in the deficiency bill; and his amendment proposes an expenditure of only fifty per cent. of that sum. But if I correctly understand the facts of the case, this is not so meritorious an appropriation as those which have been voted, in or as several others estimated for but upon which no action has been taken. Last year an appropriation, I believe, of about three hundred thousand dollars was made for this purpose, and nothing has been done except to purchase a site. There may have been some steps taken toward the construction, but nothing of any account.

Mr. AXTELL. The necessary steps have been taken to lay the foundation; the stone work has commenced; contracts are being made. The necessity, however, remains for this appropriation.

Mr. SCOFIELD. I was not aware that much of anything had been done. Some contracts have been made and something done to get the stone upon the ground. One hundred and fifty thousand dollars of the appropriation last year, at all events, remains unexpended.

Mr. AXTELL's amendment was disagreed to.

Mr. HULBURD. I move the following amendment:

For the construction of the custom-house at Ogdensburg, New York, \$12,500.

Mr. SCOFIELD. I suppose if any one of these is adopted this one ought to be.

The committee divided; and there were—ayes 38, noes 19; no quorum voting.

Mr. HARDING demanded tellers.

Tellers were ordered; and **Mr. HARDING** and **Mr. HULBURD** were appointed.

The committee were again divided; and the tellers reported—ayes 77, noes 41.

So the amendment was agreed to.

The Clerk read as follows:

War Department:

For regular supplies of the quartermaster's department, \$2,500,000.

Mr. BURR. I move to reduce that appropriation to \$500,000.

Mr. Chairman, we have an aggregate of between fourteen and fifteen million dollars appropriated to supply deficiencies in the appropriations made last year for the War Department. This appropriation is for the "regular" supplies of the quartermaster's department. Now, we can fairly assume that the necessity for these regular supplies was as apparent six months ago as it is to-day; and it strikes me as somewhat strange that this great deficiency of \$2,500,000 in one item should be brought forward at this session after the protracted and animated debate last session on expenditures by the Government for the Army. I should like to have some explanation why we should have been persistently assured that the amounts in the regular appropriation bills would be sufficient to meet the necessary expenses after making a great reduction in the expenses of the War Department. I should like to know why that was so persistently asserted then, and the contrary position taken in this appropriation bill in appropriating \$2,500,000 in this item for "regular supplies of the quartermaster's department?" Why is this, after the boasted intention to effect retrenchment and a reduction of expenditures? Unless some satisfactory reason is given for this I cannot vote for it.

Mr. SCOFIELD. At the last session the House undertook to economize as far as possible, and it cut down the estimates of the Department, and among others it made a very large reduction in the estimates for the Army. Gentlemen will recollect that the reduction was very large, and that members upon the floor then prophesied that we would come back this session with a large deficiency bill. I think, however, that the Army has accommodated itself in a great measure to the appropriations made at the last session, and they would have brought their expenses within those appropri-

ations if it had not been for the continuation of the Indian war. That war has been expensive, and particularly in the quartermaster's department. Except for that war and an increase in the Army, by raising a regiment of volunteers in Kansas and the large expense in cavalry, I think the Army would have come near keeping within the appropriations, although we had made them extraordinarily low. This is according to the estimates of the Department. The Committee on Appropriations have carefully examined this matter, first by a sub-committee and then by the whole committee, and it was deemed to be necessary.

Mr. BURR. Was not that Indian war then pending? Were we not then told that notwithstanding that war the appropriations then made would be sufficient? Yet we have this deficiency of over fourteen million dollars for the War Department. Is not that all true?

Mr. SCOFIELD. The Indian war continued much longer than was expected. It lasted longer than any one anticipated.

Mr. BURR. Was it because it was mismanaged on our part, or because of the superior strength of the savage enemy?

Mr. SCOFIELD. It was because the enemy persisted.

Mr. BURR. That was unkind on the part of the enemy, but nevertheless I withdraw the amendment to allow the gentleman from Indiana to renew it.

Mr. CHANLER. I renew the amendment. I understand the gentleman to say that the reason that this enormous amount, some nineteen million dollars in the aggregate, is introduced in this deficiency bill is on account of the Indian war. Did I understand him correctly to say that that is the cause of the large increase?

Mr. SCOFIELD. No, sir; you did not. What I said was, it is one of the causes.

Mr. CHANLER. Well, sir, I assert, and I challenge contradiction of the fact, that we have not had six thousand men in the field and actually engaged with the foe during this Indian war. If the gentleman will consult the General of the Army and the other generals in command of our forces in this war in regard to the matter I believe he will ascertain that the war has been a fiction from the beginning. It is not a war, except in the newspapers and telegrams, and unworthy of any such appropriation as this or of any considerable appropriation whatever. Sir, when the facts come to be known, the assertion made on this floor will be remembered by the American people that for the purpose of covering up a pretense of economy, carried out here in a protracted debate during several weeks on the appropriation bills, and recently passed by Congress for the Army, we have here in the deficiency appropriation bill an enormous amount brought in and applied directly to the Army; and one of the reasons for bringing it in is the prosecution of an Indian war which history will prove never existed. There are not now arrayed against this Government men enough to make a respectable skirmish. There are not men enough on the frontier fighting for the Government against the Indians to make a brigadier's detachment in the late war against the rebellion.

Now, I ask the gentleman to state the facts and figures in reply to the assertion I make. It will not answer to present any amount of falsehoods and call upon the over-taxed people of the country to sustain the fabric of those falsehoods by their toil and labor. I charge home upon the party in control of the Government to-day that this Indian war is a fiction, and in regard to its achievements very near a farce. The most distinguished act in this so-called war is the death of a poor Indian chief named Black Kettle, an avowed friend of the whites, an accepted and intimate companion of our officers in the field. I know this cannot be contradicted with any show of truth. And when he was shot it was in his own camp, where he had been accustomed to extend his hospitalities to officers of this Government. He was surrounded by his wife and children, brought up

to respect this Government. These Indians were not marauders; they were not bringing upon the Government any expense whatever. They were shot in cold blood; but they were represented in the telegrams and newspaper dispatches as a war party, and now we are asked to appropriate nearly twenty million dollars to carry on this farce of an Indian war.

[Here the hammer fell.]

Mr. SCOFIELD. The statement of the gentleman from New York seems to me too extravagant to convince the judgment of the committee that this expenditure is not proper. I would agree that this war, like most Indian wars, has been excited by bad men and there was never much cause for it. I would also agree that like most Indian wars it is carried on very expensively compared with the result. But that the money appropriated has been extravagantly expended by the Army or any of its officers I am not satisfied. I looked over the report very carefully, and although I did see that bad men had stirred up the Indians to commit these depredations and that a great deal of money had been expended compared with the number of the enemy, yet it seemed to be a necessary result.

And I wish to say one thing more. When we made the appropriation last year, and made a very large reduction, and I think my friend from New York [Mr. CHANLER] was here and opposed it, I know there was a very large number of gentlemen who opposed any reduction in the appropriation, because they claimed that it was all needed and that this year we would come back with a deficiency bill. Well, we did make the appropriation too small I suppose, but in our efforts at great economy we have succeeded in obtaining a good deal of it, not as much as we hoped, but still I have reduced the expenditure by making this small appropriation. If the amount appropriated had been a larger one it would all have been expended, and they would have been here with a demand for a deficiency as large as this is. The smallness of the appropriations acted as a restraint on all the Departments, although they are forced now on account of the Indian war being so long protracted to ask for a pretty large deficiency.

Mr. CHANLER. I withdraw the amendment.

The Clerk read the following paragraph:

For horses for cavalry and artillery, \$1,500,000.

Mr. CHANLER. I move to strike out that paragraph. According to the statement just made by the gentleman having charge of this bill it is for horses for cavalry and artillery against the Indians. When Braddock attempted to cross the ford with all his artillery and horses there was a young officer of the American militia who informed him that that sort of Indian warfare would not do, but the bold, blundering Briton went on, and that was the last of him.

Mr. SPALDING. I desire to ask the gentleman the name of that American soldier.

Mr. CHANLER. His name was George Washington.

Mr. SPALDING. I would inform the gentleman that he was a lieutenant.

Mr. CHANLER. I said he was an officer. As the gentleman from Ohio has corrected me, I hope he will aid me in correcting the abuses of this committee, of which I believe he is a member.

It is exactly in that way that this Committee on Appropriations are blundering through with this bill. Now, here is a question in regard to sending the American Army right into the Indian country with artillery and horses to be shot and destroyed. No other ground for the huge appropriations in this bill has been advanced but that they are to carry on this extravagant Indian war. Does the gentleman mean to tell us that this Indian war has been conducted with artillery and horses, and that that is a ground for this immense deficiency in the quartermaster's department? Sir, if the statement of the gentleman having charge of this bill is true there were more mules than horses in that department. If that was the

basis of carrying on the war in the Indian country the mules were ahead. I do not believe that that position can be taken with any credit before the people of this country or that the reputation of the Army of the United States is safe in the hands of this Committee on Appropriations. Either great stupidity or great dishonesty is at the base of this whole matter. Either the Committee on Appropriations are determined to draw from the Treasury of the United States a certain net sum for expenses that cannot be justified before the country or they do not know the facts of the case. Either they are acting in complicity or in ignorance, and it is not satisfactory to this side of the House, however unanimous they may be upon the other side with regard to such extravagance of public expenditure, it is not enough to assert upon this floor that the Indian war is to cause all of this extravagance. Upward of nineteen million dollars have been spent in carrying on a border warfare which in the time of Daniel Boone was committed to the people on the frontier with much more success and with greater economy. From the coast of the Atlantic to the base of the Rocky mountains the American people have carried on their own war against the Indian tribes with magnificent success with no thanks to the Committee on Appropriations; and I ask from the party in power that they stop ruining the people under the pretext of being led by their officers to battle when the men who steal the money are here in this Capitol, and women with them, organized in a state of demoralization unequalled in the history of this or any other country. Sir, this is a time to stop. This Government is rotting at the base. And when you have just elected a great soldier for your Chief Magistrate to bring in this plundering scheme to cover up your past discrepancies and perhaps political crimes is a futile effort in the face of the criticism which should be directed against you by the press and people of the country.

[Here the hammer fell.]

Mr. MULLINS. I rise to debate this question only for the purpose of replying to the remarks made by the gentleman from New York, [Mr. CHANLER.] I of course have nothing to do with the Committee on Appropriations more than any other member of this House. But I cannot sit here in my seat and hear members who stand unimpeached by anybody or any character of a man calling himself a man accused of being in complicity, either in ignorance or in crime, with the Army that is fighting the battle of freedom and of civilization. The gentleman from New York seems to intimate that the Army is in complicity with one of the committees of this House, the Committee on Appropriations; and he says that not only is the Committee on Appropriations either ignorant or in complicity with the Army, but the Government is rotten to the very heart. God knows if the Government is rotten to the heart that gentleman must be the core. [Laughter.]

Mr. CHANLER, (amid cries of "Order!" and laughter.) I did not say the heart of the Republican party, because that party has no heart.

Mr. MULLINS. Why on earth all this tirade?

Mr. CHANLER. Mr. Chairman, [cries of "Order!"] I wish to correct my allusion to mules; I did not mean any Tennessee mule.

Mr. MULLINS. I cannot stop to be annoyed and nibbled at by rats—not now. [Laughter.]

Mr. CHANLER. The public interest. [Cries of "Order!"]

Mr. MULLINS. The Committee on Appropriations are unimpeachable in their attitude before the country; and yet their character as a class and a committee is dragged in here and assailed until, if the statements made are taken as matters of fact, they should be expelled from this House.

Mr. CHANLER. I rise to a question of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. CHANLER. My point of order is that the question before the House is not the frauds on the Tennessee school fund.

The CHAIRMAN. The gentleman from Tennessee [Mr. MULLINS] will proceed.

Mr. MULLINS. I am trying to clear the brush out of the way that has been thrown in the way, without any cause and without any sense, as I suppose, or any intentional meaning to be applied as an argument to the question under discussion. As to the meaning of the complaint that the gentleman makes in regard to the Army having employed mules instead of horses, I can see but little reason or sense in the argument that he makes upon it. I think an Indian is as nigh a mule as the other gentleman is to a horse. [Laughter.] And we should fight them with anything we can get hold of if it becomes necessary. We should not only fight them with mules, but with the long-eared stock. And I know where you can go and get hundreds of them at a very low price. [Laughter.] I trust the committee will be sustained in their position.

The question was taken upon the amendment of Mr. CHANLER; and it was not agreed to.

The Clerk read as follows:

For transportation of officers' baggage, \$100,000.
For transportation of the Army and its supplies, \$7,000,000.

Mr. NIBLACK. I move to amend the last clause read by reducing the amount from \$7,000,000 to \$6,000,000. I do this for the purpose of calling attention to some remarks that I made at the last session of Congress upon this subject of Army appropriation. I am not satisfied with this item; it is too large an item for a deficiency bill. Therefore, I want information in regard to it, if the Committee on Appropriations are disposed to give that information to the House. I said last summer, when the Army appropriation bill was under consideration, that if the Committee on Appropriations reduced the estimates as they proposed we would be met with a heavy deficiency bill this winter. I charged then, and I believe I was right, that the Committee on Appropriations was shrinking from their plain duty in failing to appropriate the amount necessary to carry the Army through the current year. And I also charged that that failure was in view of the then pending elections. In reply to that I was met by the gentleman from Maine, [Mr. BLAINE,] who had charge of the bill at that time, by the statement that I merely desired to be considered a prophet, and to be able to say this winter, whatever the deficiency that might be brought in, "I told you so." I now respond by saying that I did tell the country so, and I wish to remind them now of the fact; my statements then have been verified by subsequent facts. I charged then, and I repeat the charge now, that the appropriations were unduly cut down in view of the approaching elections, and the effect desired to be produced upon the people; and I have been supported in that view by remarks made the other day by the chairman of the Committee of Ways and Means, [Mr. SCHENCK,] who informed the House that the proposition to tax the interest of the bonds of the United States was adopted by this House in view of the elections last fall. A speech of the gentleman from Maine [Mr. BLAINE] was circulated throughout the country last fall as a campaign document on the Republican side, claiming that for the current year great reductions in the expenditures had been made, and among other things that extraordinary reductions had been made in the cost of the Army. In reply to this speech I charged that his figures were deceptive and unreliable, and greatly understated our actual expenses. Now, when the test of time is applied to these mutual estimates and predictions we are met with a demand for nearly twenty million dollars to meet deficiencies in the appropriations of last session, more than two thirds of which is for the Army alone.

Now, sir, I desire that members of this House

and the people of the country shall be reminded of the fact that in the appeals made to the people last fall by the representatives of the party now in power in Congress and about to assume the power of the entire administration, in the professions of retrenchment and reform then made by that party, they did not disclose to the country the true amount of the expenses they were incurring, and particularly the sum they were annually expending for carrying on the Army. This, I submit, is not the true way of legislating in a country like ours where the power comes from the people, and where the people are entitled to full information upon all questions affecting their interests. Whatever the amount of money required, we should inform the people in advance and meet our responsibilities like men. We should appropriate the amount really required, whether there be an election pending or not. We should not, because an election is pending, appropriate a smaller amount than that we know to be necessary for the public service and afterward propose to appropriate as a deficiency half as much again. Why, sir, the amount we are now called upon to appropriate as a deficiency for the Army is nearly fourteen million dollars, almost half as much as was appropriated last summer to carry on the Army for the current year, thus exhibiting a deficiency of almost fifty per cent., which, so far as my knowledge extends, is unprecedented.

Mr. HIGBY. I desire to ask the gentleman whether he believes it to be possible to estimate with perfect accuracy the expenses of such an Army as ours.

Mr. NIBLACK. Why, Mr. Chairman, the most inexperienced member of this House, in view of the well-understood facts, must have known and doubtless did know last summer that the amount then appropriated was too small to support the number of men in our Army. We had only to recur to the history of the expenses of the Army to satisfy ourselves of that proposition.

[Here the hammer fell.]

Mr. SCOTFIELD. Mr. Chairman, I am unwilling to take up the very valuable time of the House by political discussion upon so important a bill as this. I am sorry to hear the gentleman from Indiana [Mr. NIBLACK] confess that at the last session he and his friends, for political purposes, for the purpose of charging extravagance upon the Republican party, voted for the largest appropriations. I am sorry, too, that the gentleman charges that we on this side of the House, in our efforts to restrain the Departments—Departments in sympathy with the gentleman politically—and to make as small appropriations as possible in hope of inducing economy, had no other purpose than a political one. If the gentleman means to say that our purpose was to satisfy the people that we were endeavoring to be as economical as possible, and making smaller appropriations than his prodigal Administration recommended, he is undoubtedly correct. We not only wanted to satisfy the people that we were struggling for that purpose, but we have endeavored to accomplish that purpose. We not only sought to put on an appearance of economy, but we have shown, as we think, that we actually were anxious to secure an economical administration. And now the gentleman says that after the election is over we come in with a deficiency bill. Why, sir, if we had not made our appropriations so small at that time we should have had almost as large a deficiency bill now. The very fact that we made the appropriation small and notified the President and his prodigal officers that they must get along with that sum has resulted in a less expenditure. As I stated before, the continuance of the Indian war has made it necessary to appropriate now a larger sum than we had hoped would be necessary.

Mr. NIBLACK. I move to amend the amendment so as to increase the amount of the appropriation \$500,000.

Mr. Chairman, this is the first time I ever heard it charged that the War Department during the last four years has been in sym-

thy with the party to which I belong. On the contrary, I think the evidence is overwhelming that the sympathies of the War Department, so far as it has had any political sympathies, have been against that party. The estimates for the Army last year, to which the gentleman has referred, were, if I remember correctly, made by General Grant, then acting Secretary of War, and not by any one in sympathy with the party to which I belong. When the gentleman says I have admitted that we for political purposes voted for large appropriations he has either misunderstood what I have said or he desires to place me in a false position. I made no such admission. I seldom vote to increase appropriations recommended by the Committee of Ways and Means for any purpose. But what I charged then, and what I repeat in substance now, is that the Committee of Ways and Means then failed to recommend to the House an appropriation sufficient to carry on the War Department for the current year. I did so charge then, and I repeat the charge now. They did not so recommend to the House then, and the House did not vote enough to carry on the Department for this year. This is verified by the deficiency which we are now called upon to vote. I do not want large appropriations, and I trust the party I cooperate with do not want large appropriations; and we have the right to insist that this House shall take the responsibility of voting the requisite amount to carry on the War Department to pay the officers and soldiers and everybody in the employment of the Government their salaries and wages, and that they shall not evade this responsibility by voting partial amounts at one time and then coming in at the following session and ask us to pass a deficiency bill. The tendency if not the purpose of such legislation is to impose upon the people of the country and induce them to believe the Government is being carried on for a less amount than it really is.

Mr. SCOTFIELD. I move that the committee rise in order that we may close debate.

Mr. CHANLER. We want an answer to our pertinent questions, and not to have the camp-followers on the other side turned upon us. We want plain answers, and not tomfoolery.

The committee divided; and there were—ayes 77, noes 41.

Mr. CHANLER demanded tellers.

Tellers were ordered; and Mr. GRISWOLD and Mr. CHANLER were appointed.

The committee again divided; and the tellers reported—ayes 80, noes 30.

So the motion was agreed to.

The committee accordingly rose; and Mr. POMEROY, as Speaker *pro tempore*, having taken the chair, Mr. PRICE reported that the Committee of the Whole on the state of the Union, having had under consideration the Union generally, and particularly the bill (H. R. No. 1911) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes, had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. GORHAM, its Secretary, notifying the House that that body had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on House bill No. 1812, to allow deputy collectors and assistant assessors of internal revenue acting as collectors or assessors the pay of collectors and assessors.

It further announced that the Senate had passed without amendment House bills and a joint resolution of the following titles:

An act (H. R. No. 1367) for the relief of George Kaiser;

An act (H. R. No. 234) for the relief of N. A. Shuttleworth, of Harrison county, West Virginia;

An act (H. R. No. 1128) for the relief of Isaac Watts; and

A joint resolution (H. R. No. 265) for the

relief of Edward E. Shead, of Eastport, State of Maine.

It further announced that the Senate had passed House bill No. 425, for the relief of Mary A. Fillen, with an amendment, in which the concurrence of the House was requested.

It announced, in conclusion, that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House was requested:

A bill (S. No. 972) for the benefit of Stuart Barnes;

A bill (S. No. 924) for the relief of Ellen Simms;

A bill (S. No. 591) for the relief of O. N. Cutler;

A bill (S. No. 923) for the relief of Captain James Kelly;

A bill (S. No. 957) for the relief of S. & H. Sayles;

A joint resolution (S. R. No. 163) for the relief of Benjamin Corley and James W. Boswell; and

A bill (H. R. No. 257) to refer the claim of O. P. Cobb and others to the Court of Claims.

DEFICIENCY APPROPRIATION BILL.

Mr. SCOTFIELD. I rise for the purpose of moving that the House resolve itself into the Committee of the Whole on the deficiency appropriation bill; but as preliminary to that motion I move that when the House resolve itself into Committee of the Whole upon that bill all general debate shall terminate on the bill down to line one hundred and seventy-two, and that on that part of the bill from line one hundred and seventy-two to line one hundred and seventy-eight it be limited to ten minutes.

Mr. HOLMAN. I raise the point of order that debate can only be closed on the pending paragraph, not on the entire bill.

The SPEAKER *pro tempore*. The Chair sustains the point of order.

Mr. SCOTFIELD. I move to suspend the rules for that purpose.

The question being put, there were—ayes 86, noes 34.

Mr. BURR and Mr. CHANLER demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 129, nays 33, not voting 60; as follows:

YEAS—Messrs. Allison, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Banks, Barnes, Beaman, Beatty, Benjamin, Benton, Bingham, Blackburn, Blair, Boutwell, Boyden, Bromwell, Broomall, Buckland, Buckley, Roderick R. Butler, Callis, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Corley, Cornell, Covode, Cullom, Dawes, Delano, Dicke, Dixon, Dockery, Dodge, Driggs, Eckley, Thomas D. Eliot, James T. Elliott, Ferriss, Fields, French, Garfield, Gove, Gravelly, Griswold, Hamilton, Harding, Haughey, Hawkins, Heaton, Hill, Hopkins, Hulbard, Ingersoll, Alexander H. Jones, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Ladin, William Lawrence, Lincoln, Loughbridge, Lynch, Marvin, Maynard, McCarthy, McKee, Mercur, Miller, Moore, Moorhead, Mullins, Myers, Newcomb, Newsham, Norris, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pettis, Plants, Poland, Pomerooy, Price, Raum, Robertson, Roots, Sawyer, Schenck, Scofield, Shanks, Shellabarger, Spalding, Starkweather, Stevens, Stewart, Stokes, Stover, Taffe, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Whittmore, Thomas Williams, James F. Wilson, John T. Wilson, and Windom—129.

NAYS—Messrs. Archer, Axtell, Beck, Brooks, Burr, Chanler, Fox, Getz, Glossbrenner, Golladay, Grover, Holman, Hotchkiss, Humphrey, Johnson, Thomas L. Jones, Kerr, Knott, Marshall, McCormick, McCullough, Munzen, Niblack, Robinson, Ross, Stone, Taber, Tift, Van Auker, Van Trump, Wood, Woodward, and Young—33.

NOT VOTING—Messrs. Adams, Ames, Anderson, Baldwin, Barnum, Blaine, Boles, Bowen, Boyer, Benjamin F. Butler, Cake, Clift, Dewees, Donnelly, Edwards, Eggleston, Ela, Eldridge, Farnsworth, Ferry, Goss, Haight, Halsey, Higby, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hunter, Jenekes, Kellogg, Lash, George V. Lawrence, Loan, Logan, Mallory, Morrell, Morrissey, Nicholson, Phelps, Pierce, Pike, Pile, Polsley, Prince, Pruyn, Randall, Selye, Sitgreaves, Smith, Sypher, Taylor, Lawrence S. Trimble, Van Wyck, Vidal, Elihu B. Washburne, Henry D. Washburn, William Williams, Stephen F. Wilson, and Woodbridge—60.

So (two thirds having voted in favor thereof)

the rules were suspended and debate was ordered to be closed, as indicated by the motion.

Mr. SCOTFIELD. I now move that the House resolve itself into the Committee of the Whole to proceed to the consideration of the deficiency appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole (Mr. PRICE in the chair) and proceeded to the consideration of the bill (H. R. No. 1911) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes.

The pending question was on the motion of Mr. NIBLACK, to strike out "\$7,000,000" and insert in lieu thereof "\$5,500,000;" so that the paragraph will read:

For transportation of the Army and its supplies, \$5,500,000.

The amendment was disagreed to.

The Clerk read as follows:

For contingencies of the Army, \$475,000.

Mr. STOVER. I raise a point of order that this is a deficiency bill, and as a deficiency is something wanting or lacking there can be no contingency in such a bill.

The CHAIRMAN. The Chair overrules the point of order on the ground that this is a bill making appropriations to supply deficiencies "and for other purposes." It is not only a bill to cover deficiencies in appropriations but a bill "for other purposes."

Mr. STOVER. Then I move to strike out the paragraph.

The amendment was rejected.

The Clerk read the following paragraph:

For secret service fund, \$100,000:

Provided, That the three last-named sums are appropriated for the purpose of enabling the Secretary of the Treasury to settle accounts of disbursing officers for expenditures already made, and shall not make any actual disbursement, but merely a transfer on the books of the Treasury.

Mr. BURR. I move to strike out that clause; and I remarked, in support of that motion, that the total amount appropriated by this bill, as stated in the report, is fourteen or fifteen million dollars. The exact amount I find by further inspection to be \$19,883,092, or in round numbers \$20,000,000. The gentleman from Pennsylvania, [Mr. SCOTFIELD,] who has charge of this bill, stated that the reason why small amounts comparatively were appropriated by the legislative action of one year ago was in order to admonish the President of the United States and the officers subordinate to him that they must study economy and not transgress beyond a certain line of expenditures in administering the affairs of the Government, and he has said that had larger amounts been appropriated last year those several sums would all have been expended and the same deficiency bill would have been to-day pending for action. Now, that might be a good argument under a given condition of facts which, however, do not to-day exist. This part of the bill appropriating over nineteen millions is for deficiencies exclusively in the War Department, a Department where the President of the United States has no more power to expend money or carry into operation his peculiar views than have I or any other private citizen of the United States.

Mr. SCOTFIELD. I rise to a point of order.

Mr. BURR. Does the gentleman wish to shield himself behind a technical point of order?

The CHAIRMAN. The gentleman from Pennsylvania will state his point of order.

Mr. SCOTFIELD. I do not think a very sensible man would ask such a question as that. I make the point of order that the gentleman is not discussing his amendment, because the gentleman from New York [Mr. Wood] told me that he wanted to discuss this clause, and I therefore reserved ten minutes for its discussion. I make the point of order so that the ten minutes shall not be consumed in discussing something else, and give no opportunity to gentlemen who wish to discuss this clause;

otherwise I would allow the gentleman to discuss anything he wanted.

Mr. BURR. We have noticed that there is not much disposition to discuss this point. I await the decision of the Chair.

Mr. SCOFIELD. The gentleman will see that there are only ten minutes for discussion on this clause.

Mr. BURR. The gentleman from New York [Mr. Wood] intimates to me that he does not wish to discuss this clause.

Mr. SCOFIELD. Then I withdraw the point of order.

Mr. BURR. By the permission of the Chair and of the committee I will now proceed. I was stating that the President of the United States could not expend one cent of the people's money in this Department, and could not under the legislation of this House, sanctioned by the Senate, even pass an order to a subordinate officer without transmitting that order through the General-in-Chief of the Army, who is now President-elect of the United States. Was it to trammel and control the President-elect that these deficient appropriations were made one year ago? Further, sir, the control of the Administration, so far as the War Department has been concerned, during the past year has been all the time under the charge of a Secretary of War who has been, in the judgment of our friends on the other side of the House, in opposition to the Democratic party; and no expenditure could be made, no theory advocated, no measures carried out in that Department without the sanction of the Secretary of War. Was it to curb Edwin M. Stanton? Was it to control General Grant while he was Secretary of War *ad interim*? Or was it to limit the action of General Schofield, since Secretary of War by appointment and confirmation? Was it to limit either of those officers in their action that those deficient appropriations were made? No, sir; that subterfuge will not do. The entire, exclusive control of the War Department in all its various bureaus and branches has been during the whole of the past year in the hands of the leaders and controllers of the Radical party. And when an attempt was made by the President of the United States to assume some constitutional control of that Department of the Government by appointing a Secretary of War to succeed Edwin M. Stanton it was telegraphed from one end of Pennsylvania avenue to the other, to Edwin M. Stanton, then acting as Secretary of War, "stick;" and the whole Radical party, echoing that word "stick," has all the time controlled that Department. And in order, as I here allege, to blind the people and to deceive the voters of the United States by their action a year ago they reduced the appropriations so as to make the people believe that there would be a proportionate reduction of taxation; and to-day they acknowledge on the record that their pretense of twelve months ago was a deception and a fraud.

Mr. WOOD. Mr. Chairman—

Mr. SCOFIELD. I rise to a point of order. The gentleman from New York [Mr. Wood] has yielded the time I agreed to give him to the gentleman from Illinois [Mr. Burr] to make his stump speech. I raised the point of order I did during the remarks of the gentleman from Illinois in order to prevent his using up the time intended for gentleman from New York, who said that he did not want it.

Mr. WOOD. The gentleman from Illinois [Mr. Burr] obtained the floor in his own right, by being recognized by the Chair, and proceeded with his remarks.

The CHAIRMAN. The Chair now recognizes the gentleman from New York [Mr. Wood] as entitled to the floor.

Mr. WOOD. I move to amend the proviso by inserting after the words "expenditures already made" the words "if made in pursuance of law;" so that portion of the bill will read as follows:

For contingencies of the Army, \$475,000.
For medical and hospital department, \$750,000.
For secret service fund, \$100,000: *Provided*, That the three last-named sums are appropriated for the

purpose of enabling the Secretary of the Treasury to settle accounts of disbursing officers for expenditures already made, if made in pursuance of law, and shall not make any actual disbursement, but merely a transfer on the books of the Treasury.

I do not make this amendment for the purpose of discussing any political or general subject, but to make some practical suggestions in reference to the proviso. The old members of this House, I am sure, can look back to a period, not very remote, when such a thing as a deficiency bill was not known at all. The introduction of this principle in our legislation is something entirely new and modern. When first introduced deficiency bills were intended to make up deficiencies of a few hundred thousand dollars at the utmost in cases where it was impossible to meet every possible expenditure at the time the original appropriations were made. This thing has grown up until our deficiency bills absolutely amount in the aggregate to more than the whole expenditures of the Government were fifteen years ago.

But I have not risen for the purpose of saying that this deficiency bill may not be right. So far as it is really a deficiency bill it may be proper; but when it is proposed, as it is by this proviso, to go further and legalize expenditures made in contravention of law, and to permit the accounts of disbursing officers to be audited and allowed and paid in cases where expenditures have been made not in pursuance of any law whatever, I say that this is getting to be a monstrous abuse, and it is time that Congress should pause before it takes this action. If gentlemen will look at this proviso they will see that it proposes to audit and allow \$1,250,000 that have been expended without any authority of law whatever. It is not for a deficiency of appropriation, but for an excess of expenditure not warranted by any law.

The object of my amendment is to provide that in the transfer of appropriations from one branch of the service to another, no account shall be allowed to any disbursing officer unless the expenditure has been made in pursuance of some existing law. I do not know that the gentleman from Pennsylvania [Mr. SCOFIELD] has directed his attention particularly to this point, but I hope he will consent that my amendment may be adopted. I have offered it in good faith, and not for any improper or partisan purpose.

Mr. SCOFIELD. The gentleman is quite right in saying that the money has been expended, but he is wrong in supposing that it has been expended in violation of law. The Committee on Appropriations have on several different occasions endeavored to get a clause in an appropriation bill providing that no money appropriated for one branch of the service shall be expended on another branch of the service, in order to cut off this practice that has grown up of transferring the fund appropriated for one department to another department for some other purpose. We have succeeded in getting such a clause inserted in a bill still pending and not passed that will cut that practice up by the roots. We have attempted it before, but have always failed. Now, the money appropriated in these three items is for expenditures made, for which vouchers were returned, and which were sanctioned by the accounting officers. But when the books come to be settled it is ascertained that there is needed an appropriation specially for that purpose, although a general appropriation of the money has already been made. The expenditure of the money has extended over several years.

[Here the hammer fell.]

Mr. WOOD. I hope the gentleman will accept my amendment.

Mr. SCOFIELD. I see no objection to it.

The amendment of Mr. Wood was agreed to.

The question recurred upon the motion of Mr. BURR, to strike out the paragraph as amended; and being taken, it was not agreed to.

Mr. LOGAN. I desire to offer an amendment to which I think the Committee on Appropriations will have no objection; and I would like to have a moment to explain it.

The CHAIRMAN. All debate has been terminated by order of the House; and the committee cannot extend it. The amendment will be read.

The Clerk read as follows:

For the purchase of a portrait of the late President, Abraham Lincoln, to be placed in the Executive Mansion, \$3,000, or so much thereof as may be necessary: *Provided*, That said portrait shall be selected by the incoming President of the United States.

Mr. SCOFIELD. I raise a point of order that this amendment is not in order on this bill. The proper place for it is in the miscellaneous appropriation bill which was reported this morning.

Mr. LOGAN. That may be; but I did not suppose anybody would object to inserting the provision in this bill.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

To carry out the provisions of section fourteen of an act relating to pensions, approved July 27, 1868, \$15,000.

Mr. SCOFIELD. By the instructions of the Committee on Appropriations I move to amend by inserting after the paragraph just read the following:

For collecting and preparing the proceedings at the decoration of the soldiers' graves, under resolution of June 22, 1863, \$2,000.

The amendment was agreed to.

Mr. CLARKE, of Kansas. I move to amend by inserting the following:

To supply deficiency in the amount required for the survey of a line dividing the Creek country under third and fifth articles of treaty with the Creek nation of Indians, concluded June 14, 1866, and for surveying exterior boundary of a grant of land to the Seminole nation of Indians under the third article of the treaty with that nation, concluded March 21, 1866, \$5,000.

Mr. Chairman, the appropriation embraced in this amendment was estimated for by the Department at the last session of Congress, but the estimate was not acted on by the Committee on Appropriations. At this session I appeared before that committee for the purpose of advocating the insertion of the appropriation in this bill, but I found that the bill had the day before been reported to the House. I explained the amendment to the committee, stating that the work had already been performed by a citizen of Kansas, a resident of my own district, to the satisfaction of the Department, and that the appropriation ought to be made. The chairman of the committee, the gentleman from Illinois, [Mr. WASHBURN], who is not now in his seat, requested that under the circumstances the amendment should be offered in the House. All I have to say is that this work has been performed under a contract with the Indian department; that no complaint is made in reference to the manner in which the work has been done, and it ought to be paid for. I believe that this bill is the proper one in which to insert the amendment, which I hope will meet with no objection.

I have here a long letter from the Department explaining the propriety of making this appropriation; but I will not occupy time by having the letter read, unless there is serious objection to my proposition. If the acting chairman of the Committee on Appropriations does not concur in the propriety of this amendment, I shall ask that the letter be read for the information of the House.

[Here the hammer fell.]

Mr. SCOFIELD. Mr. Chairman, there is another appropriation bill still pending—the miscellaneous appropriation bill reported this morning—to which the Committee on Appropriations can offer such amendments as they may deem proper. The gentleman ought to take this amendment before the Committee on Appropriations for their examination; and if the committee should become satisfied that the provision ought to be adopted they can move it as an amendment to the miscellaneous appropriation bill, generally called the "omnibus bill." Having given the matter no examination I cannot, for one, consent that the amendment shall be adopted in this bill. It

may be right; it may be all wrong. I hope the gentleman will withdraw it, and bring it before the Committee on Appropriations. If he insists on pressing it here I hope it will be voted down.

The amendment was not agreed to.

Mr. HOOPER, of Utah. I move to amend by inserting the following:

For printing and binding three thousand copies of the laws of the Territory of Utah, as estimated by the First Comptroller of the Treasury, \$4,005 12.

Mr. SCOFIELD. Mr. Chairman, the Department has sent us no estimate for this as a deficiency. I make the same remark about this that I did about the amendment offered by the gentleman from Kansas. If it has merit the gentleman can go before the Committee on Appropriations, have a hearing, and let it be offered as an amendment to the miscellaneous appropriation bill. An amendment of this kind should not be sprung upon us in Committee of the Whole when it has received no examination by a committee and when we cannot know whether it is right or wrong.

The amendment of Mr. HOOPER, of Utah, was rejected.

Mr. JUDD. I move to insert the following:

For continuing the work on the marine hospital at Chicago, \$25,000.

Mr. Chairman, I desire to say that the estimate of the Department for continuing this work is \$50,000. I have made the appropriation in my amendment one half of that because the Committee on Appropriations told me that had been their rule in reference to other appropriations. This work is in progress, and unless this appropriation is made it will stand still and deteriorate, as a matter of course.

Mr. SCOFIELD. This is one of those appropriations which the committee have been adopting this morning and adopted last night. The gentleman says that the estimate of the Department is \$50,000, and he asks for \$25,000. I suppose it has as much merit as the others. I am opposed to them all.

The amendment was agreed to.

Mr. STOVER. I ask unanimous consent to go back to page 5.

Mr. SPALDING. I object.

Mr. STOVER. Then I offer the following amendment here:

For supplying deficiency in the compensation of the register and receiver in the land office at Boise City, Idaho Territory, for office rent and purchase of furniture, \$6,324.

Mr. Chairman, I do not wish to take up the time of the Committee of the Whole with any lengthy discussion; and I will, therefore, content myself with saying that this is a small estimate, and the appropriation is actually necessary. The question has been before the Committee on the Public Lands and has met with their hearty approbation. I ask the Clerk to read a letter from the Commissioner of Public Lands.

The Clerk read as follows:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, February 26, 1869.

SIR: The want of means for surveys in this Territory has made the field for settlement and entry comparatively small, and thus the officers have not been enabled to realize the amount it was anticipated they would receive.

The expenses of the offices have been reported to us as being quite heavy, and if any relief can be afforded them by congressional legislation I would recommend such action.

I am, sir, very respectfully,

JOS. S. WILSON,
Commissioner.

Hon. E. D. HOLBROOK.

Mr. STOVER. These officers are receiving but small salaries. They cannot get one room in Boise City, I understand, for less than \$250 a month in gold, and that without furniture.

Mr. SCOFIELD. I wish to make the same remark about this that I did in reference to the amendments of the gentleman from Utah and the gentleman from Kansas, and that is these matters ought to be taken before the Committee on Appropriations. I hope the gentleman from Missouri will withdraw the amendment.

Mr. CLARKE, of Kansas. I wish to say that so far as the amendment I offered, in the

first place, is concerned it was taken before the Committee on Appropriations. I was told that the deficiency bill had been reported and was then in the Committee of the Whole. I was told by the gentleman from Illinois, [Mr. WASHBURN], chairman of the Committee on Appropriations, that if I would hand the amendment to him in the House he would offer it. He evidently assented to it. He is absent now on account of illness, and I am told by the acting chairman of the Committee on Appropriations that I must go back to that committee.

Mr. SPALDING. I rise to a point of order. The gentleman is not discussing the amendment.

The CHAIRMAN. The Chair sustains the point of order.

Mr. CLARKE, of Kansas. Allow me to finish my remarks.

Mr. SPALDING. I object to irrelevant discussion.

Mr. SCOFIELD. The Committee on Appropriations will hear all these applications, and when they are satisfied they are right they will come here and move them as amendments in the Committee of the Whole on the state of the Union.

The House divided; and there were—ayes 24, noes 37; no quorum voting.

Mr. HOLBROOK demanded tellers.

Tellers were ordered; and Mr. STOVER, and Mr. WASHBURN of Wisconsin were appointed.

The committee again divided; and the tellers reported—ayes 70, noes 58.

So the amendment was agreed to.

Mr. CLARKE, of Kansas. I move the following amendment:

For amount required to pay James S. Emery and Thomas P. Fenlon for legal services rendered by them in 1865-66 in defending suits instituted against the United States in the State of Kansas respecting the rights and property of Indians, \$2,800: *Provided*, That the said amount shall be found to be justly due after examination by the Secretary of the Interior.

Mr. SCOFIELD. I make the point of order that is not in accordance with any law.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

For a sufficient amount to pay the regular salary of the present minister resident at Portugal, and the exchange thereon, from the 1st day of July, 1866, so long as he shall hold his said office.

Mr. SPALDING. I move to amend by striking out the words "he shall hold his said office" and inserting in lieu thereof the words "the same was withheld from him."

I believe I am the only living member of the Committee on Appropriations that some three or four years ago were instrumental in stopping the salary of the minister at Portugal. Very many members on this floor will recollect the circumstances. We then differed with the Senate, and I was one of a committee of conference that insisted upon withholding the salary of the then and now minister at Portugal on account of what we conceived to be an act of injustice done by him to the Congress of the United States.

Mr. MAYNARD. I rise to a question of order. This is not germane.

Mr. SPALDING. I hope the gentleman will not interrupt me. I am appealing to the justice of the House.

Mr. MAYNARD. I simply do not wish to lose the question of order that I have made. I do not wish to interrupt the gentleman's speech.

Mr. SPALDING. Do it when I get through. I persisted, together with the late lamented chairman of the Committee on Appropriations, Mr. Stevens, and one or two others, in withholding this salary, and it was withheld for about two years. It was then restored, and the two last annual appropriation bills have contained appropriations for the salary of this minister, but he has never received pay for the two years during which his pay was suspended. Now, before I leave Congress I wish to acknowledge that I erred as a statesman in doing this. I wish now to do a simple act of justice to a fellow-citizen, and I hope this House will concur with the Committee on Appropriations

in repairing, even at this late hour, the injury to this man. I think we ought not to have done it, and I hope now that we will restore the lapsed salary in this deficiency bill. I hope no gentleman will object.

Mr. MAYNARD. I made the question of order as to whether this proposition is germane to the bill.

The CHAIRMAN. The Chair did not understand the gentleman to make that point.

Mr. MAYNARD. Certainly that is the point I made, and I rose while the gentleman was speaking in order that I might not lose the benefit of it by apparently submitting to debate.

The CHAIRMAN. The Chair overrules the point of order on the ground that this is a deficiency due, if at all, under a law in operation at the time.

Mr. MAYNARD. I will now say a word in opposition to the amendment. As I understand the facts in the case this is the same officer whose payment we have repeatedly denied, and by every expression of the legislative will have declared that we did not wish and could not have him to represent us at that Government. Yet in utter disregard, not to say defiance, of the repeatedly expressed will of Congress this officer has been kept at his post by the executive department and has consented to remain there. He is still there, and we are asked now, in the closing acts of this Congress, to recant, to retract our former action, to write ourselves down before the country and posterity as culpable, as having been engaged in a petty, little, unworthy squabble. For one I am unwilling to do it. I am unwilling to place myself and the body to which I belong in any such attitude upon the records before the country. Wait till this gentleman's connection with this mission shall be formally closed, and then let the matter come up as a claim to be examined upon the principle *ex equo et bono*, upon the principle of the intrinsic justice of the case, to be paid just as much and no more than the claimant is found entitled to receive. But for us at this time to enter a *cognovit*, a confession of judgment before the country, I for one am not willing to do it, and I trust the House will not do it.

Mr. FARNSWORTH. I move to strike out the entire paragraph.

It will be recollected by the members of the House that this is the same case which has appeared for the last three years. It is the case of the minister to Portugal who wrote an insulting letter to the Secretary of State in reference to Congress. Congress, I think some three years ago, refused to appropriate the money to pay his salary any longer. They paid him his salary for the current year, but refused to make an appropriation to pay him for the next year, and subsequently refused again when the Committee on Appropriations reported an appropriation to pay him.

Mr. SPALDING. Last year we paid the salary.

Mr. FARNSWORTH. It seems to me that after Congress has expressed its determination not to pay the minister, thus expressing its disapprobation of his course as our representative abroad, he at least ought to have the decency to resign and come home, and not remain there from year to year and afterward come in here and ask us to make up his back salary. For one, after voting as I have voted heretofore not to pay this salary, I am not disposed to take back that vote and now vote to pay him; and I hope the committee will not do it.

Mr. PAINE. After having voted as I have twice in this House to discontinue this mission, so far as I was able to express myself in favor of it by a vote on an appropriation bill, I am not willing to stultify myself by voting for this appropriation to-day, even though my friend from Ohio [Mr. SPALDING] of the Committee on Appropriations may have come to the conclusion to recant what he has said and change his position. Now, when we refused in two successive appropriation bills to pay the salary of this minister to Portugal we notified him, as

well as the Secretary of State and the President of the United States, that that mission must be discontinued. We did not merely notify the President and Secretary, but we notified him. It will not do to tell me that he was retained there by Mr. Seward or by Mr. Johnson, because he was kept in full knowledge of the action of this House, and he remained there at his own peril. When I voted to withhold the appropriation for the payment of his salary I did not intend so soon as this to eat my words. I based my action upon grounds which I well understood, and which most of the members here present to-day will remember, and which I will not repeat; and I say that there is to-day an additional reason for withholding this appropriation, because he has deliberately defied us. He has said to us, speaking through the mouth of the Secretary of State, "You may withhold the appropriation this year, you may withhold it next year, but sooner or later I will find some appropriation committee that will recommend it; sooner or later I will find a House that will pay it." Sir, I will vote against this appropriation now. I will vote against it now all the more readily because he has so defiantly thrust this in our faces. While we told him that he could not remain there he has remained. He has defied our votes and we are called upon to-day to go back upon our own record and admit to the country and admit to him that we have been culpable and have done him wrong. Sir, I will make no such admission. We have done no wrong. We did right at first and he did wrong, and every year that the Secretary of State and the President have retained him there in defiance of our votes they have done what was wrong, and he himself in remaining there has done what was wrong.

[Here the hammer fell.]

Mr. SCOFIELD. Allow me to say that those who are opposed to the original paragraph may safely vote for this amendment of the gentleman from Ohio [Mr. SPALDING] and then vote to strike out the paragraph.

Mr. SPALDING'S amendment was agreed to—aye seventy-one, does not counted.

Mr. UPSON. I move to strike out the word "for" at the commencement of the paragraph. I suppose it is the intention of the committee to appropriate a sufficient amount for this purpose, but I cannot see any sense in the use of the word "for" there. The first clause of the bill appropriates money to pay all these items, and it seems to me that the word "for" has no meaning here.

Mr. WASHBURN, of Wisconsin. I have no character for consistency to maintain in regard to this matter, for I was not a member of the Congress that refused to appropriate the money to pay Mr. Harvey. But I understand the facts to be simply these: Mr. Harvey was appointed our minister to Portugal. No man pretends that he has not discharged his duties there faithfully so far as our Government and the Government of Portugal are concerned. And I will say here that if gentlemen will examine the diplomatic correspondence they will find there what reflects great credit upon Mr. Harvey. They will find, too, that the kingdom of Portugal was about the only kingdom in Europe that refused belligerent rights to the rebels. There is nothing that can be alleged against Mr. Harvey so far as the discharge of his duties as minister to Portugal is concerned.

What is the complaint, then? It is that he wrote a private letter to the Secretary of State, which the Secretary was so imprudent as to make public, in which letter Mr. Harvey spoke of Congress in terms not as complimentary as gentlemen would like. Now, if you could examine all the private letters that may have been written by Government officials you might perhaps find that there are other people who have at times felt themselves at liberty to express sentiments concerning Congress that do not accord entirely with the estimate we place upon ourselves. The amount asked to be appropriated here is for a debt justly due. You have no right to refuse to pay Mr. Harvey his salary any more than you have the right to

refuse to vote the salary of the President of the United States because he has spoken in terms of disrespect of Congress. There was one way by which you could have stopped his pay, and that way was to abolish the mission. But you did not do that, and he has continued to discharge his duties there. Now, it seems to me that it is rather a small business to undertake to stop this man's pay simply because of a slight imprudence of which he was guilty, and which I understand he has explained away to the satisfaction of most of the members of the Committee on Foreign Affairs.

Mr. MYERS. I would ask the gentleman from Wisconsin [Mr. WASHBURN] whether it does not also appear by documentary evidence that the friendly action of Portugal toward this Government during the rebellion, and the friendly feelings it frequently expressed were largely due to the efforts of Mr. Harvey?

Mr. WASHBURN, of Wisconsin. There is no question of that fact, for it appears in the correspondence which took place. I am sorry to differ with my colleague [Mr. PAINE] on this question, but I am compelled to do so, and I trust that the House will no longer adhere to a position assumed in a moment of passion and wounded pride, but imitate the manly conduct of my friend from Ohio, [Mr. SPALDING,] and as far as it may, make the *amende honorable*.

The committee rose informally; and the Speaker resumed the chair.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had passed without amendment a bill (H. R. No. 1966) for the relief of Foster & Tower.

The message further announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses upon the bill (H. R. No. 1599) making appropriations for the naval service for the year ending June 30, 1870.

ENROLLED BILL SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. No. 467) to confirm an entry of land by Moses F. Shinn.

LEAVE OF ABSENCE.

Mr. PIERCE asked and obtained leave of absence from the session to-night on account of sickness.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The Committee of the Whole resumed the consideration of the legislative, executive, and judicial appropriation bill.

The pending amendment was in relation to the mission to Portugal.

The CHAIRMAN. All debate is exhausted on the pending amendment.

Mr. COVODE. I move to amend the amendment by striking out the last word. I make that motion because I wish to state some few things that I am satisfied many of my friends are not familiar with. The committee will recollect that prejudice was first excited against Mr. Harvey at the beginning of the war because of some correspondence carried on between him and Judge McGrath, of South Carolina; and the House called upon President Lincoln to communicate that correspondence to Congress. I was advised by Mr. Harvey, in a communication from Lisbon, Portugal, that there were some letters not communicated that would be of interest to the House and to the country. I was directed to call upon Mr. Lincoln to ascertain whether the statements of Mr. Harvey were correct or not. Mr. Harvey in that communication said that he carried on that correspondence for the Government of the United States with the view of averting, if possible, the shedding of blood; and he said that Mr. Lincoln had in his possession certain important dispatches which would explain the real na-

ture of the transaction. I went to Mr. Lincoln and asked him whether that was true, he not having answered the inquiry of the House with reference to that correspondence. Mr. Lincoln said that he had a recollection of the matter. He took down the "Sumter papers," as they were called; and the very first paper, the one on top of the pile, was the important dispatch to which Mr. Harvey had particularly referred in his letter from Lisbon, and which shows that Mr. Harvey carried on that correspondence for Mr. Seward, Mr. CAMERON, and Mr. Lincoln; and Mr. Lincoln had the correspondence in his possession at the very time the telegraphic dispatches throughout the country were seized, and that for the purpose of destroying Mr. Harvey.

Mr. MAYNARD. Does not all that appear on the records of this House?

Mr. COVODE. No, sir; it does not. Now, sir, Mr. Harvey, while at Lisbon during the war, was successful in preventing trouble between Portugal and this country, and from that time to this he has discharged his duties faithfully. He has furnished to the Secretary of State a vast amount of information showing the stupendous naval frauds perpetrated there. He has sent to me a copy of that correspondence, asking me to bring it to the attention of Congress. While he is thus serving the country abroad his family is suffering here in Washington. Now, does any one suppose that Mr. Harvey is going to be kept out of his pay for all time? He needs this money now. He is poor. He has served the country faithfully. He made a mistake in writing a letter; but that mistake was made when there were hundreds of men in this country belonging to the Republican party, among them members of this House and of the Senate, who were disposed to agree with the policy of Mr. Johnson. I hope that Mr. Harvey will be allowed the pay which he has earned.

[Here the hammer fell.]

Mr. MAYNARD. I desired to ask the gentleman from Pennsylvania [Mr. COVODE] before he took his seat, up to what time Mr. Harvey has been paid?

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. SCHENCK. Mr. Chairman, I rise to oppose the amendment. It strikes me that gentlemen have not been discussing the question before the committee. I regard this as a question between Congress on the one side and Mr. Seward, representing the Administration, on the other. Congress, for reasons which seemed to it good decided that so far as appropriations for that purpose were necessary they would not keep up a representation at the court of Portugal. They decided thus again and again. The Administration, acting through Mr. Seward, offensively, insolently, defiantly, resolved that they would keep a representative there.

Under the Constitution the President, having the power to appoint ambassadors and other diplomatic representatives, could make this appointment; but the appointment having been made he and the incumbent whom he kept in office under such circumstances were fully apprised of the fact that the law-making power and the money-appropriating power had decided, for reasons which it considered sufficient, not to keep up that representation, so far at least as pay for it was concerned. We are now called upon to go back upon all this. Why? Because it is said here is a debt due to Mr. Harvey. It is no debt. This service was performed with a full knowledge upon his part that no pay was to be given. We are called upon to make this payment because, as it is claimed, Mr. Harvey has served the country well. That does not properly enter into the question. We are called upon to go back and consider the question whether Congress ought to have acted as it did upon the facts before it at that time. Sir, I was satisfied then and I am satisfied now that Congress did right. But that is not the question. The question is whether when the law-making and the money-appropriating power

has decided for two successive years not to pay for the services of a minister at Lisbon, it shall be held incumbent upon us now to bow our knees and "with bated breath and whispering humbleness" admit to Mr. Seward and to the Administration that they were right and we were wrong; and therefore we will not only forgive that for which they deserve punishment, but will sanction it by backing out of the position which we have heretofore deliberately taken.

Mr. HARVEY is but a small portion, it seems to me, in the issue now made up. Discuss this matter as you will, turn it as you may, the question is simply this, shall the Congress of the United States be called upon at a subsequent date to pay as a debt due from the Government for services, which services have been rendered; not with the sanction but against the notice of Congress and upon information that it did not intend to pay for them, because of some sympathy to be got up or some question raised as to whether Mr. Harvey was or was not rightly treated originally? This is the issue, I think, we have before us; and on that issue, whatever other gentlemen may do, I shall resort to the only means to rebuke Mr. Seward's insolence and defiance of the law-making power by telling him that we shall not pay his man no matter what his services have been.

[Here the hammer fell.]

Mr. COVODE. I withdraw my amendment.

Mr. SPALDING. I renew it; and I wish to say to my colleague and to the gentleman from Wisconsin, however much I admire their pluck, that we all have occasionally to take the back track. None of us are so proud as never to confess that we are wrong. I think I have as much of that in my composition as either of the learned gentlemen who addressed the committee. I have already stated that I was a principal actor in this—shall I say tragic or comic scene? We have done wrong; and the Committee on Appropriations for the last two years have put in the appropriation bill an appropriation to pay his salary. It is all wrong to say that Congress had the right to remove him. Congress never had the power to remove him. The Executive never suspended him. We only suspended his pay. We have since then made regular appropriation for his pay.

Mr. SCHENCK. I admit that the power is in the President to appoint diplomatic agents, but I also hold that the power is in Congress to say whether they shall or shall not be paid. Congress has not suspended him, but it has suspended his pay.

Mr. SPALDING. It was undertaken on the part of Congress to withdraw him, but he was not withdrawn. He has stayed there, and for the past two years Congress has concluded to go on and pay him. In the last two appropriation bills he has had his salary allowed him. He has had his salary for the last year; he has it for this fiscal year, and the bill has passed both Houses making provision for it for the next year. The Committee on Appropriations stood eight to one on this question. The chairman of the committee has since been taken sick. If he were here he would say to this Committee of the Whole, in much better language than I can use, that it is an act of justice to pay these two years' salary which we have withheld from Mr. Harvey. The committee agree to this, and hence it is in the deficiency bill; and I hope that the Committee of the Whole on the state of the Union of the House of Representatives of the Fortieth Congress will not continue to perpetrate what I regard as a fundamental error in our statesmanship.

Mr. CHANLER. I do not wish to mingle in this debate on the merits of this claim. I suppose the Committee on Appropriations understand this matter, and I presume that gentlemen have their minds made up. But I wish to say that for the gentleman from Ohio [Mr. SCHENCK] to arraign Mr. Seward—for a member of the Republican party to arraign him—is base ingratitude. Why, sir, Mr. Seward was

the Prospero of this fiction of a political organization. He it was who created your Caliban, brought your Ariel into being; and sent your Puck around the world. He is your master. You would not be here to-day if his mind had not found for you a dogma in the enunciation of the "irrepressible conflict." But for him the mock militiamen who arrayed themselves in tinsel and remained here in this House drawing pay as generals while your battles were being fought would never have had an existence. This old organizer of your party left you because you proved degenerate even from the fiction that he created for you. The "irrepressible conflict" was a thing which you had not the capacity to carry on with success. The master mind that created you left you, and you are wrangling over the remnant of your power, and all that is left for you is to make this deficiency bill the stalking horse for the wrangling in your own organization. You have impeached the man that you elected as Vice President because he was too brave and too honest for you to meet face to face; and his Cabinet, which could not give you all you would plunder, must be disgraced by every obloquy you can put upon them here and elsewhere.

Now, sir, I do not wish that this question should be mixed up. I think it is a fair and proper subject of debate as introduced by the chairman of the Committee of Ways and Means. It is a fair question what constitutes the Republican party to-day? Who is its head? Who leads you? What is your object and destiny? Have you no greater object than to sting one another to death like a snarl of snakes? [Laughter.] Cannot you find some nobler work than to strike down a man who, in a distant port, while your brigadiers were here in this House drawing pay and wearing the uniform and your soldiers were fighting your battles in the field, was protecting you abroad and giving you honor before one of the established Governments of Europe? Cannot you find a nobler vocation than that?

[Here the hammer fell.]

Mr. SPALDING. I withdraw the amendment to the amendment.

Mr. BUTLER, of Massachusetts. I renew it. I desire to say one word upon this matter not personal at all to Mr. Harvey, the minister to Portugal. I propose to vote against the appropriation on this ground: the Congress of the United States have said to the President of the United States that in their judgment this gentleman was not a proper representative of the United States to a foreign court. Whether that was right or wrong I do not propose to discuss. I do not know, and for the present purpose I do not care. But whenever the principle is sought to be established in this Government that the Executive can set himself up and set up his office against the will of Congress, then we have come to a bad pass. The experiment has been tried by the Executive, in defiance of Congress, of keeping an officer in his place; and if we mean to stand by the privileges of the House and of Congress, and the right of the people to control the Executive and to direct this Government—for here at last must that power reside—then we must vote against this appropriation. I would vote against it were this the best man personally that could live, or were the President who undertook the experiment the best man personally that could live. I set Andrew Johnson aside in this matter; I set Harvey aside; but I say it is for us to stand by the right of the people through their Representatives and Senators to direct the expenditures of the Government of the United States, and to determine whether an officer shall be kept in at home or abroad. Under the British constitution a single vote in the House of Commons of a want of confidence in an officer sends him out of the service. Year after year in succession this House voted a want of confidence in that executive officer, and we are now asked to stultify ourselves and to give him a salary when he has been kept in office, and

has remained in that office in defiance of Congress.

Mr. WASHBURN, of Wisconsin. I desire to ask the gentleman a question. This House has voted a want of confidence in the President of the United States. Why, then, does not the gentleman refuse to appropriate money to pay his salary?

Mr. BUTLER, of Massachusetts. I will tell you why. Because we put that vote of want of confidence before the only tribunal known to the Constitution; and wrongly, as I believe, but whether right or wrong, we were overruled, and he was kept in office by the verdict of that tribunal to which we appealed and he appealed. But here is another and a different case. It is an officer appointed, and we meet him in the only way we could, by withholding the appropriation for his support; and having done that it was the duty of the Executive—his bounden constitutional duty, according to the theory of our Government—to withdraw him. If he chose he had the power to keep the man there, and the man had the power to stay. We have the power to say if you stay you stay at your own expense.

Mr. BENTON. I do not know but that I agree with the gentleman from Massachusetts in his position upon this question, but I would ask him whether a portion of the salary of this gentleman was not due at the time Congress refused to make the appropriation?

Mr. BUTLER, of Massachusetts. No; I understand not.

Mr. BENTON. The amount of salary due him was paid?

Mr. BUTLER, of Massachusetts. Yes, sir.

Mr. BENTON. Then I do not see any reason why we should make this appropriation now.

Mr. SCOTFIELD. I yield to the gentleman from California all but one minute of my time.

Mr. HIGBY. I believe I was a member of the House of Representatives at the time we refused to make an appropriation to pay Mr. Harvey, the minister to Portugal, and I think, like the gentleman from Ohio, [Mr. SPALDING,] I was a member of the Committee on Appropriations. I have failed to hear any new information upon this subject. We had full information, which we supposed to be correct, and upon which we acted at that time. I agree with the gentleman from Ohio that an error should be corrected, and that when we find we have acted wrongly and that what we supposed were facts were really false we ought to retrace our steps. But I do not understand from him that we have any other information in regard to the conduct of this man different from that which we had before us when we acted as a deliberative body in the Thirty-Ninth Congress. We then acted coolly and deliberately upon the information which we received; and now upon the same statement of facts we are called upon to retrace our steps and take back what we then did. I do not understand from the gentleman from Ohio or from any other member of the Committee on Appropriations that there is any difference between the facts before this body now and the facts upon which we then acted. I then acted upon my judgment, without any passion, without any prejudice, and what I did then I am disposed to stand by now.

Mr. SPALDING. The gentleman from California will allow me to say that this gentleman, Mr. Harvey, has been home and has been before the Committee on Appropriations, and has disclaimed meaning to cast any imputation upon Congress.

Mr. HIGBY. It seems, then, that this man admitted when he was before the Committee on Appropriations that what was stated then was correct, but he finds that he has placed himself in a position where he can get no pay unless he asks the pardon of Congress.

[Here the hammer fell.]

Mr. SCOTFIELD. I now ask the unanimous consent of the committee that the debate upon this paragraph be closed.

There was no objection; and it was so ordered.

Mr. BUTLER, of Massachusetts. I withdraw the amendment to the amendment.

The question was taken on Mr. UPSON's amendment, to strike out the word "for" at the beginning of the paragraph; and it was agreed to.

The question recurred upon Mr. FARNSWORTH's amendment to strike out the paragraph; and being put, there were—ayes 60, noes 57.

Mr. SPALDING called for tellers.

Tellers were ordered; and Mr. SPALDING and and Mr. JULIAN were appointed.

The committee divided; and the tellers reported—ayes 71, noes 58.

So the amendment was agreed to.

Mr. SCOFIELD. I am instructed by the Committee on Appropriations to offer the following amendment:

For necessary repairs and furniture for the office of register of deeds in the District of Columbia, \$350.

The amendment was agreed to.

Mr. SPALDING. I offer the following amendment, to come in after line one hundred and ninety-seven:

To supply a deficiency in the appropriation for certain clerks in the Treasury Department, \$50,000.

I am told that this is absolutely necessary to keep the wheels of Government in motion.

Mr. BENJAMIN. Is not that the same as an amendment which we voted down last night?

Mr. SPALDING. It is entirely different. It is very necessary to enable the Treasury Department to carry on its operations, and I hope it will be adopted.

Mr. FARNSWORTH. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. FARNSWORTH. My point of order is that this paragraph is not for a deficiency but for a private claim, which should not be put in a deficiency bill. It is also legislation in an appropriation bill providing how the money shall be expended.

The CHAIRMAN. The Chair overrules the point of order on the ground that this bill, according to its title, is not only for supplying deficiencies but "for other purposes."

Mr. FARNSWORTH. Then I move to strike out this entire paragraph. I want to understand something about all this money being expended under the direction of this Rev. Mr. Whipple, whoever he is; I do not know who he is.

The CHAIRMAN. The motion to strike out will be entertained; but the question must be first taken upon the amendment of the gentleman from Ohio, [Mr. SPALDING.]

Mr. MULLINS. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MULLINS. My point of order is that the amendment of the gentleman from Ohio [Mr. SPALDING] is not definite enough; it merely says "for certain clerks," without stating what kind of or how many clerks.

The CHAIRMAN. The Chair overrules the point of order.

The question was then taken upon the amendment of Mr. SPALDING; and upon a division there were—ayes eighteen.

Before the noes were counted,

Mr. SPALDING said: I will withdraw the amendment and offer it in the House.

The amendment was accordingly withdrawn. The question recurred upon the motion of Mr. FARNSWORTH to strike out the following:

For the relief of the two bands of Sisseton and Wahpeton Sioux Indians, on the reservations at Lake Traverse and Devil's Lake, Dakota Territory, to be expended under the direction of Rev. H. B. Whipple in the purchase of tools, food, seeds, cattle, agricultural implements, and other articles necessary for Indians and for the construction of houses, \$60,000: *Provided*, That the said Whipple shall make a full, detailed, and accurate statement to the Commissioner of Indian Affairs (who shall transmit the same to Congress) of the manner in which the amount hereby appropriated has been expended.

For compensation of H. B. Whipple for his services as above, \$1,500.

Mr. FARNSWORTH. It seems to me that

it is entirely improper to appropriate money to be expended under the direction of any person by name without naming the office he holds. Suppose he should die, who would then expend the money?

Mr. BROMWELL. Does this specify any bond to be given by this Mr. Whipple?

The CHAIRMAN. No further debate is in order.

The question was then taken on the motion of Mr. FARNSWORTH; and it was not agreed to.

The Clerk resumed and concluded the reading of the bill.

Mr. SCOFIELD. I have been instructed by the Committee on Appropriations to move to add to the bill the following:

For defraying the expenses incurred in negotiating the treaty made with the Tabeguache, Maquache, Capote, Weeminucke, Yampa, Grand River, and Uintah bands of Ute Indians, on the 2d of March, 1868, and in procuring the consent of said Indians to the Senate amendments thereto, \$9,286 77.

The amendment was agreed to.

Mr. MILLER. I move to amend this bill by adding to it the following:

SEC. —. *And be it further enacted*, That \$5,000 be, and is hereby, added to the appropriation for the Agricultural Department to purchase new and valuable seeds and put them up for distribution, so as to make the whole appropriation for that purpose \$25,000.

The amendment was not agreed to.

Mr. SCOFIELD. I move that the committee now rise and report this bill to the House with the amendments made in Committee of the Whole.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. PRICE reported that the Committee of the Whole on the State of the Union, having had under consideration the Union generally, and particularly the bill (H. R. No. 1911) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes, had directed him to report the same back to the House with sundry amendments.

ENROLLED BILL, ETC., SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolution of the following title; when the Speaker signed the same:

An act (H. R. No. 1966) for the relief of Foster and Tower; and

Joint resolution (H. R. No. 460) in relation to the meeting of the House of Representatives at the first session of the Forty-First Congress.

ORDER OF BUSINESS.

The SPEAKER. The House now resumes, as the unfinished business pending at the time of taking the recess yesterday, the consideration of the bill making appropriations for legislative, executive, and judicial expenses, &c.

Mr. LAFLIN. I desire to ask the gentleman who has this bill in charge whether, in view of the pressing necessity for the early consideration of the resolution in regard to the reporting and publishing of the congressional debates, he is not willing that we should now postpone the further consideration of this bill and proceed at once to act upon the joint resolution which has come from the Senate.

Mr. BUTLER, of Massachusetts. I understand that we are acting on this bill under the operation of the previous question, and that I could not consent to the gentleman's proposition, even if I were disposed to do so.

The SPEAKER. The House is acting on the legislative, executive, and judicial appropriation bill under the operation of the previous question. This is a very long bill, which ought to be sent to the Senate as early as possible. The Chair will state to the gentleman from New York [Mr. LAFLIN] that the previous question has not been called upon the deficiency appropriation bill just reported to the House.

NAVAL APPROPRIATION BILL.

Mr. SPALDING. I rise to present a privileged report from a committee of conference. The Clerk read the report as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the bill (H. R. No. 1803) making appropriations for the naval service for the year ending June 30, 1870, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from their amendments numbered 1, 12, 13, 14, 15, and 16.

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 8, 9, 17, 18, 20, and 26; and agree to the same.

That the House recede from their disagreement to the twenty-first amendment of the Senate, and agree to the same, with the following amendment: strike out said amendment, and insert in lieu thereof the following words: "two million five hundred thousand;" and the Senate agree to the same.

That the House of Representatives recede from their disagreement to the twenty-seventh amendment of the Senate, and agree to the same, with the following amendment: in line eleven of said amendment strike out the word "sixteen;" and insert in lieu thereof the word "fourteen;" and the Senate agree to the same.

That the House of Representatives recede from their disagreement to the twenty-eighth amendment of the Senate, and agree to the same with the following amendment: in line five of said amendment strike out the words "as authorizes," and insert in lieu thereof "and of any other act authorizing;" and the Senate agree to the same.

R. P. SPALDING,
CHAS. E. PHELPS,
F. A. PIKE,

Managers on the part of the House.

J. W. GRIMES,
J. W. NYE,

T. A. HENDRICKS,

Managers on the part of the Senate.

Mr. SPALDING. I call for the previous question on agreeing to this report.

The previous question was seconded and the main question ordered; and under the operation thereof the report of the committee of conference was agreed to.

Mr. SPALDING moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. AXTELL obtained leave of absence for Saturday and Monday next, on account of being obliged to leave the city.

DEPUTY COLLECTORS, ETC.

Mr. SCHENCK submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1812) to allow deputy collectors and assistant assessors of internal revenue acting as collectors or assessors the pay of collectors and assessors having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from their disagreement to the amendment of the Senate and agree to the same.

They further agree and recommend that the title be changed, so as to read: "An act to allow deputy collectors of internal revenue acting as collectors the pay of collectors, and for other purposes."

ALEXANDER G. CATTELL,
WILLARD WARNER,
J. S. MORRILL,

Managers on the part of the Senate.

ROBERT C. SCHENCK,
LEONARD MYERS,

Managers on the part of the House.

Mr. ROBINSON. I would like to know, and I suppose the House would like to know, what is the result of the conference as to assistant assessors acting as assessors?

Mr. SCHENCK. I will state the position of the matter. The House passed a bill providing that deputy collectors who have performed or may hereafter perform the duties of collectors should receive the pay of collectors for the time during which such service was rendered if the collector had not received pay for the same time. The Senate amended so as to leave out that part relating to assistant assessors—retaining the part relating to deputy collectors. We were at first disposed not to agree to this; but on investigating the subject we found, so far as the deputy collectors were concerned, it was obviously necessary that they should be provided for; because they are not officers of the Government unless made so by

being taken up and made acting collectors. The same rule does not apply to the same extent to the assistant assessors. Assistant assessors are officers appointed by the Government. They receive five dollars a day. If the assistant assessor became acting assessor he would still have his five dollars a day.

Then we found, from matters brought before the Committee of Ways and Means, that the rule is not now as it was before. Disbursing agents of the Treasury under the law inform us, and this we also found out upon conference with the Senate, that they have established a rule to pay all the incidental expenses, such as office rent, &c., applicable to an assistant assessor acting as assessor. It was originally complained of that the assistant assessor acting as assessor did not have those expenses allowed, and on inquiry we find that they now do. In view of this difference we consented to the amendment of the Senate.

Mr. ROBINSON. Mr. Speaker, I wish to say a word on this subject. I know that the business of the House is pressing, but I will not detain it long. I think the whole life has been driven out of this bill by the conference committee giving up the most important part of it. I venture to say here, sir, that if there is anything to be given the assistant assessors require it more than the deputy collectors. The collectors of the revenue are better paid than any assessors. As to traveling expenses and other things, they have no reference to assistant assessors in the cities, as they incur no traveling expenses. If they travel it is in the street cars.

Mr. Speaker, I do invite the attention of the House to this report of the conference committee. If the bill is not to include assistant assessors then the most meritorious part of it is omitted. I would be ashamed to stand here and advocate a bill when the most meritorious part of it is stricken out, the part in reference to the pay of these assistant assessors, for which purpose it was originally passed. I do most earnestly desire that the House will non-concur in the report of the committee of conference, but that the subject will be sent back to another committee of conference so that justice may be done to these meritorious assistant assessors. In this report they are left out and provision is only made in favor of deputy collectors.

[Here the hammer fell.]

Mr. MYERS. I ask the gentleman from Ohio to yield to me.

Mr. SCHENCK. I will yield to the gentleman from Pennsylvania, who was one of the conferees on the part of the House.

Mr. MYERS. Mr. Speaker, if the gentleman from New York will give me his attention for a moment I think he will alter his views. I was on the conference committee and entertained the views he has expressed. Let me state the facts which led us to the conclusion which we have reported. At the first blush it would appear as if assistant assessors and deputy collectors should be placed upon a par in the bill, but the fact is that the collector himself pays his deputy out of the money allowed him. If a deputy collector act as collector in case of a vacancy not provided for at all, as the law stands he is not an officer of the Government and cannot get any pay. Several instances of the kind have happened, one I recollect in the district of my colleague, [Mr. KELLEY.] There a deputy collector acted as collector for two months during a vacancy, and in that time received and paid over to the Government \$100,000, but up to this time he has not received any pay for his services. The case is different with an assistant assessor acting as assessor during a vacancy. That is an officer provided for by law. He gets five dollars a day. The question was whether we should pay the assistant assessor who acted as chief assessor an additional sum for that time. Now, the ground the Senate conferees took, and it was not a bad one, was that if we adopt the rule in regard to officers of the revenue we shall have to pursue it in regard to officers of the

Army as well as other officers in the civil service. The major who acts as colonel on the resignation or death of the latter, or the colonel who acts as brigadier general for a short time, may just as well demand the pay of the higher officer. So we concluded that deputy collectors not getting pay under the law if they act as collectors should be provided for, while assistant assessors, who are already provided for by law and who get their regular pay at least, need not be included. The conferees on the part of the House, it is proper to add, endeavored to include both, but for the reasons stated finally concurred in the action of the Senate.

One thing more remains to be stated. It is the objection, which at first sight seems to be a pertinent one, mentioned by the gentleman from New York; that is, that the assistant assessors acting in the higher capacity will have some further expenses. We had, however, before the conference committee a letter of Comptroller Taylor, who has decided that under the law as it stands the assistant assessors thus acting can be paid for their office expenses and stationery, &c., and I think traveling expenses under his reasoning would be included; therefore there is no further need of legislation on that point. In this view we deemed it best not to establish a new principle by the bill, but merely provided for something that was omitted in the present law.

Mr. ROBINSON. A single word further. I appreciate the value of the time of the House and shall not trespass but a moment. Every argument that my friend has used against giving anything to the assistant assessors would apply equally to the deputy collectors. Their expenses are paid and their stationery is paid for, and yet they are to get additional pay for the time they spend in carrying on the office in the absence of the principal. I can state on my own observation that I know assistant assessors who get five dollars a day and have had to work additional hours, sitting up till after midnight performing the duties of assessors, working sometimes sixteen hours a day to make up for the deficiency of the principal. Now, if you make the argument that you might as well pay a colonel who acts as brigadier general the pay of the latter why do you here commence to make a distinction at all? Will not the argument that you should pay a deputy collector for his additional service be the same as applied to a colonel for his additional or higher service, or as applied to an assistant assessor who does the work of his principal? Sir, I trust the report of the committee of conference will be voted down, for the most meritorious part of the bill is stricken out.

Mr. MYERS. I think the House understands the matter fully and that the cases are very different, and with that I leave the question.

Mr. COVODE. Mr. Speaker—

Mr. SCHENCK. I believe I have the floor.

The SPEAKER. The gentleman from Ohio, the Chair understood, had taken his seat and resigned the floor.

Mr. SCHENCK. I did not intend to give up the floor. I yielded to the gentleman from New York, [Mr. ROBINSON,] and then to my colleague on the committee.

Mr. COVODE. Allow me one minute.

Mr. SCHENCK. I will do so.

Mr. COVODE. I desire to state that the assessor in my district, who has done the entire duties of the office for more than a year since the death of the principal, and whose business amounts to more than that of any other district in the State outside of the city of Philadelphia, has only been drawing the pay of assistant assessor. I hope equal justice will be done to the assessors with the collectors.

Mr. SCHENCK. The gentleman from New York [Mr. ROBINSON] does not seem to apprehend the distinction precisely between deputy collectors and deputy assessors. Deputy collectors are not officers of the law at all. The collector is responsible for the whole collection of the taxes and he employs at his pleasure

his own assistants, paying them out of his own pocket.

Mr. ROBINSON. I understand that thoroughly.

Mr. SCHENCK. The consequence is that some provision is absolutely necessary in case of the death, resignation, or other occasional vacancy in the office of collector, because the deputy collector succeeding to the duties of collector would have no chief, no principal, nobody to pay him. He is not recognized by the Government, is not an officer of the Government, and hence we, by the amendment which we now propose, make him so for the purpose of supplying such vacancy and providing payment for it when it occurs. The assistant assessor is also an officer of the law as well as the assessor. He gets his five dollars a day for his services in his sub-district or general district. If he be transferred to the office of assessor to fill a vacancy he still is an assistant assessor acting as assessor, and gets five dollars a day all the time he is employed.

We have received complaints, however, from assistant assessors in some cases that they were not allowed extra pay for expenses occasioned by their transfer to the office of assessor. For instance, I hold in my hand a letter written in June last by a man of the name of Harrison, of the second district in Indiana, in which he says:

"Since the 4th of March, 1867, I have been performing the duties of assistant or division assessor for this county, as well as acting assessor for this district, without any extra pay or remuneration whatever, and there are divers expenses connected with the assessor's office, such as office furniture, traveling, fuel, lights, &c., borne by the person filling the office. These I have had to pay myself, at the same time receiving only the pay of an assistant assessor."

The advantage he has is that he receives five dollars a day for all the time instead of five dollars a day for the time that he is employed, and they have established now a rule under a proper construction of the law, as they claim, and I suppose it is, to pay these assessors for all these expenses. Here is a letter from the First Comptroller of the Treasury Department, stating what the practice is, and he states that all these expenses are now paid. I demand the previous question.

Mr. ROBINSON. Allow me to say one word. The deputy collectors are paid higher rates all through the country than these assistant assessors. That is all.

Mr. SCHENCK. They have a vast deal more of responsibility.

The previous question was seconded and the main question ordered; and under the operation thereof the report of the committee of conference was agreed to—ayes one hundred and two, noes not counted.

Mr. SCHENCK moved to reconsider the vote by which the report of the committee of conference was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS AND JOINT RESOLUTION.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 234) for the relief of N. A. Shuttleworth of Harrison county, West Virginia;

An act (H. R. No. 1128) for the relief of Isaac Watts;

An act (H. R. No. 1367) for the relief of George Kaiser; and

Joint resolution (H. R. No. 265) for the relief of Edward E. Shead, of Eastport, State of Maine.

LEGISLATIVE APPROPRIATION BILL.

The House then resumed the consideration of House bill No. 1673 making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870, reported from the Committee of the Whole on the state of the Union with sundry amendments.

The next amendment, upon which a separate vote was asked by Mr. MOORHEAD, was the following:

Fifteenth amendment:

Page 22, at the end of line five hundred and twenty-three, insert the following:

Provided, That no part of this sum shall be paid as salary or compensation to the Special Commissioner of the Revenue after June 1, 1870.

Mr. BUTLER, of Massachusetts. I yield three minutes to the gentleman from Pennsylvania, [Mr. MOORHEAD.]

Mr. MOORHEAD. I rise for the purpose of withdrawing that amendment, and I will say to the House in doing it that my object was entirely accomplished in offering the amendment. I know it is unpleasant to vote to take away a man's salary, and I was somewhat astonished at the emphatic rebuke that was given by the House to the Special Commissioner by adopting the amendment. But having observed the argument of the gentleman from Iowa, [Mr. ALLISON,] the friend of the Special Commissioner, which I shall ask to have read, I am willing that this amendment shall be withdrawn, and I will not introduce a bill to abolish this office. I now ask the Clerk to read the extract from the speech of the gentleman from Iowa, which I have marked.

The Clerk read as follows:

"I call on the gentlemen who intend to vote against this Special Commissioner of the Revenue to remember that we are about to have a change of Administration, and is it possible that a majority of this House, having faith in the incoming President, believe that if we now have an officer who is unfit for the discharge of his duties the President will not remove him and put in his place another man capable of discharging the important duties that we have imposed upon him by law? Therefore I trust we will at least continue the appropriation for eleven months of the next fiscal year.

Mr. MOORHEAD. Having full confidence that the next Administration, after the strong expression of the House, will do as the gentleman says, I am willing that the amendment shall be withdrawn and the next Congress take action on abolishing the office.

By unanimous consent the amendment was withdrawn.

Seventeenth amendment, upon which a separate vote was asked by Mr. HOLMAN.

Page 23, after line five hundred and forty-four, insert:

Office of Education: For Commissioner of Education, \$3,000; for clerk of class one, \$2,400; for contingent expenses, \$600, \$5,000.

The question was put; and the amendment was agreed to—ayes 76, noes 39.

The following amendment was read:

Strike out the following clause:

For surveyor general of Utah Territory, \$3,000, and the clerks in his office, \$4,000.

Mr. PRICE. That amendment was made on my motion. I made the motion under a misapprehension, and I hope the amendment will not be agreed to.

The amendment was not agreed to.

Mr. BUTLER, of Massachusetts. When in the Committee of the Whole an amendment was adopted fixing the pay of female clerks at \$1,200 a year—in the bill a lower salary had been fixed—I then stated that if the House adopted the amendment of the Committee of the Whole I would ask leave to have the various sums named in the bill so changed as to meet the new rate of pay for female clerks. I now ask unanimous consent that the various sums be changed to correspond with that amendment which has been adopted.

Mr. HOLMAN. I would suggest that it would be as well to adopt a general provision appropriating so much money as may be necessary for the purpose.

Mr. BUTLER, of Massachusetts. The bill must be corrected in several places. For instance, in one place it provides for twenty female clerks \$18,000; whereas it should now read \$24,000. I propose to have the bill corrected to correspond with the action of the House.

Mr. HOLMAN. I have no objection to that. No objection being made, it was ordered accordingly.

The following amendment was read:

Strike out "\$10,000" and insert "\$15,000" in the following clause:

Agricultural statistics:

For collecting statistics and material for annual report, \$10,000.

Mr. HOLMAN and Mr. SCOTFIELD called for a separate vote on the amendment.

The question was taken; and the amendment was agreed to, on a division—ayes 68, noes 45.

The following amendment was read:

Strike out the following:

Branch mint at Denver:

For assayer, (who shall have charge of the said mint), \$1,800.

For melter and refiner and coiner, at \$1,800 each, \$3,600.

For two clerks, at \$1,800 each, \$3,600.

For wages of workmen, \$12,000.

For incidental and contingent expenses, \$3,000; *Provided*, That after the last day of July, 1869, the branch mint at Denver shall be carried on as an assay office only, and all unexpended balance of appropriations shall be paid and covered into the Treasury of the United States; and all the offices not herein provided for are hereby abolished.

And insert in lieu thereof the following:

Branch mint at Denver:

For superintendent, \$2,000; assayer, \$1,800; melter and refiner, \$1,800; three clerks, one of whom shall act as clerk to the Assistant Treasurer of the United States of the branch mint, \$5,400; wages of workmen, \$11,000; incidental and contingent expenses, \$2,400; additional salary of superintendent for services as Assistant Treasurer of the United States, \$500, or so much thereof as shall be necessary; *Provided*, The entire expenses of the branch mint at Denver for the fiscal year ending June 30, 1870, shall not exceed the sum herein appropriated.

Mr. BUTLER, of Massachusetts. I desire to have a separate vote on this amendment. The Committee on Appropriations, from information received from the officers of the Mint at Philadelphia, and, as I understand, in pursuance of the recommendation of the Committee on Coinage, Weights, and Measures of this House, came to the conclusion that it was best to do away with these small mints where the expense was largely out of proportion to the amount of work done. In order that the people in the region of Denver should have all the benefit it would give we recommended closing the mint at that place and continuing the establishment as an assay office, and we reported an appropriation for that purpose.

Some gentleman with a local interest in the mint offered this amendment, which was agreed to in Committee of the Whole, with the understanding that a separate vote should be taken upon it in the House; and I am instructed by the Committee on Appropriations to ask that this amendment be not agreed to.

Mr. HOLMAN. I would ask the gentleman from Massachusetts [Mr. BUTLER] if the amendment offered by the Delegate from Colorado [Mr. CHILCOTT] increases the appropriation?

Mr. BUTLER, of Massachusetts. It increases it largely.

Mr. HOLMAN. I think it makes it the same, or perhaps a few hundred dollars less.

Mr. BUTLER, of Massachusetts. It adds the machinery of a mint to the assay office.

Mr. HOLMAN. I think the gentleman will find that the appropriation is about the same. The committee report an appropriation of \$1,800 for a coiner. This amendment makes the same appropriation for a superintendent; and then the people there will have the advantage of a depository at Denver, which they cannot have if it is merely an assay office.

Mr. BUTLER, of Massachusetts. I resume the floor, and yield to the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. KELLEY. As chairman of the Committee on Coinage, Weights, and Measures, I have, under the instructions of that committee, prepared and reported a bill to reduce the mint at Denver City to an assay office. I hold in my hand a letter from the Treasury Department, to which I invite the attention of the gentleman from Indiana, [Mr. HOLMAN.] From that letter it appears that the total amount of bullion deposited in the branch mint at Denver during the year 1866 was \$160,982 94; in 1867 it was \$130,559 70; in 1868 it was \$357,935 11. The largest amount ever deposited there was \$541,559 04, in the year 1864.

This letter further states that the total expense of conducting this institution from November 20, 1862, when it was first established, to the close of the last fiscal year was \$235,611 34; while the total receipts for the same period were only \$9,512 89. In other words we have expended in round numbers \$235,000 in order to earn \$9,500. The letter further states that no coinage has ever been executed at Denver and no appropriation has ever been made to procure apparatus and machinery for that purpose. It thus appears that the whole sum which this amendment proposes to appropriate is to be expended in maintaining sinecure offices—offices the duties of which cannot be performed.

Mr. HOLMAN. The gentleman from Pennsylvania [Mr. KELLEY] is laboring under a very great mistake, as I shall be able to show him. The bill as it stands appropriates \$26,300. The amendment offered by the gentleman from Colorado appropriates only \$24,900, being a reduction of \$1,400. One word more. The bill provides for a coiner. I believe it is admitted on all hands that a coiner is not necessary, that no coining has ever been done at this mint and there is no expectation that any will be done. Still the bill as it stands provides for a coiner with a salary of \$1,800 a year. This officer should of course be dispensed with.

I agree that these expenses ought to be reduced, and the amendment of the gentleman from Colorado proposes a very manifest reduction. I think the effect of the amendment has been entirely misapprehended. I trust the gentleman from Massachusetts [Mr. BUTLER] and the gentleman from Pennsylvania [Mr. KELLEY] will not overlook the fact that the proposition of the gentleman from Colorado will keep at this place as a Government depository an officer of the sub-Treasury, while there is still a reduction of the expenditure proposed in the bill.

Mr. BUTLER, of Massachusetts. I cannot yield for further debate. The facts are before the House.

Mr. BARNES. Will not the gentleman allow me three minutes?

Mr. BUTLER, of Massachusetts. I cannot yield for any further discussion of this subject.

On agreeing to the amendment there were—ayes 31, noes 53; no quorum voting.

Tellers were ordered; and Mr. WASHBURN of Massachusetts and Mr. HOLMAN were appointed.

The House divided; and the tellers reported—ayes 44, noes 84.

So the amendment was not agreed to.

The SPEAKER. The amendments reported from the Committee of the Whole having all been acted on the Clerk will now report the amendment offered in the House by the gentleman from Vermont, [Mr. POLAND.]

The Clerk read as follows:

Add to the bill the following as a new section: Sec. —. And be it further enacted, That the clerks, messengers, watchmen, laborers, and other persons, male and female, now employed at Washington, District of Columbia, at a salary fixed by law or by regulations of a Department, in the State, Treasury, Navy, War, Interior, Agricultural, and Post Office Departments, including the Attorney General's office, the city post office, and the bureaus and branches of the several Departments herein named, who are paid at a rate not exceeding \$1,800 per annum, shall be allowed an additional compensation of ten per cent. on the amount of salary or pay received by them respectively during the past and present fiscal years; and that the necessary amount to pay the same be, and is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

The SPEAKER. To this amendment an amendment was offered by the gentleman from Pennsylvania, [Mr. O'NEILL.] It will be read.

The Clerk read as follows:

Amend the amendment by inserting after the words "city post office" the following: "The clerks, carriers, and employees, male and female, in the Philadelphia post office."

The SPEAKER. The question is first upon the amendment to the amendment.

Mr. BUTLER, of Massachusetts. I desire merely to state the operation of these amendments, and then I will call for a vote.

The House, by a vote which it is not now

my province to question, has raised the pay of all the female clerks in the Departments to \$1,200 a year, and the pay of all the watchmen, &c., to \$720. It is now proposed to add ten per cent. to the pay of all the clerks, male and female, and all others employed in any of the Departments at Washington for a year past and a year hence. This would bring up the pay of all the female clerks to \$1,400.

Mr. WARD. And it amounts to twenty per cent.

Mr. BUTLER, of Massachusetts. Yes; it amounts to twenty per cent.

Mr. AXTELL. Does not the increased pay of the female clerks apply to the coming fiscal year; and is not this ten per cent. for the last year and the present year?

Mr. BUTLER, of Massachusetts. For the last year and the next year.

Mr. AXTELL. No; it is for the last year and this year; and the increase of the pay of the female clerks is for the next fiscal year.

Mr. BUTLER, of Massachusetts. I understand differently.

Now, the simple question is whether the House is ready to adopt the amendment now pending. We are asked to legislate this increase to men and women who have in many cases got their pay and gone home satisfied. We propose to pay those who are out of office as well as those still in office this increase for the past and the future, for the next year and for last year. And yet we are doing that in the name of the country.

Mr. LAWRENCE, of Ohio. The gentleman from Massachusetts [Mr. BUTLER] is not quite correct in stating the effect of the amendment agreed upon in the House last evening. That amendment is in these words:

The compensation of the female clerks authorized by this section shall be the same as of clerks of the first class, and where employed on work performed by clerks of the higher classes they shall receive like compensation with the other clerks of such classes.

It will be seen, therefore, it only applies to the clerks "authorized by this section." I did not have the entire bill before me when the vote was taken on this amendment, and in the confusion which will sometimes unavoidably prevail in this Hall the amendment may not have been fully understood. But it is, if I am not mistaken, limited, as stated, to some sixty female clerks, who perform the same duties as male clerks in the same Department. I know of no reason why a female who performs official services should not receive the same pay as a man for the same or like services. The true rule, it seems to me, is to measure services by their value, not by the sex of the person performing them. There are some females employed in the Departments whose services are not of the value of a first-class clerk, and they should not receive so much pay. Then there are others who are performing services requiring a degree of skill rarely attainable by men, and they should be paid for such skilled labor without regard to sex "or previous condition." General Spinner, the Treasurer, showed me the charred remains of some millions of greenbacks and bank notes being separated and denominations ascertained by the skill of female clerks of so high an order that men could rarely attain it.

Then, there are services to be performed by men requiring no skill at all, and for which no just rule would give equal compensation with that skilled labor which has cost years of toil to attain. I am opposed to raising the salary of any officer, clerk, or employé of the Government; so far as I now know I will not vote to increase any, but I would vote to fix by law a just salary for officers, clerks, and employés, generally reducing most of the salaries now paid; and I would fix the compensation by a just rule having reference to the value of the services required. Then, I would not inquire as to the sex of the person performing them, but I would select such persons as would render the most and the best services of the kind required regardless of all other considerations, except only those founded on services to the

country and the claims of charity, not inconsistent with the public interests. But the government that would pay for services according to sex—giving a man twice as much pay as a woman for the same work—is a compound of meanness and dishonesty unworthy of the respect of any man who ever had a mother, any husband having a wife who may become a widow, or any father having a daughter who may in the present or the future be required to earn a support by honest industry in official employment or otherwise. Let us be just, and then let us inaugurate a system of retrenchment and economy which will save millions to the people. I have always so voted and will continue so to vote.

I agree with the gentleman from Massachusetts [Mr. BUTLER] that we ought to vote down the amendment of the gentleman from Vermont, [Mr. POLAND.] I have always voted against all propositions to add a percentage to salaries. It is wrong in principle. Salaries should be fixed by law. The Republican party came into power on pledges of retrenchment and economy. Let these pledges be fulfilled. The country expects it, and for one I demand that our professions and our practice shall correspond.

Mr. CHANLER rose.

Mr. BUTLER, of Massachusetts. I do not yield. The last time I yielded to him he insulted me.

Mr. CHANLER. And you were worthy of the insult.

Mr. BUTLER, of Massachusetts. I yield to the gentleman from Missouri.

Mr. BENJAMIN. Mr. Speaker, two years ago this House passed a resolution giving twenty per cent. to these employés, and the Committee on Retrenchment called on the various Departments for a statement of the expenditure under that resolution. I hold in my hand the figures, and it appears from them that the aggregate amount paid was \$1,538,142.

A MEMBER. What is that?

Mr. BENJAMIN. That is the aggregate amount of the twenty per cent. extra pay we voted to these employés two years ago. It was over one million and a half dollars. It is true that this resolution on its face is only for ten per cent., but gentlemen must recollect that it applies for two years, which is virtually voting them twenty per cent.

Mr. POLAND. I wish to ask the gentleman whether the twenty per cent. did not reach a much higher class of clerks?

Mr. BENJAMIN. I was about to say that this resolution was not as comprehensive but it will make but little difference in the aggregate amount. There are but few clerks between \$1,800 and \$2,500. I believe there is a restriction here that this shall only apply to those below \$1,800. The restriction before was below \$3,000.

Mr. BUTLER, of Massachusetts. I desire to call the attention of the House to the amendment. It is as follows:

SEC. —. And be it further enacted, That the clerks, messengers, watchmen, and laborers, or other persons, male and female, now employed at Washington, District of Columbia, at a salary fixed by law or by regulations of a Department, in the State, Treasury, War, Navy, Interior, Agricultural, and Post Office Departments, including the Attorney General's office and city post office and the bureaus or branches of the several Departments herein named, who are paid at a rate not exceeding \$2,500 per annum, shall be allowed an additional compensation of ten per cent. on the amount of salary or pay received or that shall be received by them respectively during the past and present fiscal years; and that the necessary amount to pay the same be, and is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

I now call for the vote.

Mr. WARD. I demand the yeas and nays on the amendment.

Mr. O'NEILL's amendment to the amendment was disagreed to.

Mr. BUTLER, of Massachusetts. I now yield for three minutes to the gentleman from Vermont.

Mr. POLAND. Mr. Speaker, I offered this amendment at the solicitation of a committee

on behalf of the clerks of the Departments. I said to them I thought it was just and right they should have an opportunity to have this question fairly brought before the House, that they might have the judgment of the House upon it, and for that purpose I would offer it, but I would not advocate it. The subject had been up and debated several times. It had been discussed in the public press by Mr. Greeley and his journal on the one side arguing against it, and by other journals arguing in its favor. As the House well understood the question I told them that I would not trouble myself or the House with debating it at all.

Mr. Speaker, the salaries of these clerks is the same now as before the war and for many years before that. I think every man in this House will agree that these salaries are now very insufficient and incompetent, or were very much too large when they were established, for every man who has lived in Washington or lived anywhere in the United States knows that the cost of living has doubled in that time—that it has increased here more than anywhere else.

Mr. BENJAMIN. I desire to ask the gentleman whether the cost of living is increased any more in Washington than it is everywhere else throughout the country?

Mr. POLAND. I think it is in a much greater proportion. Therefore, if these salaries were not very much too large when they were established, they are very much too small now. But, as I had occasion to say to the House a day or two ago on the question of judges' salaries, I do not believe this is a good time to permanently raise salaries. We hope to get back to the good old times or pretty near to them at some time. Therefore it was that two years ago instead of raising these salaries Congress said they would make a temporary provision. So they added twenty per cent. to the pay of the clerks, and instead of stopping at the low figure of \$1,800 they went up to \$3,000. This proposition is only to pay ten per cent. to those who have \$1,800 or less.

[Here the hammer fell.]

Mr. BUTLER, of Massachusetts. I yield two minutes to the gentleman from Illinois, [Mr. LOGAN,] to close debate.

Mr. LOGAN. I merely desire to say this: that inasmuch as I was called into this debate indirectly, at least, by the gentleman from Vermont, in reference to a statement I made the other night, and inasmuch as that statement is disputed, I repeat it, and am ready to confirm it by the head of the bureau. That statement was that eighteen clerks had been discharged for various reasons in a certain bureau in the Treasury Department; that they were sent back by the Secretary, and the head of the bureau said he did not want them, and would not have them, and they were then transferred to the Third Auditor's department.

Mr. BENJAMIN. Permit me to make a statement in that connection.

Mr. LOGAN. Very well.

Mr. BENJAMIN. The Second Auditor of the Treasury told me he had fifty clerks in his office that he had no earthly use for.

Mr. LOGAN. Now, I call attention to this fact. About the same time that we passed a law raising the clerks' pay twenty per cent. we also raised the pay of certain officers of the Army and Navy thirty-three per cent., with the understanding that the increase was to stop. Now, I ask gentlemen who have been here since that time if they have not been besieged by these clerks for this twenty per cent. and by Army officers for their thirty-three per cent., and if you have not refused to reenact the law? You have reenacted the law giving thirty-three per cent. to a portion of the Navy officers; but I hope Congress will take it off from all and leave the amount of pay fixed. If the clerks do not get enough, raise their salaries by law, but do not increase it by a percentage. There is one clerk who was appointed when I first came here, on my recommendation. He was a captain in the Army, and served four years.

He was a young lawyer who studied in my office. He now gets \$1,200 a year and does not ask any more. He says it is more than he ever got as a lawyer, and he is a good lawyer, too.

[Here the hammer fell.]

The yeas and nays were ordered.

The question was taken on the amendment; and it was decided in the affirmative—yeas 87, nays 81, not voting 54; as follows:

YEAS—Messrs. Anderson, Archer, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Barnes, Beck, Benjamin, Blair, Bowen, Boyer, Brooks, Burr, Roderick R. Butler, Callis, Cary, Chanler, Clift, Corley, Deweese, Dockery, Donnelly, Eckley, Eldridge, James T. Elliott, French, Garfield, Glossbrenner, Golladay, Goss, Gove, Gravely, Grover, Haughey, Heaton, Higby, Hotchkiss, Jenckes, Johnson, Alexander H. Jones, Thomas L. Jones, Kerr, Knott, Lincoln, Mallory, Marshall, McCormick, McCullough, Moorhead, Morrell, Mungen, Myers, Newsham, Niblack, Norris, O'Neill, Pierce, Poland, Pomeroy, Prince, Pruyn, Robertson, Robinson, Roots, Schenck, Smith, Spalding, Stokes, Stone, Taber, Thomas, Tift, Twichell, Van Auker, Robert T. Van Horn, Van Trump, Henry D. Washburn, Whittemore, Wood, Woodbridge, Woodward, and Young—87.

NAYS—Messrs. Allison, Ames, Arnell, Bailey, Baker, Beaman, Beatty, Benton, Bingham, Boutwell, Broomall, Broomall, Buckland, Buckley, Benjamin F. Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dixon, Ela, Farnsworth, Ferriss, Ferry, Fields, Getz, Halsey, Hamilton, Harding, Hawkins, Hill, Holman, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Judd, Julian, Kelley, Kelsey, Ketcham, Koontz, Laffin, William Lawrence, Logan, Loughbridge, McCarthy, McKee, Mercer, Moore, Mullins, Newcomb, Nunn, Orth, Peters, Pike, Plants, Raum, Ross, Sawyer, Scofield, Selye, Shanks, Starkweather, Stevens, Stover, Taylor, Trowbridge, Upson, Burt Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, and William Williams—81.

NOT VOTING—Messrs. Adams, Banks, Barnum, Blackburn, Blaine, Boles, Boyden, Cake, Delano, Dickey, Dodge, Driggs, Edwards, Eggleston, Thomas D. Eliot, Fox, Griswold, Haight, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Lash, Lynch, Marvin, Maynard, Miller, Morrissey, Nicholson, Paine, Perham, Pettis, Phelps, Pile, Polsley, Price, Randall, Shellabarger, Sitgreaves, Stewart, Sypher, Taffe, John Trimble, Lawrence S. Trimble, Van Aernum, Van Wyck, Vidal, Elihu B. Washburne, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—54.

So the amendment was agreed to.

During the roll-call,

Mr. ELIOT, of Massachusetts, stated that Mr. PERRIS had been obliged to leave the Hall on account of sickness, and he had paired with him on this question. Mr. PERRIS would have voted "ay," and he, Mr. ELIOT, "no."

The result of the vote having been announced as above recorded,

Mr. POLAND moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid on the table.

Mr. BENTON and Mr. BENJAMIN called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 82, nays 92, not voting 48; as follows:

YEAS—Messrs. Ames, Anderson, Archer, Delos R. Ashley, James M. Ashley, Axtell, Baker, Barnes, Beck, Blair, Bowen, Boyer, Brooks, Burr, Roderick R. Butler, Callis, Cary, Clift, Corley, Deweese, Dockery, Donnelly, Eckley, Eldridge, James T. Elliott, Fox, French, Glossbrenner, Golladay, Gove, Gravely, Grover, Haughey, Heaton, Higby, Hotchkiss, Jenckes, Johnson, Alexander H. Jones, Thomas L. Jones, Kerr, Knott, Lincoln, Mallory, Marshall, McCormick, McCullough, Moorhead, Morrell, Mungen, Myers, Newsham, Niblack, Norris, O'Neill, Perham, Phelps, Pierce, Poland, Pomeroy, Prince, Pruyn, Robertson, Robinson, Roots, Schenck, Smith, Spalding, Stokes, Stone, Taber, Thomas, Tift, Twichell, Van Auker, Robert T. Van Horn, Van Trump, Henry D. Washburn, Whittemore, Wood, Woodbridge, Woodward, and Young—82.

NAYS—Messrs. Allison, Arnell, Bailey, Baldwin, Beaman, Beatty, Benjamin, Benton, Bingham, Blackburn, Blaine, Boles, Boutwell, Boyden, Broomall, Broomall, Buckland, Buckley, Benjamin F. Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Delano, Dixon, Ela, Farnsworth, Ferriss, Ferry, Fields, Getz, Griswold, Halsey, Hamilton, Harding, Hawkins, Hill, Holman, Hooper, Hopkins, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Hunter, Judd, Julian, Kelley, Kelsey, Ketcham, Koontz, Laffin, George V. Lawrence, William Lawrence, Logan, Loughbridge, Lynch, McKee, Mercer, Miller, Moore, Mullins, Newcomb, Orth, Peters, Pike, Plants, Price, Raum, Ross, Sawyer, Scofield, Selye, Shanks, Starkweather, Stevens, Stewart, Stover, Taylor, Trowbridge, Upson, Burt Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, and William Williams—92.

NOT VOTING—Messrs. Adams, Banks, Barnum, Cake, Chanler, Dickey, Dodge, Driggs, Edwards, Eggleston, Thomas D. Eliot, Garfield, Goss, Haight, Asahel W. Hubbard, Humphrey, Ingersoll, Kellogg, Kitchen, Lash, Loan, Marvin, Maynard, McCarthy, Morrissey, Nicholson, Nunn, Paine, Pettis, Pile, Polsley, Randall, Shellabarger, Sitgreaves, Sypher, Taffe, John Trimble, Lawrence S. Trimble, Van Aernum, Van Wyck, Vidal, Elihu B. Washburne, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—48.

So the House refused to lay the motion to reconsider on the table.

Mr. POLAND. I withdraw the motion to reconsider.

Mr. BENJAMIN. I renew it.

Mr. POLAND. I call for the yeas and nays on the motion.

The yeas and nays were ordered.

The SPEAKER. Unless it be objected to, as it is obvious that this bill cannot be disposed of before half past four o'clock, the Chair will rule that it will be the first business in order this evening on account of the importance of its reaching the Senate at the earliest possible moment. The Chair hears no objection.

Mr. WARD. I ask unanimous consent to dispense with the recess.

Mr. SPALDING. I object.

The question was taken on Mr. BENJAMIN's motion; and it was decided in the affirmative—yeas 96, nays 69, not voting 57; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Bailey, Baker, Beaman, Beatty, Benjamin, Benton, Bingham, Blackburn, Blaine, Boles, Boutwell, Boyden, Broomall, Broomall, Buckland, Buckley, Benjamin F. Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Delano, Eckley, Ela, James T. Elliott, Farnsworth, Ferriss, Ferry, Fields, Getz, Griswold, Halsey, Hawkins, Hill, Holman, Hooper, Hopkins, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Hunter, Ingersoll, Judd, Julian, Kelley, Kellogg, Kelsey, Ketcham, Koontz, Laffin, George V. Lawrence, William Lawrence, Logan, Loughbridge, Lynch, McCarthy, McCormick, McKee, Mercer, Moore, Mullins, Newcomb, Orth, Peters, Pike, Plants, Price, Raum, Sawyer, Scofield, Selye, Shanks, Starkweather, Stevens, Stewart, Stover, Taylor, Trowbridge, Upson, Burt Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Whittemore, and William Williams—96.

NAYS—Messrs. Anderson, Archer, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Barnes, Beck, Blair, Bowen, Boyer, Brooks, Burr, Roderick R. Butler, Callis, Cary, Chanler, Clift, Corley, Deweese, Dockery, Eldridge, Fox, French, Golladay, Gravely, Grover, Haughey, Heaton, Higby, Hotchkiss, Jenckes, Johnson, Alexander H. Jones, Thomas L. Jones, Kerr, Knott, Lincoln, Mallory, Marshall, Morrell, Mungen, Myers, Newsham, Niblack, Norris, Perham, Pierce, Poland, Pomeroy, Prince, Pruyn, Robertson, Robinson, Schenck, Spalding, Stokes, Stone, Taber, Thomas, Tift, Twichell, Van Auker, Robert T. Van Horn, Van Trump, Henry D. Washburn, Wood, Woodward, and Young—69.

NOT VOTING—Messrs. Adams, Banks, Barnum, Cake, Dickey, Dixon, Dodge, Donnelly, Driggs, Edwards, Eggleston, Thomas D. Eliot, Garfield, Glossbrenner, Goss, Gove, Haight, Hamilton, Harding, Asahel W. Hubbard, Humphrey, Kitchen, Lash, Loan, Marvin, Maynard, McCullough, Miller, Moorhead, Morrissey, Nicholson, Nunn, O'Neill, Paine, Pettis, Phelps, Polsley, Randall, Roots, Ross, Shellabarger, Sitgreaves, Smith, Sypher, Taffe, John Trimble, Lawrence S. Trimble, Van Aernum, Van Wyck, Vidal, Elihu B. Washburne, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—57.

So the motion to reconsider prevailed; and the question recurred on agreeing to the amendment.

ENROLLED BILL SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 1812) to allow deputy collectors of internal revenue acting as collectors the pay of collectors, and for other purposes; when the Speaker signed the same.

LEAVE OF ABSENCE.

Leave of absence from the evening session was granted to Mr. KNOTT and Mr. RAUM on account of indisposition.

The hour of half past four o'clock p. m. having arrived, the House took a recess until half past seven o'clock p. m.

EVENING SESSION.

The House resumed its session at half past seven o'clock p. m.

TAQUINA BAY, OREGON.

The SPEAKER, by unanimous consent, laid

before the House a communication from the Secretary of the Treasury, in answer to a letter from the Committee on Appropriations, relative to a light-house at the mouth of Taquina bay, Oregon; which was referred to the Committee on Appropriations.

PARAGUAYAN DIFFICULTIES.

The SPEAKER also laid before the House a communication from the Secretary of the Navy, transmitting additional papers relative to the Paraguayan difficulties; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The House resumed the consideration of House bill No. 1673, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870.

The SPEAKER. The pending question is on an amendment offered by the gentleman from Vermont, [Mr. POLAND.] The amendment was adopted; then the House refused to lay on the table the motion to reconsider the vote by which it was adopted, and then reconsidered the vote adopting the amendment. The question again recurs upon agreeing to the amendment.

The amendment was to add to the bill the following:

SEC.—And be it further enacted, That the clerks, messengers, watchmen, laborers, and other persons, male and female, now employed at Washington, District of Columbia, at a salary fixed by law or by regulations of a Department, in the State, Treasury, Navy, War, Interior, Agricultural, and Post Office Departments, including the Attorney General's office, the city post office, and the bureaus and branches of the several Departments herein named, who are paid at a rate not exceeding \$1,800 per annum, shall be allowed an additional compensation of ten per cent. on the amount of salary or pay received by them respectively during the past and present fiscal years, and that the necessary amount to pay the same be, and is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. POLAND. As the vote will undoubtedly result in the yeas and nays, I call for them now.

The yeas and nays were ordered.

The question was again taken; and it was decided in the negative—yeas 50, nays 86, not voting 86; as follows:

YEAS—Messrs. Archer, Delos R. Ashley, James M. Ashley, Axtell, Beck, Blair, Boyer, Brooks, Burr, Roderick R. Butler, Callis, Chanler, Clift, Deweese, Eldridge, Golladay, Gove, Higby, Hotchkiss, Jenckes, Johnson, Alexander H. Jones, Thomas L. Jones, Kerr, Kitchen, George V. Lawrence, Loan, Mallory, Marshall, Moorhead, Morrell, Mungen, Myers, Newsham, O'Neill, Perham, Pierce, Poland, Prince, Robertson, Robinson, Spalding, Stokes, Taber, Thomas, Twichell, Van Auker, Henry D. Washburn, Stephen F. Wilson, and Wood—50.

NAYS—Messrs. Allison, Bailey, Baker, Beaman, Beatty, Benjamin, Benton, Boutwell, Boyden, Broomall, Broomall, Buckland, Buckley, Benjamin F. Butler, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cornell, Covode, Cullom, Dawes, Delano, Dixon, Ela, Ferriss, Ferry, Fields, Getz, Griswold, Haight, Halsey, Harding, Hawkins, Hill, Holman, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Judd, Julian, Kelley, Kellogg, Kelsey, Ketcham, Koontz, Laffin, William Lawrence, Logan, Loughbridge, Lynch, Maynard, McCarthy, McCormick, McKee, Mercer, Moore, Mullins, Newcomb, Orth, Peters, Pike, Plants, Price, Raum, Sawyer, Scofield, Selye, Shanks, Starkweather, Stevens, Stewart, Stover, Taylor, Trowbridge, Upson, Burt Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Whittemore, William Williams, James F. Wilson, and John T. Wilson—86.

NOT VOTING—Messrs. Adams, Ames, Anderson, Arnell, Baldwin, Banks, Barnes, Barnum, Bingham, Blackburn, Blaine, Boles, Bowen, Cake, Cary, Churchill, Coburn, Corley, Dickey, Dockery, Dodge, Donnelly, Driggs, Eckley, Edwards, Eggleston, Thomas D. Eliot, James T. Elliott, Farnsworth, Fox, French, Garfield, Glossbrenner, Goss, Gravely, Grover, Hamilton, Haughey, Heaton, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Knott, Lash, Lincoln, Marvin, McCullough, Miller, Morrissey, Niblack, Nicholson, Norris, Nunn, Paine, Pettis, Phelps, Pile, Polsley, Pomeroy, Pruyn, Randall, Roots, Ross, Schenck, Shellabarger, Sitgreaves, Smith, Stone, Sypher, Taffe, Tift, John Trimble, Lawrence S. Trimble, Van Aernum, Robert T. Van Horn, Van Trump, Van Wyck, Vidal, Elihu B. Washburne, Thomas Williams, Windom, Woodward, and Young—86.

So the amendment was not agreed to.

During the call of the roll,

Mr. FOX said: On this question I am paired with Mr. WILLIAMS, of Pennsylvania. If he

were here he would vote "no" and I would vote "ay."

Mr. ELDRIDGE. Can this vote be reconsidered?

The SPEAKER. It cannot. It has been once reconsidered, which exhausts the power of the House in that respect.

Mr. ELDRIDGE. I was going to change my vote if this could be reconsidered; as it cannot I will not do so.

The last amendment was one offered by Mr. HOLMAN, to add to the bill the following:

And be it further enacted, That the sum necessary to pay the compensation of the female clerks, as provided for in the first section of this act, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. HOLMAN. I do not think it is necessary to adopt this amendment now, inasmuch as the gentleman from Massachusetts [Mr. BURRER] asked and obtained unanimous consent to have the bill changed in various places to correspond to an amendment adopted by the House upon this subject.

The SPEAKER. The Chair, in accordance with the order of the House, has instructed the engrossing clerk to make the necessary changes.

Mr. HOLMAN. I withdraw my amendment.

The amendment was accordingly withdrawn.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. MUGEN. Upon that question I call for the yeas and nays.

The question was taken upon ordering the yeas and nays; and there were nine in the affirmative.

So (the affirmative not being one fifth of the last vote) the yeas and nays were not ordered. The bill was then passed.

Mr. SCOFIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ASYLUM FOR DISABLED SOLDIERS.

The SPEAKER, by unanimous consent, laid before the House a communication from the board of managers of the National Asylum for Disabled Volunteer Soldiers; which was referred to the Committee on Military Affairs, and ordered to be printed.

PHILADELPHIA NAVY-YARD.

Mr. PIKE, by unanimous consent, presented from the Committee on Naval Affairs a report relative to the purchase by Theodore Zeller, engineer of the Philadelphia navy-yard, of certain tools and machinery; which was laid on the table, and ordered to be printed.

Mr. KELLEY, on the part of a minority of the same committee, presented, by unanimous consent, a minority report on the same subject; which was laid on the table, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The House now resumes the consideration of the bill (H. R. No. 1911) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes. The gentleman from Pennsylvania [Mr. SCOFIELD] is entitled to the floor.

Mr. SCOFIELD. Mr. Speaker, in accordance with an arrangement that has been made I yield for half an hour to the gentleman from New York [Mr. LAFLIN] that he may bring before the House the joint resolution from the Senate relative to reporting and publishing the debates. I yield on the condition that if at the end of half an hour the business of the gentleman from New York should not be concluded the House shall resume the consideration of the deficiency bill.

The SPEAKER. That understanding will be carried out, unless at the expiration of the

time named the House should be engaged in taking the yeas and nays, in which case the roll-call could not be interrupted.

PUBLICATION OF THE DEBATES.

Mr. LAFLIN. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union, to proceed to the consideration of the joint resolution (S. R. No. 231) providing for the reporting and publication of the debates in Congress.

Mr. MAYNARD. Why should it not be considered in the House?

Mr. WILSON, of Iowa. I suggest to the gentleman from New York that the resolution be considered in the House as in Committee of the Whole.

Mr. LAFLIN. I ask unanimous consent that the joint resolution be considered in the House as in Committee of the Whole.

The SPEAKER. If there be no objection the joint resolution will be considered in the House as in Committee of the Whole.

There was no objection.

The joint resolution was taken from the Speaker's table, and read the first and second time.

The SPEAKER. The joint resolution will be read at length.

The Clerk read as follows:

Be it resolved, &c., That the joint Committee of Congress on Public Printing is hereby authorized to contract on behalf of the General Government with Rives & Bailey for the reporting and publication of the debates of Congress for the term of two years on and from the 4th day of March, 1869: *Provided*, That before the United States shall be called on to pay for any reporting or the publication of the debates the accounts therefor shall be submitted to the joint Committee on Public Printing or to such other officer or officers of Congress as they may designate, and on their or his approbation thereof, as being in all respects according to the contracts, it shall be paid for from the Treasury of the United States, after having passed the proper accounting officers thereof.

Sec. 2. And be it further resolved, That in case the joint Committee on Public Printing are unable to conclude a satisfactory contract with the said Rives & Bailey, or that they be unable to fulfill any contract that they may make, the joint Committee on Public Printing be authorized to have the debates reported and printed under the direction of the Congressional Printer at the Government Printing Office.

Sec. 3. And be it further resolved, That for the purpose aforesaid there be appropriated and paid out of any money in the Treasury not otherwise appropriated the sum of \$350,000, or so much thereof as may be necessary.

Mr. LAFLIN. Mr. Speaker, as I am permitted by the Committee on Appropriations, under the press of business before the House, to occupy but the short period of thirty minutes, and as this is a subject in which are involved the rights and privileges of each member I trust I shall not be considered immodest if I bespeak for what I may have to offer upon this subject the careful and earnest attention of every member. I shall endeavor to present to the House, in as close and succinct a manner as I can command, the facts in this case; and I believe that if each member will give strict attention to what I shall say no friend of either of the plans proposed for reporting and publishing the debates in Congress will have any reason to complain of the position which I occupy with reference to this joint resolution.

In the first place, that the House may clearly understand what our committee propose to lay before them, I will state the amendments which the Committee on Printing have instructed me to offer to this joint resolution. In line five I shall move to insert after the words "Rives & Bailey" the words "or J. T. Crowell;" so that it will read—

Mr. COVODE. Will the gentleman yield for a question?

Mr. LAFLIN. Mr. Speaker, acknowledging the courtesy that is due to every member of this House, I trust that no one will consider me guilty of discourtesy if, with only thirty minutes allowed me to explain a bill involving an expenditure of hundreds of thousands of dollars, I shall decline to yield.

Mr. COVODE. Is this the Crowell whom I put through in my investigation as one of the parties who were engaged in the Kansas frauds? [Great laughter.]

Mr. KERR. Of course it is the same man. [Renewed laughter.]

Mr. LAFLIN. If the House will give me the opportunity I will answer all questions and endeavor to vindicate the amendments I shall propose. The amendments I offer are as follows:

In line five, after the words "Rives & Bailey," insert "or J. T. Crowell."

In line three, section two, also after the words "Rives & Bailey," insert "or J. T. Crowell."

At the end of the joint resolution add these words: "And to issue new proposals for reporting and publishing the debates in Congress;" and in line three strike out "\$350,000," and in lieu thereof insert "\$250,000."

Mr. Speaker, the present contract for reporting and publishing the debates in Congress as provided by law will expire on the 4th of March next. In anticipation of that fact, at the close of the July session, the Committee on Printing were empowered to issue advertisements for proposals for the reporting and publication of the debates in Congress. On the 4th of January last that committee issued such advertisements, and the proposals were opened on the 14th day of January last. At the same time that they called for these proposals they asked the Congressional Printer to submit, for the guidance of the committee, an estimate of the probable cost of this reporting and publication in connection with the Government Printing Office. When these proposals were opened it was found that there were two private bidders: one was made by the present proprietors of the Globe, Messrs. Rives & Bailey, and the other by J. T. Crowell, of Rahway, New Jersey. In order that we might properly comprehend the meaning of these bids, the terms used being so technical in their character that it was difficult for the committee to decipher them, we submitted them to an expert in the Government Printing Office, and for the purpose of definitely determining the character of these bids we directed that expert to determine the comparative merits of these bids upon the basis of the debates that were reported for the Thirty-Ninth Congress. Taking that as the basis we found, as reported to us by this expert, this to be the case. And right here I want every man in this House, and especially the reporters for the Associated Press, clearly to understand what I have to say and to listen closely to the explanation I have to make; for this has become the subject of newspaper discussion and very erroneous impressions abroad touching the character of these bids. I shall endeavor to speak with as much accuracy as the documents before me and the investigation we have made will fully warrant.

These bids as first reported to us show this to be the fact: the proposal of Rives & Bailey, the present proprietors of the Daily Globe, was, on the basis of the Thirty-Ninth Congress, \$389,454 96. The proposition of Joseph T. Crowell, the other private bidder upon the same basis, was \$261,149 30. The estimate, as furnished by the Congressional Printer for the same work, was \$276,494 84. That we might be positive this expert had done his duty properly, we submitted the interpretation the expert had made to the bidder himself, submitting the interpretation of each bidder only to that bidder, and we received from each of these parties an explanation of this interpretation. Inasmuch as this interpretation must become part and parcel of any contract we may enter into with these parties it is due the House should be put in possession of it.

First of all I wish to say here that in making these estimates, both for the work to be done by the Congressional Printer and the work to be done by either of these private persons, there was included the sum of \$16,000 paid to the reporters, a gratuity furnished by the House itself. It is included in all the estimates, and all that is necessary is to mention it.

As I stated before, the proposition of Messrs. Rives & Bailey, as interpreted by our expert, was \$389,454 96. But in examining this report we found that the proprietors of the Globe had included in their estimate the furnishing of the

paper by themselves, and that the Congressional Printer and Mr. Crowell had provided in their estimates for the furnishing of the paper by the Government. This, it will be seen, would make a very essential difference in the volume of the respective bids. But that I may properly compare the real merits of these bids we have made a schedule under which each party is to obtain his supply of paper from the Government. Again, it was found that Messrs. Rives & Bailey in their estimate had included the work connected with the binding of the Congressional Globe, while in the other two bids this work was to be done entirely by the Government. We adopted the same rule with reference to these bids in that case that we did in reference to paper; and in the statement which I am about making with reference to Messrs. Rives & Bailey I have made deductions from the gross amount which they say would be required to execute this work of all the excess of their estimates over and above the cost of paper, provided the same was to be furnished by the Government.

And right here I will say I am going to be met with this inquiry: why do you, when Messrs. Rives & Bailey submit to you a proposition to do this work and to furnish all this paper, allow their estimate to go before the House with the deductions which you have just said you should make? I will tell the House why we propose to do that. It is because—if gentlemen will examine the resolution of the joint Committee on Printing as the resolution passed the Senate and as we ask the House to adopt it—it simply authorizes, not directs the committee to enter into a contract either with this party or that party, or authorize them to have the work done at this place or that place, and the Senate took especial pains to strike out of the original resolution as it was presented to that body the words "in accordance with the proposition submitted by them." So that if this resolution passes this House as it passed the Senate the joint Committee on Printing would be authorized to go and make just the best contract they could with Messrs. Rives & Bailey, and failing to make a satisfactory contract with them, then they would be authorized to go and have the work done at the Government Printing Office.

Now, I assume in making this statement that if Messrs. Rives & Bailey find that they have overestimated the cost of the paper or the cost of printing and the committee say to them, "we prefer to furnish you our own paper, we prefer to do our own binding at our own office," they will accede to that proposition at once. So, therefore, we have made the deductions which are required according to this interpretation, and accordingly we find—and I take this from the statement submitted to the committee by Messrs. Rives & Bailey, in response to a letter which we addressed them—the excess that they estimate the paper will cost over and above the estimate we have given for the cost of paper in the other proposal would be \$30,507 20 and the excess of binding would be \$22,800 28, making together the sum of \$52,807 48. If these premises are correct it would appear that the proposition of Messrs. Rives & Bailey should stand as follows: \$336,447 48.

So much for the proposition of Messrs. Rives & Bailey. Now we come to the proposition of J. T. Crowell. The original terms, as I have stated before, of this proposition required the sum of \$261,149 30. We submitted that estimate to Mr. Crowell and we asked him if the interpretation we placed upon his bid was correct. He returned us an answer, accompanied by a statement, which gave his interpretation of the contract. We have assumed that, then, to be the highest authority for the interpretation of his proposal. Assuming that to be so the estimate as given in this last paper by Mr. Crowell involves the expenditure of \$184,993 43. To be added to that is the paper, which the Government is to furnish, and the expense of binding at the Government Office. We therefore add for this the sum allowed in the esti-

mate that we last made of Messrs. Rives & Bailey:

For paper for quarto edition.....	\$49,090 40
For binding.....	43,759 04
For paper for Daily Globe.....	15,000 00

Then we add for reporting, which is included in the other estimates, the sum of \$16,000; so that his bid would stand in the aggregate \$295,342 87. That is Mr. Crowell's bid.

Now, let us fairly understand this proposition. The estimate that was made at the Government Printing Office for this work involves an expenditure of \$276,496 84; that of Mr. Crowell, \$295,342 85; that of Messrs. Rives & Bailey, \$336,647 48. It will be seen by this estimate that the Government Printing Office proposes to do the work less than the lowest estimate made by a private bidder by the sum of \$18,846 03; or in other words, estimating the advantages of a private contract if we should choose to give the work to the lowest private bidder, he would contract for the work at a sum exceeding the governmental estimate \$18,846 03. The Government Printing Office estimate is less than that of Rives & Bailey by the sum of \$60,150 64; or in other words, if instead of giving it to the lowest private bidder we give it to the other private bidder, we exceed the Government estimate for the two years by the sum of \$60,150 64. The difference between the two bids, comparing one private bid with the other, is this: the bid of Mr. Crowell is less than the bid of Rives & Bailey by the sum of \$41,304 61.

Now, for the purpose of forming a little better estimate of the character of these bids, it is well for members to refer to the actual cost of this work as done by Messrs. Rives & Bailey under their present contract, for that we know because we have paid the money for it. I find that there was paid to Messrs. Rives & Bailey for reporting and publishing the debates of the Thirty-Ninth Congress the sum of \$291,698 72. Now, how does this, the actual expenditure that was made at that time, compare with the bids of these two concerns? The bid of Mr. Crowell exceeds the sum that was paid Messrs. Rives & Bailey for doing that work \$3,644 15, while the proposition of Messrs. Rives & Bailey exceeds the expense of the work as done by themselves during the Thirty-Ninth Congress by the sum of \$44,948 76.

Mr. Speaker, I find that I shall not be able in the thirty minutes allowed me to go through with this statement, and I appeal to the gentleman from Pennsylvania [Mr. SCOFIELD] to allow me fifteen minutes longer to enable me to go through with it, and then when we have proposed these amendments the House will be prepared to act.

The SPEAKER. The gentleman's thirty minutes have expired.

Mr. SCOFIELD. I have no objection to allowing the gentleman fifteen minutes more.

Mr. WOOD. My colleague [Mr. LAFLIN] seems to suppose that all the time yielded by the Committee on Appropriations is allotted to him. He is making a long speech and he will allow of no opportunity to reply to him, as he will occupy the whole time allowed for debate on and consideration of this question. Now, if the Committee on Appropriations give him thirty minutes or forty-five minutes, I submit that he should not occupy the whole time, but should give an opportunity for some gentlemen on other sides of the question to say something upon the subject, and therefore if forty-five minutes or an hour is allowed we shall certainly claim a portion of the time.

Mr. LAFLIN. Now, in this state of facts we find that the Senate has adopted a resolution which strikes out of this arrangement the lowest private bidder and simply puts it in the power of the Committee on Printing either to contract with Rives & Bailey or to send the work to the Government Printing Office. I think I am not transcending parliamentary rules when I state that the opinion shown in the Senate was decidedly in favor of giving the contract to the proprietors of the Globe.

Now, our committee feel that we ought not to be hampered in this way; that if we are to be intrusted with plenary power in regard to this matter we should be allowed to consider both the bid of Rives & Bailey and the bid of J. T. Crowell, and also the proposition whether the work shall go to the Public Printing Office or not; and in case we should come to the conclusion that the public interests demand that it shall go to the Public Printing Office we want to reserve to ourselves the right and authority to issue new proposals for reporting and publishing these debates, meaning thereby in case we adopt the latter policy that the arrangement at the Public Printing Office is to be merely temporary in its character; for the House must understand that unless some arrangement of this kind is made after the 4th of March next not a debate can be reported and of course none can be published. It is absolutely necessary to make this arrangement, for there is no power outside of Congress that can carry on the reporting and publishing of these debates. With this explanation I call the previous question on the joint resolution and amendments.

Mr. MAYNARD. Will the gentleman allow me to offer an amendment to this joint resolution so as to provide for this printing to be done at the Government Printing Office?

Mr. LAFLIN. I cannot yield for that purpose.

Mr. COVODE. I want to inquire if there is any evidence of reformation on the part of this man Crowell?

The SPEAKER. Debate is not in order pending the call for the previous question.

The question was then taken upon seconding the previous question; and upon a division there were—ayes 34, noes 47; no quorum voting.

Tellers were ordered; and the tellers reported that there were—ayes 65, noes 60.

So the previous question was seconded.

The question was "Shall the main question now be put?"

Mr. WOOD. Upon this question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 70, nays 77, not voting 75; as follows:

YEAS—Messrs. Allison, Bailey, Banks, Beaman, Benjamin, Blair, Boutwell, Boyden, Buckland, Benjamin F. Butler, Roderick R. Butler, Churchill, Reader W. Clarke, Clift, Corley, Cornell, Dawes, Dewese, Dixon, Eckley, Ela, Thomas D. Elliot, James T. Elliott, Ferriss, Ferry, Fields, Goss, Griswold, Hamilton, Heaton, Hill, Hopkins, Chester D. Hubbard, Hulburt, Hunter, Jenckes, Ketcham, Koontz, Ladlin, Loughbridge, Lynch, McCarthy, Moore, Morrell, Newcomb, Newsiam, Peters, Plants, Price, Robertson, Sawyer, Schenck, Scofield, Selye, Spalding, Starkweather, Stewart, Stokes, Taffe, Trowbridge, Twickell, Upson, Burt Van Horn, Ward, William B. Washburn, Welker, Whittemore, James F. Wilson, John T. Wilson, and Windom—70.

NAYS—Messrs. Archer, Delos R. Ashley, Axtell, Baker, Barnes, Beatty, Beck, Benton, Bromwell, Brooks, Broomall, Burr, Chanler, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullem, Dickey, Eggleston, Eldridge, Farnsworth, Fox, Getz, Golladay, Gove, Gravely, Grover, Haight, Halsey, Harding, Hawkins, Higby, Holman, Hottelkiss, Humphrey, Johnson, Thomas L. Jones, Judd, Kelley, Kelllogg, Kelsey, Kerr, William Lawrence, Loxan, Mallory, Marshall, Maynard, McCormick, McKee, Mercer, Miller, Moorhead, Mullins, Munger, Myers, Nicklack, O'Neill, Orth, Poland, Prince, Rum, Robinson, Roots, Ross, Stevens, Stover, Taber, Taylor, Thomas, Van Auker, Cadwalader, C. Washburn, Henry D. Washburn, William Williams, Wood, and Woodward—77.

NOT VOTING—Messrs. Adams, Ames, Anderson, Arnell, James M. Ashley, Baldwin, Barnum, Bingham, Blackburn, Blaine, Boles, Bowen, Boyer, Buckley, Cake, Callis, Cary, Delano, Dockery, Dodge, Donnelly, Driggs, Edwards, French, Garfield, Glossbrenner, Haughey, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Ingersoll, Alexander H. Jones, Julian, Kitchen, Knott, Lash, George V. Lawrence, Lincoln, Loan, Marvin, McCullough, Morrissey, Nicholson, Norris, Nunn, Paine, Perham, Pettis, Phelps, Pierce, Pike, Pile, Polsey, Pomeroy, Pruyn, Randall, Shanks, Shellabarger, Sitgreaves, Smith, Stone, Sypher, Tift, John Trimble, Lawrence S. Trimble, Van Aernam, Robert T. Van Horn, Van Trump, Van Wyck, Vidal, Elihu B. Washburne, Thomas Williams, Stephen F. Wilson, Woodbridge, and Young—75.

So the main question was not ordered.

The SPEAKER. The forty-five minutes

allowed for the consideration of this joint resolution having expired, it goes again to the Speaker's table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had passed without amendment the following bills:

- A bill (H. R. No. 1821) granting a pension to Susan Carson;
- A bill (H. R. No. 1434) granting a pension to William M. Simpson;
- A bill (H. R. No. 1589) granting a pension to Mrs. Naomi Adams;
- A bill (H. R. No. 1600) granting a pension to Mary R. Brown;
- A bill (H. R. No. 1682) granting a pension to Joseph M. Hudson;
- A bill (H. R. No. 1903) granting a pension to Charles Mains, of Texas;
- A bill (H. R. No. 1917) granting a pension to Charlotte Webster, widow of Timothy Webster, deceased;
- A bill (H. R. No. 1918) granting a pension to William H. Johnson;
- A bill (H. R. No. 1919) granting back pension to Edmund W. Wandell, of Wilkesbarre, Pennsylvania;
- A bill (H. R. No. 1920) granting a pension to Katherine Dreyer, widow of Sylvester Dreyer, deceased, late private of company H of the tenth regiment of Minnesota volunteers;
- A bill (H. R. No. 1921) granting a pension to Catherine O'Connors, widow of Timothy O'Connors, deceased, late private company C of the thirty-third regiment Massachusetts volunteers;
- A bill (H. R. No. 1922) granting a pension to Mary J. Hutton, widow of John C. Hutton, deceased;
- A bill (H. R. No. 1923) granting a pension to Elizabeth Radigan, widow of John Radigan, deceased, who was a private in company A, forty-ninth regiment Pennsylvania volunteers;
- A bill (H. R. No. 1924) granting a pension to John A. Parker, a soldier in the war of 1861;
- A bill (H. R. No. 1925) granting a pension to Clarissa A. Grant;
- A bill (H. R. No. 1926) granting a pension to Ann Smith;
- A bill (H. R. No. 1927) granting a pension to Harriet M. Mills, widow of Samuel J. Mills, deceased, late a private in company F of the second regiment Connecticut volunteers;
- A bill (H. R. No. 1929) granting a pension to Juliet E. Hall;
- A bill (H. R. No. 1931) granting a pension to Jacob Hawkins;
- A bill (H. R. No. 1932) granting a pension to John M. Flynn;
- A bill (H. R. No. 1933) granting a pension to Henry Riemann;
- A bill (H. R. No. 1934) granting a pension to Emily M. Freeman;
- A bill (H. R. No. 1935) granting a pension to Charles H. R. King;
- A bill (H. R. No. 1936) granting a pension to Mary Ann Sharlock;
- A bill (H. R. No. 1937) granting a pension to Lucinda Pangle;
- A bill (H. R. No. 1938) granting a pension to Julia A. Fisher;
- A bill (H. R. No. 1939) for the relief of John Gestiger;
- A bill (H. R. No. 1940) granting a pension to Cyrus Hall;
- A bill (H. R. No. 1941) granting a pension to Betsey S. Jackman;
- A bill (H. R. No. 1942) granting a pension to Lucinda A. Walter;
- A bill (H. R. No. 1943) granting a pension to the widow and minor children of Lieutenant Richard H. Allen;
- A bill (H. R. No. 1944) granting a pension to Bridget Hayes;
- A bill (H. R. No. 1945) granting a pension to Sarah A. Scherr;
- A bill (H. R. No. 1946) granting a pension to Mary A. Amer;

- A bill (H. R. No. 1947) granting a pension to Catherine S. B. Speer;
- A bill (H. R. No. 1948) granting a pension to Nancy Reed;
- A bill (H. R. No. 1949) granting a pension to James H. Maguire;
- A bill (H. R. No. 1950) granting a pension to Richard Look;
- A bill (H. R. No. 1951) granting a pension to Martha E. McKinney;
- A bill (H. R. No. 1952) granting a pension to Matilda Carney;
- A bill (H. R. No. 1953) granting a pension to John R. Ray;
- A bill (H. R. No. 1954) granting a pension to Maria Walters;
- A bill (H. R. No. 1955) granting a pension to William J. Patton;
- A bill (H. R. No. 1956) granting a pension to Lorenzo Day;
- A bill (H. R. No. 1957) granting a pension to Richard C. Floyd;
- A bill (H. R. No. 1958) granting a pension to Allen E. Rector;
- A bill (H. R. No. 1959) granting a pension to Edward W. White;
- A bill (H. R. No. 1960) granting a pension to Ellen Green;
- A bill (H. R. No. 1961) granting a pension to Sarah A. Wilcox;
- A bill (H. R. No. 1962) granting a pension to William McDonald;
- A bill (H. R. No. 1963) granting a pension to Mary H. Gardner; and
- A bill (H. R. No. 1971) granting a pension to Jacob S. Baker.

The message further informed the House that the Senate had passed, with amendments, in which the concurrence of the House was requested, bills of the following titles:

- A bill (H. R. No. 1928) granting a pension to Lemuel Bartholow;
- A bill (H. R. No. 1930) granting a pension to Madge K. Guthrie and Robert B. Guthrie; and
- A bill (H. R. No. 596) granting a pension to Mary A. Davis, widow of William P. Davis, late private in the eighteenth regiment of Indiana volunteers, in the war 1861.

The message further informed the House that the Senate still further insisted upon its amendments to House bill No. 1570, making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1870, and for other purposes, disagreed to by the House of Representatives, and had agreed to the further conference asked for by the House, and had appointed Mr. SUMNER, Mr. FRELINGHUYSEN, and Mr. WHITE as the conferees on the part of the Senate.

The message further informed the House that the Senate had passed the following bills, in which the concurrence of the House was requested:

- An act (S. No. 964) in regard to the pension of George A. Schreiner;
- A bill (S. No. 965) for the relief Elizabeth Malthys;
- A bill (S. No. 966) granting a pension to Anna E. Frei; and
- A bill (S. No. 977) granting a pension to Mrs. Zelica T. Dunlap.

DEFICIENCY APPROPRIATION BILL.

The House resumed the consideration of the bill (H. R. No. 1911) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes.

Mr. SCOFIELD. I move to amend by inserting on page 2, at the end of line twelve, the following:

Provided, That the act entitled "An act to amend the charter of the Washington Gas Light Company," approved January 30, 1865, be, and the same is hereby, repealed.

I will state that this amendment does not come from the Committee on Appropriations.

Mr. PETERS. I make the point of order that this amendment proposes independent legislation.

The SPEAKER. The Chair rules that the amendment is out of order; first, because it proposes independent legislation; and secondly, because it has not been considered in Committee of the Whole.

Mr. SCOFIELD. I now demand the previous question upon the bill and amendments. The previous question was seconded and the main question ordered.

Mr. SCOFIELD. Mr. Speaker, I believe I am now entitled to an hour for debate.

The SPEAKER. The gentleman is entitled to an hour to close the debate.

Mr. SCOFIELD. If the House will allow me fifteen minutes, to be used in explaining amendments as the vote upon them progresses, I will relinquish the remainder of the time to which I am entitled.

The SPEAKER. Is there any objection to allowing the gentleman from Pennsylvania, [Mr. SCOFIELD,] instead of the hour to which he is now entitled, fifteen minutes to be occupied in the explanation of amendments as they come before the House for action?

There was no objection.

The SPEAKER. If there be no objection, the amendments will be read in their order, and those upon which a vote is not demanded will be regarded as agreed to.

There was no objection.

The following amendment, on which a vote was demanded by Mr. HOLMAN, was read:

Insert on page 4 of the bill the following:
For the survey of the Atlantic, Pacific, and Gulf coast, \$40,000.

Mr. SCOFIELD. This is the amendment of which I gave an explanation in the Committee of the Whole and the one which was advocated before the Committee on Appropriations by Professor Pierce, now in charge of the Coast Survey. A larger sum was at first believed to be necessary, but those having charge of this work finally decided that they might possibly get along with this amount. The Committee on Appropriations unanimously agreed to recommend the appropriation. I hope the amendment will be agreed to.

The amendment was agreed to.

The Clerk read the tenth amendment of the Committee of the Whole on the state of the Union, as follows, a separate vote having been asked by Mr. BENJAMIN:

For refunding to the appropriation for the legislative expenses of Idaho Territory the amount advanced from this fund and not accounted for by the secretary of said Territory, \$38,000.

Mr. BENJAMIN. I should like to ask the gentleman having charge of this bill the meaning of that appropriation?

Mr. SCOFIELD. It is a deficiency which has been properly estimated for. The officer of the Government drew the money when properly appropriated, but he ran away to Europe, and has never been heard of since. It is necessary we should pay these officials. The money was taken off by one of the officers of the Government, and we must reappropriate it.

Mr. BENJAMIN. Had we not better provide that the next one shall give security?

The amendment was agreed to.

Mr. SCOFIELD. The sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, and twenty-first and a half amendments of the Committee of the Whole on the state of the Union are for the continuation of certain public works, which were adopted this morning and last night. I ask that they be all voted on at once.

There was no objection; and it was ordered accordingly.

The amendments indicated were read, as follows:

Sixteenth amendment:

For the continuation of the work on the United States court-house and post office at Madison, Wisconsin, \$25,000.

Seventeenth amendment:

For construction of a public building at Springfield, Illinois, for a court-house and post office and accommodation of offices of the United States, \$25,000.

Eighteenth amendment:

For construction of appraisers' stores at Philadelphia, \$37,500.

Nineteenth amendment:

For the construction of the public building at Cairo, Illinois, to be used as a post office, custom-house, and the United States court-room, \$25,000.

Twentieth amendment:

For the construction of a custom-house at St. Paul, Minnesota, \$25,000.

Twenty-first amendment:

For the construction of a custom-house at Ogdensburg, New York, \$12,500.

Twenty-first and a half amendment:

For continuing the work on the marine hospital at Chicago, Illinois, \$35,000.

Mr. BENJAMIN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 76, nays 60, not voting 86; as follows:

YEAS—Messrs. Banks, Beck, Blackburn, Boutwell, Broomall, Broomall, Buckley, Burr, Roderick R. Butler, Callis, Cobb, Coburn, Cook, Corley, Cullom, Dickey, Donnelly, Eckley, Thomas D. Eliot, James T. Elliott, Goss, Gove, Gravely, Haight, Halsey, Hamilton, Harding, Heaton, Hopkins, Hotchkiss, Hulburt, Humphrey, Hunter, Ingersoll, Jenckes, Alexander H. Jones, Judd, Kelley, Kellogg, Kerr, George V. Lawrence, Logan, Lynch, Marshall, Maynard, McCarthy, McKee, Miller, Moorhead, Morrell, Mungen, Myers, Newsham, O'Neill, Orth, Peters, Plants, Poland, Price, Prince, Raum, Robertson, Sawyer, Shanks, Spaulding, Starkweather, Stokes, Stover, Taber, Taffe, Thomas, Trowbridge, Twichell, Cadwalader C. Washburn, Henry D. Washburn, Whittemore, William Williams, Stephen F. Wilson, Windom, and Young—76.

NAYS—Messrs. Axtell, Bailey, Baker, Barnes, Beaman, Beatty, Benjamin, Benton, Blair, Boyden, Buckland, Benjamin F. Butler, Cary, Churchill, Reader W. Clarke, Clift, Cornell, Covode, Delano, Dewese, Dixon, Eggleson, Ferriss, Ferry, Fields, Fox, Getz, Golladay, Grover, Hawkins, Higby, Hill, Holman, Chester D. Hubbard, Johnson, Thomas L. Jones, Kelsey, Kitchen, Koontz, Laffin, William Lawrence, Loughridge, McCormick, Mercer, Moore, Mullins, Niblack, Roots, Ross, Schenck, Scofield, Stevens, Stewart, Taylor, Upson, Van Auker, Burt Van Horn, Ward, Wood, and Woodward—60.

NOT VOTING—Messrs. Adams, Allison, Ames, Anderson, Archer, Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Barnum, Bingham, Blaine, Boies, Bowen, Boyer, Brooks, Cake, Chanler, Sidney Clarke, Dawes, Dockery, Dodge, Driggs, Edwards, Ela, Eldridge, Farnsworth, French, Garfield, Glossbrenner, Griswold, Haughey, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Julian, Ketcham, Knott, Lash, Lincoln, Loan, Mallory, Marvin, McCullough, Morrissey, Newcomb, Nicholson, Norris, Nunn, Paine, Perham, Pettis, Phelps, Pierce, Pike, Pile, Polsley, Pomeroy, Pruyn, Randall, Robinson, Selye, Shellabarger, Sitgreaves, Smith, Stone, Sypher, Tift, John Trimble, Lawrence S. Trimble, Van Aernam, Robert T. Van Horn, Van Trump, Van Wyck, Vidal, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, and Woodbridge—86.

So the amendments were agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. GORHAM, its Secretary, notifying the House that that body had, by a two-thirds vote, adopted the report of the committee of conference on Senate joint resolution No. 8, proposing an amendment to the Constitution of the United States.

DEFICIENCY BILL—AGAIN.

The next amendment of the Committee of the Whole on the state of the Union, on which a separate vote was asked by Mr. SCOFIELD, was read as follows:

For supplying deficiency in the compensation of register and receiver in the land office in Boise City, Idaho Territory, office rent and purchasing furniture, \$6,324.

Mr. SCOFIELD. I yield to the Delegate from Idaho to make an explanation of this amendment, as it was adopted on his motion.

Mr. HOLBROOK. Mr. Speaker, I think I have afforded ample explanation when I state that these registers and receivers of land offices receive only \$500 per annum, when clerks here who work only six hours out of the twelve ask to have their pay increased twenty per cent. when they now get from twelve to twenty-five hundred dollars a year. This also provides for furniture and office rent ordered three years ago by the Commissioner of the General Land Office.

I can state to the House that this money was

advanced by the register and receiver in the Territory over three years ago, and the Commissioner of the General Land Office asked for an appropriation to reimburse them for that expenditure. The Committee on the Public Lands reported a bill providing not only for the reimbursement of these officers but for an increase of their salary to at least the amount that our clerks in the Departments are paid. There was an amendment attached to the bill, however, and that amendment defeated it. The Committee on the Public Lands, as I am informed, have thoroughly considered the matter, and are unanimous in favor of the amendment in its present form. I trust no member of the House will vote against the refunding of the money to the register and receiver.

Mr. SCOFIELD. I will ask the House to vote down the amendment, in the first place, because it is not a deficiency at all. The expenditure, if it ever occurred—and I suppose it did—was made without any authority of law, and it is therefore a claim upon the Government, perhaps a just one; I will not say how that is. Now, if the Delegate from Dakota had desired it should be put in any appropriation bill he should have brought it to the attention of the Committee on Appropriations, and given them an opportunity to examine it carefully and see whether it was just and in accordance with law. They had authority to put it in any bill, and they might, if they found it right, have put it in the miscellaneous appropriation bill, which is now in Committee of the Whole. But they have made no examination of it and know nothing of its merits except what the gentleman who advocates it states about it. He says it was once rejected for reasons he gives. He says another committee have approved it. Of all that the Committee on Appropriations were ignorant. It was never brought to their attention in any way in the committee, though the gentleman may have spoken to some gentlemen on this floor about it. Therefore I ask the House to let the claim go to some proper committee for examination.

Mr. HOLBROOK. If the gentleman will allow me—I presume he does not intentionally misrepresent my statement—I have not said it was rejected by any committee. On the contrary I have stated that the Committee on the Public Lands examined it and have told me they agreed in all respects that the report was correct and that the money should have been refunded; and I would say to the gentleman that so far as calling the attention of the Committee on Appropriations to it was concerned it was a matter to which the attention of the House was called by the Commissioner of Public Lands, and it was referred by the House to the Committee on the Public Lands. That committee made a report a year ago and asked for its adoption.

Mr. SPALDING. I would like to know if there is any requisition from the Interior Department for this appropriation.

Mr. HOLBROOK. A letter was read from the Commissioner of Public Lands to-day in the House stating that the parties had not received the payment they anticipated, and that there were claims in his department for the money which they advanced, and he asked the House to take action upon the matter.

Mr. SCOFIELD. Of course the gentleman does not suppose that I intentionally misrepresented him, and I do not think I misrepresented him at all. Now, he says the claim was defeated two years ago because there was some proviso attached to it. For some reason which he cannot explain that defeated it.

Mr. HOLBROOK. An amendment was put on about some deficiency in the South, from New Orleans, that no member seemed to know anything about.

Mr. SCOFIELD. Something which nobody knew anything about was attached to it by way of proviso, and it was defeated. All I have to say about it is it is a claim and not a deficiency, and we ought to run such things through the regular channel as far as we can. It is a claim only three years old to be sure, but still it is a

claim that ought to go to some committee and that committee should be held responsible for it.

The question being put on agreeing to the amendment of the committee, there were—ayes 60, noes 52.

Mr. BENTON demanded tellers. Tellers were ordered; and the Chair appointed Messrs. BENTON and HIGBY.

The House divided; and the tellers reported—ayes seventy-two, noes not counted.

So the amendment was agreed to.

The next amendment, on which a separate vote was demanded by Mr. SPALDING, was to strike out the following paragraph:

For a sufficient amount to pay the regular salary of the present minister resident at Portugal, and the exchange thereon, from July 1, 1866, so long as the same was withheld from him.

Mr. WARD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 67, nays 68, not voting 87; as follows:

YEAS—Messrs. James M. Ashley, Bailey, Beatty, Benjamin, Benton, Blackburn, Boutwell, Broomall, Buckland, Buckley, Benjamin F. Butler, Roderick R. Butler, Sidney Clarke, Cobb, Coburn, Cook, Corley, Dickey, Eckley, Ela, Ferriss, Fields, French, Gravely, Hamilton, Higby, Hill, Chester D. Hubbard, Ingersoll, Alexander H. Jones, Julian, Kelsey, Kitchen, Koontz, William Lawrence, Loughridge, Mallory, Maynard, McKee, Moore, Moorhead, Mullins, Newsham, Orth, Plants, Price, Raum, Roots, Sawyer, Schenck, Selye, Shanks, Starkweather, Stevens, Stokes, Stover, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Henry D. Washburn, William B. Washburn, Welker, Whittemore, John T. Wilson, and Windom—67.

NAYS—Messrs. Allison, Axtell, Baker, Banks, Beaman, Beck, Blair, Boyden, Brooks, Broomall, Burr, Cary, Churchill, Covode, Cullom, Dawes, Delano, Dewese, Dixon, Donnelly, Eldridge, Thomas D. Eliot, James T. Elliott, Ferry, Fox, Getz, Golladay, Grover, Halsey, Hawkins, Heaton, Holman, Hotchkiss, Hulburt, Humphrey, Hunter, Jenckes, Johnson, Thomas L. Jones, Kerr, Ketcham, George V. Lawrence, Lynch, Marshall, McCarthy, McCormick, Miller, Morrell, Mungen, Myers, Niblack, O'Neill, Peters, Poland, Robertson, Robinson, Ross, Scofield, Taber, Taylor, Thomas, Twichell, Van Auker, Cadwalader C. Washburn, James F. Wilson, Wood, Woodward, and Young—68.

NOT VOTING—Messrs. Adams, Ames, Anderson, Archer, Arnell, Delos R. Ashley, Baldwin, Barnes, Barnum, Bingham, Blaine, Boies, Bowen, Boyer, Cake, Callis, Chanler, Reader W. Clarke, Clift, Cornell, Dockery, Dodge, Driggs, Edwards, Eggleson, Farnsworth, Garfield, Glossbrenner, Goss, Gove, Griswold, Haight, Harding, Haughey, Hooper, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Judd, Kelley, Kellogg, Knott, Laffin, Lash, Lincoln, Loan, Logan, Marvin, McCullough, Mercer, Morrissey, Newcomb, Nicholson, Norris, Nunn, Paine, Perham, Pettis, Phelps, Pierce, Pike, Pile, Polsley, Pomeroy, Prince, Pruyn, Randall, Shellabarger, Sitgreaves, Smith, Spaulding, Stewart, Stone, Sypher, Taffe, Tift, John Trimble, Lawrence S. Trimble, Robert T. Van Horn, Van Trump, Van Wyck, Vidal, Elihu B. Washburne, Thomas Williams, William Williams, Stephen F. Wilson, and Woodbridge—87.

So the amendment was agreed to.

All the amendments reported from the Committee of the Whole on the state of the Union having been disposed of the bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. BURR demanded the yeas and nays on the passage of the bill, and called for tellers on the yeas and nays.

Tellers were refused.

The yeas and nays were not ordered.

The bill was passed.

Mr. SCOFIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled joint resolution (S. R. No. 8) proposing an amendment to the Constitution of the United States; when the Speaker signed the same.

CONTESTED ELECTION—LOUISIANA.

Mr. UPSON. I rise to question of privilege. I call up the report of the Committee of Elections in the contested-election case from the second congressional district of Louisiana. Be-

fore making any statement of the case I desire to ask that the three claimants of the seat be allowed to address the House while the case is under consideration under the rules of the House.

Mr. HIGBY. I object.

PAY OF CONTESTANTS.

Mr. UPSON. I yield for a moment to the chairman of the Committee of Elections.

Mr. DAWES. I desire to state to the House that some days ago the House passed a resolution directing payment out of the contingent fund of the House of the sum of \$2,500 to John D. Young. The Committee on Accounts find on examining the law that that resolution was not drawn in conformity to law and that it requires the sanction of the Committee on Accounts. I have therefore drawn another resolution in conformity with the requirements of the law, and in that resolution I have also inserted the name of John A. Wimpy, of Georgia. The Georgia case it is apprehended, in the present condition of the business of the House, cannot be decided upon its merits, as the House is awaiting the action of the Committee on Reconstruction, and it is impossible at the present period of the session to expect action on the report of the Committee of Elections. I therefore treat the case precisely as if it were finished, and ask the House to adopt the resolution which I send to the Clerk's desk.

Mr. BENJAMIN. I object to the introduction of the resolution at this time and I call for the regular order.

Mr. DAWES. I have myself no particular interest in this matter. But it does seem to me that it is but an act of justice to those parties who came here in good faith with their claims and prosecuted them according to law.

Mr. HIGBY. Was not this Mr. Young rejected by the House on account of being a rebel?

The SPEAKER. The gentleman can move to suspend the rules for the purpose of introducing the resolution to which he has referred.

Mr. DAWES. I will not move to suspend the rules because I have no personal interest in this matter.

CUBAN INDEPENDENCE.

Mr. CULLOM. I ask unanimous consent to introduce a joint resolution for reference only.

Mr. ELDRIDGE. Let it be read so that we may know what it is.

The joint resolution was read. It declares that the Congress and the people of the United States are not indifferent to the struggle for national independence and emancipation in the Island of Cuba, which has been so long delayed by the exercise of European monarchical power and the influence of African slavery, but which has now begun under auspices favorable to American interests and universal freedom.

No objection was made.

Accordingly the joint resolution (H. R. No. 467) in relation to the struggle now going on in the Island of Cuba was introduced, read a first and second time, and referred to the Committee on Foreign Affairs.

Mr. TROWBRIDGE moved to reconsider the vote by which the joint resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BANKS. I ask unanimous consent that the Committee on Foreign Affairs be authorized to report upon this resolution at any time.

Objection was made by several members.

ORDNANCE INVESTIGATION.

Mr. SCHENCK. I ask unanimous consent to be allowed to submit a report from the joint select Committee on Ordnance.

The SPEAKER. The gentleman from Missouri [Mr. BENJAMIN] has called for the regular order.

Mr. BENJAMIN. I withdraw that call for the purpose mentioned by the gentleman from Ohio, [Mr. SCHENCK.]

Mr. ELDRIDGE. I renew the call for the regular order.

CONTESTED ELECTION—LOUISIANA.

The SPEAKER. The regular order being called for the House now resumes the consideration of the report of the Committee of Elections upon the contested-election cases from the second congressional district of Louisiana.

Mr. UPSON. This is a double case. One is a contest for the original seat held by Mr. Mann, who died after being admitted. The other is a contest in relation to the unexpired term, for which there are two claimants. I will first call up the original case of Jones vs. Mann; and I ask that Mr. Jones be allowed to address the House on the subject under the rules of the House.

Mr. HIGBY. I object to his speaking; but I have no objection to allowing him to print his remarks in the Globe.

Mr. UPSON. Let the resolution be read.

The Clerk read as follows:

Resolved, That Simon Jones, not having received a majority of the votes cast for Representative in this House from the second congressional district of Louisiana, is not entitled to a seat therein as such Representative.

Mr. BLACKBURN. Will the gentleman yield to me to offer a substitute for the resolution which has just been read?

Mr. UPSON. I will let the substitute be offered.

Mr. BLACKBURN. I offer the following resolution as a substitute for the one reported from the committee:

Resolved, That Simon Jones is entitled to a seat on this floor as a member of the Fortieth Congress from the second congressional district of the State of Louisiana, and that he be now sworn in.

Mr. UPSON. I have permitted this amendment to be offered by the gentleman from Louisiana, [Mr. BLACKBURN,] as I understand the contestant desires to be heard before the House. But I will state that the Committee of Elections were unanimous in their report against his claim. Were it not that the contestant desires to address the House on his claim, I should feel myself justified, in the present condition of the business of the House, in calling the previous question after making a brief statement of the case.

Unless it is desired by the House to proceed with this case this evening, I will let it go over until to-morrow. If it is the desire of the House to proceed with its consideration now, of course I must go on with my statement of the case.

Mr. MAYNARD. If the gentleman will yield I will submit a motion that the House now adjourn.

Mr. UPSON. I will yield for that purpose.

Mr. MAYNARD. I move that the House now adjourn.

The question was taken; and on a division there were—ayes sixty-seven, noes not counted.

So the motion was agreed to; and accordingly (at ten o'clock and five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BALDWIN: The petitions of C. F. Flint and 162 others, of A. H. Allen and 115 others, of J. L. Rice and 37 others, R. T. Buck and 21 others, and Emma Southwick and 13 others, of Sturbridge, Mendon, Brookfield, Millbury, and Millville, Massachusetts, that the right of women to vote may be established everywhere within the jurisdiction of the United States.

By Mr. GRAVELY: A petition of citizens of Greene, Dade, and Newton counties, Missouri, praying a daily line of mails from Springfield, Missouri, to Fort Scott, Kansas.

By Mr. KELSEY: The petition of John Douglass and 38 others, inhabitants of Peoria, New York, for an amendment of the Constitution.

Also, the petition of James McNab and 27

others, inhabitants of the towns of York and Caledonia, New York, for an amendment of the Constitution.

By Mr. LAWRENCE, of Pennsylvania: A petition from citizens of Lawrence county, Pennsylvania, asking for a change in the Constitution of the United States so that God and His Son Jesus Christ may be more fully recognized as the ruler of the nation.

By Mr. MILLER: Three petitions of sundry persons, asking for an amendment of the Constitution of the United States by inserting therein that the people humbly acknowledge Almighty God as the source of all authority in civil government, the Lord Jesus Christ as the ruler among the nations, and His revealed will as the supreme authority in order to constitute a Christian government.

By Mr. WILLIAMS, of Pennsylvania: The petition of William Tate and 22 others, citizens of Butler county, Pennsylvania, praying for such an amendment of the Constitution as shall recognize Almighty God as the source of all authority in civil government.

IN SENATE.

FRIDAY, February 26, 1869.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. GRIMES, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

NAVAL APPROPRIATION BILL.

Mr. GRIMES. I submit the following report from the conference committee on the disagreeing votes of the two Houses on the naval appropriation bill:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 1599) making appropriations for the naval service for the year ending June 30, 1870, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their amendments numbered 1, 12, 13, 14, 15, and 16.

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 8, 9, 17, 18, 20, and 26, and agree to the same.

That the House recede from their disagreement to the twenty-first amendment of the Senate, and agree to the same with the following amendment: strike out said amendment and insert in lieu the following words: "two million five hundred thousand."

That the House of Representatives recede from their disagreement to the twenty-seventh amendment of the Senate, and agree to the same with the following amendment: in line eleven of said amendment strike out the word "sixteen" and insert in lieu the word "fourteen;" and the Senate agree to the same.

That the House recede from their disagreement to the twenty-eighth amendment of the Senate, and agree to the same with the following amendment: in line five of said amendment strike out the words "as authorized," and insert in lieu the following words, "and of any other act authorizing;" and the Senate agree to the same.

J. W. GRIMES,

J. W. NYE,

T. A. HENDRICKS,

Managers on the part of the Senate.

R. P. SPALDING,

CHARLES E. PHELPS,

Managers on the part of the House.

Mr. TRUMBULL. I do not know that I have any objection to the report of the conference committee. It is perfectly understood, I imagine, by all the Senate. It is merely an illustration of how bills from conference committees are passed in this body. I presume that members understand it. I do not profess to do so, and do not know anything about it. Of course I do not object.

Mr. GRIMES. If the Senator desires any information about it I think I am able to give it to him.

Mr. TRUMBULL. I notice an item of \$2,000,000 in it. I presume it is all correct.

Mr. GRIMES. There were very few disagreeing votes between the two Houses on this bill. The first one was in regard to the navy-yard at Charlestown, in Massachusetts. The House of Representatives allowed \$100,000 to that navy-yard; and the Senate reduced it to \$50,000 upon no particular reason that I know of except that other navy-yards were fixed at \$50,000, and the Committee on Appropriations recom-

mended the Senate to put that at the same sum. But after a conference with the admiral in charge of the Bureau of Docks and Yards it was discovered that this additional \$50,000 was asked for specially to keep in repair the dry-dock at that yard; there being only two dry-docks in all the navy-yards of the United States, and this one was getting exceedingly out of repair. The Senate committee of conference agreed with the House of Representatives in restoring the sum to \$100,000.

The next disagreeing vote was that in regard to preparing maps and charts for navigation purposes. The House recede from their proposition.

The next was in regard to the professors at the Naval Academy. The House recede from their amendment in regard to them.

The next was in regard to three aids at the Observatory. The Senate had amended that proposition. There had been four aids allowed to the Naval Academy. The Senate changed the habit of allowing those four aids and created three assistant astronomers. The House objected to that, and the proposition goes back to the condition it has been in for several years.

The next was in regard to an appropriation of \$5,000 for observing the eclipse of the sun. The House agreed with the Senate that it is important to the country and to science that we should send some astronomers for that purpose.

The next was in regard to erecting a small building in which to mount the transit circle at the Naval Academy. The House agreed with the Senate in their proposition in that regard.

The next, the twentieth amendment, was in regard to the officer in charge of gunnery at the Washington navy-yard. Several years ago, when Admiral Dahlgren was a lieutenant, in consideration of his having invented a gun and taking no patent for it, he being at that time stationed at the Washington navy-yard in charge of gunnery experiments, Congress declared that the officer in charge of that business employed in that way should have the sea-pay of the grade next above him; and the officer who has been his successor has since been drawing that pay. The Senate proposed to repeal that law and to allow the officer in charge of gunnery experiments in the navy-yard at Washington to have the same pay as any other officer performing similar duty at any other yard; and the House agree to that proposition.

The next is in regard to the \$2,500,000 which the Senator spoke about. The House reduced the estimates for keeping vessels afloat and ashore in repair, in fact for the support of naval vessels, from \$3,780,000 to \$2,000,000. The Senate raised it to \$3,000,000, \$780,000 less than the estimate. The committee of conference agreed to \$2,500,000, \$500,000 less than the Senate agreed to, and \$500,000 more than the House agreed to. I hope that meets the approbation of the Senator from Illinois.

Mr. TRUMBULL. It does; but I should have preferred to leave it at \$2,000,000.

Mr. GRIMES. The next amendment was in regard to the clerk at the Naval Academy, who, under the law, was entitled to \$1,200, a year, although there has been \$1,600 appropriated for his salary for some years. We were obliged to compromise with the committee of conference on the part of the House and take \$1,400.

The next amendment was in regard to the apprentices who were authorized by law to be appointed by the President of the United States to the Naval Academy. The House concurred with the Senate in their amendment in that regard.

Mr. TRUMBULL. How does that leave those apprentices?

Mr. GRIMES. It strikes them off.

The PRESIDENT *pro tempore*. The question is on agreeing to the report of the committee of conference.

The report was concurred in.

FOSTER AND TOWER.

The PRESIDENT *pro tempore*. Petitions and memorials are in order.

Mr. NYE. As there seem to be no petitions and memorials I am charged with a very little bill here for the relief of Foster & Tower, which I desire to put on its passage.

Mr. POMEROY. I desire to introduce some petitions and bills.

The PRESIDENT *pro tempore*. The Senator from Nevada asks the unanimous consent of the Senate to consider the bill indicated by him at this time.

Mr. POMEROY. I object.

The PRESIDENT *pro tempore*. Objection being made it goes over.

Mr. NYE. Will the Senator give way for one minute. It will not take a minute to pass this bill. It is a matter that has been placed in my hands and I desire very much to get rid of it. It is merely to correct an error, and it will not take a moment to pass it.

Mr. POMEROY. If it will lead to no discussion I will withdraw my objection.

Mr. NYE. There will be none at all.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 1960) for the relief of Foster & Tower. It authorizes the Secretary of the Navy to allow to Messrs. Foster & Tower, of New York, out of the appropriation for yards and docks, the sum of \$2,251, for difference in cost of crucibles furnished by them to the navy-yard at New York under contract, in which the price of the crucibles was erroneously stated at five cents each.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PAY OF SOUTHERN SENATORS.

Mr. MORTON. I move to take up for consideration the resolution in regard to the pay of Senators from the reconstructed States.

Mr. SHERMAN. Pending that motion—I do not wish to interfere with the Senator—I desire to make a report on a matter of public interest.

Mr. MORTON. I will give way for reports as soon as the resolution is taken up.

Mr. SHERMAN. I think the regular business ought to be gone through with in the ordinary way before taking up anything else.

The PRESIDENT *pro tempore*. Does the Senator object to the consideration of the resolution?

Mr. SHERMAN. I will wait until the Senator gets it up.

The PRESIDENT *pro tempore*. The Senator from Indiana asks the unanimous consent of the Senate to consider the resolution with regard to the pay of Senators from the reconstructed States. Does any Senator object?

Mr. DAVIS. I shall object unless we are allowed to make reports.

Mr. MORTON. I shall give way to the morning business as soon as it is taken up.

The PRESIDENT *pro tempore*. No objection being made, the resolution is before the Senate.

Mr. MORTON. I now give way to morning business.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a resolution of the New York Agricultural Society, in favor of abolishing the duty on animals imported from foreign countries for breeding purposes; which was referred to the Committee on Finance.

Mr. ABBOTT presented a resolution of the Legislature of North Carolina, in favor of the reestablishment of the branch mint at Charlotte, in that State; which was referred to the Committee on Finance.

Mr. POMEROY presented a petition of citizens of Kansas, residents of the Solomon valley, praying that a military post be established at Asher creek, in that valley, for their protection against the Indians; which was referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. SHERMAN. The Committee on Finance, to whom was referred the bill (H. R. No. 1744) to strengthen the public credit, and relating to contracts for payment in coin, have directed me to report it back with two amendments. I desire to give notice that I shall call this bill up to-morrow at one o'clock and ask for a vote of the Senate upon it; and I shall antagonize it with anything that is pending at that time.

The same committee, to whom was referred the bill (S. No. 878) to encourage the building of steamships in the United States, have directed me to report it back and ask to be discharged on the ground that we have no time to consider it, and we prefer to let it go over to the next session without any recommendation.

The committee was discharged.

Mr. MORGAN. The Committee on the Library have had under consideration the petition of Alexander Gardner, praying Congress to purchase his collection of photograph incidents of the war. The committee ask to be discharged from the further consideration of this petition, it being of the same nature as the one presented a few days since by Mr. Brady, because there is not sufficient time for Congress to consider it.

The committee was discharged.

Mr. MORGAN. The same committee have had under consideration the petition of the Pennsylvania Academy of Fine Arts, praying the passage of a law for the protection of copyrights for works of art; and for the same reason ask to be discharged from that petition.

The committee was discharged.

Mr. MORGAN, from the same committee, to whom was referred the resolution of the House of Representatives in relation to the adoption of the phonetic system of spelling into general use in schools and general literature, asked to be discharged from its further consideration; which was agreed to.

Mr. HENDRICKS, from the Committee on Public Lands, to whom was referred the bill (S. No. 707) granting lands to the State of Wisconsin to aid in the construction of a break-water and harbor and ship-canal at the head of Sturgeon bay, in the county of Door in said State, to connect the waters of Green bay and Lake Michigan in said State, reported it with amendments.

Mr. DAVIS, from the Committee on Claims, to whom was referred the petition of Mrs. Margaret Riddle, submitted a report thereon accompanied by a bill (S. No. 975) for the benefit of Margaret Riddle, widow and executrix of George Read Riddle, deceased. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. WILLEY, from the Committee on Patents, to whom was referred the petition of William S. Chapman, praying an extension of his patent, asked to be discharged from its further consideration, and moved that the petitioner have leave to withdraw his petition and papers; which was agreed to.

Mr. ANTHONY, from the Committee on Naval Affairs, to whom was referred the memorial of Junius Boyle, commodore United States Navy, praying to be restored on the active list, asked to be discharged from its further consideration; which was agreed to.

Mr. ANTHONY. The Committee on Printing, to whom was referred a motion to print one thousand copies of the memorial of Miss Clara Barton, praying for the passage of an act for the purpose of remedying defects in the existing laws in relation to the payment of bounties, back pay, and pensions, have instructed me to report it back and recommend its passage without amendment. Although it is not customary to print memorials, I do this partly at the request of my friend from Iowa [Mr. GRIMES] and partly as a just compliment to a lady who has rendered distinguished services to the Union cause both during the war and since the war, and who in her treatment of the sick, the dying, and the bereaved has

united to the tenderness of her own sex the vigor and energy of ours. I ask for its present consideration.

Mr. MORTON. There is a matter before the Senate.

Mr. ANTHONY. This is simply a motion to print a document.

The motion was agreed to.

Mr. STEWART, from the Committee on Public Lands, to whom was referred the bill (S. No. 930) authorizing certain land-grant railroad companies in the State of Minnesota to connect their lines with the Northern Pacific railroad, reported with it amendments.

Mr. POMEROY, from the Committee on Public Lands, to whom were referred the following memorials, petitions, letters, and resolutions, asked to be discharged from their further consideration; which was agreed to:

A resolution of the Legislature of Minnesota, in favor of the establishment of a United States land office in the valley of the Red River of the North;

A petition of citizens of Nebraska, praying the establishment of a land office at West Point, in that State;

A petition of citizens of Nebraska, praying that the lands along the line of the Union Pacific Railroad may be restored to market subject to the homestead and preemption laws, that a homestead may embrace one hundred and sixty acres, and that the land may be entered at \$1 25 per acre;

A joint resolution and memorial of the Legislature of Nebraska, praying the establishment of a land office at Lone Tree, Nebraska;

A petition of citizens of Nebraska, praying the establishment of a land office at Beatrice, in that State;

A memorial of the Legislature of Wisconsin, in favor of an extension of the time for the completion of the military road from Fort Wilkins, Michigan, to Fort Howard, Wisconsin;

A memorial of the Legislature of Wisconsin, for a grant of land to aid in the construction of the Wisconsin River Valley railroad;

A memorial of the General Assembly of Iowa, in relation to the project of connecting by navigable channels through the Fox and Wisconsin rivers the waters of the Mississippi river with the waters of Lake Michigan;

A memorial of the Legislature of Wisconsin, in favor of the removal of the restrictions on the further entry of public lands with agricultural college scrip in the State of Wisconsin;

A memorial of the Legislature of Wisconsin, in favor of the confirmation of title to the unsurveyed islands in the Wisconsin river;

A memorial of the Legislature of Wisconsin, in favor of a grant of lands to aid in the construction of the Minnesota and the Missouri River railroad from Minnesota to Yankton, in Dakota Territory;

A memorial of the Chamber of Commerce of Milwaukee, Wisconsin, praying a grant of lands to aid in the construction of a ship-canal from Sturgeon bay to Lake Michigan;

A memorial of the Legislature of Wisconsin, in favor of a grant of lands for the purpose of building a wagon-road from Chippewa Falls to Ashland, in that State;

A memorial of the mayor and council of Green Bay, Wisconsin, praying a grant of lands to aid in the construction of a ship-canal from Sturgeon bay to Lake Michigan;

A memorial of the Legislature of Wisconsin, remonstrating against any further extension of the time for the completion of the railroad from Lake St. Croix to Lake Superior unless the company shall build, equip, and put in complete running order forty miles of road before making application for such extension;

A resolution of the Legislature of Iowa, in favor of an additional grant of land to aid in the building of a railroad from McGregor, westerly on or near the forty-third parallel until it shall reach the county of O'Brien, in that State;

A resolution of the Denver Board of Trade, Colorado Territory, praying the right of way

and a grant of lands to aid in the construction of the Denver, South Park, and Rio Grande Railroad and Telegraph Company;

A petition of the Independent school district of Burlington, Iowa, and Burlington University, praying that certain land reserved for public burial purposes may be granted to the Independent school district of Burlington;

A memorial of the Denver, South Park, and Rio Grande Railroad and Telegraph Company, praying the right of way and a grant of land to aid in the construction of their road;

A memorial of the Rocky Mountain Railroad and Telegraph Company, praying to be allowed the right of way through the public lands and a donation of lands to aid in the construction of their railroad;

A memorial of the Legislative Assembly of New Mexico, in favor of a grant of lands for a continuation of the railroad now built three hundred miles west of the Mississippi river to that Territory;

A memorial of the Legislative Assembly of the Territory of New Mexico, asking that the confirmation of the land grant of the Rio Grande may be delivered to Hon. José Francisco Chaves;

A memorial of the Board of Trustees of the Protestant University of the United States, praying a grant of lands for the endowment of that university;

A memorial of the Montana Agricultural, Mechanical, and Mineral Association, praying a donation of public lands in that Territory for the benefit of the association;

Resolutions of the constitutional convention of South Carolina, in favor of Congress granting to that State the proceeds of certain lands purchased by the Government for taxes due the United States for the support of public schools;

Papers relating to the claim of James H. Viser for services as keeper of the records and files of the Pontotoc land office in Mississippi;

A petition of freedmen of North Carolina, praying the passage of a law enabling them to purchase small farms on reasonable terms, taken from rebel estates or public lands;

A petition of the people of Louisiana, praying for the relief of the New Orleans, Opelousas, and Great Western Railroad Company;

Resolutions of the Legislature of California, in favor of the passage of a law authorizing that State to select lands granted to the State for the benefit of an agricultural college from the even-numbered sections within any of the railroad reservations;

A protest and resolutions of citizens and settlers on public lands in California, against legislation touching townships six and seven, of range one, west of the Mount Diablo meridian;

A petition of William H. Banta, praying that a grant of land be made to Rev. Floyd Farrar, of Grass Valley, California;

A petition of the incorporators of the Corvallis and Yaquina Bay Railroad Company, praying a grant of land to aid in the construction of their railroad;

A resolution of the Legislature of California, in favor of aid to the Oroville and Virginia City railroad;

A petition of the trustees of the town of Santa Clara, in the State of California, for the passage of a bill to quiet the title to lands in that town;

A petition of commissioners to manage the Yosemite Valley and the Mariposa Big Tree Grove, protesting against the action of the Legislature of California in granting a certain portion of the Yosemite Valley to J. C. Lamon and J. M. Hutchings;

A resolution of the Legislature of California, asking the privilege of Congress to invest agricultural college funds in real estate;

Resolutions of the Legislature of Kansas, in favor of a grant of lands in lieu of those lands lost to schools by Indian reservations and trust lands, and that in the disposition of

Indian reservations and trust lands the sixteenth and thirty-sixth sections may be reserved for school purposes;

Resolutions of the Legislature of Kansas, in favor of a grant of lands to aid in the construction of the Atchison, Hays City, and Santa Fé railroad;

Resolutions of the Legislature of Kansas, in favor of an amendment to the act entitled "An act for a grant of lands to the State of Kansas in alternate sections to aid in the construction of certain railroads and telegraphs in said State;"

A memorial of the council and house of representatives of the Territory of Colorado, in relation to the Las Arrimas land grant;

Resolutions of the Legislative Assembly of Colorado Territory, in favor of the appointment of commissioners to examine, survey, and set apart to that Territory the land known as the Upper Plateau land;

Resolutions of the Legislative Assembly of Colorado Territory, in favor of additional compensation to secure an early survey of the public lands in the mountain regions of that Territory;

A memorial of the Legislative Assembly of the Territory of Dakota, relative to the survey of public lands on and near the Red river of the North;

A memorial of the Legislative Assembly of the Territory of Dakota, relative to a United States land office in the Red river valley;

A memorial of the Legislative Assembly of the Territory of Dakota, for a grant of land to the Minnesota and Missouri River Railroad Company, to aid in the construction of a railroad from the Minnesota State line to the Missouri river, at Yankton, Dakota Territory;

A memorial of the Legislative Assembly of the Territory of Dakota, for a grant of land to aid in the construction of a railroad from Sioux City, Iowa, to the mouth of the Big Cheyenne river, in Dakota Territory;

A memorial of the Legislative Assembly of the Territory of Dakota, praying for a grant of land to the Minnesota and Missouri River Railroad Company to aid in the construction of a railroad from the Minnesota State line to the Missouri river, at Yankton, Dakota Territory;

A communication of the Governor of West Virginia, in relation to the disposition of the agricultural college scrip granted to that State;

A communication from the Secretary of the Interior, transmitting an estimate of appropriation required for surveying boundaries of selections of land to be patented in fee simple to certain persons related by blood to the Cheyennes and Arapahoes;

Resolutions of the Legislature of Michigan, in favor of the substitution of even for odd sections in the appropriation of lands to aid in the construction of a wagon-road from Grand Rapids to Mackinaw, and a wagon road from Saginaw City to the same point;

A petition of citizens of Michigan, praying for an amendment to the homestead law;

A resolution of the Legislature of Kansas, in favor of restoring to the public land office land along the line of the Pacific railroad, so that the same may be opened to preemption and homestead laws;

A petition of citizens of Kansas, *bona fide* settlers on the Cherokee neutral lands, praying for the enactment of such laws in relation to those lands as will set aside the provisions of the treaty with the Cherokee Indians and bring the land into market as Government land to be taken by homesteads or preemptions, or entered in the usual way;

A resolution of the Legislature of Kansas, in favor of granting to the Central Branch of the Union Pacific railway and the St. Joseph and Denver City railway a subsidy in money and bonds equal in amount per mile to that already granted to the Central Branch Union Pacific railway;

A resolution of the Legislature of Kansas, in favor of such an amendment to the homestead act as will give to each honorably discharged

soldier the full benefit of that act by one year's actual residence;

A petition of citizens of Kansas, settlers on the Cherokee neutral lands, praying the ratification of the sale of the residue of the Cherokee neutral lands to James F. Joy, in June, 1868, by the Secretary of the Interior;

Resolutions of the Legislature of Kansas, in favor of the passage of a law authorizing and permitting all persons who have taken less than one hundred and sixty acre homesteads under provisions of the laws of the United States to extend their privileges so as to permit them to claim, take, prove up, and hold enough more to make their homesteads one hundred and sixty acres;

Resolutions of the Legislature of Kansas, urging the ratification of the Shawnee Indian treaty now pending before the Senate;

A petition of settlers on the lands lately purchased of the Great and Little Osage Indians, praying the right of homestead and preemption to all settlers who come within the provisions of the homestead and preemption laws;

A petition of Stephen C. Millett, president of the Port Royal Railroad Company, asking for aid in the construction of that road;

A memorial of the Legislature of Oregon, in favor of aid in the construction of a railroad from Salt Lake to the Columbia river, and for a railroad from the Big Bend of the Humboldt river, in the State of Nevada, to Klamath lake;

A resolution of the Legislature of Oregon, relating to the railroad land grant from the Central Pacific railroad, in California, to Portland, Oregon;

A memorial of the Legislature of Oregon, asking an appropriation to aid in the construction of a railroad from the Willamette river to the Columbia river;

A memorial of the Legislature of Oregon, in favor of a grant of land along the line of a military and post road from Tillamook valley to the Portland road, at La Fayette, in that State;

A memorial of the Legislature of Oregon, asking Congress to aid in the construction of the Columbia River and Hillsboro' railroad;

A memorial of the Legislature of Oregon, asking an appropriation to the Oregon and Washington Navigation Improvement Company, for the improvement of the Columbia river;

A memorial of the Denver Central and Georgetown Railroad Company, asking a grant of lands to aid in the construction of their road;

A memorial of the Legislative Assembly of the Territory of Dakota, praying for the extension of the Sioux City and Pacific railroad to Yankton, Dakota Territory;

A memorial of the Board of Supervisors of the county of Dallas, Wisconsin, remonstrating against any further extension of the time for the completion of a railroad from St. Croix river or lake between townships twenty-five and thirty-one, and from thence to the west end of Lake Superior and to Bayfield, in that State;

A memorial of the Legislature of Wisconsin, in favor of the extension of the time for the construction of a railroad from St. Croix river or lake to Superior and Bayfield, by the Northern Wisconsin Railway Company;

A memorial of the Legislature of Alabama, asking a grant of land to aid in the construction of the Eufaula, Opelike, Oxford, and Gunterville railroad;

A memorial of the Legislature of Alabama, in favor of a grant of land to aid in the construction of the New Orleans and Selma railroad;

A letter of Hiram Barney, asking the revival of the grant of lands to the Selma and Dalton Railroad Company;

A memorial of the council and house of representatives of Nebraska, in favor of a land office at Columbus, Nebraska;

A letter of the Governor of Indiana, communicating a report of the sales made by that

State of the land scrip received from the United States under the act of July 2, 1862, relative to agricultural colleges, and of the appropriation of the proceeds of such sales;

A memorial of the board of supervisors of Polk county, Wisconsin, remonstrating against any further extension of the time for the completion of the railroad from the St. Croix river to Bayfield, in Wisconsin;

Papers relating to the creation of a new land district in the State of Minnesota;

A letter of the Secretary of War, communicating, in compliance with a resolution of the Senate of December 20, 1867, information in relation to the military reservation at Fort Ridgely;

A joint resolution of the Legislature of the State of Vermont, concerning grants of the public lands of the United States;

A petition of Junius E. Neal, asking Congress to provide by law for the location of duplicate land warrants;

Two memorials of citizens of California, praying that there may be no further legislation in relation to the public lands in township seven south, range one west of Mount Diablo meridian, in that State;

A petition of Samuel F. Crawford, praying to be granted a land warrant for certain land in Michigan;

A petition of officers of the Northern Central Michigan Railroad Company, praying an amendment of the act approved July 3, 1856, entitled "An act making a grant of alternate sections of the public lands to the State of Michigan," &c.;

A memorial of the Board of Trade of Chicago, Illinois, praying a grant of lands to aid in building a ship-canal from Sturgeon bay to Lake Michigan;

A memorial of citizens of Boise City, Idaho Territory, praying the passage of an act to allow them to enter or purchase the land upon which they have erected valuable improvements;

A petition of members of the constitutional convention of South Carolina, praying aid to the Port Royal Railroad Company in completing its road from Port Royal to Augusta, Georgia;

A petition of John W. Smith and Priscilla Smith, of Columbia county, Florida, praying compensation for property destroyed during the late war by the public enemy at Beaufort, South Carolina;

A memorial of the General Assembly of Alabama, praying a grant of lands for the New Orleans and Selma railroad;

A letter of George A. Nourse, of San Francisco, California, to Hon. ALEXANDER RAMSEY, in relation to the law of July 27, 1868, limiting the location of agricultural college scrip;

A petition of the president of the Pensacola and Louisville railroad, praying a grant of land to aid in rebuilding that railroad; and

A memorial from citizens of St. Augustine, Florida, praying that certain United States lands lying in the corporate limits of St. Augustine be placed upon the market.

Mr. POMEROY, from the same committee, to whom were referred the following bills and joint resolutions, asked to be discharged from their further consideration; which was agreed to:

A bill (S. No. 952) granting public lands, and the right of way through the same, for canal purposes, in the State of California;

A bill (S. No. 932) granting land to aid in the construction of a railroad from Stockton, in California, to a point of connection with the Southern Pacific railroad at or near Tejon Pass, in California;

A bill (S. No. 929) granting lands and the right of way to the Denver Central and Georgetown Railway Company;

A bill (S. No. 947) to provide for the removal of the archives of the St. Augustine branch of the United States Land Office to the United States land office at Tallahassee, Florida;

A bill (S. No. 921) to amend an act making an additional grant of lands to the State of

Minnesota, in alternate sections, to aid in the construction of railroads in said State, approved July 4, 1866;

A bill (S. No. 911) to amend an act making a grant of lands to the State of Minnesota to aid in the construction of a railroad from St. Paul to Lake Superior, and the several acts amendatory thereof;

A bill (S. No. 919) to grant the right of way to the Memphis, El Paso, and Pacific Railroad and Telegraph Company from El Paso, Texas, to the Pacific ocean;

A bill (S. No. 892) amendatory of certain acts of Congress granting lands to the States of Iowa and Minnesota to aid in the construction of railroads;

A bill (S. No. 898) to grant lands to the Superior and State Line Railroad Company;

A bill (S. No. 879) for the relief of inhabitants of cities and towns in the Territories of New Mexico, Arizona, and Utah;

A bill (S. No. 886) granting the alternate odd-numbered sections of public land along the line of the New Orleans and Selma railroad;

A bill (S. No. 888) granting lands to the Santa Barbara branch of the Southern Pacific railroad of California;

A bill (S. No. 866) granting the right of way over the public lands of the United States to the Oroville and Virginia City railroad and to provide for its construction;

A bill (S. No. 717) to amend an act entitled "An act to aid in the construction of certain railroads in the State of Wisconsin," approved May 5, 1864;

A bill (S. No. 758) to provide for the construction of a wagon-road for military and postal purposes through the Territories of Dakota, Montana, and Washington;

A bill (S. No. 701) granting to the New Orleans, Mobile, and Chattanooga Railroad Company the right of way through the public lands of the United States, and for other purposes;

A bill (S. No. 714) granting lands to the State of Oregon to aid in the construction of a military and post road from Lafayette to the Tillamook bay;

A bill (S. No. 895) for the relief of the heirs of persons in the military or naval service of the United States who may have initiated claims to the public lands under the provisions of the homestead laws of the United States;

A bill (S. No. 663) granting lands to aid in the construction of a railroad from St. Paul, Minnesota, to the Missouri river;

A bill (S. No. 710) to provide for the payment of claims to loyal citizens of the States lately in rebellion;

A bill (S. No. 718) to authorize and require the reissu of land scrip to the State of North Carolina;

A bill (S. No. 730) supplementary to an act entitled "An act to confirm the titles to certain lands in the State of Nebraska;"

A bill (S. No. 602) to provide levees to secure the lowlands of Arkansas and Missouri from inundation, and to encourage the settlement thereof;

A bill (S. No. 502) granting lands to aid in the construction of a railroad and telegraph line from Irving, Kansas, to Albuquerque and Santa Fé, New Mexico;

A bill (S. No. 484) to aid the San Francisco and Humboldt Bay Railroad Company in the construction of a railroad from the city of San Francisco to the town of Humboldt Bay, in the State of California;

A bill (S. No. 372) granting lands to aid in the construction of a railroad from Brownsville, Nebraska, and for aiding other railroads in the State of Nebraska to intersect the Union Pacific railroad;

A bill (S. No. 298) granting lands to aid in the construction of a railroad from Brownsville, in the State of Nebraska, to intersect the Union Pacific railroad at or near the one hundredth meridian west longitude;

A bill (S. No. 289) granting lands to aid in the construction of a railroad and telegraph line from the city of Fort Scott, in the State

of Kansas, westwardly, via the junction of the Little Arkansas with the Arkansas river, in the direction of Santa Fé, in New Mexico;

A bill (S. No. 293) to grant lands and aid to the Port Royal Railroad Company, in the States of South Carolina and Georgia;

A bill (S. No. 290) to restore the even-numbered sections of the public lands along the lines of the Pacific railroads;

A bill (S. No. 327) to extend the preemption and homestead laws of the United States over certain lands therein named, and for other purposes;

A bill (S. No. 56) granting lands to aid in the construction of a canal or canals for irrigating purposes in the State of California;

A bill (S. No. 55) to enable the State of California to reclaim certain unproductive lands within her limits;

A bill (S. No. 15) to provide for giving the right to purchase to settlers on the Cherokee neutral lands in Kansas, and for other purposes;

A bill (S. No. 14) to aid in the construction of certain railroads in the State of California;

A bill (S. No. 66) granting lands to aid in the construction of a canal in the State of California;

A bill (S. No. 6) changing the route of a certain land-grant railroad in Minnesota;

A bill (S. No. 90) granting lands to each of the several States for the support of universities for females;

A bill (S. No. 59) to create the office of surveyor general and establish a land office in the Territory of Utah, and for other purposes;

A bill (S. No. 40) granting lands to aid in the construction of a railroad from St. Paul, Minnesota, to the Missouri river;

A bill (S. No. 34) authorizing the purchase of lands in Alabama under certain circumstances;

A bill (S. No. 199) for the relief of settlers on the late Sioux Indian reservation in the State of Minnesota;

A bill (S. No. 483) relative to the repayment of fees paid on canceled homestead entries;

A bill (S. No. 277) amendatory of the homestead act, and for other purposes;

A bill (S. No. 876) to encourage the growth of forest trees;

A bill (H. R. No. 359) amendatory of the homestead law;

A bill (H. R. No. 278) to provide for the discontinuance of district land offices in certain cases;

A bill (H. R. No. 237) to revive and extend certain acts of Congress relative to land claims in the State of Missouri;

A bill (H. R. No. 170) for the relief of Lucas and Dickinson counties, in the State of Iowa;

A bill (H. R. No. 907) to provide for the sale of certain lands and lots on the Sea Islands of Beaufort district, South Carolina;

A bill (H. R. No. 1192) to extend the provisions of the homestead act to the orphan children of deceased soldiers who are under the age of twenty-one years;

A bill (H. R. No. 1588) for the relief of Solomon Oliver;

A bill (H. R. No. 934) amendatory of the act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862, and of the acts amendatory thereof, approved March 21, 1864, and June 21, 1866;

A joint resolution (H. R. No. 286) relative to the lands of the Cherokee and Great and Little Osage Indians;

A joint resolution (S. R. No. 212) relating to homesteads for soldiers;

A joint resolution (S. R. No. 229) extending time to construct a railroad from St. Croix lake to Lake Superior, and granting lands to the Western Wisconsin Railroad Company;

A joint resolution (S. R. No. 228) granting the consent of Congress provided for in section ten of the act incorporating the Northern Pacific Railroad Company, approved July 2, 1864;

A joint resolution (S. R. No. 191) explanatory of an act of Congress approved March 3, 1865, entitled "An act extending the time for the completion of certain land-grant railroads in the States of Minnesota and Iowa, and for other purposes;"

A joint resolution (S. R. No. 221) giving construction to the acts of Congress granting lands to the State of Wisconsin to aid in the building of railroads in that State;

A bill (S. No. 618) legalizing certain locations of agricultural college scrip therein designated;

A bill (S. No. 328) amendatory of an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862;

A bill (S. No. 541) to amend an act entitled "An act to aid in the construction of certain railroads in the State of Wisconsin," approved May 5, 1864;

A bill (S. No. 249) to extend the provisions of an act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits to the State of Nebraska;

A bill (S. No. 86) extending to the State of Nebraska the provisions of an act relating to agricultural colleges;

A bill (S. No. 23) granting lands to the States of Wisconsin and Michigan to aid in the construction of the Wisconsin and Lake Superior railroad and its branch;

A bill (S. No. 30) to grant one million acres of public lands for the benefit of public schools in the District of Columbia;

A joint resolution (S. R. No. 210) concerning certain lands granted to the State of Michigan to aid in the construction of certain wagon roads;

A bill (S. No. 65) granting the right of way over public lands to the Pacific Coal Company;

A joint resolution (S. R. No. 159) authorizing the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands to sell certain portions of public lands within the corporate limits of the city of Pensacola, Florida, for educational purposes;

A joint resolution (S. R. No. 116) relating to the islands of St. Paul and St. George;

A bill (S. No. 954) amending the preemption and homestead laws so as to require the planting of trees on homestead and preemption settlements;

A bill (H. R. No. 1041) granting the right of way to the Walla-Walla and Columbia River Railroad Company, and for other purposes;

A bill (H. R. No. 1433) to amend an act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862;

A bill (H. R. No. 1075) to authorize adjudication of claim No. 45, in the report of the surveyor general of the Territory of New Mexico;

A bill (H. R. No. 1714) to close the land system in certain States; and

A bill (S. No. 601) granting lands to the Territory of Dakota in aid of the Sioux City and Pacific Railroad Company, authorizing said company to extend said road through the Territory of Dakota.

PAPERS WITHDRAWN.

Mr. HENDRICKS. At the request of the parties I ask leave to withdraw the petition and papers of the Bartholomew County Agricultural Society of Indiana, with a view that they may be referred to the commission which is examining into such claims in the State of Indiana.

Leave was granted.

On motion by Mr. WILSON, it was

Ordered, That the petition of Colonel William Gates, praying remuneration for losses by the wreck of the steamer San Francisco, on the files of the Senate, be referred to the Committee on Claims.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 976) for the relief of the officers and soldiers of the United States Army who sustained loss by the disasters to the steamships Winfield

Scott and San Francisco; which was read twice by its title, and referred to the Committee on Claims.

Mr. PATTERSON, of New Hampshire, asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 239) more efficiently to protect the fur seals in Alaska; which was read twice by its title.

Mr. PATTERSON, of New Hampshire. I ask the Senate to take action on the resolution at this time.

The PRESIDENT *pro tempore*. There is a resolution properly before the Senate. It can only be considered by unanimous consent.

Mr. STEWART. Let it be read.

The Chief Clerk read the joint resolution as follows:

Be it resolved, &c. That the islands of St. Paul and St. George, in Alaska, be, and they are hereby, declared a special reservation for Government purposes, and that, until otherwise provided by law, it shall be unlawful for any person not an officer of the United States to land or remain on either of said islands except by the authority of the Secretary of the Treasury; and any such person found on either of said islands contrary to the provisions of this act shall be summarily removed. But nothing contained in this act shall be construed to authorize a removal of the *bona fide* inhabitants of said islands permanently resident thereon at the date of the treaty of cession, nor in any way to relate to or affect them or their property, or any rights belonging to them under the said treaty; and it shall be the duty of the Secretary of War to carry this act immediately into effect.

The PRESIDENT *pro tempore*. The Senator from New Hampshire asks the unanimous consent of the Senate to consider the resolution at this time.

Mr. GRIMES. I object.

Mr. PATTERSON, of New Hampshire. I wish the gentleman would not object. If he will allow me a moment to state—

Mr. GRIMES. I will hear you.

The PRESIDENT *pro tempore*. Argument cannot be allowed until it is known whether the Senate will consent to take up the joint resolution.

Mr. MORTON. I cannot yield to my friend.

Mr. PATTERSON, of New Hampshire. Let it lie on the table for the present.

The PRESIDENT *pro tempore*. The joint resolution will lie on the table.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 240) for the relief of settlers upon the absentee Shawnee lands in Kansas; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

LIGHTING OF THE SENATE CHAMBER.

Mr. NYE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Buildings and Grounds be instructed to inquire into the expediency of causing the old carrier tubes over the Hall of the Senate to be removed and new pipes to be placed where required with electric gas burners with lava tips, to be lighted by electricity from the battery now used for lighting the Dome, Rotunda, and Hall of Representatives; *Provided*, The whole expense shall not exceed the sum of \$6,300; to be paid out of the contingent fund of the Senate.

KEELER MAPS.

Mr. MORRILL, of Maine, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Printing be instructed to inquire into the expediency of publishing a limited number of the Keeler maps of the Territories, mineral and Indian reservation, prepared under the direction of the Secretary of the Interior.

Mr. POMEROY. While the Committee on Printing are considering the expediency of publishing the Keeler map, I wish to remark that the Commissioner of the General Land Office has a map, which we have tried to get published, which is much better than the Keeler map so far as it relates to the public lands. The Committee on Public Lands reported in favor of its being published, but the Committee on Printing reported against it on account of the expense.

Mr. ANTHONY. The Committee on Printing are prepared to report that at any time the gentlemen in favor of the publication wish it

to be done. We have held it back because the committee felt bound—

The PRESIDENT *pro tempore*. The resolution has been agreed to, and it cannot admit of argument after it has been decided.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, Chief Clerk, announced that the House had passed the following bill and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 2006) to establish certain post roads; and

A joint resolution (H. R. No. 466) donating condemned cannon and muskets for the McPherson monument.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1812) to allow deputy collectors and assistant assessors of internal revenue acting as collectors or assessors the pay of collectors and assessors.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 467) to confirm an entry of land by Moses F. Shinn;

A bill (H. R. No. 284) for the relief of N. A. Shuttleworth, of Harrison county, West Virginia;

A bill (H. R. No. 1128) for the relief of Isaac Watts;

A bill (H. R. No. 1367) for the relief of George Kaiser;

A joint resolution (H. R. No. 265) for the relief of Edward E. Shead, of Eastport, State of Maine;

A joint resolution (H. R. No. 460) in relation to the meeting of the House of Representatives at the first session of the Forty-First Congress; and

A bill (H. R. No. 1966) for the relief of Foster and Tower.

HOUSE BILLS REFERRED.

The bill (H. R. No. 2006) to establish certain post roads was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

The joint resolution (H. R. No. 466) donating condemned cannon and muskets for the McPherson monument was read twice by its title, and ordered to lie on the table.

PAY OF SOUTHERN SENATORS.

Mr. MORTON. I believe the resolution in regard to the pay of Senators from the reconstructed States is now before the Senate.

The PRESIDENT *pro tempore*. It is before the Senate as in Committee of the Whole, and will be read.

Mr. MORTON. It has been read.

Mr. FERRY. Let it be read again.

The Chief Clerk read the resolution, as follows:

Resolved, That the Secretary of the Senate be directed to pay to the Senators from the States of North Carolina, South Carolina, Florida, Alabama, Arkansas, and Louisiana the compensation allowed by law, to be computed from the commencement of the Fortieth Congress.

The PRESIDENT *pro tempore*. There is an amendment pending offered by the Senator from Vermont, [Mr. MORRILL,] to insert the words "second session of the" before the words "Fortieth Congress."

Mr. MORTON. I was about to move that amendment, not knowing it had been moved already. I hope a vote will be taken on the amendment.

Mr. MORRILL, of Vermont. I withdraw the amendment. I believe it has not been agreed to.

Mr. MORTON. I renew the amendment. The PRESIDENT *pro tempore*. Then the question is still on the amendment.

The amendment was agreed to.

The resolution was reported to the Senate as amended.

Mr. MORRILL, of Vermont. I withdrew the amendment because, on reflection, finding that these Senators had been paid for the time of their service, I could not but regard it as a gratuity to pay them anything more. If we are to set an example in the case of ourselves why not set the same example in relation to military and naval officers and pay them for a year and a half before their term commences? Take, as an illustration of this case—some of these Senators, as I understand, were employed by the Government and receiving a salary up to the time of their election, paid by the Government. Now we propose to double up and pay them for the time they have been paid while they were employed by the United States.

Mr. WILLIAMS. I desire to inquire of the Senator, if he has examined this subject, how much time this resolution as amended proposes to pay the Senators prior to the passage of the bill recognizing the States as entitled to representation?

Mr. MORRILL, of Vermont. For the entire session.

Mr. FERRY. Seven months.

Mr. HENDRICKS. My colleague perhaps knows whether we did not pass a resolution on this subject at the last session. If we did I should like to know what it was. I think this matter was regulated at the last session.

Mr. WHYTE. This very question was determined at the last session. The other day when it came up I asked the President whether it had not been so determined. From my memory at that time I was sure that it had been. I find by reference to the Congressional Globe that the subject was discussed on an amendment offered to the same resolution by the Senator from Kentucky [Mr. DAVIS] and finally determined in the Senate on the 25th of July. On that day, as will be seen on page 4464 of the Congressional Globe for the last session of Congress, the Senator from Illinois [Mr. TRUMBULL] offered a resolution which I believe is in the same language as the one now proposed; it was in these words:

"Resolved, That the Secretary of the Senate be directed to pay to the Senators from the States of Arkansas, Florida, North Carolina and Louisiana the compensation allowed by law, to be computed from the commencement of the Fortieth Congress."

To that resolution the Senator from Kentucky [Mr. DAVIS] offered an amendment striking out all after the word "Arkansas," in the third line, and inserting:

"The compensation allowed by law from the 22d day of June, 1863, and to the Senators from Florida, North Carolina, and Louisiana, from the 25th day of June, 1868, and to the Senators from South Carolina from the day of —, 1868."

On page 4455, this amendment having been stated, the following proceedings occurred:

"Mr. DRAKE. The Senators from South Carolina should be included with the Senators from Florida, North Carolina, and Louisiana. They came in under the omnibus bill.

"Mr. DAVIS. That is my understanding.

"Mr. DRAKE. Just put in South Carolina with the others of the same date.

"Mr. DAVIS. The Clerk can make that modification."

The modification was made, and on page 4462, this amendment having been agreed to, and the question being on the resolution as amended, it appears that—

"The resolution, as amended, was agreed to."

Mr. KELLOGG. Mr. President, I understand that a few moments since, when I was absent from the Chamber, some reference was made by the honorable Senator from Vermont to the fact that some Senators from the southern States who would be benefited under this resolution in case it passed were holding Federal offices during part of the time covered by the resolution. I think it due to myself to state—I should not state it otherwise—that I have never had any intention of availing myself of any benefit under this resolution in case it shall pass. I held a Federal office a portion of the time, in fact up to the day I was sworn in as Senator. The resolution would not benefit me at all. I mention this partially in justice

to myself and to relieve the case from some embarrassment perhaps.

Mr. HENDRICKS. I wish to ask one more question, whether any rule has been adopted in the House of Representatives on this subject?

Mr. MORTON. I do not know.

Mr. HENDRICKS. Then I wish to inquire of the Senator from Ohio how that is? I think he stated at the last session that he had investigated it. I think he stated that the allowance went back to the first of the Congress, and including the Senators and Representatives it would amount to nearly half a million dollars.

Mr. MORTON. Mr. President, I was not here at the time this action was had at the last session; but I am advised that some of the Senators from the reconstructed States were assured by a number of Senators on the floor that there was no time then to settle the disputed question, and that that resolution should not be regarded as a settlement at all.

The precedents in the Senate that have been referred to would authorize these Senators to receive pay from the beginning of the Congress. The amendment now is that they receive pay from the beginning of the last session. I had supposed there would be no particular objection to that. If the precedents of the Senate amount to anything at all they should be somewhat uniform in their application; and there is no good reason for making fish of one and flesh of another. I know of no reason for a discrimination against the Senators from the reconstructed States in the application of a rule to them that has not been applied to others.

Mr. SHERMAN. I am willing, as a compromise, to vote for the proposition now made by the Senator from Indiana; that is, to give these Senators and members pay from the beginning of the session at which they took their seats. I do not see the force of the precedents quite so strongly as my friend from Indiana. The case of Tennessee, which is the only one that is really applicable, was under peculiar circumstances; it did not extend so far as this, and probably was not very carefully considered. I think it is right to give these Senators and members pay from the beginning of the session in which they participated. Many of them were actually engaged in their States in the work of reconstruction before they had a right to come here. The precedents allow members and Senators their pay from the beginning of the term in most cases. In some States members are not elected until after the term commences, as in Kentucky, where they are elected in August for the term beginning the preceding March, and they get the pay from the beginning of the term. I am willing for one to vote, as a compromise, for the proposition now made to commence this pay on the first Monday of December, 1867. If you go back to the 4th of March of that year it would make an addition to the compensation of each Senator and member from these States of about six thousand five hundred dollars, and if there are one hundred of them—there are probably not quite so many—it would make over six hundred thousand dollars; but if you commence it in December it does not give them much more than they are already entitled to. They get no additional mileage, because they have but one mileage for the session, and the result is simply to go back a few months before the time of their election. Probably, under the circumstances, that would be as just and fair an arrangement as could be made. I am therefore willing to vote to commence their pay from the first Monday of December, 1867. The resolution which we passed at the last session began their pay some time in June. This makes a difference of about six months' pay. I think that is fair.

Mr. FERRY. As I feel myself constrained to vote against any change in the rule established by the Senate last summer in reference to this compensation I wish to state very briefly the reasons which influenced me. As I understand it both Houses at the last session adopted a rule of compensation to the new members

from the reconstructed States which fixes the date of the admission of their respective States as the date of the commencement of compensation. In my judgment that rule is right. In my judgment to go back of the date of the admission of their respective States is to draw money from the Federal Treasury to be expended as a mere gratuity. If we set the precedent in the Senate it will be followed undoubtedly in the other House, and an expense of \$100,000 will thus be imposed on the Treasury which, in my judgment, ought not to be imposed, and which there is certainly no law for the imposition of.

Mr. TRUMBULL. This is no new matter in the Senate of the United States, but is a question that arose soon after the passage of the law of 1856. It arose then in regard to certain Senators who came to this body and who were elected after the Congress commenced. The cases of Messrs. Nourse, of Maine, Gwin, of California, Green, of Missouri, Fitch, of Indiana, and Bigler, of Pennsylvania, were all involved in the construction of the law of 1856 at that time. The Senate referred the matter at that time to the Committee on the Judiciary, and the Committee on the Judiciary examined the law and gave a construction to it in a somewhat elaborate report which was made in March, 1857. I shall only read a few sentences of it to show the construction which was put upon the law by that committee at that time; and it was sanctioned by the Senate, according to my recollection. I have sent for the Journal, and I have no doubt it will be so found:

"The Committee on the Judiciary, to whom was referred the following statement, submitted to the Senate by the President *pro tempore*, report:

"The President of the Senate *pro tempore* states to the Senate that questions have arisen before him on the construction of the act to regulate the compensation of members of Congress, approved 16th August, 1856, which affect the compensation of certain Senators who have been chosen since the commencement of the first and of the present session of this Congress, respectively, as to the time when the compensation of each should commence, and of the mileage properly to be allowed, which the President *pro tempore* desires should be submitted to the Senate.

"The first section of the compensation act of the 16th of August, 1856, provides 'that the compensation of each Senator, Representative, and Delegate in Congress shall be \$6,000 for each Congress, and mileage, as now provided by law, for two sessions only, to be paid in manner following, to wit: on the first day of each regular session each Senator, Representative, and Delegate shall receive his mileage for one session; and on the first day of each month thereafter, during such session, compensation at the rate of \$3,000 per annum during the continuance of such session; and at the end of such session he shall receive the residue of his salary due to him at such time, at the rate aforesaid still unpaid; and at the beginning of the second regular session of the Congress each Senator, Representative, and Delegate shall receive his mileage for such second session, and monthly during such session compensation at the rate of \$3,000 per annum till the 4th day of March, terminating the Congress, and on that day each Senator, Representative, and Delegate shall be entitled to receive any balance of the \$6,000 not heretofore paid in the said monthly installments as above directed.'

The committee go on to examine the law. That act fixed \$3,000 as the annual compensation, which was afterwards changed to \$5,000, without changing the law in other respects. The committee conclude:

"Testing the cases submitted to us by those principles we find the rule of compensation, in all cases of election after the first day of the first regular session, to be that the compensation does not commence until after election, and from thence to the end of the term, at the rate of \$3,000 per annum. This rule, in the opinion of your committee, applies to the cases of Messrs. Nourse, Gwin, Green, and Fitch. The case of Mr. Bigler is somewhat different. He was elected after the time fixed by law for the commencement of the first regular session of this Congress, but before the organization of the two Houses, and was in his seat the day the Congress entered upon its legislative duties; therefore, if not within the strict letter of the law, he is certainly within its equity, and your committee therefore recommend that he be paid for the whole Congress, deducting all the days he was absent except for the time excused by the law.

"We also consider that the question of mileage is settled by the same rule of construction."

The "rule of construction" is thus stated in another part of the report:

"He who serves the whole of each session of Congress is entitled to the whole \$6,000; he who is legally entitled to serve during the whole of each session, and is prevented by the sickness of himself or family from doing so, is also entitled to the whole \$6,000,

and none others. But these two classes are entitled to the whole compensation under this act. None of the cases submitted to us come within either of these classes, and are therefore excluded. In case of the death of a member after the beginning of the first session his personal representative is entitled to receive all the compensation not received by him which has accrued at the time of death, computed at the rate of \$3,000 per annum, and his successor could in no event be entitled to more than the residue of the \$6,000 not paid to the deceased member or his personal representative. None of the cases submitted belong to this class, but it furnishes a rule of construction which your committee believe will truly discover the intent of the act. There is nothing in the act itself which would warrant the application of a different rule of compensation to a member who fills a vacancy happening in any other manner different from one happening on the death of a sitting member after the commencement of a session; nor are we able outside of the act to discover any sound reason for such different construction. Though the mode of payment is by annual salary the consideration therefor in the contemplation of the act was the performance of the duties of a member of Congress when in actual session, and the times of payment seem to have been fixed during or at the end of each session with special reference to securing this consideration."

The committee there come to the conclusion that the Senators were only entitled to pay from the time that they were competent to serve, that is from the time of their election, except in a case where a Senator was elected for a full term and not elected until after the 4th of March, when the term began, as members in the House of Representatives in some States now are not elected until August. Congress at that time did not convene until December, and the committee came to the conclusion that in such cases the men who were elected for the whole term and who served during the whole time that Congress was in session were entitled to pay for the whole Congress, but a person who was elected afterward was only entitled to pay from the time of his election.

In the case of Minnesota, which was a new State admitted into the Union, the question arose again in 1858, and was again submitted to the Committee on the Judiciary, and this very succinct report was made by Mr. BAYARD, then chairman of that committee:

"Mr. BAYARD, from the Committee on the Judiciary, to whom was referred a letter of the Secretary of the Senate in relation to the compensation of the Senators from Minnesota, reported:

"That there is no express provision in the act regulating the compensation of Senators and members of Congress applicable to the particular case presented, but, in the opinion of the committee, a correct construction of the act of August 16, 1856, forbids the allowance of compensation until the State of Minnesota was admitted into the Union, and that the compensation to the Senators from that State should commence on the day of the admission, May 11, 1858."

These Senators had been elected before that. These States now under consideration are like Minnesota in one respect. They were not entitled to representation in this body until Congress so declared. The State of Minnesota, which had organized a State government in pursuance of what was called an enabling act of Congress, was not admitted until May 11, 1858, and the question was referred to the Committee on the Judiciary to determine when the pay of the Minnesota Senators should commence, and it was decided that it should commence at the time the State was admitted into the Union. In precise harmony with that this body decided at its last session "that the Secretary of the Senate be directed to pay to the Senators from the State of Arkansas the compensation allowed by law from the 22d day of June, 1868, and to the Senators from Florida, North Carolina, South Carolina, and Louisiana, from the 25th day of June, 1868," which were the dates respectively of the passage of the acts of Congress admitting those States to representation in this body. That was in strict conformity to the decision of the Senate ten years ago. It had always been the practice until the Tennessee Senators came here, and then the Senate departed from the settled practice of this Government always before. This list of precedents that has been presented here is not correct, as will be seen by reference to the Journals in regard to the action that has taken place in regard to the admission of Senators from new States.

When the question of the pay of the Ten-

nessee Senators was submitted there was some controversy about it, and the Senate allowed them pay from the commencement of the Congress; and it was because the Senate had done that that I introduced a resolution at a former session of this Congress to pay these Senators in the same way, supposing that the Senate had in the Tennessee case reversed its former decision; which in my judgment was the correct and proper one, and had always been adhered to; but when the matter came to be considered in this body the Senate refused to follow the precedent in the Tennessee case, and went back to the precedents adopted in 1857 and 1858 in regard to the construction of this law, which in my judgment is the true construction.

Now, having done that, I supposed, and so the Committee on the Judiciary supposed, that this matter was ended; and when this resolution was referred to the committee at the present session they looked to the action of the Senate at the last session of Congress; they looked to the construction which had been placed upon this law for ten years, and, supposing the thing was ended, under the direction of the committee I reported this resolution back to the Senate adversely. That was the report of the Judiciary Committee. I had hoped that that would be the end of it. I think that we had better adhere to the construction, which was placed upon this law ten years ago, and which, in my judgment, is the correct construction and which this Senate placed upon it at the last session of Congress.

Mr. SHERMAN. I shall say but a word in reply to the honorable Senator from Illinois. It is manifest that the case of Minnesota is not like the one before us. Minnesota was not a State in the Union at all until she was admitted; but these States were States in the Union, though they were not entitled to representation.

Mr. TRUMBULL. What is the difference?

Mr. SHERMAN. The distinction has so often been made by the learned chairman of the Judiciary Committee that I do not think I need reply to that question. They were States in the Union, as he has stated very often, but on account of the civil war they were not entitled to representation, because an adverse authority to the Government of the United States had overthrown civil government there temporarily; and until those States were restored to their right of representation by Congress, although they were States in the Union, they were not entitled to representation. I think the distinction is very obvious.

In this matter there ought to be a uniform rule fixing the time at which the pay of the members and Senators from the southern States shall commence. I have felt this difficulty. The members of the other House now receive their pay from various dates, depending upon the time of their election, according to the rule adopted there. For instance, the members from Alabama get their pay from February 4, 1868, because that was the date at which they were elected, although when they were elected they were not entitled to be admitted, because until the action of the convention was submitted to Congress and acted upon by Congress the members-elect from Alabama had no right to seats. The House of Representatives violated our rule by going back and giving them pay from the time of their election, although they were not entitled to take their seats until some time in June, while Senators under our rule from the same States, admitted at the same time, were not entitled to their pay until June. That is manifestly improper and inequitable. So it is in all the other cases. The House of Representatives undertook to establish a rule which allowed the members pay from the time of their election; but they were not entitled to come here at the time of their election by the reconstruction acts.

The result is that there is a diverse rule applying to every State. In the other House the members are paid from the date of their election; but that rule is not applied in the Senate, and the Senators are paid from the date of the admission of their States to representation. Under these circumstances, it

struck me, when the honorable Senator from Indiana modified his resolution so as to give them pay back to the first Monday of December, that it was a fair compromise that we could all agree upon. This will not add very largely to the amount. There are twelve Senators to whom the resolution applies, and they will get on an average about six months' pay beyond that allowed by the resolution of the last session. In the House each member from these States will get much less, because those members have already been paid from the time of their election; and, as we all know, the election of members occurred several months before the election of Senators. In North Carolina the election of the members was on the 2d of April; in South Carolina on the 14th of April; in Louisiana on the 18th of April, from which time the members have drawn their pay; so that those members, if the House should adopt the rule now proposed here, would get only three or four months' additional pay, which is not a very great matter when we consider that they were engaged in the work of reconstruction preliminary to their election, as much so, at least, as members who ran in Kentucky, elected in August, are entitled to pay back to the 4th of March. It seems to me we ought to put the Senators and members on the same footing.

Mr. TRUMBULL. How does the Senator make it out that they only get three months' more pay? They are now paid from the 25th of June, as I understand.

Mr. SHERMAN. I say the Senators will get more, but the members of the House will only get three or four months' more pay under this resolution, if it applies to them.

Mr. TRUMBULL. I do not know what the other House may do.

Mr. SHERMAN. I understand that the matter is not yet finally settled in the House of Representatives. The question, I am told, is still depending there. There ought to be a rule of uniform application to the members and Senators. They ought to draw their pay from a given time; and when the proposition was modified to make it commence from the first Monday of December, 1867, which removes all objection growing out of any possible claim for additional mileage and pay for nine months before the session began, it seems to me to be a reasonable and fair proposition, which we can properly accept. If the rule be made applicable to both Houses they will receive full pay for the session during which they served—the second session of this Congress. I shall vote for that, thinking it is a fair and liberal adjustment to those gentlemen, and at the same time fair to the Government.

Mr. TRUMBULL. I desire to say one word in reference to the point which the Senator from Ohio makes that the case of Minnesota is not analogous. He says these were States and Minnesota was not a State. The question is here whether persons representing these States were entitled to compensation. The State of South Carolina was a State without a State government, and, of course, if there was no State government to be represented there could be no Senators entitled to compensation any more from South Carolina than from Minnesota. But I beg to inform the Senator from Ohio that Minnesota had formed her State government. Her case was a stronger one than this. She had elected her Senators to this body before the passage of the act here declaring Minnesota a State in the Union. An enabling act had been passed for the benefit of Minnesota and she had formed a State constitution and State government, had elected her Senators, sent them here, and they were here in waiting urging the admission of their State; and the Senate solemnly, after investigation, came to the conclusion that the Senators were only entitled to compensation when there was a government behind them that was entitled to representation. That is precisely similar to the case here. The Senators from these States are entitled to compensation when there was a State government behind them to entitle

them to representation; and certainly upon no other principle can they be entitled to it before. And then, let me ask the Senator from Ohio, how does he get over the positive provision of the statute? These Senators performed no service, for they were not in the Senate until after the 25th of June, 1868. He proposes to pay them from the first Monday in December, 1867. Now, can they make the certificate? He and I could not receive pay if he and I had been absent from the first Monday in December, 1867, to the 25th of June, 1868, unless by reason of sickness. We must upon honor state the days of our absence and a deduction is made from our pay. How can these Senators receive pay when they were not in attendance; how can they make the certificate?

Mr. WILLIAMS. I am fully committed on this question. When the resolution was passed in reference to the State of Tennessee I resisted it to the best of my feeble ability. I knew then, or supposed I knew, that it was a departure from the precedents and that it would establish a practice that would lead to mischievous results. I then spoke once or twice on the question and exhibited the reasons for opposing that resolution, and my views have not been changed upon the subject at all. It seems to me that after the Senate has once passed upon the question the motion to renew this controversy as to the pay of these Senators ought not to be sanctioned by the Senate; but as the chairman of the Finance Committee seems to have abandoned the ground heretofore taken on the subject I do not know that other members of the Senate ought to struggle against a claim of this kind. We have been accustomed to look to the chairman of the Committee on Finance to protect the Treasury of the Government against claims of this description, but in this case he seems to take a different view, and it is very probable that his opinions on the subject may have sufficient weight to carry through this resolution; but my opinion is unchanged, and I do not see how with any propriety the claim can be made that before these States were entitled to any representation in Congress, when there was no possibility of their having any Senators here, we should propose to pay Senators for services prior to that date. I cannot reconcile it with any view of the law or any principle or any reason that ought to influence a question of this kind.

Mr. STEWART. I must call for the regular order.

Mr. MORTON. I hope the Senate will dispose of this matter. What is the regular order?

The PRESIDENT *pro tempore*. The special order is the report of the committee of conference on the constitutional amendment.

Mr. MORTON. This resolution has been up two or three times and has been jammed off. I think it is due to the Senate that it should be now settled. I hope, therefore, the regular order will be passed over informally for that purpose.

Mr. STEWART. If the discussion is ended I have no objection; but otherwise I cannot agree to it.

Mr. EDMUNDS. We cannot say that the discussion is ended.

Mr. STEWART. Then I insist on the regular order.

Mr. MORTON. I move to postpone the regular order, say for half an hour. I think this matter will not take half that time.

The PRESIDENT *pro tempore*. It is moved that the special order be postponed for half an hour.

Mr. STEWART. I hope that will not be done.

Mr. FERRY. Will that displace the regular order?

The PRESIDENT *pro tempore*. If it is the understanding that it shall not displace the regular order the Chair will endeavor to enforce the understanding.

Mr. EDMUNDS. We cannot have any understanding.

Mr. FERRY. I ask the Chair what is the

effect of the motion under the rule? Does it displace the regular order?

The PRESIDENT *pro tempore*. The regular order is of course displaced when another matter is taken up by a vote of the Senate.

Mr. FERRY. Then I hope the motion to postpone will not prevail.

Mr. MORTON. I will consent to let this matter go over until the constitutional amendment is disposed of with the understanding that it shall then be called up and disposed of.

Mr. STEWART. Very well.

SUFFRAGE CONSTITUTIONAL AMENDMENT.

The PRESIDENT *pro tempore*. A special order is before the Senate, being the report of the committee of conference on joint resolution (S. R. No. 8) proposing an amendment to the Constitution of the United States.

The report of the committee of conference was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the joint resolution (S. R. No. 8) proposing an amendment to the Constitution of the United States having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their amendments and agree to the resolution of the Senate, with an amendment, as follows:

In section one, line two, strike out the words "or hold office;" and that the Senate agree to the same.

W. M. STEWART.

ROSCOE CONKLING.

Managers on the part of the Senate.

GEORGE S. BOUTWELL.

JOHN A. BINGHAM.

JOHN A. LOGAN.

Managers on the part of the House.

Mr. STEWART. I call for the reading of the joint resolution as it will read if amended.

The Chief Clerk read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring), That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which when ratified by three fourths of said Legislatures shall be valid as part of the Constitution, namely:

ARTICLE XV.

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SEC. 2. The Congress by appropriate legislation may enforce the provisions of this article.

Mr. POMEROY. I am embarrassed a little in regard to this question by the manner in which the committee have made the report. The resolution called joint resolution No. 8 was passed by the Senate by a constitutional vote of two thirds, restraining the United States or any State from restricting the right to vote and hold office on account of race, color, or previous condition of slavery. That resolution, as is known to all the Senators, passed and went to the House. The House amended it by inserting three words; they amended it by restraining the States from putting any restrictions relating to nativity, property, and education. It came back then to the Senate, and the Senate disagreed to the amendment, and asked for a committee of conference. The conference was agreed to by the two Houses, and then the committee of conference took up the question. The committee of conference then have reported to us that the House recede from their amendment, and without stopping there they have ventured to tamper with the text of the resolution which had been agreed to by the two Houses. That, I undertake to say, is both unparliamentary and almost unprecedented. We have had a somewhat rich experience in this Senate upon the question of the power of a committee of conference to change what had been agreed to by the two Houses, and it has never yet passed the Senate when the question has been made, excepting, as we have it recorded in the books, that after that fact was distinctly stated it passed unanimously and it was agreed to unanimously on account of its having been a violation of parliamentary law and of the powers of a committee of conference. That has been the result in all the cases I have been able to find.

We had a very lengthy discussion on this question when a committee of conference sev-

eral years ago made a report here on the bill providing that executive officers should not be held accountable in civil process for arrests. The committee of conference changed the text of the bill somewhat more in form than in words. It was discussed here all day and all night, and at three o'clock in the morning the bill finally passed this body. The discussion was not made on the ground that the committee of conference could not change the text of the bill which had been agreed to by the two Houses, but the contest was over the merits of the case on the suspension of the writ of *habeas corpus*. I will not occupy the time of the Senate with that case. It occupies a great deal of space in the Globe. I have had occasion to read through it. I will only refer to a few cases that have occurred recently within our own recollection, so that Senators will be sure I am right. I have seen also several cases that occurred in the earlier history of the proceedings in the Senate.

The first case that struck my attention after I became a member of the Senate was the report of a committee of conference which was made by the then Senator from New Hampshire, Mr. Clark, upon House bill No. 780, to protect the revenue, and for other purposes. The committee reported that they had met; and after full and free conference had agreed to recommend to their respective Houses that the House recede from certain amendments, and then that the Senate recede from other amendments, and finally they inserted this new proviso:

"Provided further, That nothing herein contained shall apply to long combing or carpet wools costing twelve cents or less per pound unless the charges so added shall carry the cost above twelve cents per pound, in which case one cent per pound shall be added."

That was entirely new matter, not in either of the bills that had passed the two Houses. I find the action of the Senate on that report thus recorded in the Journal:

"The Senate proceeded to consider the report and the accompanying recommendation of the committee of conference in respect to an amendment to the text of the bill.

"On motion by Mr. CLARK.
Resolved, That the Senate agree to the said report, and that it unanimously agree to the amendment to the text of the bill as recommended by the committee of conference.

"Ordered, That the Secretary notify the House of Representatives thereof."

It was held in that case that it required the unanimous consent of the Senate to amend the text of the bill. It was so reported and so argued.

Mr. CONKLING. It does not appear so, from what you have read, but that the Senate unanimously agreed to it.

Mr. POMEROY. It was so held in the debate, as appears in the Globe. The report of the committee contained nothing about that; but when the Senate came to act upon it it took this action:

"The Senate proceeded to consider the report and the accompanying recommendation of the committee of conference in respect to an amendment to the text of the bill.

"On motion by Mr. CLARK.
Resolved, That the Senate agree to the said report, and that it unanimously agree to the amendment to the text of the bill as recommended by the committee of conference."

It was held that that was the only way in which the text of the bill could be changed.

Mr. CONKLING. You mean in the arguments?

Mr. POMEROY. Yes, sir; and that was the action of the Senate. It was argued so, as appears by the Globe.

There are one or two other cases. They are all to the same import in effect. Here is a case where a committee of conference reported on the disagreeing votes of the two Houses on the 16th of June, 1862, on an amendment to House bill No. 413, making appropriations for the payment of the bounty authorized by the sixth section of an act entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting the public property," approved July 22, 1861.

They reported a change of the text of the bill:

"The report having been read, the Vice President—

Mr. Hamlin, of Maine, was then in the chair—

"stated that he thought it the duty of the Chair to call the attention of the Senate to the fact that the committee of conference in their report had recommended a change in the text of the bill.

"The Senate proceeded to consider the report; and, on motion by Mr. POWELL, that the Senate disagree to the report, and that it be recommitted to the committee of conference," &c.

When the Presiding Officer, who was then Vice President of the United States, on that occasion felt it his duty to call the attention of the Senate to the fact that the committee of conference had undertaken to amend the text of the bill which had been agreed to by the two Houses, the Senate at once recommitted the report; and if you will read the debate on that occasion you will see that it was held in the argument that the power of a committee of conference was confined to disagreeing votes between the two Houses; that a conference was asked on that account; and that when they had reconciled the votes of the two Houses, their mission had ended, and they could only report to their respective Houses what they had accomplished toward reconciling the disagreeing votes; that it was not in their power to amend the text.

Mr. CONKLING. Allow me to make an inquiry of the Senator. Is not the case which he has just handed me, and are not all the cases on this head, instances of a committee of conference putting some matter into a bill upon which the two Houses had not acted one way or the other, introducing new and original matter?

Mr. POMEROY. Some of these cases do involve that with this other principle.

Mr. CONKLING. Do they not all involve it?

Mr. POMEROY. They all involve that; but they all involve this also: that they undertook to change the text of the bill which had been agreed to between the two Houses; and since I have been a member of this body I never have seen the original text of a bill changed by a committee of conference that it was not resisted when it came into the Senate; but we have cured it by agreeing to it unanimously. In this case it will be observed that the Presiding Officer arrested the report of the committee by announcing that they had undertaken to change the text of the bill, and the Senate at once recommitted it.

Mr. EDMUNDS. What case was that?

Mr. POMEROY. That was a case upon the report of the committee of conference on the 16th of June, 1862, on House bill No. 413, making appropriations for the payment of bounties authorized by the sixth section of an act entitled "An act to authorize the employment of volunteers," &c.

After it had been recommitted we find that—

"The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 413) making appropriations for the payment of the bounty, &c., and Mr. POWELL having modified his motion to read as follows:

Resolved, That the Senate disagree to the report of the committee of conference, and ask a further conference on the disagreeing votes of the two Houses on the said bill."

That resolution was carried—yeas 20, nays 17. As soon as the committee of conference changed the text of the bill in that case the Senate first recommitted it to the committee, and when they made their second report it was disagreed to, and a new committee of conference was asked for and given.

I do not desire to consume time on this subject. This question of a constitutional amendment has been before the Senate for a long time. I have no hostility to the measure itself, but I have insisted year after year that the Senate owes it to itself to maintain its parliamentary law and parliamentary practice. It is laid down in Jefferson's Manual—and nothing can be laid down clearer—that a committee of conference cannot change what has been agreed upon by the two Houses, but their power term-

inates when they have undertaken to reconcile the disagreeing votes of the two Houses. The House of Representatives have made Jefferson's Manual a part of their rules. Where it does not conflict with their own rules they have adopted Jefferson's Manual, and if the House of Representatives have adopted this report they have broken their own rule on this question.

Mr. STEWART. Does the Senator mean to say that the committee have attempted to revise any portion of the text of the bill which stands as independent matter and not dependent upon the amendment? I am very confident that they have not.

Mr. POMEROY. There were two distinct propositions agreed upon between the two Houses. One was that the colored man should have the right to vote; another was that he should have the right to hold office. The two Houses agreed to the proposition that he should have the right to vote and the right to hold office; and the committee of conference have stricken out one clause—the right to hold office.

Mr. STEWART. The Senator is mistaken. The proposition agreed to by the Senate was that the colored man should have the right to vote and to hold office. The House said, "Very well; he shall have that right provided you will attach other conditions," which qualified the right to vote and to hold office.

Mr. POMEROY. I was only going to add, not desiring to take up time or to express myself as hostile to the measure, that I think committees of conference should be held strictly to parliamentary law and good usage; and where a distinct proposition has been agreed to by both Houses it should not again come into the discussion by a recommendation of a committee of conference to change it. What the Senator from Nevada says is true in one respect. The House did agree to this proposition with an amendment. When the House concluded to recede from its amendment the disagreement ceased; there was no further conflict between the two Houses. This proposition to hold office has always been as distinct a proposition as any other proposition in the constitutional amendment, and it was not in the power of the committee of conference to change it. That is the usage of the Senate and the parliamentary law.

Mr. EDMUNDS. Do I understand the Senator from Kansas to raise a question of order?

Mr. POMEROY. It is not a question of order. I will raise it if it is.

Mr. EDMUNDS. What is it, then?

Mr. POMEROY. In previous debates Senators undertook to raise the question of order. It was tried two or three times, and the Chair always held that it was not a question of order.

Mr. STEWART. I wish to say but a word on this question. The Senator from Kansas is entirely mistaken about the point.

Mr. POMEROY. It is possible that I am, and it is possible that I am not.

Mr. STEWART. It is not true, in point of fact, that this was an entire proposition. Let me state it to the Senate. The Senate passed a resolution to insert in the Constitution these words:

The right of citizens of the United States to vote and to hold office shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.

The House amended that proposition so that it would read thus:

The right of citizens of the United States to vote and to hold office shall not be denied or abridged by any State—

leaving out "the United States"—on account of race, color, nativity, property, creed, or previous condition of servitude;

qualifying the right to hold office, as contained in the Senate proposition, by two other conditions, or stating cases in which the States should not deny the right to hold office by putting in two other propositions; qualifying the proposition of the Senate that they should have the right to hold office by a very important amendment. They did not agree in the qualification upon the right to hold office. The right to hold office was a dependent proposition

qualified by three additional restrictions. It is not an independent proposition, it is all one sentence; and the reason of the thing, it seems to me, is that where a sentence is an entirety and one part is made dependent upon another, it is impossible for a committee of conference to compare views and comply with the general principle of a free conference, as laid down in Jefferson's Manual, unless they can so modify the sentence as to make it a complete whole and accommodate the difference between the two Houses. This is what Jefferson's Manual says:

"At free conferences the managers discuss, *viva voce* and freely, and interchange propositions for such modifications as may be made in a parliamentary way and may bring the sense of the two Houses together."

Mr. BAYARD obtained the floor.

Mr. POMEROY. If the Senator from Delaware will allow me a moment I desire to read another case which belongs to the cases that I cited. This case is within the memory of almost every Senator, because it occurred in 1867. It was on the report of the committee of conference on the disagreeing votes of the two Houses on House bill No. 234, to incorporate the National Capital Insurance Company. The Senate will remember that that extraordinary bill, the only national corporation that ever got through this body, and if we had it before the body now I fancy it never would go through, was finally compromised by a committee of conference. The committee made their report, in which they undertook to reconcile the disagreeing votes of the two Houses, and then they changed the text of the bill, and here is the action of the Senate upon it:

"The Senate proceeded to consider the report; and

"On motion by Mr. MORRILL"—

The Senator from Maine, who was chairman of the committee—

"Resolved, That the Senate agree thereto.

"The Senate then proceeded to consider the recommendation of the committee of conference that certain amendments be made to the text of the bill; and

"The recommendation of the committee was unanimously agreed to.

"So it was

"Resolved, That the Senate agree to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 234) to incorporate the National Capital Insurance Company; and that the Senate do also unanimously agree to the amendments to the text of the bill as recommended by the committee of conference."

And the Secretary was directed to notify the House of Representatives to that effect. Thus it will be seen that when a committee of conference have undertaken to amend the text of a bill it has always been done by the Senate agreeing to it unanimously and on that basis alone. That is the point I make in regard to this report.

Mr. BAYARD. I do not propose to enter into the controversy about the question of parliamentary law; but it is right that the Senate, or if not the Senate the country, should understand that the committee of conference of the Senate of the United States have recommended precisely the same proposition in its legal import—no possible alteration can be made—that the Senate voted upon and rejected about two weeks ago. The proposition which came from the House to amend the Constitution originally—House joint resolution No. 402—was met in the Senate by amendments. Those amendments passed in the Senate by a two-thirds vote. They were sent to the House of Representatives, and the House of Representatives disagreed to those amendments and asked for a committee of conference. The Senate did not assent to that request, but they receded from their own amendments, and the question came up directly on that which the committee of conference now recommend in legal import. A few words are altered at the end about any citizen or class of citizens, but they have no shadow of effect in altering the meaning of the article. The committee of conference have, then, presented to the Senate, by way of amendment, precisely the same

proposition that, by a vote of 81 against 27, the Senate of the United States rejected, I think, last Tuesday week. I do not know, I cannot tell, what may be the motives which actuated the votes of honorable Senators then. They may change those votes to-day; but if those votes remain this amendment is lost, because it is the same which has already been rejected. It is for them to explain to their own constituents and explain to the people of the United States the grounds and reasons of the change of a vote given after a full discussion before, after the Senate had receded from all its own amendments, when the direct proposition came before them; and that same amendment is the amendment now proposed to us to be adopted.

Mr. HOWARD. The question is upon concurring in the report of the committee of conference. I shall vote to concur in the report not because this amendment of the Constitution as presented is entirely satisfactory to me, but because I think that it is at present the best that can be obtained. I must content myself, therefore, with the best I can get and run the risk of the future.

I desire to call the attention of Senators to the peculiar wording of this amendment and to its application in the future. I had hoped that the amendment which we should adopt at this session of Congress would have the effect to put an end to all further discussions throughout the country as to the political status of the colored man. I think that has really been the great object at which we have all aimed. I wish this amendment accomplished that object. It possibly may do so; possibly it may not. It will be observed from the language of the report now before us that it does not confer upon the colored man the right to vote. I wish it did; because if it had that effect it would for the future put an end to all controversy respecting his political right as a voter in the United States. As to his right to hold office that, in my judgment, would follow almost as a matter of course. At any rate it would be a subject about which I should have no concern for the future; for a person possessing the right of voting at the polls is inevitably in the end vested with the right to hold office under the Government of which he is a voter. This, however, confers no right to vote. It declares that "the right of citizens of the United States to vote shall not be denied or abridged," &c., without imparting the right itself.

Suppose that after the reorganization of the Government in the State of South Carolina, for example, the voters in the State shall see fit to divest the colored man there of his right to vote. They certainly have a right to do so, under the reserved rights of the States as one of the States of the Union; and the only mode in which the right to vote could be restored to the colored man in that State would be under the subsequent clause in this amendment giving to Congress power to carry out and effectuate this clause by appropriate legislation, so that Congress would then, if it saw fit, step in and remedy the defect of the State law and restore to the colored man his right to vote. This might be the case in more than one of the States of this Union. It might, indeed, be the case in all States of the Union; and Congress would be called upon to exercise an authority under the second clause of this amendment, and to impart by direct congressional legislation to the colored man his right to vote. No one can dispute this.

Suppose that after having passed such an act of Congress thus conferring the right upon the colored man a subsequent Congress should see fit to overhaul our action on the subject and take away from the colored man the right to vote. That might be done, because the action of one Congress does not necessarily bind a subsequent Congress in regard to its action. So that this question of negro suffrage, as it is called, will still be a subject for political discussion and wrangling for perhaps all time to come; and this amendment, as to which its authors fondly hope will put an end to all this

discussion for the future, in my judgment does no such thing, but rather holds out to the future the same subject as a theme for political wrangling and discussion; and there is no possibility of foreseeing the time at which the great negro question will be put to rest.

These are some of the difficulties, and the main difficulties, which I see growing out of this particular form of the amendment. I hope it will work well; I trust it will; but I cannot refrain from pointing out to the Senate the difficulties which I foresee may take place in the future growing out of this same amendment of the Constitution.

Mr. EDMUNDS. Mr. President, I understood the Senator from Kansas to raise the question of order whether under parliamentary law we were entitled to pass upon this question which is now submitted to us in this report. Certainly, if there be anything in the question; as I think there is, it can be no other than a question of parliamentary order.

The history of the proposition is this: the Senate passed a joint resolution—which is the original proposition now before us—and sent it to the House, declaring that the right of citizens of the United States to vote and hold office should not be denied or abridged by the United States or by any State by reason of race, color, or previous condition of servitude. I believe I quote the exact language, or substantially, sufficiently for my purpose. The House of Representatives agreed to that with two proposals of amendment. The first was to strike out the words "the United States," so as to leave the prohibition applying to the States in their individual political capacity alone; and second, to add to the enumerated grounds of prohibition three others than those proposed by the Senate—nativity, creed, property. The Senate disagreed to those proposals of amendment, and a conference was the result.

Now, what were the powers of that conference committee? If there is anything that is settled in parliamentary law, if there is anything that is settled in the proprieties of legislative proceedings, it is that there was confided to those gentlemen only the question of discussing the points of disagreement arising between the two Houses. Now, was the question of office-holding one of those points of disagreement? No man will say that, because both bodies had voted for it. The points of disagreement were first on striking out the words "the United States," which may be set aside as not material to this inquiry; and second, as to modifying or restraining what we had proposed on the subject of the causes of exclusion—race, color, or previous condition of servitude—and adding further and other causes in respect to which we would deny to the States the power of legislation or political action. These were the only things that were sent to this committee of conference; they were the only subjects which the Senate and House of Representatives were willing or could have been willing to confide to their discretion, because they were the only points and causes of disagreement. Now we find that the committee report that they have agreed to recommend that the House of Representatives recede from both its proposals of amendment and agree to the resolution of the Senate to which it had already agreed, with an alteration of the substance, I may say because I feel it, the life of the text of the resolution.

My friend from Kansas has shown from the Journals of this body that there never has been an instance so far as he has gone in which a committee of conference has attempted to go outside of the subjects of disagreement and to change that which had already been agreed to except where both Houses, dispensing by unanimous consent with all rules of order, have agreed unanimously to make some phraseological change.

Now, what does this propose to do? It proposes to strike out from this constitutional amendment one half of all it contains. It proposes to say, "While we will leave to the States of this Union the power to deny one class or

many classes of their citizens the right to be voted for, the right to represent and to protect in a legislative way their own citizens, we will deny to a State the power of saying that they shall not choose." If this were a mere question of technicality, if it did not involve a great principle, I certainly should not raise any point of order upon it; but feeling, as I did in committee, that it was merely asserting the shadow while it wiped out the substance, that it was flying in the face, so far as peace and progress are concerned, of all history and all experience, I felt obliged to decline to sign this report on the ground, among others, that it had gone entirely beyond any authority that the committee had to treat upon the subjects of disagreement between the two Houses.

But suppose that, as we sometimes do in this body in order to attain what gentlemen may suppose to be a great end, we fly in the face of the law, break down the barriers that parliamentary propriety and the success of good legislation have imposed upon us by our own consent, and disregard the law, where do we find ourselves then on the merits of this proposition? What are the failures that we are attempting to redress by a change in the fundamental law of the nation? What is the grand moving cause that impels us to withdraw from the States of this Union who have hitherto exercised its entire power over the political question of the right of suffrage and the right to hold office? Is it not that in many of these States there are large classes of citizens who are practically ostracised from the Government, and who therefore reside in a community that, while it has the shadow and pretense of republicanism, has none of its reality? Most certainly it is; and therefore you intend to interpose the nation's will, found in the assent of three fourths of the States, to compel a real republicanism and a real democracy in these States; and what are the steps on this report that you propose to take to do it? You propose to take the very steps—I repeat what I said a moment ago on that subject—you propose to take the very steps that all history has demonstrated to be deadly to a republic. To be sure the instances are not frequent, for few peoples have been so wanting in intelligence and in a knowledge of the philosophy of a republican government as ever to institute a distinction between the right of a citizen to participate, if he is to participate in the government at all, entirely; and if you give him the right to have a voice in the government, that voice cannot have any live expression unless it enables him to choose from among his fellow-citizens the man who suits him for his representative, instead of confining him, as this amendment does, to a chosen aristocratic class, saying to a citizen of a free republic, "You have rights of manhood, you have rights of equality, but you shall exercise those rights in choosing some one of us to rule over you instead of some one of your fellow-citizens whom you prefer."

There is no instance within my knowledge of history for the last five hundred years in any country where the people have any rights at all of political action where there has been attempted the method that is proposed in this amendment of excluding the mass of the community from exercising the powers of government in the way of being voted for and representing their fellow-citizens instead of merely having the boon that the plebeians in Rome had to vote for the aristocratic magistrate selected from among the patricians. Now, sir, do we wish to set up a patrician class in these southern States? Do we wish to try an experiment that has overthrown the most civilized of ancient Governments? It would seem that we did by this amendment. It would seem as if in our eagerness to do something with the Constitution we had forgotten entirely that it was of any consequence to know what we were to do and to what end. Why, sir, we have an illustration before our eyes that has been pressing itself upon our attention for months on this very subject. You have in this nation at this

day in one of the very States upon whom this Constitution is to operate an illustration of the result you will come to by adopting an amendment of this kind, an amendment which, containing half of an inseparable, indivisible, and united truth, is in reality a falsehood; and that State is Georgia. You will find, if you let the thing run on, that the example of Georgia will be imitated in all the other States, and you will have set up in this Republic a class aristocracy depending not upon intelligence, upon which some philosophers say a distinction may be made—I do not go into it—depending not upon faith or creed, upon which some enthusiasts suppose a distinction may be made, but depending upon the mere accident of the complexion of a human being, whom you say, as far as you go, is entitled to equal rights and privileges as a citizen of the country.

Now, can you defend that before an intelligent public? Will it be successful with an intelligent public? Are you not making progress backward as fast as you can in the race of life by proposing a proposition of that kind? Are you not giving to the people the mere husk and shell of the feast of political equality to which you invited them, reserving the substance and juices to yourself?

It is repugnant, Mr. President, to all my notions of a free Government; it is repugnant, I know, to all the notions of the people whom I represent as entering into the very framework and heart of any Government that professes to be or can duly be called a republican one. And where is the necessity for taking this half step, as some gentlemen argue it, of getting all you can if you cannot get the rest? Is it to be found, so far as we have yet heard, in any argument of the intrinsic propriety of the thing? Not at all. No Senator has raised his voice to defend the right of any State to say while you give a man the right to vote you shall not permit him to be voted for. I do not know but that we shall hear it yet, though nobody has heard it so far. What is the reason, then? Some vague fear, I suppose, fills the mind of some trembling convert to liberty that his people will not be satisfied to give the negro the right to run against themselves for some office, but they are willing to confer upon him the boon of voting for them. I do not believe in that, sir. As I have said, I believe it to be ruinous to the Government if it is carried out. I believe it to be an outrage upon the good sense and the patriotism of the country; and so believing—though I do not wish to occupy time in stopping its progress if my political friends think it best to pass it—I have felt bound to say so.

Mr. WILSON. Mr. President, for nearly thirty-three years I have at all times and on all occasions, by word and by vote, done what I could against slavery and everything relating to it and connected with it. I have asked always for what was right and taken on all occasions what I could get. I have acted upon the idea that one step taken in the right direction made the next step easier to be taken. I suppose, sir, I must act upon that idea now; and I do so with more sincere regret than ever and with some degree of mortification. In the early part of this session, before the month of December passed away, I had hoped that the majority in Congress would seize the great occasion which was presented, when the hearts, minds, and souls of the people, after having passed through a great struggle, were deeply imbued with the love of liberty and the sense of justice, and we had twenty-five State Legislatures in the hands of our friends, and take the responsibility of submitting to the Legislatures a proposition to amend the Constitution so as to secure to the colored citizens of this country the right to vote and be voted for. But day after day, week after week, month after month passed away without action.

Then, sir, came the proposition, I think a very lame and halting one, providing that colored men should have the right to vote, but silent about the right to hold office. The Senate amended that proposition by a comprehen-

sive amendment, an amendment that covered more than the black man, for it covered the white man and prohibited distinctions on account of nativity, property, education, or creed. Sir, I have no doubt that if that amendment could have reached the people it would have been the strongest amendment ever submitted to the American people. Outside of a few localities in New England and on the Pacific coast there could have been no resistance to it. In the great central States and in the West, and especially in the West, there is not a square mile on which men could have stood and made opposition to it.

Sir, it would have swept away any formation that dared to stand against it; but it was rejected in the other House; it was met by opposition from quarters from which I did not, I confess, expect it in Congress and out of Congress. It received, I think, very narrow criticisms, inspired more by notions and theories than by a sense of absolute right and justice. If the black man in this country is made equal with the white man—and I hope he soon will be—I mean, by the blessing of God, while I live to hope on and to work on to make every white man equal to every other white man. I believe in equality among citizens—equality in the broadest and most comprehensive democratic sense; No man should have rights depending on the accidents of life.

We passed the amendment of the Judiciary Committee, allowing citizens without distinction of race, or color, or previous condition to vote and to be voted for. That amendment was returned to the House of Representatives with an amendment like the amendment originally adopted by the Senate, with the exception of the word "education." Under the lead of the Senator from Nevada we referred the matter to a committee of conference, and now the committee of conference bring us this proposition, which is the original report of the Senate Committee on the Judiciary, with the right to hold office stricken out. Senate proposition and House proposition both gave the right to hold office. Why does the conference committee strike out a provision agreed to by both Houses?

The Senator from Vermont tells us that we are in favor of giving the right to vote, but will not give the right to hold office. I am going to vote for this proposition without taking any responsibility for it. I am not responsible for this half-way proposition. I simply take it at this late hour as the best I can get after having struggled for the right to vote and the right to hold office.

Mr. EDMUNDS. I ask my friend how he knows that this is the best he can get? He can never get anything better if he does not try.

Mr. POMEROY. I hope the Senator will vote with me to disagree to this report and ask for a further conference. I propose to move, as soon as I can get the floor, that the Senate disagree to this report and ask for a further conference.

Mr. WILSON. If there is an opportunity to get the right to hold office I will do it; I take no risk, for I am determined to take what I can get if I cannot get all I demand. The Senator from Vermont, however, ought to see that his argument can be used with effect against us in States in supporting the amendment, if it be put in the form he desires. The Senators and members of Congress and newspaper correspondents and newspapers ought to see it. In the State of Connecticut the first great battle is to be fought, and right in sight of that people are thousands of naturalized citizens that cannot vote unless they hold \$134 worth of real estate. What will the enemies of the measure say? They will say, as they have done, "This is only a negro question." If the amendment was as broad as the Senate originally passed it I should like to see the man on the soil of Connecticut who could stand up and fight the proposition. If he did he would fight against the rights not only of the black man, but the rights of thousands of adopted citizens in a neighboring State. Could the Catholic

fight against a constitutional provision that secured to men of his faith the right to hold office in spite of the constitution of New Hampshire?

Now, for one, if this amendment goes to the people in this form, I protest against any inference that I am not in favor of colored citizens holding office, not in favor of protecting adopted citizens, not in favor of protecting men in their equal rights, on account of religious belief, property, or educational qualifications. I am in favor of protecting citizens against all these qualifications, and I mean, by the blessing of God, by speech and act, to work for the enjoyment of the absolute right of citizens in the States to vote and hold office without regard to race, color, previous condition of servitude, nativity, property, or religious faith.

There is one thing I remember—and I want Senators to think of this, and if there is a chance to appoint a new committee and get something better, as is indicated by a member of this last committee—I want them to remember that in the constitutional convention of Georgia Mr. Ackerman, one of the ablest men of that State, a lawyer of eminence and high character, proposed that the constitution should provide not only for the black man's voting, but for the black man's holding office. A few timid, conservative, halting, short-sighted Republicans were afraid to meet the people of Georgia on a plain, square, and direct issue, and they got together, consulted, held consultations over it, got scared, and went into the convention; and all the men in that convention, with the exception of twelve, including black men, backed square down.

Mr. EDMUNDS. They thought that was all they could get, I suppose.

Mr. WILSON. They did not try to get more. They went to the people of the State, talked with a forked tongue, one class of politicians saying that the negro had the right to vote but no right to hold office, and the other class saying that he had the right to vote and to hold office. They elected quite a number of black men to the Legislature. The black men in their magnanimity and generosity—for there never was a people so magnanimous, so generous, so forbearing, and so good-hearted toward those who have been their enemies as the black men of this country—allowed unrepentant and unforgiven traitors to sit in the Legislature with them, and the moment those men got the power they hurled the black men out of the Legislature. There are no Senators sitting here from Georgia on account of that action, and we have passed months and we do not yet see the remedy.

Do not tell me, sir, that the right to vote carries with it the right to hold office. It does no such thing. If there is nothing said about it the fair inference is that it does, but if there is a provision in a State constitution otherwise silence does not annul or overthrow that constitutional or legal declaration. No man in the world has a right to hold an office. The people have a right to vote, and they have the right to put terms and conditions to the offices that they make.

Mr. Webster said in the constitutional convention of Massachusetts, in 1820, that no man had the right to hold office, but the people had a right to define and make the terms and conditions upon which offices should be held. I do not believe in anybody's right to make terms and conditions founded on race or color that cannot be overcome; but many of the States have done it, and silence will not overthrow what they have done. I believe, however, that if the black men have the right to vote they and their friends in the struggle of the future will achieve the rest. Therefore I am willing now to give them the right to vote if I cannot get for them the right to be voted for. I will take that if I cannot get any more. The adoption of the amendment will not close the question, as I had hoped we should be able to do within the next few months, for I have no doubt if we submit the broad, square proposition to the people of this country before the 1st day of January next we shall have a con-

stitutional amendment adopted which will cover the whole ground, and the great struggle will be closed, and closed forever.

I want to see the rights of the negro secured, for I want to see this negro question out of the politics of the country. I want to see everybody's rights absolutely secured; and then let us sit down here and see to it that the constitutions and laws are enforced, that men practically have their rights, and go to work and build up this nation and make it what it ought to be—the foremost nation of the world. That is our work. But here we have passed through ten years of struggle; we have had to gather every triumph of human rights step by step, a little at a time; but by the blessing of God the final fruition will come some time, and we will work on for that end. If I cannot get all, I will take a part.

Now, if there is a chance for a new conference committee, I am for it; if not, I am for adopting this report. I cannot take the responsibility of defeating this amendment that secures suffrage if it does not secure the right to hold office to citizens without regard to race, color, or previous condition of servitude.

Mr. POMEROY. I move that the Senate disagree to the report of the committee and ask for a further conference with the House of Representatives.

Mr. STEWART. I rise to a point of order. The motion to concur is first in order, and I wish to say to the Senate—

Mr. POMEROY. Let us have the point of order submitted to the Chair.

The PRESIDENT *pro tempore*. The first question is on concurring in the report.

Mr. STEWART. My motion to concur is pending, and that has precedence.

Mr. POMEROY. The question before the Senate on the report of the committee of conference is, of course, to concur with the report; but pending that question I apprehend the Senate have a right, before deciding whether to concur or not, to recommit the bill to the same committee or to disagree and ask for a further conference. If this committee desire it I am willing to change the motion so as to move to recommit the subject to the same committee; but if they do not desire that, I want a vote on the question whether we shall have a further conference.

Mr. CONKLING. Allow me to suggest to the honorable Senator that there can be no object in taking a vote on a motion to disagree. It is simply transposing the motions. The motion as it now stands is to concur. If that motion is disagreed to, of course we do not agree to the report, and then it will be in order to move for a further committee of conference. I suggest to the Senator further that as a two-thirds vote is necessary to concur, he is stronger on the proposition as it now stands than he would be if he puts an affirmative question on disagreeing; because then he must get at least a majority, whereas if the present motion fails by a tie the question will be decided as he wants it decided.

Mr. POMEROY. The Senate has just listened to the remarks of the Senator from Massachusetts, in which he said that if he cannot get anything better he will vote for the proposition of the committee of conference in its present form, but he wants first to see if he cannot amend it and get it in a better shape.

Mr. CONKLING. But the Senator from Massachusetts would not be more likely to vote for a motion to disagree than he would be to vote to disagree on the present motion. The vote is the same; the difference is merely in the form of putting it.

Mr. POMEROY. No; there are several Senators who would not feel at liberty to defeat this measure who would vote to send it to a new committee.

Mr. CONKLING. That is a different motion if the Senator moves for another committee of conference; but his proposition, as I understand it, was to disagree to this report. That is the present motion put the other way.

Mr. POMEROY. I move to disagree to this

present report, in order to refer it to a new committee, not for the sake of defeating the measure by any means.

Mr. CONKLING. If the Senator from Kansas wishes to move to recommit this report to the present committee, that, I submit to him, might be a useful motion, and might enable Senators like the Senator from Massachusetts to try the experiment they desire; but if he wishes to move to disagree with a view to commit it to another committee, then I submit to him that this present motion presents that precise question, because should the Senate disagree to the report it will, of course, be in order to ask for another conference.

Mr. CONNESS. I rise to call attention to the fact that the Chair has decided the motion of the Senator from Kansas to be out of order; and if I am right, of course the proceedings which are being taken are out of order.

The PRESIDENT *pro tempore*. The question is a very plain one. It is moved that the Senate concur in the report of the committee of conference. That motion is first to be put, according to the order laid down in the rules. If that fails, of course the Senate disagrees.

Mr. POMEROY. Mr. President—
Mr. CONNESS. I rise to ask if the Chair decides that the motion of the Senator from Kansas is out of order at this time?

The PRESIDENT *pro tempore*. It is out of order, though it does not differ from the other. The other motion must be put first, but the same result is reached.

Mr. CONNESS. Both motions cannot be pending at once.

Mr. POMEROY. The reason I preferred the form I suggested was that there are several Senators who do not feel at liberty to vote to disagree to this report if the vote is a final one, but who want to make every earnest, honest effort to get a better report.

Mr. CONKLING. Then, why not move to recommit it? That will enable them to try that.

Mr. POMEROY. There are several Senators who desire to have a new committee of conference appointed.

Mr. CONKLING. Then, they must disagree to this report.

Mr. POMEROY. With the understanding that if we disagree we can have a new committee of conference, I shall vote to disagree.

The PRESIDENT *pro tempore*. If the Senate refuse to agree they disagree, and all the consequences of that follow.

Mr. EDMUNDS. I wish to make an inquiry of the Chair on a question of order. Suppose we do not concur in this report of the committee of conference, is the measure thereby defeated or are we then at liberty to ask for another conference?

The PRESIDENT *pro tempore*. Another conference can be asked for.

Mr. MORTON. I shall probably vote for this report made by the committee of conference, because I think I cannot do any better, for the reason that the time within which to act is so short. Time is important, and I am afraid if this matter is referred to another committee of conference the resolution may be lost altogether. I go upon the principle of taking half a loaf when I cannot get a whole one; but nevertheless I want to say that it is pretty hard to accept the half loaf when a whole one or almost a whole one has been offered to us and has been rejected by the committee of conference. I was somewhat surprised to find that this committee should report to us a proposition that has been rejected by every vote of the Senate from the time we first commenced voting upon it. This proposition has been rejected by every vote from first to last; and yet the Senate is now required to slunk through and to cut this pretty figure by the committee of conference.

The first proposition sent over by the House of Representatives was in substance that which the committee of conference have agreed upon, that the right to vote should not be denied by the United States or by any State on account of race, color, or previous condition of servi-

tude. We rejected that, and we sent to the House of Representatives in lieu of it a proposition declaring that there should be no discriminations in any State among the citizens of the United States in the exercise of the elective franchise or in the right to hold office in any State on account of race, color, nativity, education, or creed.

The House of Representatives rejected that and sent us back substantially their first proposition. We took a vote upon that, and we rejected it by a vote of 81 to 27, after very full discussion. That was the second time it had been done in substance. We then sent back to the House the following proposition:

The right of citizens of the United States to vote and hold office shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude.

The House refused to receive that in part, but sent it back with the following alterations:

Strike out the words "United States" and insert after the word "color" the words "nativity, property, or creed."

The House had come exactly to our first proposition which we had sent to them, with the single exception of the word "education," and the House had agreed with us fully on the proposition that the right to vote or to hold office shall not be denied by any State on account of race, color, or previous condition of servitude. So far the two Houses were agreed; so far they had concurred, and the points upon which they disagreed were simply the insertion of the words "nativity, property, or creed," and the striking out of the words "the United States." They had agreed upon everything else, and this was the only matter that could properly be submitted to the committee of conference. They had no right to go behind and consider that in regard to which the two Houses had agreed and to make for us a new proposition that had been rejected by the Senate by every vote that had been taken; but they have done it. The Senate has been backed down from all its votes and has been now brought to the first proposition sent to the Senate by the House.

Mr. President, I think this action on the part of the committee of conference was unwise.

Mr. CONKLING. Allow me to ask the honorable Senator a question?

Mr. MORTON. Yes, sir.

Mr. CONKLING. Shall we understand him to affirm that the managers on the part of the Senate in a conference have no right, using his expression, to agree to any item in a bill which the Senate has previously rejected?

Mr. MORTON. No, sir; I did not make that assertion, but the assertion I do make is that in so far as the two Houses of Congress have concurred a committee of conference has no right to take back that concurrence and give them a new proposition.

Mr. STEWART. We have not done it.

Mr. MORTON. They have done it exactly. The two Houses of Congress had concurred thus far, that no State shall deny the right to vote or to hold office on account of race, color, or previous condition of servitude. So far they had fully concurred; they had come together; and they had disagreed only upon inserting the words "nativity, property, or creed," and striking out "the United States," and it was that disagreement that this committee had a right to consider, and that only. Of course the committee intended no such thing; but it was hardly respectful to the Senate to report here a proposition that had been rejected by every vote of the Senate and to disregard that upon which the two Houses had agreed.

I may be compelled to take this proposition just as it is because at this late hour of the session if I do not take it I may not get anything; but I must say that I dislike very much to be forced by a committee of conference to take a proposition that has been so uniformly rejected by this body.

Mr. President, as the proposition came to us from the House, with the exception of the single word "education," it was just what we sent to the House some week or ten days ago.

The House had substantially come to our ground, and when they got there we deserted from our ground. There may have been reasons for that desertion, but they have not been assigned.

There are some other elements connected with the suffrage question besides that of color, and it was proper for us to say in the Constitution, when we came to amend it upon this subject, that the right to vote should not be denied to any citizen of the United States on account of his nativity. It is a great democratic principle that we recognize in our hearts; and when we came to amend the Constitution it was proper to put it in. Sir, it would appeal strongly to the hearts of a large part of the population of this country, and was proper as a safeguard against any future Know-Nothing excitements or movements.

Then, there was that other word "property;" the provision that the right to vote should not be denied on account of a want of property. That appeals to a strong democratic sentiment; it is the establishment of a republican principle that most of us recognize; and when we came to amend the Constitution on this subject it is proper to put that principle in. It appeals to a strong republican sentiment that is rife throughout the whole nation.

And it was proper to say, too, as another essential republican principle, that the right to vote and to hold office should not be denied on account of religious faith or creed. Do we not recognize that as being a true and sound principle? What was the objection to putting that in? We had agreed to it; the House had agreed to it, and yet the committee report to us a proposition rejecting it. Sir, as a question of public sentiment and favor the proposition as it came back to us substantially from the House the last time would be far stronger before the people than the simple one of confining it to color or race, and then we are liable to this charge which will now be made and the force of it we can hardly avoid; it will be said that we are willing that the negroes shall vote provided they vote for white men, but the offices but must be reserved for white men. We can say, of course, that we do not mean that; but they will come back on us and say, "When the proposition was made in the Senate, and after it had been concurred in by both Houses, that the words 'to hold office' should be put in, why did you strike them out?" What answer have we to make?

As I said before, my position is peculiar. I will take what I can get and even be thankful for that. But, sir, to have the proposition in its length and breadth, as we desire it, rejected after both Houses had substantially agreed to it seems to me to be more than we bargained for when we appointed the conference committee, and I will never agree hereafter to submit any important proposition of this kind to a conference committee.

Mr. DOOLITTLE. Mr. President, it seems to me that the argument of the Senator from Indiana demonstrates that a constitutional amendment ought never to go to a conference committee. The subject is too important. The two Houses should act independently, each House should act for itself on the question until they come to an agreement by a discussion of the proposition; but now what do we see? There are many gentlemen here who are entirely dissatisfied with this proposition who yet say that they may feel constrained to vote for this for fear they can get nothing else. It is not because their judgments approve it, but there is a kind of constraint that is brought to bear on them to force this measure through the Senate.

Without taking up time, for I have no disposition to waste the time of the Senate, I wish to refer to one thing. The ink that wrote the constitutional amendment which has already been adopted, which has in a certain sense been forced on the people of the South, as I may say, by the reconstruction policy adopted there, is hardly yet dry upon your statute books; and that constitutional amendment which has

been adopted, in principle and as a fundamental principle of the party in power and holding the control in Congress, recognized it as one of the essential rights of the States, each for itself, to determine the right of suffrage; and the only inducement held out by that proposition to the States of the South to induce them to extend the suffrage to the colored men of the South was to extend the amount of their representation in the Congress of the United States by counting in the enumeration those persons who had lately been emancipated.

That left the question where it ought to be left. Each State should judge for itself of the qualifications of its own electors, for in different States with different populations a uniform rule of suffrage may not be the best rule of suffrage throughout the United States. Take California and the Pacific coast, which in a very few years will have not only hundreds of thousands but perhaps millions of Chinese and other Asiatics, and it may not be wise to put the government of those States into their hands. You are about to reorganize or recast your naturalization laws. Bills are pending on that subject. The Senator from Massachusetts [Mr. SUMNER] has a bill, proposed by him, to strike the word "white" out of the naturalization laws, to extend all the benefits of naturalization to the Chinese as well as to men of European descent, and with the passage of these bills citizenship will be conferred upon this vast population to be poured into those States from Asia.

Now, is it wise for us to put the governments of the Pacific States into the hands of the Asiatic population? Is it not better that we leave the political power in those States where we find it, in the hands of our own people and our own race, who can best judge when this right of citizenship shall be extended to the Chinese? Sir, is it wise after all for the party now in power to be dissatisfied with what they have just done, to be dissatisfied with the constitutional amendment which they have taken such pains to force upon the people of the South, and by which they give each State the power to regulate the question of suffrage for itself?

Mr. President, I shall not go over this ground; I have trodden it before, and all the considerations which ever pressed upon my judgment press upon me now to appeal to gentlemen who have the majority, who control the action of this body by a majority of four fifths, to let this amendment go and leave to the States something of the high prerogative which belonged to them in the beginning and has ever belonged to them, and which is essential to their existence as independent and republican States, to judge each State for itself as to who and what citizens shall exercise the right of suffrage within their borders.

Mr. SAWYER. Mr. President, I suppose rather than vote finally against this amendment I shall vote for concurrence in the report of the committee of conference; but before doing it I wish distinctly to place before Senators the view of the case which occurs to those who represent the recently reconstructed States. We have for two years been subject to the charge in those States that the Republican party of the northern States put the negro on one platform in the loyal States and upon another platform in the lately disloyal States. We have been constantly called upon to repel this charge of a want of impartiality in the treatment toward the negro in the several sections of the country. We have been constantly asserting that this could not properly be laid at the feet of the National Republican party, but that it was on account of some few weak-kneed Republicans, men who did not dare to stand up for the right in the full Republican faith and doctrine in the several States, and that wherever the question was fairly submitted to the national Republican party it would be decided in favor of the equal position of the negro with the white man before the law.

Now, Mr. President, we are asked to accept an amendment of the Constitution which pleads

guilty to the charge; we are asked to go back to our people and say to them that the national Republican party, as represented in Congress, acknowledges that the charges which have been made by the late unrepentant rebels against that party are true. Now, I do not know that I shall not vote for this report rather than to lose any and all propositions on this subject; but I believe that in some of the States which have been recently reconstructed the Legislatures, strongly Republican as they are, will hesitate before they adopt this amendment. I believe there is quite as much risk of its being lost in a number of those States as there is in its being lost in an equal number of northern States if you put into the proposition the right to hold office.

You may say, and Senators on this floor do say, that the right to vote involves the right to hold office. I say the discussions on this floor, and the private opinions of Senators as expressed in debate, show that that proposition is denied; and I put it to the individual conscience of each Senator on this floor whether he is not wanting in perfect clearness about that fact. We know certainly that the gentlemen of the Democratic party on this floor do not entertain this view. We believe that there are many Republican Senators on the floor who do not entertain this view. At any rate it will go before the country that a proposition to hold office has been suggested to form part of this amendment and that it has been deliberately voted down. If it means nothing why vote it down? If the right to vote carries with it the right to hold office, I ask you if to-day in Georgia the right to hold office is recognized by the Republican party?

I hold, Mr. President, that if we are to run a risk in this matter of losing this amendment because there are some States which will not adopt the proposition to hold office, it is better to run the risk in the direction of the right. Whenever it is necessary to run a risk in a matter of this sort, let us run it for the right and not for the wrong; and I appeal again to the conscience of every Senator on this floor on the Republican side of the House whether he does not believe that the right belongs to every citizen of the United States to carry a vote and to hold office if it belongs to any other man? Is not that the ground-work of the action of the Republican party in the past? And have we not preached that doctrine among ourselves? Have we not preached it to the people? And now when we come to propose a constitutional amendment shall we halt and stop short of what we believe is right and what every one of us has been preaching? I submit there is more danger of losing this proposition, of losing the confirmation of the amendment on this account if we have it half right than if we have it wholly right.

Now, the right to vote, as it seems to me, will inevitably be given to the colored men in the various States by—I do not like to use the term—the inexorable logic of events in the next five years. It cannot be refused. It will come as a matter of course in the States. If, therefore, the proposition to amend the Constitution is confined simply to the right to vote, it is a matter of not so much consequence as has been attached to it. But if, on the other hand, the Republican party desire to put fairly and squarely before the nation the platform upon which they have professed to stand in the past, the platform upon which we claimed in the South that they did stand upon, true to their professions and their principles they will make a constitutional amendment which is right and submit it to the people; and if the people vote it down let us wait until the public sentiment gets up to the right point.

This is the view which we take of it in the southern States. I do not wish to put my individual opinion—I presume there is no Senator from the lately reconstructed States who would desire to put his opinion—against the opinion of the wise men on this floor and defeat this amendment if they show a unanimity of opinion upon it; but when we see that

there is a great division between those men who have been tried in the party and in the public councils for many years I submit we may be right. If I vote for this proposition, if I vote to concur in this report of the committee of conference, I do it with great reluctance, I do it with great hesitation, and I do it because I am advised that we must have something, and that this is the best we can get.

Mr. STEWART. I have refrained during this discussion from occupying time. I will not now occupy time, and I ask the friends of the proposition not to occupy time; but I must submit a few considerations to the Senate; I must make a few remarks just now upon the condition of the case as it has arisen.

It is said that if you cannot have it right do not have it at all. The question of what is right I suppose must be determined by the majority of the two Houses. There are no two Senators who agree as to exactly the thing which should be done. The Senator from Kansas has been pressing his motion for female suffrage; the Senator from Vermont wants to have office holding included; the Senator from Massachusetts wants to have nativity and creed inserted. Neither of these concurs with the other; one wants a *c* crossed this way, and another wants an *i* dotted that way; and thus it is that we lose time discussing little things that do not enter into the main question.

I wish to say right here that the question of suffrage is an important question. Two years ago about this time we had the question of suffrage in the southern States before the Senate; and I recollect what a trying time that was. A military bill came in here which handed the southern States over to the military; it was supported by the committee of fifteen; it passed the House; it was being pressed in the Senate; and I rose then and said it was necessary that there should be some voting in the South; that the ballot was the solution of this whole question, and that I would not support any proposition that did not require some voting to be done. Friends came to me and said, "What! will you break with the Republican party?" I told them no, I will stay with the Republican party; but the philosophy of the republican theory is that all men shall have the ballot. We had a caucus; it resulted in the military reconstruction bill upon which those States were reconstructed, and by which and through which the Senators from South Carolina, who are here to-day boast of a constituency that is more radical than Massachusetts. They think they are safe. But you are not safe everywhere; you are not safe in Georgia. That has been alluded to. You say it is because they have denied negroes the right to hold office that you are not safe in Georgia. It is not the reason. The reason is that their right to vote is in danger. If they can retain the ballot in Georgia they will force the power that exists there to give them the right to hold office. They hold the ballot in Georgia by a very slender tenure. You let Georgia come in here as she now is and the negro in Georgia will not have the ballot three weeks. Look at the practical example in Tennessee. The friends of equal rights gave the ballot there to the negro—

Mr. SAWYER. Will the Senator allow me to ask him a question?

Mr. STEWART. Not just now. Let me finish the sentence. The friends of equal rights in Tennessee gave the negro the ballot. The Democrats commenced at once to say to them: "You are good enough to vote; but not good enough to hold office." The Republican party then immediately in the Legislature—if I recollect rightly the Legislature had the power to amend the constitution—gave them the right to hold office; and that will be the result everywhere where the ballot is given. The Senator from South Carolina says that in five years the logic of events will bring this about. Sir, if we fail now, it never will be brought about. The States by individual action will not do it in his

day or mine. You give the negroes in Maryland the ballot and they will demand their other rights, as they did in Tennessee. Give it to them in Kentucky and Delaware, and they will demand and obtain all their rights. The ballot is the mainspring; the ballot is power; the ballot is the dispenser of office. I wanted to insert the right to hold office in this proposition; but if I cannot give the poor and the downtrodden the right to hold office, I will give them the power to say who shall hold office and dispense office; and their natural selfishness will impel them to demand their full rights.

Mr. President, I have labored hard for this constitutional amendment. I have been earnest in my efforts to obtain it. I have not been a stickler for words. I have been willing to take any proposition that seemed likely to succeed, whether it was a House proposition or a Senate proposition. I was not anxious to be the author of the words. I accepted every proposition that was brought forward so long as there was any prospect of its success. But it is now so late in the session that if this proposition cannot be adopted none can be in my judgment. There is not time for another conference and another action of the House and Senate upon it. The appropriation bills are not disposed of. The chairman of the Committee on Appropriations notifies me that he is about to antagonize his bill against this measure, and it must inevitably go. Every Senator must see that there is not time for further action.

Mr. FRELINGHUYSEN. And no chance at the next session.

Mr. STEWART. And no chance at the next session? Your Legislatures are waiting now, ready to act. Send it to another conference and the whole thing is lost.

Mr. FRELINGHUYSEN. There will be no chance at the next session, because there will not be a two-thirds vote there for it.

Mr. STEWART. And there must be two thirds in the other House. The proposition on your table received in the other House 143 votes to 43 votes, and it will receive in this body the entire Republican vote, as I understand, when they believe that nothing else can be obtained. I have labored here to obtain something else. I have labored to have the right to hold office inserted in the amendment, because I was willing to do the whole right; but that is impossible, and now I want to secure to all men the right to protect themselves with the ballot. The ballot has shown that it has potent effects in bringing loyal Senators to this Hall from the South. It has shown that it had potent effect in the South in reorganizing that country. It was the only expedient that could be substituted for the military power there; and it has worked better than we had any reason to anticipate. Now, I say, give to all men, regardless of race or color, the ballot, and they will secure to themselves all other rights. I appeal to the friends of the measure to vote for concurrence in the report of the committee. It is the only hope I have. I am willing to work night and day for any other proposition that shall be more acceptable to gentlemen until the end of the session; but I have no hope that we can go through the various stages of another proposition with any chance of success.

Mr. SAWYER. I should like to ask the Senator now the question which I rose to ask him before, and that is, what effect he thinks the passage of this amendment will have in the very case which he has cited in the State of Georgia? We go back to the people of Georgia and tell them that we indorse the precise position which the white members of the Legislature have taken; that is to say, that there is a question whether the negro can hold office or not.

Mr. STEWART. It will have this much effect: it will place in the hand of the black man of Georgia a rod of power before which all politicians quail. It will put into his hands a rod of power by which he can hold what position he has until there can be some further

reconstruction to stay the hand of the oppressive rebel there, which is most outrageous.

Mr. GRIMES: They have got that now.

Mr. STEWART: How long will they have it?

Mr. DAVIS: The honorable Senator from Nevada, who has just taken his seat, has made two appeals to his party that must bring them up to the work; they cannot escape it. In the first place, he says that unless the proposed amendment is passed now some of the Legislatures of the States will go out of office and existence and new Legislatures will have to be elected, and therefore the amendment cannot be passed. The honorable Senator from New Jersey gives him another item, which my honorable friend seizes upon in the fervor of the moment and uses with a great deal of force to bring his friends in this Chamber up to the work. He says that in the next Congress there will not be two thirds of the House who will be such Republicans as to be willing to pass this amendment. That presents the party in such a strait that it must upon compulsion do the work now. If the Legislatures hereafter to be elected are against or will be against the proposed amendment, as these two able leaders of the party in the Senate concede, what would become of the party if it did not pass this fifteenth amendment immediately and have all the political benefit which it is capable of giving? What would become of the party, too, if the amendment should now fall to the ground and it should be reproduced in the House on or after the 4th of March and it shall be found that the Republicans have not a majority of two thirds of the House to pass it?

But the case would not be so desperate as the honorable Senator stated. The party in the House would only have to resort to its ordinary tactics, and the tactics that have been practiced in this body also. They would only have to expel a lot of the Democratic members from the two Houses to give them the requisite majority of two thirds, and they would be in full possession again. They would only have to send back Mr. Stockton, from the State of New Jersey, and put in his stead his competitor when he was recently elected. They would only have to contest the seats of a couple of members from the State of Kentucky and a few members from other States and expel them from their seats, and then, instead of the people, the Republicans of the House elect their successors; and in that way they would put themselves in complete possession of two thirds of both Houses of Congress. I present this view to comfort my honorable friend from Nevada and also the honorable Senator from New Jersey, and to assure them that their case is not so desperate as it seems to be and is entirely within the reach of the medicines that they have heretofore applied to similar conditions both in the House and in the Senate. [Laughter.]

One word upon this amendment. I concede myself, as was assumed so truly and so ardently by my honorable friend from Nevada, that the power to vote is a higher and more effective power than the power to hold office. A class of people who should be necessitated to be deprived of one of those rights for their own efficiency, their own power to protect and defend themselves against oppression, in my judgment had better want the power to hold office than the power to vote. I make another concession in connection with this proposition: that the power to vote in my judgment implies the power to hold office; that is to say, it does not necessarily do so under the provision of this amendment, but a class of people who are entitled to vote and to whom by principles of right and good policy the right to vote ought to be conceded ought to have at the same time the concession of the right to hold office. If it was my principle that the negro was a proper depositary of the right of suffrage I would unhesitatingly vote in favor of extending the proposition and giving him the right to hold office, which I deem to be a right of less force and efficiency than the right to vote.

But, Mr. President, I deny that the negro

has the proper capacity to exercise this right, and for that reason I vote inflexibly against—I oppose in every form that I can; I have from the beginning, and I will to the end—not restoring, but to giving to him in the first instance the right to either vote or to hold office. I deny that is a restoration of the right to the negro. The negro in the State of Kentucky never had the right to vote. He cannot be restored to that which he never possessed. He may have this right given to him as an entirely new right, but the idea of restoring to the negro the right to vote is all a delusion; there is no truth in it. I will not concede the right of the negro to hold office so far as my voice is involved because the majority of Congress choose to confer upon him the right to vote. I hold that he is incapable of a wise and safe exercise of either of those rights in our Government. The denial of those rights is not in conflict with natural right, because there is no natural right to vote or to hold office in any Government. I would not concede to him either of those rights, because I believe that they would prove in their exercise mischievous to the well-being of society at large, white and black, and not less to the negro population than to the white population.

Mr. President, it is nothing but a form of demagoguery to say that every man is entitled by nature to the right to hold office or to vote. Those are artificial rights. They are creatures of an artificial state and law of society. They do not exist as natural rights. They ought not to exist as universal rights, because the intelligence, the circumstances, and the condition of all nations differ. It might be very safe and proper in one community to give the whole political power to all the people, and it might be very unsafe in another nation and another community to give this right to the whole population. Sir, this is a truth in relation to all statesmanship and to the exercise of power by wise lawgivers: the political power of a country ought to be deposited where its exercise would produce the greatest good to all the people.

Gentlemen concede that idiots and lunatics have not either a natural or an artificial right to vote or to hold office. I ask them how they can give this right to a race of men who throughout their whole history, in every country and condition in which they have ever been placed, have demonstrated their utter inability for self-government.

Take the empire of Russia, with its eighty or one hundred million people, the most of them barbarians, ignorant, having no knowledge of autonomy or of the exercise of political power necessary to take care of such a vast community of people, would it not be preposterous and absurd in the highest degree to give to the population of that extensive and powerful empire the right to vote and the right to hold office?

Sir, look at the French. They have within the last century made repeated efforts at self-government. They commenced their great effort in 1789. They eventually became almost a democracy; and from that they degenerated into an oligarchy of demagogues. They proved their utter inability to exercise this right wisely and safely for the French people. The consequence was that the new system failed; it fell into ruin and anarchy and was succeeded by the first consulate and then by the empire. Napoleon was, however, deposed from his throne and Louis XVIII was called back to the throne of his fathers. He died and was succeeded by his brother, Charles X. Almost on a cloudless day a popular storm arose among the French people and drove Charles from his throne; and that introduced La Fayette and other republicans. They established a republic and the republic lasted but a day comparatively. It passed away because of the utter inability of the French people to perform the great and difficult office of self-government; either in person or by choosing wise and safe representatives to exercise this the greatest power in society. The consequence was that

the republic yielded and Louis Philippe was driven from his throne; the third Napoleon was called back to take the position of power and of almost absolute government which his great uncle had exercised in France, not for the liberty, but the glory and power and grandeur of the French people. The idea that the right of self-government, the right to vote and hold office, could at this day be conferred upon the French people without those salutary and wholesome restraints which the ever present and watchful power of Louis Napoleon exercises over that people is as unsound a proposition as could be made in relation to politics and government.

Sir, the right to vote is not a natural right; the right to hold office is not a natural right. There ought not to be in any country, not excepting our own, a universal right, without regard to race or color, either to vote or to hold office. The problem has long since been solved, and it is settled now beyond reasonable controversy, that the people universally, without regard to race or color or condition of intelligence, are not capable of self-government; they cannot establish and maintain a uniform, well-adjusted, settled government. The universal race of mankind, whether in our own country or elsewhere, is wholly incompetent to the performance of such a great and important work as that. It is nothing but the sheerest demagogism to deny the truth of that position. It is proved by all history; it is proved by philosophy; it is proved to the satisfaction of every reading and reflecting man. In our country the only remaining problem is, not whether the white man and the negro and the Indian and the Mongolian and the Malay and all other races that may choose to come from the four quarters of the globe to the United States are capable of self-government or not. That is no longer a problem. The proposition when stated stands refuted by the truth of all experience and all history. Sir, the only remaining problem in our country, and it is a very doubtful one, is whether the white man is capable of self-government; and it is a problem that has not yet been established. I concede that the yearnings for liberty are irrepressible. They spring eternal in the human heart. No tyrant, no military power, no despotism can ever stifle it forever. It will break out and gather strength and heat and energy until it heaves off despotism of every form; but when the despotism is heaved off the work of self-government then begins, and it is a work a hundred times more difficult than to overthrow the despotism. Then comes the great question, of such momentous interest to the human family all over the earth, is the white race itself capable of self-government? It has not demonstrated the truth of that proposition to my mind.

When our fathers began their experiment of self-government it was under such favorable auspices, with so much of intelligence and virtue and after all the lessons of tyranny and oppression had been imparted to them, that I had indulged in the young dream and the conviction that our liberties had been established upon a perpetual and ever-enduring foundation. I have given up that fond delusion with the greatest reluctance. I do not believe that our people have yet demonstrated their ability to perpetuate the free institutions which have been handed down to them by the generation that formed them. It was a wiser, a nobler, and a more virtuous race that formed them and bequeathed them to us. Upon us has been devolved, if possible, a still more difficult task, and that is to preserve the heritage of liberty which was handed down to us by Washington and Franklin and Madison and their compeers. I believe that all of it is now in peril, that all of it is now in the most imminent danger. I believe that it is not only possible but very probable that within the next twenty years it may be overthrown. But when it is overthrown the people will never be satisfied to lose their natural, indestructible right and desire of self-government; they will still make a

contest to regain it, and I begin to believe that the history and the destiny of man, even of the white man, is to make never-ending efforts after self-government, and never to be able to exercise it for any considerable period of time with wisdom and with firmness enough to maintain it.

With this view of the subject I should be false to my reason, to my convictions of the best interests of my country, and of all my country, white and black, if I could be induced to share the government of this country with the negro. I am so thoroughly convinced of his utter inability to take part in this great business of governing our country and that his sharing it would only introduce confusion, disorder, and great mischief, as well to himself as to the white man—it is that which has induced and will continue to induce me to vote always and inflexibly against it.

Mr. President, I believe, and I lay down this conclusion: in a country like ours, as populous as it will be in a few years, having such a variety of race, of natural productions, of interests, such diversity of opinion, religious, moral, and political, the people are too various in their interests, in their intelligence, in their characteristics, ever to be ruled by one central Government unless that central Government becomes a despotism. It may be the Government of a party; it will still be a despotism, and it must necessarily be so. It may be the Government of a faction; it will still be a despotism. It may be the Government of one man; and then it would be the Government of an absolute monarchy sustained by the bayonet and military power as the other forms of government would also have to be sustained. Sir, the wise men who framed our system of Federal Government and State governments understood their work. They were masters in the art and science of government and self-government. They knew what they were doing. They aimed to establish for this people both strength and liberty; strength by the establishment of a Federal Government to defend them against all foreign countries; strength by the establishment of a Federal Government to repress internal depredations and wars among the States; strength to maintain the just, limited, and wholesome powers delegated to the Government of the United States by the Constitution; but they knew at the same time that all the powers and all the rights of the States which have not been delegated by express language in the Constitution to the General Government it was necessary to maintain in order to perpetuate liberty. So, sir, the strength of our country is in its General Government and in the rights and powers and sovereignty delegated by the Constitution to that General Government; the liberty, the happiness, the peace of the people depend mainly upon the maintenance of the State governments and that sovereignty and those rights and powers which the States possess and which do not belong to the Federal Government or were not delegated by the Constitution to that Government.

Mr. President, as I said when speaking on the subject of this amendment when it was before the Senate on a former occasion, whenever the General Government assumes to exercise the power, and it is conceded to the General Government, acting under the form of an amendment to the Constitution or in any other form, to go into all the States and determine who shall vote in those States it implies the power to determine who shall not vote. The power of admission implies the existence of a power of exclusion. The one right can be exercised as legitimately as the other. The faction that admits all to-day may be succeeded by another faction next year or in the next decade who would want to exclude a portion by classes of those who had been admitted to the right of suffrage. So of the power to hold office. The power to decide who shall vote and who shall not vote and the power to decide who shall hold office and who shall not hold office is the essential power in all Govern-

ments. I defy any Senator or gentleman to controvert that position. The power in a State that has the right to determine who shall vote in the election of all officers—because now in all the States all officers are elected—and who shall not vote, and has at the same time the power to decide who shall hold office and who shall not hold office, exercises all the essential powers of government.

Sir, this attempt at this time in the form of amending the Constitution of the United States is simply an exercise of the power to revolutionize the Government. The existence of the State governments in our system of mixed State and Federal governments is as essential to the system as that of the Federal Government itself. I ask gentlemen who have the right to form a State government? Who but the people of the States? What power on earth can legitimately enter upon the work of forming or remodeling in their essential characters and principles the State governments except the people of the States? That is the inherent, reserved power of the people of the States. It is one that they never conceded by ingrafting upon the Constitution the power to amend it. If it had been specified in the Constitution that the power of amendment could ever have assumed a shape and would ever have been attempted to be exercised as is now attempted in the two Houses of Congress it would at once have dissolved the convention and it never would have formed a Government with any such practical principle in it.

Sir, this is simply an act of revolution. The veil of amendment that is sought to be thrown over it is too thin. It is revolting, it is absurd, and entirely usurping in its nature. This is a simple proposition to establish in the General Government a power supreme over the governments of the States, and that can at its pleasure, in any form that a majority of the two Houses of Congress may choose, exercise the power of amendment to revolutionize our system of General and State governments, to abolish our State governments, to bring those State governments to the feet of a tyrannical and despotic faction in the two Houses of Congress. That is now the position of things. This is no amendment. No man who understands the principles of our Constitution and our complicated system of blended governments would ever hazard his judgment and his knowledge of the principles of that system of government by asserting that this power existed under the Constitution in virtue of the restricted and qualified right and power that Congress has to propose amendments to the Constitution. No, sir; it is a bald, naked attempt to usurp power and to bring all the sovereign and reserved powers of the States to the feet of a tyrannical and despotic faction in Congress. That is the whole of it. That is the undisguised proposition; and an intelligent and virtuous Supreme Court, if the question could be brought before them and they would entertain jurisdiction of it, would so decide.

Now, Mr. President, utterly denying the power and right of Congress to revolutionize our mixed system of government, convinced as I am of the eminent impolicy of it and the mischief, wrong, oppression, and ruin it would bring upon the States by the overthrow of their governments, and the general destruction in which it would involve all the principles of the Constitution, upon these considerations I have taken ground against all these efforts of Congress to propose amendments to the Constitution that are in revolution of the essential nature and principles of our Government; and I intend to occupy that position. These are the reasons that have brought me up reluctantly on every occasion when our Government and its great principles were assailed in frank and open and earnest opposition to all such attempts. If any party with whom I have been associated in politics were to propose the same innovation, the same amendment, the same exercise of usurped power, the same revolution of our system of government that

seems to me to be the persistent effort of the party now in power, I would stand as inflexibly and as immovably against the old Whig party, or the Democratic party or any new party, by whatever name it might be known, that would move forward in the same line of revolutionary destruction.

Mr. FESSENDEN. Mr. President—

The PRESIDENT *pro tempore*. The question is on concurring in the report of the committee of conference.

Mr. HENDRICKS. Mr. President—

The PRESIDENT *pro tempore*. The Senator from Indiana.

Mr. FESSENDEN. I thought I addressed the Chair some time before the Senator from Indiana did.

Mr. HENDRICKS. I thought the Senator from Maine had the floor, and then I thought the Senator yielded to the announcement of the question or I would not have sought the floor. The Senator from Maine certainly did have the floor before I sought it.

Mr. FESSENDEN. After I rose the Chair proceeded to state the question, and I was waiting for the Chair to state the question.

Mr. HENDRICKS. I thought the Senator had yielded the floor to allow a vote. I certainly did not desire to take the floor from him.

The PRESIDENT *pro tempore*. The Senator from Indiana. The question is on concurring in the report of the committee of conference; and as it requires two thirds to carry the motion, it must be taken by yeas and nays.

Mr. HENDRICKS. As the Senator from Maine seems not to desire to go on, I have a very few remarks to make on this question.

Mr. FESSENDEN. Will the Senator give way for a motion?

Mr. HENDRICKS. What is the motion?

Mr. FESSENDEN. The motion is to rescind the order for a recess.

Mr. HENDRICKS. No, sir; I do not care to do that.

Mr. President, I think that the debate to-day has been more remarkable than at any time during the consideration of this question. I have been astonished at some of the appeals that have been made to the majority; and I desire to ask the attention of gentlemen of the majority to those appeals, that they will consider them now and see exactly how they will appear when they go to the country, because assuredly the conduct of the Senate upon this grave and important question will be very carefully regarded by the country.

The Senator from Nevada, [Mr. STEWART;] whose name is connected now and for immortality with this measure as the leader in its management, has stated that it is important that we should pass it without delay, and what reason does he assign? The main reason was furnished to him by the Senator from New Jersey that in a few days—

Mr. FRELINGHUYSEN. With the consent of the Senator from Indiana I will correct a misapprehension of fact and congratulate the Senator and the country that on inquiry I ascertain that the Republican party will have a clear working two-thirds majority in both Houses in the next Congress. Therefore I withdraw that argument.

Mr. HENDRICKS. The Senator's withdrawal of the argument does not change the bad principle upon which he appealed to the majority to carry the measure through the Senate. He furnished to the Senator from Nevada the argument that on the 4th of March a new Congress would come in, and the judgment of the House of Representatives would then be against this measure. That House was elected last fall, and the judgment of the country has been expressed in that election to some extent—to a very little extent in my judgment upon this question; but it is supposed to be in our theory of government the last expression of the will of the people upon the subject. The argument is that if this question be allowed to go beyond the 4th of March it will fall into a House of Representatives,

the popular branch of the Government, in hostility to the measure and the requisite two thirds cannot be obtained in that body to secure its passage.

Mr. President, if that were true it is a conclusive reason why the majority here ought not to pass it. Instead of being an argument in favor of its passage it is a reason why every Senator should vote against it. Our Constitution requires that before it shall be changed by the action of Congress two thirds of each branch shall concur. The presumption is that each branch reflects the popular will; the Senate reflecting the will of the States, and the House the will of the people; and that before the Constitution shall be changed at all two thirds of the people shall desire it. Now, the argument is that two thirds of the people at the last expression of their will—that is, at the election—declared against this measure, and elected members of the popular branch against it; and that to prevent the action of that popular will, its legitimate and constitutional force, we must pass it now; take advantage of the people when the accident of a two-thirds majority in the two branches gives the power to do it. So much for that argument.

The Senator from New Jersey now seems very happy in the contemplation of the fact, as he ascertains it to be, that there will not be a third of the members of the next House of Representatives in hostility to the party in the majority in the country. It was a happy suggestion by the Senator from Kentucky that the policy and practice of the party would enable them to secure a two-thirds majority, if they do not have it with the will of the people. There is a will in each House, as was suggested by him, above the will of the people; and that will goes upon the argument that was suggested by the Senators from Nevada and New Jersey, that the will of the people may come in after the 4th of March and prevent the passage of such an amendment as this; and so the practice of the party has been in Congress to disregard the will of the people, as expressed in the election, and turn members out until they get the control of the body by a two-thirds majority.

The Senator from Nevada said that no two Senators agree on any one proposition. That was his expression. I do not suppose he desires it to go so far as that. He expressed himself more strongly, I dare say, than he would desire. I think there are some two Senators who may possibly agree. But it is very clear that there is no general sentiment in favor of any one proposition in this body; but the Senator from Nevada too strongly expressed that thought, that in the Senate where we are considering this matter there is no settled conviction, no general opinion, upon the subject.

Mr. STEWART. If the Senator will allow me, I intended to be understood that as to the Republican Senators they did not agree upon the precise phraseology to be adopted, but upon the general proposition I suppose they do agree.

Mr. HENDRICKS. The Senator's explanation, as I understand it, is that the disagreement is in regard to phraseology. I never did observe in any popular body a dead-lock upon the question of the use of words. Webster furnishes a sufficient number to the majority in power; so that upon the question of phraseology they can certainly arrive at some general opinion. The truth of the matter is, Mr. President, as expressed by the Senator from Nevada, that there is no settled conviction in this body on the subject; one Senator wants one thing and another another thing; so that two thirds of the body up to this time have not agreed upon any proposition; and I say that the debate to-day shows that two thirds of the Senators are not in favor of this proposition.

Then, Mr. President, ought it to be adopted? If this proposition does not heartily command the judgment of a Senator ought it to be supported by him? My colleague expressed his views on this subject about in this way: that

the amendment was not agreeable to him, and he made a rasping criticism upon the committee of conference; he did not like it; it was not proper; the committee had not treated the Senate well; on the contrary, the committee had treated the Senate very badly; but he said he would rather take half a loaf than have no bread. But, sir, it is not my colleague alone who is to take the bread now. He is acting for the people; he is acting for the States; and I say that when you come to the question of a change of the form and fashion of our Government it is not a question of half a loaf or a whole loaf. It is a question of the right. The question is, does this proposition command my judgment and my conscience so that I can fasten it on the people and the State I represent here?

The Senator from Massachusetts said that he found it easier to take the second step after taking the first step. That is not expressed in such objectionable phraseology as my colleague used, but still it is the same idea; and this idea of half a loaf—"if you cannot get what is right take something;" "we must have something, we have started in this business and it will not do to stop; we must have something, therefore if my judgment is not satisfied I will take what I can get"—that whole idea is expressed in the action of the Senate in referring this grave and important question to a committee of conference. Committees of conference are not the proper tribunals and organs of this body to which ought to be sent a constitutional amendment.

I admit that in ordinary legislation on appropriation bills and other measures it is proper when the two Houses cannot agree after a sufficient effort to agree that the subject be sent to a committee of conference to reconcile the disagreement; but in my judgment that mode of legislation ought not to be extended to a proposition so important as an amendment to the Constitution of the United States; and indeed it is becoming, as between the two Houses, in my opinion a great abuse in ordinary legislation. Bills are passed in one House, then the other House makes amendments, then the whole is sent to a committee of conference without that careful consideration in each case of the difference, and that effort on the part of the two Houses to reconcile the difference that ought to be made, as I think, before it is sent to a committee of conference. Each committee of conference, it is understood, shall give and shall take. If the House insists on an appropriation that the Senate is not satisfied with, and on the other hand the Senate insists upon an appropriation that the House does not agree to, the one shall give some that it may take some. That is the fashion and the style of a committee of conference, and very much bad legislation is the result of it; and I am not content when I see a proposed amendment of our form of government referred to a committee of conference to become the subject, not of judgment, not of conscience, but the subject of contract, of compromise in that committee, and then that the result of that effort should be brought back to each House and an arbitrary vote be required without the possibility of an amendment.

So far as I am concerned I repudiate the whole doctrine that we can take a half loaf, which expresses the idea that in the matter of an amendment of the Constitution it is proper to compromise, to adjust, to trade, if I may so express it. It is not right. When an amendment of the Constitution is made, that amendment ought to command in all of its provisions the judgments of two thirds of this body and two thirds of the House. Everybody sees from this debate—it is not covered up—we all know that two thirds of this body do not agree to this. My colleague is not satisfied with it. The Senator from South Carolina is not satisfied with it. Yet each intimates that in the way it is fixed now, in the shape it has fallen into, perhaps they will support it because they cannot get what does command their judg-

ments; they will take something short of that, an objectionable measure.

Now, Mr. President, I have but very little to say about the measure itself, and the results of this committee of conference more particularly. The Senate, when they came to consider the question of protecting the colored man from legislation on the part of the States which would exclude him from the enjoyment of the franchise, thought it was right to protect three other classes, the poor man, the man who was born abroad, and the man of but limited education. Here is the amendment as it passed the Senate:

No discrimination shall be made among citizens of the United States in the exercise of the elective franchise, or in the right to hold office in any State on account of race, color, nativity, property, education, or creed.

The Senate when it decided to protect the colored man at the same time decided to protect the poor man from unjust legislation, the man who was born in another country and had become a citizen of our own, and the man whose religion might be unpopular. There is no occasion to protect the man whose religion is popular. In these times that protects itself; but the Senate thought it important to secure the protection of these three classes of persons; the poor man, the man whose religion was unpopular, and the man who was born abroad. That there ought to be protection to the foreign-born citizen was conceded by my colleague. He said it might become important at some future time of Know-Nothing excitement. This class is not perhaps sufficiently numerous to protect itself; therefore the Senate thought it was right to protect it, and to say that no legislation of the States hereafter shall take from him the right to hold office or to vote; that no State shall take from the poor man the right to hold office or to vote; that no State shall take from the man of religious creed which for the time being may not be popular the right to vote or to hold office. This was the position of the Senate, in part conceded by the House, and the committee of conference bring in their report.

Now, the judgment and wish of the Senate was clearly expressed, that while you protect the right to vote, you shall also protect the persons in the right to hold office. That is abandoned by the committee of conference. The committee of conference also abandon the protection of the poor man. How important it is to protect him in his political rights and privileges Senators can judge. In some States, I believe, to-day the poor man is not allowed to participate in the enjoyment of political rights; a property qualification is prescribed, and for that reason he is not allowed to hold office or to vote. Ought the poor man to be protected? Not, says the Senator from Nevada, if it shall endanger in its progress through the Senate or House the protection of the negro. Is it right to protect in the Constitution of the United States the religion of every man, and to declare that it shall never be made a reason for disfranchisement or for denying the right to hold office? The Senator from Nevada, the champion of this measure, concedes that it is right, provided it does not embarrass the negro measure in its passage through the two Houses.

Thus we have the result of the committee of conference before us. Now, Mr. President, I think that the legislation upon a proposed constitutional amendment should go on in the two Houses until they do agree; and if they cannot agree that no proposition should be adopted. That is the Constitution upon the subject. The resort to committees of conference has gone very much further than ever was allowed or is now tolerated in the British Parliament. In the British Parliament the committee of conference does not make a report upon which the houses must vote without modification or amendment; it is a committee of consultation, a comparison of views, and each committee goes back to its respective house and reports the result of its consultation, and by consultation it is sought to arrive at a common judg-

ment upon a disputed question; but here a subject is reported upon by a committee of conference, as by authority, and then the argument is made use of at once that must be adopted; else all measures in relation to the subject will fail. While that is bearable and only tolerable in regard to measures of ordinary legislation I think it is intolerable when it is applied to an amendment of the Constitution of the United States. Propositions to amend it ought never to be the subject of bargain; they ought not to be the subject of party interests. Considerations of party interests ought not to enter into the judgment of the two bodies upon them.

I am not, Mr. President, going to discuss the merits of the measure. They have been sufficiently discussed. I intended simply when I arose to refer to the result of the action of the two bodies in the appointment of a committee of conference and the probable result being the passage of a measure in which two thirds of each branch do not, as shown by the debate, concur, but that the passage is secured by the machinery of a committee of conference.

Much of the argument that has been addressed to the majority here is like the argument that we have heard during the progress of this measure through the bodies, that the Legislatures of some of the States are now in session and are likely soon to adjourn. That argument means simply this: that we have got the chance now, and having the Legislatures of a particular political complexion we must put the measure through; it will not do to leave it open as a question for any future Legislature; and, as is suggested to me, that rests upon the idea that it is easier to do mischief than to undo it.

Upon the contests of last year the party of the majority in this body obtained a majority in many of the Legislatures. I think the Senator from Massachusetts said in twenty-five Legislatures. I am not sufficiently posted in questions of that sort to say, but I accept his statement as to twenty-five Legislatures.

Mr. STEWART. Will the Senator from Indiana give way until I move to rescind the order for a recess?

Mr. HENDRICKS. I think not.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) Does the Senator from Indiana yield?

Mr. HENDRICKS. Not now, sir.

Mr. STEWART. If he will not yield for that purpose, I desire to give notice that at half past seven o'clock this evening I shall call up this report.

Mr. VAN WINKLE. This evening has been set apart for pension bills. The Senator had better say eight o'clock. I think I shall get through in an hour.

Mr. STEWART. Will not half an hour do?

Mr. VAN WINKLE. I cannot get through in half an hour.

Mr. STEWART. I will say half past seven.

Mr. HENDRICKS. Mr. President, the whole of this argument rests upon this: that by a statement in the platform of last year the right to control suffrage in the States of the North properly belonged to the people of those States. Upon that platform a political majority was obtained in twenty-five States. Those twenty-five States, as I understand from the Senator from Massachusetts, stand now ready to ratify this constitutional amendment; and what proposition is that? That the people are against it but the Legislatures and Congress are for it. We will not let it go to the people either through conventions or Legislatures hereafter to be elected, but it must be hastily dispatched here, sent down to the States that Legislatures chosen upon an opposite platform may fasten it upon the people. Then, as suggested to me by the Senator from Kentucky, it becomes a difficult matter for the people, a majority of whom to-day are against this measure, to undo that which is thus accomplished.

I think, Mr. President, this is an entire abandonment of the doctrine of this country that the Government shall be fashioned accord-

ing to the will and pleasure of the people. That was the original theory and doctrine, that the powers of government should be conferred upon the States and upon the General Government, and distributed among the several departments, according to the will of the people as expressed through their constitutions, and that constitutions have force and power and dignity because they express the great will of the people; but now the doctrine is that we have a right to take the people at a disadvantage; that because you professed to them last year that it was their right in their States to regulate this question, and thereby obtained from them a majority of the Legislatures, it is your right hastily to pass this business through the Congress and send it down to the States and fasten it upon the people before their voice can be heard upon it. That is the precise attitude of the question in the Senate at this hour, and that is the precise argument upon which it is claimed that this report of the committee must be carried through; not that it is right; not that the Presiding Officer of this body believes it is as it should be; not that my colleague believes it is as it should be; not even that the chairman of the committee of conference believes that it is as it should be; but it is in such a shape as you can pass it; you can take half a loaf from the people; you can force it through the State Legislatures and accomplish a political result not having the judgment and approval of two thirds here, and not having the approval of the people of the country. That is the argument that is addressed to the majority. It has been some time since I was in a majority, but I never did have an argument addressed to me of that sort when I was a part of the majority. If I should ever be with the majority I shall never expect that argument to be received by myself. When I am told that my party must exercise its power now or the people will defeat their desire I shall not respond to that appeal. I shall say that if it is the pleasure of the people to have a form of government somewhat different from my judgment it is their matter; it is my matter so far as I constitute a part of the body of the people; beyond that I have no power over it.

In this body I represent the people of the State of Indiana and the State as a member of this Confederacy. I have no will of my own to express on this subject, no ambitious schemes to favor, no ends to accomplish, except upon this and all other grave questions by my vote and by my voice to express the sentiment of the people of the State I represent. I expect to do that. I expect to do it whenever I occupy toward the people a representative position. I have no other duty to perform than to reflect their sentiments, and when I cannot conscientiously carry out the wish of the people, then upon so grave a question as the change of the form of the Government I would resign such representative position.

Mr. DRAKE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Missouri?

Mr. HENDRICKS. Yes, sir.

Mr. DRAKE. I should like to inquire of the honorable Senator from Indiana whether it might not be within possibility that he would admit that the result of the last election in Indiana indicated that he is not representing the sentiments of the people of Indiana at this time in the course that he takes on this amendment?

Mr. HENDRICKS. Mr. President, the election in the State of Indiana last fall was tolerably well understood by me, I believe; at least its result was understood. [Laughter.] Now, I will answer the Senator from Missouri. His party said to the people of Indiana that when Mr. HENDRICKS or any other Democrat in the State told them that it was the purpose of their party to carry out negro equality it was a slander; that that was not their doctrine; and Mr. President you told them that in a document of the greatest dignity that your party could produce—the national platform. In that you said to the people of Indiana, "The right properly belongs to you to say who shall vote and hold

office in that State." Upon that platform you went before the people of Indiana and satisfied a great many of them that they ought not to credit the suspicions expressed by Democrats of your integrity in that declaration. I did not believe very much in it. I believed that I understood what was the ultimate purpose; but the plain and unsophisticated people of the country, that had perhaps not seen quite so much of political movements and machinery, did believe you, and they thought that in fact you intended to leave to the people of the States the regulation of suffrage and the right of holding office. You said to the people one thing, and then after you got the majority of Congress and the Legislatures you propose to do another thing. That would be defined not as the highest act of honesty in ordinary commercial transactions.

Mr. President, in further response to the Senator from Missouri I will say that, in my judgment, if he submits this question to the people of Indiana, the plain question to take from that State the control of suffrage and the control of the right to hold office, he will lose it by a very large vote, a much larger vote than has ever been given to any political party in that State.

Mr. DRAKE. Then I would suggest that the Senator will have great occasion to be thankful for a result of that kind. It will probably return to us the eloquent and graceful Senator from Indiana at some future day.

Mr. HENDRICKS. If I should allow political considerations to influence my judgment I might desire that you should force this thing. But, Mr. President, I desire that in changing the Constitution of the United States the Senate should stand by the sentiments of the Government itself, and that the popular will shall still control in regard to the great question of the form of government.

The PRESIDING OFFICER. The hour for taking a recess having arrived, the Senate will take a recess until seven o'clock p. m.

EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

ZELICA T. DUNLAP.

Mr. VAN WINKLE. I ask leave to report, from the Committee on Pensions, a bill (S. No. 977) granting a pension to Mrs. Zelica T. Dunlap, which was accidentally overlooked when the other bills were reported. I should like to have it read and put it on its passage at once.

By unanimous consent, the bill (S. No. 977) granting a pension to Zelica T. Dunlap was read three times, and passed. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mrs. Zelica T. Dunlap, widow of James E. Dunlap, late a lieutenant colonel of the twenty-ninth regiment of Illinois volunteers, and allow and pay her a pension at the rate of thirty dollars per month, to commence from the 12th of May, 1863, and to continue during her widowhood.

GEORGE A. SCHREINER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 964.

The motion was agreed to; and the bill (S. No. 964) increasing the pension of George A. Schreiner was read the second time, and considered as in Committee of the Whole. The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of George A. Schreiner, of the county of Wyandott, State of Kansas, and to pay him a pension as a second lieutenant in lieu of the pension he is now and has been receiving, commencing on the 1st of January, 1864, and to continue during his natural life.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

ELIZABETH MATHEYS.

Mr. VAN WINKLE. I move that the Sen-

ate proceed to the consideration of Senate bill No. 965.

The motion was agreed to; and the bill (S. No. 965) for the relief of Elizabeth Mathys was read the second time, and considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to allow and pay to Elizabeth Mathys, widow of Joham Mathys, late a private in company F, ninety-eighth regiment Pennsylvania volunteers, her pension from the 22d of March, 1863, the date of her husband's death, until the 6th of June, 1868, on which date her present pension commenced.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

ANNIE E. FREI.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 966.

The motion was agreed to; and the bill (S. No. 966) granting a pension to Annie E. Frei was read the second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Annie E. Frei, widow of John Henry Frei, late a private in company K, fifty-eighth regiment New York volunteers, and to pay her a pension at the rate of eight dollars per month, to commence on the 5th of July, 1865, and to continue during her widowhood.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

LEMUEL BARTHALOW.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1928.

The motion was agreed to; and the bill (H. R. No. 1928) granting a pension to Lemuel Barthallow was considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Lemuel Barthallow, late a private in company G, of the one hundred and twenty-sixth regiment of Ohio volunteers, and pay him a pension, commencing January 3, 1863.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MADGE K. AND ROBERT B. GUTHRIE.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1930.

The motion was agreed to; and the bill (H. R. No. 1930) granting a pension to Madge K. Guthrie and Robert B. Guthrie was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Madge K. Guthrie and Robert B. Guthrie, children of Presley N. Guthrie, late a captain in the United States Army, and pay them a pension of twenty dollars per month, commencing May 2, 1867.

The Committee on Pensions reported an amendment to the bill, which was to insert after the word "them," in the eighth line, the words "or their authorized guardian or guardians," and at the end of the bill to insert:

And continuing until November 11, 1863, and afterward to the said Robert or his guardian or guardians until October 23, 1871, when he will attain the age of sixteen years.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment concurred in. The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

MARY A. DAVIS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 596.

The motion was agreed to; and the bill (H. R. No. 596) granting a pension to Mary A. Davis, widow of William P. Davis, a private in the eighteenth regiment of Indiana volunteers in the war of 1861, was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll the name of Mary A. Davis, widow of William P. Davis, deceased, a private in the eighteenth regiment of the Indiana volunteers of the war of 1861, and that she be paid a pension allowed a private during her widowhood, subject to the provisions and limitations of the pension laws, to commence on the 1st day of —, 186—; and in case of her death or marriage then the pension to be paid to the minor children of William P. Davis, deceased, under sixteen years of age, subject to the provisions and limitations of the general pension laws.

The Committee on Pensions reported an amendment to the bill, to strike out in line ten the word "first" and insert "ninth;" and to fill the first blank with "September," and the second blank with the word "one," so as to read: "commence on the 9th day of September, 1861."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

SUSAN CARSON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1321.

The motion was agreed to; and the bill (H. R. No. 1321) granting a pension to Mrs. Susan Carson was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place the name of Mrs. Susan Carson, of Cottonwood Grove, Bond county, Illinois, widow of Robert G. Carson, deceased, on the pension-roll, and to pay her a pension at the rate of eight dollars per month during her widowhood, commencing on the 2d of February, 1863, the date of her husband's death. The bill further provides that she shall be entitled to the benefit of the second section of the act approved July 25, 1866, in regard to the minor children of deceased soldiers, to wit, for the following named children: Frances A., born September 1, 1854; John A., born May 22, 1856; Kansas A., born July 25, 1858; Louisa C., born December 6, 1859; and Sarah J., born November 4, 1861.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

WILLIAM M. SIMPSON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1434.

The motion was agreed to; and the bill (H. R. No. 1434) granting a pension to William M. Simpson was considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William M. Simpson, late a private in company E, seventy-first regiment of Illinois volunteer infantry, and pay him a pension, commencing October 28, 1862.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

NAOMI ADAMS.

Mr. VAN WINKLE. I now move that the Senate proceed to the consideration of House bill No. 1536.

The motion was agreed to; and the bill (H. R. No. 1536) granting a pension to Mrs. Naomi Adams was considered as in Committee of the Whole. It directs the Secretary of the Interior to cause the name of Mrs. Naomi Adams, mother of G. W. Adams, late a private in company G, thirty-ninth Missouri infantry volunteers, to be placed on the pension-roll, at the

rate of eight dollars per month, to commence September 27, 1864, and to continue during her widowhood.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MARY E. BROWN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1600.

The motion was agreed to; and the bill (H. R. No. 1600) granting a pension to Mary R. Brown was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary R. Brown, step-mother of Benjamin R. Brown, late a member of company F, sixth regiment of United States infantry, and to pay her a pension at the rate of eight dollars per month, commencing July 16, 1867.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JOSEPH M. HUDSON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1632.

The motion was agreed to; and the bill (H. R. No. 1632) granting a pension to Joseph M. Hudson was considered as in Committee of the Whole. It directs the Secretary of the Interior to place the name of Joseph M. Hudson, late a private in company E, ninety-first regiment Ohio infantry volunteers, on the pension-roll, subject to the provisions of the pension laws, to commence from the 22d of December, 1863.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

CHARLES MAINS.

Mr. VAN WINKLE. I now move that the Senate proceed to the consideration of House bill No. 1903.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1903) granting a pension to Charles Mains, of Tennessee; which directs the Secretary of the Interior to inscribe on the pension-rolls the name of Charles Mains, of Johnson county, Tennessee, and that he be paid at the rate of eight dollars per month, commencing on the 1st of November, 1868.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

CHARLOTTE WEBSTER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1917.

The motion was agreed to; and the bill (H. R. No. 1917) granting a pension to Charlotte Webster, widow of Timothy Webster, deceased, was considered as in Committee of the Whole. The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Charlotte Webster, widow of Timothy Webster, deceased, who was in the secret service of the United States, arrested by the rebels, and executed at Richmond on the 13th of April, 1862, and that she be paid out of the pension fund during her widowhood the sum of eight dollars per month, to commence on the 18th of April, 1862.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM H. JOHNSON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1918.

The motion was agreed to; and the bill (H. R. No. 1918) to increase the pension of William H. Johnson was considered as in Committee of the Whole. It proposes to increase the pension heretofore granted to William H.

Johnson, late a private in the United States Navy, from three dollars and fifty cents to eight dollars per month, and that he be paid at that rate, to commence on the 1st of July, 1868, and it directs the Secretary of the Interior to have it so entered in the Department, to be subject, in all respects, to the provisions and limitations of the pension laws passed in relation to soldiers of the late war to put down the rebellion, known as the war of 1861.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

EDMUND W. WANDELL.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1919.

The motion was agreed to; and the bill (H. R. No. 1919) granting a pension to Edmund W. Wandell was considered as in Committee of the Whole. The preamble to the bill recites that Edmund W. Wandell entered as a private in company I, first regiment Pennsylvania volunteers, in the war with Mexico, and served to the close of that war in 1848, when he received an honorable discharge; that owing to disease contracted in the service his name in the year 1854 was placed upon the pension-roll at the rate of eight dollars per month; that in November, 1862, he raised a company and was commissioned as captain of company G of the one hundred and forty-third regiment of Pennsylvania volunteers, in the war of 1861; that on the 7th of November, 1863, he was honorably discharged for disability contracted in the Mexican war, and on application his pension was restored, but only from February, 1868, instead of from date of his discharge. The bill therefore proposes to make the sixth section of the act of Congress entitled "An act relating to pensions," approved July 27, 1868, applicable to his case.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

KATHARINE DREYER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1920.

The motion was agreed to; and the bill (H. R. No. 1920) granting a pension to Katharine Dreyer, widow of Sylvester Dreyer, deceased, late private of company H of the tenth regiment of Minnesota volunteers, was considered as in Committee of the Whole. Under the provisions of the pension laws of the United States the Secretary of the Interior is required by the bill to place upon the pension-roll the name of Katharine Dreyer, widow of Sylvester Dreyer, deceased, late a private in company H of the tenth regiment of Minnesota volunteers, who died at Alton, Illinois, on the 18th of November, 1864, leaving surviving a widow and issue, two children, to wit: William, born November 1859, and Augustus, born June 16, 1862, and she is to be paid a pension during her widowhood at the rate of eight dollars per month, to commence on the 18th of November, 1864, beside the sum allowed for minor children of deceased soldiers under the age of sixteen years under existing laws.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

CATHARINE O. CONNERS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1921.

The motion was agreed to; and the bill (H. R. No. 1921) granting a pension to Catharine O. Connors, widow of Timothy Connors, deceased, late private company C of the thirty-third regiment Massachusetts volunteers, was considered as in Committee of the Whole. The bill requires the Secretary of the Interior, under the provisions of the pension laws of the United States, to place upon the pension-roll the name of Catharine O. Connors, widow of Timothy Connors, deceased, late a private in

company C of the thirty-third regiment of Massachusetts volunteers, who died on the 8th of November, 1864, leaving surviving a widow and issue, four children, to wit: Susan, born November 3, 1850; Margaret, born March 17, 1853; Mary, born July 4, 1855; and Timothy, born January 1, 1859; and she is to be paid a pension during her widowhood at the rate of eight dollars per month, to begin on the 8th of November, 1864, beside the sum allowed for minor children under the age of sixteen years under existing laws.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MARY J. HUTTON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1922.

The motion was agreed to; and the bill (H. R. No. 1922) granting a pension to Mary J. Hutton, widow of John C. Hutton, deceased, was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary J. Hutton, widow of John C. Hutton, deceased, who enlisted as a private in company K, third regiment of Delaware volunteers, and was afterward detailed as hospital steward, and died on the 10th of December, 1865, leaving surviving a widow and issue, under the age of sixteen years, three children, to wit: Mary A., born December 24, 1854; Eveline, born April 21, 1856; and Hattie Hutton, born September 3, 1860; and she is to be paid during her widowhood the sum of eight dollars per month, to commence on the 10th of December, 1865.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ELIZABETH RADIGAN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1923.

The motion was agreed to; and the bill (H. R. No. 1923) granting a pension to Elizabeth Radigan, widow of John Radigan, deceased, who was a private in company A of the forty-ninth regiment Pennsylvania volunteers, was considered as in Committee of the Whole. The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Radigan, widow of John Radigan, who was a veteran sergeant in company A of the forty-ninth regiment Pennsylvania volunteers, and died leaving surviving a widow and issue, one child, to wit: a son, named Henry E. Radigan, born November 18, 1860; and to pay her during her widowhood a pension, at the rate of eight dollars per month, to commence on the 1st of July, 1865.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JOHN A. PARKER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1924.

The motion was agreed to; and the bill (H. R. No. 1924) granting a pension to John A. Parker, a soldier in the war of 1861, was considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John A. Parker, late a private in company K, fifth regiment of Kansas cavalry volunteers, who had his left arm shattered in battle so as to render amputation necessary, and he is to be paid during his natural life, out of the pension fund, the sum of fifteen dollars per month, to commence on the 1st of January, 1865.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

CLARISSA K. GRANT.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1925.

The motion was agreed to; and the bill (H. R. No. 1925) granting a pension to Clarissa K. Grant was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Clarissa K. Grant, widow of William H. Grant, late a private in company K, of the fifth regiment of Maine volunteer infantry, commencing October 12, 1861.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ANN SMITH.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1926.

The motion was agreed to; and the bill (H. R. No. 1926) granting a pension to Ann Smith was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Ann Smith, widow of Simeon Smith, late private in company D, fifty-eighth regiment Pennsylvania volunteers, commencing July 24, 1868.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

HARRIET M. MILLS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1927.

The motion was agreed to; and the bill (H. R. No. 1927) granting a pension to Harriet M. Mills, widow of Samuel J. Mills, deceased, late a private in company F, of second regiment Connecticut volunteers, was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Harriet M. Mills, widow of Samuel J. Mills, deceased, who was a private in company F, of the second regiment Connecticut volunteers, and she is to be paid, during her widowhood, out of the pension fund, the sum of eight dollars per month, to commence on the 5th of September, 1861, the date of her husband's death.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JULIET E. HALL.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1929.

The motion was agreed to; and the bill (H. R. No. 1929) granting a pension to Juliet E. Hall was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Juliet E. Hall, widow of William Hall, late a colonel of the eleventh regiment of Iowa infantry, commencing August 1, 1864.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JACOB HUGGINS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1931.

The motion was agreed to; and the bill (H. R. No. 1931) granting a pension to Jacob Huggins was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jacob Huggins, late a private in company A, of the ninth regiment of Pennsylvania volunteer cavalry, and pay him a pension, commencing May 29, 1865.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JOHN M. FLYNN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1932.

The motion was agreed to; and the bill (H. R. No. 1932) granting a pension to John M. Flynn was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John M. Flynn, late of company F, thirty-second regiment of Massachusetts volunteer infantry.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

HENRY RIEMANN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1933.

The motion was agreed to; and the bill (H. R. No. 1933) granting a pension to Henry Riemann was considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Henry Riemann, late a private in company G, of the twelfth regiment of Maine volunteers, commencing July 31, 1865.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MAHALA M. FREEMAN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1934.

The motion was agreed to; and the bill (H. R. No. 1934) granting a pension to Mahala M. Freeman was considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mahala M. Freeman, widow of Benjamin F. Freeman, late a recruit, company D, eighteenth regiment Illinois volunteers, commencing March 19, 1864.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

CHARLES H. B. KING.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1935.

The motion was agreed to; and the bill (H. R. No. 1935) granting a pension to Charles H. B. King was considered as in Committee of the Whole. It provides for placing on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Charles H. B. King, minor child of Charles L. King, late a private in company C, thirty-sixth regiment of Ohio volunteers, afterward company E, eighth regiment Veteran Reserve corps, and pay him a pension commencing February 22, 1864.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MARY ANN SHURLOCK.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1936.

The motion was agreed to; and the bill (H. R. No. 1936) granting a pension to Mary Ann Shurlock was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Mary Ann Shurlock, dependent sister of Samuel Shurlock, late of the eighty-first regiment Pennsylvania volunteers, at the rate of ten dollars per month.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

LUCINDA PANGLE.

Mr. VAN WINKLE. I move that the Sen-

ate proceed to the consideration of House bill No. 1937.

The motion was agreed to; and the bill (H. R. No. 1937) granting a pension to Lucinda Pangle was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Lucinda Pangle, widow of Lieutenant Tarleton S. Pangle, late of the eighth regiment of Tennessee cavalry, and pay her a pension as the widow of a first lieutenant in lieu of the pension she is now receiving.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JULIA A. FISHER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1938.

The motion was agreed to; and the bill (H. R. No. 1938) granting a pension to Julia A. Fisher was considered as in Committee of the Whole. It provides for placing on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Julia A. Fisher, widow of Martin Fisher, late corporal in company A, fifth regiment Missouri State militia cavalry, commencing 20th September, 1863.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JOHN GESTIGER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1939.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1939) for the relief of John Gestiger. The Secretary of the Interior is directed to place the name of John Gestiger, late a private in company F, nineteenth regiment Wisconsin volunteers, subsequently transferred as a private of company C, ninth regiment Veteran Reserve corps, on the pension-roll, at the rate of fifteen dollars per month, to commence December 12, 1864.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

CYRUS HALL.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1940.

The motion was agreed to; and the bill (H. R. No. 1940) granting a pension to Cyrus Hall was considered as in Committee of the Whole. By its terms Cyrus Hall, late a private in company A of the fortieth regiment of Massachusetts volunteer infantry, is to receive a pension, commencing May 30, 1863, subject to the provisions and limitations of the pension laws.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

BETSEY S. JACKMAN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1941.

The motion was agreed to; and the bill (H. R. No. 1941) granting a pension to Betsey Jackman was considered as in Committee of the Whole. The Secretary of the Interior is directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Betsey S. Jackman, foster-mother of Benjamin H. Jackman, late of company I, twenty-third regiment of Massachusetts volunteers, commencing May 16, 1864.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

LUCINDA A. WILDER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1942.

The motion was agreed to; and the bill (H. R. No. 1942) granting a pension to Lucinda A. Wilder was considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Lucinda A. Wilder, mother of George C. Wilder, late of company I, one hundred and fifteenth New York volunteers, and William E. Wilder, late a private in company H, seventy-seventh New York volunteers, commencing September 20, 1862.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

RICHARD H. ALLEN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1943.

The motion was agreed to; and the bill (H. R. No. 1943) granting a pension to the widow and minor children of Lieutenant Richard H. Allen was considered as in Committee of the Whole. It provides for placing on the pension-roll, subject to the provisions and limitations of the pension laws, the names of the widow and children of Lieutenant Richard H. Allen, late a lieutenant in company D, thirteenth regiment of Tennessee cavalry, and for the payment to them of a pension, commencing November 1, 1864, to be continued to the widow during the time she may have remained a widow, and to the children until they attain the age of sixteen years.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

BRIDGET HAYES.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1944.

The motion was agreed to; and the bill (H. R. No. 1944) granting a pension to Bridget Hayes was considered as in Committee of the Whole. It proposes to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Bridget Hayes, mother of James Hayes, late a private in company D, twentieth regiment of Massachusetts volunteers, commencing February 17, 1865.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

SARAH A. SCHERR.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1945.

The motion was agreed to; and the bill (H. R. No. 1945) granting a pension to Sarah A. Scherr was considered as in Committee of the Whole. By its provisions the Secretary of the Interior is directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Sarah A. Scherr, widow of Captain William E. Scherr, late of the twenty-sixth regiment of Pennsylvania volunteer infantry, and to pay her a pension, commencing May 1, 1864.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MARY A. AMER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1946.

The motion was agreed to; and the bill (H. R. No. 1946) granting a pension to Mary A. Amer was considered as in Committee of the Whole. By its terms the Secretary of the Interior is directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary A. Amer, widow of John Amer, late a private in the ninety-seventh regiment of Pennsylvania volunteers, commencing October 31, 1863.

The bill was reported to the Senate, ordered

to a third reading, read the third time, and passed.

CATHERINE S. B. SPEAR.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1947.

The motion was agreed to; and the bill (H. R. No. 1947) granting a pension to Catherine S. B. Spear was considered as in Committee of the Whole. It proposes to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Catherine S. B. Spear, widow of Rev. Charles Spear, late a chaplain in the service of the United States, commencing April 13, 1863.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

NANCY REED.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1948.

The motion was agreed to; and the bill (H. R. No. 1948) granting a pension to Nancy Reed was considered as in Committee of the Whole. The Secretary of the Interior is by the bill directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Nancy Reed, widow of Seabourn Reed, late a private in company B in the battalion of twelve months' Arkansas cavalry, and pay her a pension, commencing January 8, 1864.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JAMES H. MAGUIRE.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1949.

The motion was agreed to; and the bill (H. R. No. 1949) granting a pension to James H. Maguire was considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of James H. Maguire, late a private in company H of the fourth regiment of United States infantry.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

RICHARD LOOK.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1950.

The motion was agreed to; and the bill (H. R. No. 1950) granting a pension to Richard Look was considered as in Committee of the Whole. It provides for placing on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Richard Look, late a private in company B, seventh regiment of Maine volunteer infantry, the pension to commence November 2, 1863.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MARTHA E. MCKINNEY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1951.

The motion was agreed to; and the bill (H. R. No. 1951) granting a pension to Martha E. McKinney was considered as in Committee of the Whole. It proposes to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Martha E. McKinney, widow of Edwin McKinney, late company B, one hundred and twenty-ninth regiment of Illinois volunteers, commencing September 20, 1864, to be paid out of the naval pension fund.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MATILDA CARNEY.

Mr. VAN WINKLE. I move that the Sen-

ate proceed to the consideration of House bill No. 1952.

The motion was agreed to; and the bill (H. R. No. 1952) granting a pension to Matilda Carney was considered as in Committee of the Whole. By the bill the Secretary of the Interior is directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Matilda Carney, widow of Garret Carney, late a private in company E, one hundred and thirty-fourth regiment of Pennsylvania volunteers, and to pay her a pension, commencing September 18, 1862.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JOHN R. RAY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1953.

The motion was agreed to; and the bill (H. R. No. 1953) granting a pension to John R. Ray was considered as in Committee of the Whole. The Secretary of the Interior is directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John R. Ray, a resident of Caldwell county, Missouri, who was wounded while serving in an organization known as the six months' militia of Missouri, and to pay him a pension of a private from January 1, 1862.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MARIA WALTERS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1954.

The motion was agreed to; and the bill (H. R. No. 1954) granting a pension to Maria Walters was considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Maria Walters, widow of Charles F. Walters, late a hospital steward, tenth regiment of Missouri volunteers, and to pay her a pension, commencing May 30, 1862.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

WILLIAM J. PATTEN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1955.

The motion was agreed to; and the bill (H. R. No. 1955) increasing the pension of William J. Patten, was considered as in Committee of the Whole. It provides for placing on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William J. Patten, late of the fourth regiment of Arkansas cavalry, and for paying him a pension as a first lieutenant in lieu of the pension he is now and has been receiving, commencing from his discharge from the service of the United States.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

LORENZO DAY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1956.

The motion was agreed to; and the bill (H. R. No. 1956) granting a pension to Lorenzo Day was considered as in Committee of the Whole. The Secretary of the Interior is by the bill directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Lorenzo Day, late a private in company H of the twenty-seventh regiment of Maine volunteer infantry, and to pay him a pension, commencing January 1, 1863.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

and then to RACHEL C. FLOYD

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1957.

The motion was agreed to; and the bill (H. R. No. 1957) granting a pension to Rachel C. Floyd was considered as in Committee of the Whole. It proposes to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Rachel C. Floyd, widow of Joseph Floyd, late a private in company B of the twentieth regiment of Iowa volunteer infantry, and to pay her a pension, commencing November 27, 1863.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ALLEN E. RECTOR.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1958.

The motion was agreed to; and the bill (H. R. No. 1958) granting a pension to Allen E. Rector was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Allen E. Rector, late a private in company H of the twenty-eighth regiment of Pennsylvania volunteers, and pay him a pension, commencing July 18, 1865.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

EDWARD W. WHITE.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1959.

The motion was agreed to; and the bill (H. R. No. 1959) granting a pension to Edward W. White was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Edward W. White, late a private in the first troop of Philadelphia city cavalry, and to pay him the pension of a private, commencing July 30, 1863.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ELLEN GREEN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1960.

The motion was agreed to; and the bill (H. R. No. 1960) granting a pension to Ellen Green was considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Ellen Green, mother of Philip Green, late a coal-heaver on the United States ship E. B. Hale, and to pay her a pension, commencing June 11, 1863.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

SARAH A. WILCOX.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1961.

The motion was agreed to; and the bill (H. R. No. 1961) granting a pension to Sarah A. Wilcox was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll the name of Sarah A. Wilcox, late a nurse in United States hospitals, now a resident of Cincinnati, Ohio, and pay her a pension at the rate of eight dollars per month during her disability, commencing July 1, 1865.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

WILLIAM M'DONALD.

Mr. VAN WINKLE. I move that the Sen-

ate proceed to the consideration of House bill No. 1962.

The motion was agreed to; and the bill (H. R. No. 1962) granting a pension to William McDonald was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William McDonald, late a private in company E, first regiment of Michigan cavalry, commencing November 17, 1865.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

EMILY H. GARDNER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1963.

The motion was agreed to; and the bill (H. R. No. 1963) granting a pension to Emily H. Gardner was considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Emily H. Gardner, widow of William H. Gardner, late a contract surgeon, and to pay her a pension at the rate of seventeen dollars per month, commencing July 17, 1864.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

JACOB S. BAKER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1971.

The motion was agreed to; and the bill (H. R. No. 1971) granting a pension to Jacob S. Baker was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jacob S. Baker, of Marion county, Illinois, formerly a private in company I, fourth regiment Indiana volunteers, in the war with Mexico, to receive a pension from the approval of this act.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

DIPLOMATIC AND CONSULAR EXPENSES.

The PRESIDENT *pro tempore* appointed Messrs. SUMNER, FRELINGHUYSEN, and WHYTE the further committee of conference on the part of the Senate on the bill (H. R. No. 1570) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1870.

SUFFRAGE CONSTITUTIONAL AMENDMENT.

Mr. STEWART. I move that the Senate proceed to the consideration of the report of the committee of conference on the constitutional amendment.

The motion was agreed to.

Mr. RAMSEY. I should like to appeal to the Senator from Nevada to allow me to pass a small bill that I have been trying to bring before the Senate for a week past.

Mr. HENDRICKS. I want to pass three or four bills.

Mr. DRAKE. I want to pass one.

Mr. POMEROY. When this evening was set apart for pension bills I thought it was understood that I should have a part of the evening for business from the Committee on Public Lands.

The PRESIDENT *pro tempore*. The report of the committee of conference on the joint resolution (S. R. No. 8) proposing an amendment to the Constitution of the United States is before the Senate, and the Senator from Indiana [Mr. HENDRICKS] is entitled to the floor.

Mr. POMEROY. If the Senator from Indiana will consent, I desire to submit a question to the Chair before he begins.

Mr. HENDRICKS. Certainly.

Mr. POMEROY. With the consent of the Senator from Indiana I desire to submit a question of order. I discussed to some extent this morning the question, but did not make any point of order, because I wanted to satisfy myself further that it was really a question of order. I thought in the morning during this discussion that the point might be reached without making it a question of order, but the question of order I now submit is in these words:

The conference committee appointed to confer and report upon the disagreeing votes of the two Houses upon the joint resolution of the Senate No. 8, have reported upon the agreeing votes as well as the disagreeing, in that they strike out the words 'to hold office,' which was not submitted to them.

The point of order which I make is that the committee to whom was referred the disagreeing votes have reported upon the agreeing votes, and they were words not essential to that portion of the amendment that the House receded from; in that they have made to the Senate a report upon what was not committed, and hence under the rules of the Senate it cannot be received. I do not care to argue the point.

Mr. NYE. I hope we shall not fool away an hour now on a question of order.

Mr. POMEROY. I do not care to argue the point.

The PRESIDENT *pro tempore*. It is not debatable.

Mr. POMEROY. It is a question of order that must be decided by the Chair without debate.

Mr. DRAKE. I would inquire of the honorable Senator from Kansas whether he intends to impale the rights of man upon a point of order?

The PRESIDENT *pro tempore*. There is no debate allowed on this subject. We are admonished by the rules that committees of conference are only to settle such matters as the two Houses of Congress have not agreed upon, but I do not think it is such a question of order that the court can direct a non-suit on. [Laughter.] It appears to me to be so connected with the case that it must be submitted to the judgment of the Senate, and the Chair could hardly rule out the report under such circumstances.

Mr. POMEROY. I do not care to appeal from the court in this matter, but I want the point of order noted in the proceedings because no case of this kind has gone unchallenged, and the Senate invariably, where the text of a bill has been interfered with by a conference report, has required it to be passed by a unanimous vote.

Mr. STEWART. I simply want it noted that the point of order is more false in fact than in theory.

Mr. CONNESS. I object to discussion.

The PRESIDENT *pro tempore*. If the Senator appeals from the decision of the Chair that is one thing. It is debatable then, but not without.

Mr. CONNESS. There is no appeal. ["Question!" "Question!"]

The PRESIDENT *pro tempore*. The Senator from Indiana is entitled to the floor on the report of the committee of conference.

Mr. HENDRICKS. Mr. President, I shall not occupy the attention of the Senate longer.

The PRESIDENT *pro tempore*. The question is on concurring in the report of the committee of conference; and as it takes two thirds to decide that question the roll must be called.

Mr. FOWLER. I do not intend to trespass on the time of the Senate, but I wish to say one word. I have already stated my views on this subject generally; but the amendment as it is now presented entirely ignores the great principle of human rights. There is nothing protective in this amendment except in regard to color, race, or previous condition of slavery. The principle of the Declaration of Independence is entirely ignored. It is not an amendment that gives manhood suffrage at all. That part of the subject I do not wish to say anything about; I have already expressed my views.

The right of suffrage is a greater right than the right of holding office for this reason: the principle laid down in the Declaration of Independence is that Governments derive their just powers from the consent of the governed. Of course the right to hold office must be an inferior right to that of voting, because it is not supposed that men who have the right to consent to the Government are going to consent to a Government which would debar them from the right to hold office.

Again, I think the Constitution as it stands at present would guaranty to each citizen of the United States the right to hold office if he were elected. I do not doubt on that point myself. A proposition is made here to incorporate this principle in the Constitution, and an amendment has been made to it which takes out the principle from this amendment, thus placing a construction upon the Constitution which denies the right of the citizen to hold office. Now, if this amendment is made to the Constitution as it stands it will deny to those citizens specified in the amendment the right to hold office. That is the clear and inevitable construction of it. That of course defeats the rights which the citizen holds under the Constitution as it stands at the present time.

Mr. POMEROY. In order that I may vote intelligently I want to ask the Chair a question. When this vote is taken, if the Senate do not concur in the report of the committee of conference, will it be in order for me to move that the Senate recede from its disagreement to the House amendments to our resolution and agree to the same? If we vote to disagree and non-concur with this report of the committee, or if the motion to concur be not carried by a two-thirds vote, then I want to ask the Chair whether it will be in order for me to move to recede from our disagreement with the House and agree to the House amendments to our resolution?

The PRESIDENT *pro tempore*. That is anticipating a difficulty that may be a real one when it occurs; but it has not yet arisen.

Mr. POMEROY. An answer to the question will help me in voting. I do not know how to vote until I know the decision of the Chair on that point.

Mr. STEWART. I suppose the gentleman knows all about parliamentary law and he does not want any instruction. We are not going to turn the Senate into a school to instruct the Senator from Kansas in parliamentary law.

The PRESIDENT *pro tempore*. My impression is that if the Senate refuses to concur that is a disagreement to the report, on which a further conference may then be asked. I do not think anything further can be done.

Mr. POMEROY. The Chair holds then that a motion—

Mr. CONNESS. I rise to a question of order, sir. There can be no question such as the Senator raises put to the Senate. The Chair has ordered the roll to be called. The question raised by the Senator is predicated upon what may transpire hereafter.

The PRESIDENT *pro tempore*. Very true. The question has not arisen.

Mr. POMEROY. I was asking the question for the opinion of the Chair.

Mr. CONNESS. It is a wrong time for that. Let us vote.

Mr. POMEROY. I am to judge myself whether it is the wrong time or the right time.

Mr. CONNESS. I rise to a question of order.

The PRESIDENT *pro tempore*. There cannot be more than one question of order at a time.

Mr. POMEROY. I was not suggesting any question of order. I was asking the Chair whether I could at a given time make a motion and have it in order.

The PRESIDENT *pro tempore*. You can make the motion; but the question would be whether it would be in order when it was made? The opinion of the Chair now is, unadvised,

that it would not be in order to make that motion at that stage of the proceedings, and that the regular way would be, if the Senate should non-concur, which in the opinion of the Chair would be equivalent to a disagreement, to ask for a further conference. The question is on agreeing to the report of the committee of conference.

Mr. BUCKALEW. Mr. President, before this question is put to a vote I propose to submit a few observations which seem to me to be timely.

In the first place I have to observe that what I supposed would occur from the appointment of the committee of conference has actually taken place. I was of opinion, and expressed that opinion, that sooner or later the Senate would be brought to the point of agreeing to some House proposition; that all the effort expended in this body in shaping a proposed amendment to the Constitution would be lost, would go for nothing; that the House of Representatives would have its own way; that some proposition formed by it would be accepted; and I went on to observe that this would be in accordance with the proceedings of Congress for the last half dozen years on subjects of this description—I mean on political questions, or those having a political complexion.

I am not therefore surprised when the committee of conference bring back to us the original House amendment, if not in exact terms, in substance. It is precisely the amendment which the House passed originally and sent here, and which the Senate attempted to amend, in which attempt a very large amount of time was expended, and a good deal of effort also, including the holding of a protracted night session. The acceptance of this report of the committee of conference thus will be consistent with congressional history and action for many years, during which the Senate has usually given way to the House.

Another point of more importance: it is my opinion, and I take this occasion to express it, that the amendment power of the Constitution does not authorize this change. It is my idea that the amendment clause has some limitations, the leading and principal one of which being that an amendment must be within the scope and purpose of the original instrument. It must be in pursuance of the objects for which the Constitution was formed; within the general scope and purpose for which it was made. I believe that you may submit an amendment to the Constitution to the several States changing the qualifications of voters who choose members of Congress and electors of President and Vice President of the United States, or regulating the manner in which these Federal officers or officials shall be chosen. An amendment with either of these objects would be within the general purposes of the original delegations of power to the Government of the United States, or rather within those general objects for which the Government of the United States was established. But this amendment goes further. It proposes to establish a rule of suffrage for State purposes, one which will obtain at State elections and give direction to the political institutions and political action of the several States.

Now, sir, consider: if a provision looking to that object had been put into the Constitution originally no one can doubt that the Constitution would have been rejected; it would not have been ratified by nine States; it would not have gone into operation; it would never have had legal existence as the fundamental law of the land. For the States with the ideas that then obtained would not have surrendered up to this Government which they were forming control over their local institutions. Above all they would not have permitted this Government, or three fourths of their co-States, to have regulated State suffrage in any way whatever, to have prescribed the qualifications which should obtain for an exercise of that right.

If by virtue of this power of amendment

which is in the Constitution you can propose and adopt an amendment which shall have the effect of prescribing the rule of suffrage for State purposes what, have you done? You have put the institutions of the State, their home institutions, their domestic policy, their local frames of government, their sovereignty, and their powers altogether within the control of three fourths of the other States.

Mr. Madison, in certain numbers of the *Federalist*, proceeded in a masterly manner to portray our compound system of government. He stated, and he stated truly, that our system was compounded of two great elements, the one national and the other State; that the two principles, the one of State power and of State sovereignty for certain purposes, and the other of national power for common purposes, both of defense and of internal polity, enter into the constitution of this Federal Government and were recognized by it. He argued at length and with great power that the maintenance of both these principles was absolutely necessary to the existence of free and successful government in this country. I but allude to those essays of his as containing in a more full and ample manner than it is convenient for me to state the ideas upon which this opinion which I have now expressed is founded, that no State ever surrendered up to three fourths of its co-States a power by way of amending the Constitution to revolutionize and change the State frame of governments in the vital, the most important particular possible—the right of suffrage; in other words, never surrendered up to its co-States the power to say who should constitute the State. That is the point struck at by this amendment.

What is a State in the true sense of the term? It is not the government of the State. Government is but a representative under our system. The State is composed of the people of the State; and when you come to define that term "people" in its political sense, under our institutions it means the electors of the State, for with them is lodged the sovereign power of the State, and they participate in the possession and enjoyment of that power with no other community or power under heaven. The electors of the State, then, constitute the State; with them is lodged its sovereignty, and, as I think, the State government and the Federal Government are simply agents exercising this sovereign power, because its exercise has been delegated to them. Now, what is the principle which underlies this amendment before you? It is that three fourths of the States, as distinct political communities, acting upon this question of amendment, may reach into a co-State and change that State; may decree that those who hold its sovereign powers shall hold them no longer, or that they shall participate in the enjoyment of those sovereign powers with others against their will. I insist that this is so clearly a departure from any of the general principles on which the Constitution was formed and this Federal Government established that it does not and cannot fall within the amending power of that Constitution. In taking this ground I do not argue against Federal power properly understood, nor does my conclusion weaken any just principle or argument in favor of efficiency and vigor in this Government, the common Government for all the States. I admit that by the amending power you may provide who shall choose members of the lower House of Congress; you may provide who shall choose your presidential electors; you may provide that your electoral colleges shall be abolished and that your President shall be chosen in a different manner; you might provide, were it not for a particular clause of the Constitution, that the States should be represented in this body in a different manner from what they now are. It is only because there is a limitation in that respect that you cannot by amendment provide that the States shall be represented altogether in a different manner from what they now are.

I admit all legitimate consequences which

are drawn from the insertion of the amending clause in the Constitution of the United States, that it may extend to any object or purpose for which this Government was made, or which is necessary to its efficient and successful operation as a common organ of all the States and of all the people of all the States.

But, sir, not only were the people indisposed originally when the Government was founded to grant any such power over local or State arrangements, and particularly over the sovereign powers of the State, the manner in which those powers should be bestowed and who should exercise them—not only did this jealousy exist originally against undue grants which should trench unnecessarily upon the sovereignty of the States, but every reason, every argument which originally, and during all the earlier periods of our history was produced upon the subject of the distribution of power between the States and the Federal Government tells in the same direction; and even if this amending power should be held to be, what it is not, a power to change a State and to make it something that it is not, it would be, upon every ground of legitimate argument, unwise to enter upon the exercise of such power.

Mr. President, I have but little to add. I hope when this amendment goes down to the States for their consideration, as I suppose it will, that upon this ground which I have mentioned, if upon no other, they will reject it: that a competent number of them will withhold from it that ratification which you invite. If they do so, they will so far as this question is concerned have maintained our system of governments as they were originally made and as it was intended that they should exist forever, or at least until in the course of ages some convulsion, some great change which should rock society to its foundations should subvert the entire structure which they had reared. If the States to whom you send this amendment shall stand forward and reject it, not merely upon the ground of policy, not merely upon the argument that it is doubtful in character or in result, but upon the ground that it is a fundamental, an injurious, an unauthorized departure from the fundamental principles of our system of government, they will have given a guarantee and a security to our institutions which will not fail us hereafter and will exercise a most salutary influence upon the proceedings of this government and upon the constitution of political parties throughout the country; for it will then have been determined upon good ground that there is a clear limit upon this power of amending the Federal Constitution, that there are some rights which it cannot touch or overthrow, that republicanism and republican institutions in this country are not altogether the sport or plaything of a mere majority nor of a three-fourths vote of the States of the Union, that even a minority of the States are secure in those rights which they have always hitherto enjoyed, and which it was intended when the Constitution was made should always be sacred from interference either by this Government or by their co-States.

Mr. MORRILL, of Vermont. Mr. President, but four working days now remain before this session of Congress will have reached its close. If we were to take up the bills upon the tables of the two Houses that are necessary or at least proper to be acted upon and barely read them, without debate, we should hardly be able to more than discharge our legitimate duties. From my knowledge of the state of business in each House I am prepared to believe that we must accept the report of this committee or abandon all hope of any amendment of the Constitution being proposed by this Congress.

I would much prefer some different amendment from this; and yet I am not prepared to say that this does not go as far as would be likely to prove acceptable to a majority of the people. I trust, therefore, that without further consumption of time, considering the vast

amount of business that is yet remaining to be done, those of us who are in favor of accepting the best that we can obtain will proceed to vote.

Mr. ANTHONY. Mr. President, I am inclined to support this amendment for two reasons, because in its present form it is not liable to the objection which constrained me to vote against the proposition which first passed the Senate, and because I apprehend that if recommitted to a committee of conference, either to the one which reported it or to a new one, it would come back to us burdened with other conditions which would make it much less acceptable.

I believe in negro suffrage. I voted for it when the question was submitted to the people of the State which I have the honor in part to represent and in which it happily prevails. Not holding to such liberal views as some of the Senators on the question of suffrage, believing that it is not a natural right but a right derived from society and properly under the control of society, I do not think that color is one of its just limitations.

I felt no hesitation in supporting the reconstruction measures which required that the colored population should be consulted in the framing of the fundamental compact. There was no legal government in the insurrectionary States except military government. Both Houses of Congress had declared that those States were not entitled to be represented in Congress until they should form governments in harmony with the Constitution of the United States and acknowledging its authority, and till Congress should recognize such governments. When Congress came to inquire if the new governments were republican in form it was bound to examine the popular basis on which they rested; and it was right and convenient for Congress to state in advance what evidence it would accept as conclusive on that point. In this way it came that negro suffrage was the result of a rebellion undertaken to extend and perpetuate the enslavement of the negro race. I apprehend that there is no possible danger of their losing the rights which have thus been conferred upon them. The ballot has been given to them, and cannot be taken from them without their own consent. To doubt their ability to keep it is to doubt the wisdom of conferring it upon them.

But I confess a great reluctance to changes in the fundamental law. The amendment of the Constitution is one of the gravest matters which the instrument itself devolves upon Congress and upon the States. The guards which the fathers threw around it, the cautious and conservative provisions with which they protected it the respect which they showed for the rights of the minorities, all admonish us that if we would administer it in the spirit in which it was framed we should approach the subject of amendment deliberately, with ample time for consultation here, with opportunities for full and frank consultation by the States and by the people; that we should take no advantage of accidental majorities, but should secure to every proposition of amendment the fair and considerate judgment of the authorities to which the Constitution has confided the matter. But it seems plain that Congress has determined to submit to the States some proposition of amendment of the Constitution on the subject of suffrage; and this is the form of all those in which it has been presented, except the amendment of the Senator from Michigan, [Mr. HOWARD,] that strikes me as least objectionable. In voting for it I vote merely to present it to the States for their constitutional action, to ask the judgment of the States upon it, and I by no means thereby surrender my right of judgment upon its ratification when the discussion shall come up in the State with whose high commission I am honored in this Chamber.

I did not happen to be in my seat when the Senator from Massachusetts [Mr. WILSON] alluded to the suffrage of Rhode Island. I had gone to the House of Representatives to consult with my colleague, the chairman of the

Committee on Printing on the part of the House, upon a matter that had been committed to the joint committee. I do not deem it incumbent upon me to make any defense of our right to make our own regulations for our own State. They suit us; I am sorry they do not please others; but they were not made for the people of Massachusetts, they were made for us, and whether right or wrong they suit us, and we intend to hold them; and we shall not ratify any amendment to the Constitution of the United States that contravenes them, and we have the satisfaction of knowing that without our State the necessary number of twenty-eight States cannot be obtained for the ratification of any amendment whatever until new elections take place. What opportunity there will then be for it other Senators can judge as well as I.

Mr. WILSON. "Little Rhody" takes the responsibility.

Mr. ANTHONY. She takes the responsibility of managing her own affairs in her own way, and she takes the responsibility of exercising her constitutional right, which in this Chamber and upon this subject is equal to the constitutional right of any other State in the Union. If that is a mistake it was a mistake which the fathers made, and the advantage of which we are not disposed to surrender. But if we fail to satisfy our friends in Massachusetts in our management of our internal affairs it must be a consolation to them that in the early colonial period they robbed our State of so large a part of the territory that rightfully belongs to us, thereby rescuing so much from the principles of soul liberty professed by Roger Williams and transferring it to the protection of those principles which drove him from the borders of Massachusetts and illustrated their practical operation in the proceedings against the Salem witchcraft.

Mr. DAVIS. I would ask my honorable friend from Rhode Island one question. Does my honorable friend believe that it is right and proper that the State constitution and the State government of Rhode Island or Kentucky should be altered by the two Houses of Congress in direct opposition to the principles and wishes of those States respectively?

Mr. ANTHONY. I suppose that Congress has a right to submit this amendment to the States, and it is proper that it should be submitted in that form which is least objectionable. I vote to recede from that amendment which the House put upon our proposition, which makes it more objectionable to me. That is my vote.

Mr. DAVIS. My honorable friend has not answered my question. My question is, is it right and proper that the two Houses of Congress shall change the constitution and the government either of the State of Rhode Island or the State of Kentucky in opposition to the wishes and the will of their people?

Mr. ANTHONY. As that is a private matter between my friend from Kentucky and myself I will answer that question when the vote has been taken. [Laughter.]

Mr. DAVIS. That is sufficient, sir. [Laughter.]

Mr. NORTON. Mr. President, I suppose now of course the vote is to be taken upon this amendment. I do not expect to say anything that will affect or change the vote of any member of the Senate; but I think it due to those members of the body who are opposed to this proposition, and I think it due to the country, that it should be made known that this proposition now at last when it comes to be passed does not receive the sanction in fact of two thirds of the Senate. I think it legitimate and proper that the country should know that Senators rise here in their places and say that they do not approve of this proposition, say that they do not think for themselves and for their States that it ought to be passed, and yet from some pressure or for some purpose they vote for it and they submit it to the States for their ratification or their rejection.

Sir, if I were a Senator from one of the re-

cently reconstructed States, as they are denominated here, and believed as those Senators do that the right to vote implied the right to be voted for, I would not vote for a proposition to amend the Constitution that did not include the right to hold office as well as the right to vote; but many of these Senators, while they think the proposition ought to go that far, and while they hesitate and are reluctant as they tell you, after having voted for a proposition like this, to go back to their constituents, not having urged the right to hold office as well, yet they are prepared to vote for this proposition. The Senator from Rhode Island [Mr. ANTHONY] a few moments since explained why he might vote for this proposition; and what was his reason? Why, sir, because it does not run counter to the sentiments of the people of Rhode Island, because it does not trench upon the opinions of the people of Rhode Island upon the question of suffrage, he is willing to vote for it. If it interfered with their sentiments he would not support it we may infer from the fact that he voted against the proposition the other day.

So, sir, I want the country to know that the Senate of the United States agree to this report of a committee of conference on this subject where a two-thirds vote is required by the Constitution to submit it to the several States, when in point of fact two thirds of them do not approve of it and do not believe in it. The Senator from Rhode Island says that this is merely a proposal submitted to the States, and after that he reserves to himself the right to approve of it or not in his capacity as a citizen of the State of Rhode Island. The Constitution provides that "whenever two thirds of both Houses shall deem it necessary" they shall propose amendments to the Constitution. Now, sir, I submit that in the exercise of this power of amendment under the Constitution every Senator when he votes for this proposition in his place says to his constituents and to the country that he believes in his heart and in his conscience that the amendment is necessary; that he believes that it subverses the interests of the General Government; that he believes in the discharge of his duties as a Senator that it is necessary that this amendment should be made, and thus believing he proposes to submit it to the States for their adoption or rejection.

So, Mr. President, it is not allowable for a Senator, in my judgment, to say that this is a proposition which the States may or may not adopt as they please. There is a higher, there is another responsibility, and that is that each Senator when he votes for this says in the discharge of his duties as a Senator that he believes it is necessary that this amendment to the Constitution should be made, and he says to the States that he believes they ought to adopt it.

But, Mr. President, I merely rose, as I said at the outset, for the purpose of calling the attention of the Senate, and, so far as I might, the attention of the country to the fact that this proposition, while it does not receive in point of fact the approval of two thirds of the Senate, is yet to be passed and submitted to the States; and this fact, as I said, is apparent from the expression of Senators upon the subject, from the views of Senators on the amendments that have been pending, and from the fact that they defeated the other day a proposition almost identical with this. If I have succeeded in calling the attention of the Senate and of the country to this fact I have done all that I care to do. This amendment is to pass, I have no doubt; it is to be submitted to the States. Party appliances, party machinery, and party discipline are to be brought to bear on the Legislatures now in existence in the several States to adopt it. It may be adopted, but when it is thus adopted by the States, and twenty-seven States compel all the thirty-six to accept this as their rule of suffrage in all their elections, from that day, in my judgment, you may date the downfall, the destruction of

the rights of the States, and from that day you may date the consolidation, the centralization, of power in the Federal Government, and you may date the despotism of Congress.

Mr. WARNER. Mr. President, I desire to say only a word. I want respectfully but earnestly to enter my humble protest against the character of this amendment. While I shall probably vote for it in the shape it is, I shall do it rather in deference to the judgment of older and wiser men than myself than in accordance with my own deliberate judgment. I do not feel that it is worth our while to change the organic law of the country, to amend it for the protection of a single class, unless at least we protect that one class completely and entirely. I have no doubt that if Mississippi or Texas or Virginia were to come here with a constitution containing these exact words which we now propose to put into the Constitution of the United States she would not be admitted by this Senate. After the example of Georgia I do not believe that this Senate and this Congress would accept from one of these States a constitution containing these identical words upon the question of suffrage and the rights of the colored people. I believe that this proposition is a narrow and illogical one, and one that is unworthy of the grand opportunity that is presented to us. In my own humble judgment, I believe it is the duty of the hour to put into the Constitution a grand affirmative proposition which shall protect every citizen of this Republic in the enjoyment of political power. Not only do I believe that that is right and just, and the duty of the hour and the opportunity, but I believe it is the wisest thing we can do. I believe as a party measure the strongest proposition that could go before the country would be one to protect all classes of men, white as well as black, in the exercise of the rights which all citizens legitimately should carry with them.

So much I think it my duty to say in regard to the character of this amendment. Nor am I satisfied that it is the best provision we could get. My own judgment is that if the Senate were to stand firmly upon a broader proposition it would be adopted and go to the people, and would be adopted by the States. A proposition broader than this has been adopted by both Houses; we have also adopted a narrower one, and yet we have refused to adopt this one intermediate between the two. The other evening when I moved to concur in the House amendments to our resolution the Senate very promptly laid the whole matter on the table. I think we might yet reach a proposition which should at least protect one class perfectly in the enjoyment of their legal rights, if it were not broad enough to reach all classes of citizens in this country.

Mr. FOWLER. Mr. President, I suppose this report will be concurred in; but I presume it will require a two-thirds vote to carry it. I simply wish to say before the vote is taken that my understanding of the proposition as it now stands is that it decides by an amendment to the Constitution that the Constitution does not guaranty to all citizens of the United States the right to hold office. I understand it to be simply the assertion of that principle, which has been maintained in a number of the States, and that it sanctions and sanctifies the action of the Georgia Legislature which has kept out two Senators from this body during the present session; and that we arrive at this principle through the action of a gambling committee, which after the Senate and House of Representatives had adopted a more liberal and much better principle, shuffled the cards over again and gave us a new deal that will satisfy a certain number of gentlemen. The effect of it is to exclude from office a large number of the citizens of the southern States merely to gratify a prejudice that exists in certain of the northern States who wish to heap heavy burdens upon the shoulders of other men that they will not touch with their own fingers.

The PRESIDENT *pro tempore*. The question is on concurring in the report of the committee; and on this question the yeas and nays must be called.

The question being taken by yeas and nays resulted—yeas 39, nays 13; as follows:

YEAS—Messrs. Anthony, Cattell, Chandler, Cole, Conkling, Connors, Cragin, Drake, Ferry, Fessenden, Frelinghuysen, Harlan, Harris, Howard, Howe, Kellogg, McDougal, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Osborn, Patterson of New Hampshire, Ramsey, Rice, Robertson, Sherman, Stewart, Thayer, Tipton, Trumbull, Van Winkle, Wade, Warner, Welch, Willey, Williams, and Wilson—39.

NAYS—Messrs. Bayard, Buckalew, Davis, Dixon, Doolittle, Fowler, Hendricks, McCreery, Norton, Patterson of Tennessee, Pool, Vickers, and Whyte—13. ABSENT—Messrs. Abbott, Cameron, Corbett, Edmunds, Grimes, Henderson, Pomeroy, Ross, Saulsbury, Sawyer, Spencer, Sprague, Sumner, and Yates—14.

The PRESIDENT *pro tempore*. On this question the yeas are 39, and the nays are 13. Two thirds of the Senators present having voted in the affirmative, the report is agreed to.

Mr. WILLIAMS obtained the floor.

Mr. DAVIS. I rise to a question of order. I ask the Chair what the number of votes was announced to be.

The PRESIDENT *pro tempore*. The yeas were 39, and the nays were 13; being two thirds.

Mr. DAVIS. The question of order that I make is that the decision of this question has not been announced by the Chair according to the Constitution. The Chair has announced that the proposition has received the vote of two thirds of the Senate, and therefore that it has passed. I controvert that fact. There are now thirty-seven States in the Union. They are entitled to seventy-four members of the Senate.

Mr. NYE. The honorable Senator will allow me to correct him. The Chair did not make the announcement that the honorable Senator says he did. He said it received two thirds of the votes of all the members present. That was the announcement by the Chair.

Mr. DAVIS. The Chair announced that the proposition had passed.

Mr. HOWARD. The Chair announced that the Senate had concurred in the report.

Mr. DAVIS. I merely want to state my point of order. I do not intend to consume any time upon it.

The PRESIDENT *pro tempore*. The Chair desires the Senator to understand what the Chair said in the announcement of the vote. It was that two thirds of the Senators present had voted in the affirmative. That is the way in which it was announced by the Chair.

Mr. DAVIS. But then the conclusion was—

The PRESIDENT *pro tempore*. That the report was concurred in.

Mr. DAVIS. That is just as I understood it. Now, the conclusion does not follow the vote which the Chair announced, because the Senate consists of seventy-four members, and to constitute two thirds of the Senate a vote of fifty is necessary. My point of order is, that when a less number than two thirds of the Senate is required by the Constitution for any purpose, for instance to ratify a treaty or to confirm a nomination, the Constitution expressly says that it shall be two thirds of the members present. In voting upon a proposition to amend the Constitution, the Constitution does not limit the number of two thirds by reciting that it is two thirds of the members present. Here is the language of the Constitution:

"The Congress, whenever two thirds of both Houses shall deem it necessary," &c.

Now, if Senators will look to that part of the Constitution which regulates the ratification of treaties by the Senate, or the confirmation of nominations to office by the President, they will perceive that the Constitution declares expressly that the two thirds meant to effect those purposes are two thirds of the members present. In relation to this important matter of amending the Constitution there is no such restricted definition of two thirds; but the Con-

stitution in broad language provides that "Congress, whenever two thirds of both Houses shall deem it necessary," &c., shall propose amendments of the Constitution. Now, the question is, what is two thirds of both Houses? What is two thirds of the Senate? Chuckle-heads may laugh; interlopers may laugh; but the proposition that I make is technically, logically, and constitutionally true.

Mr. WILLIAMS. I rise to a point of order. I believe I was recognized by the Chair. The Senator from Kentucky rose to a point of order, and he is making an extended argument; and I think I am entitled to proceed with my business. I have no objection to his stating the point of order; but proceeding to an extended argument after I am on the floor and recognized by the Chair, it seems to me is not in order.

The PRESIDENT *pro tempore*. Questions of order, by our rules, are not debatable.

Mr. DAVIS. I did not intend to interfere with the rights of the honorable Senator from Oregon.

Mr. WILLIAMS. I was willing to give a reasonable time for the statement of the point of order.

Mr. DAVIS. Well, sir, I will yield to his resumption of his right. I think I have satisfied my State that the two thirds required by the Constitution to propose amendments to that instrument, from the annunciation of the vote of the Senate, has not been obtained in favor of this proposition.

Mr. HENDRICKS. Will the Senator from Oregon allow me on this question to call the attention of the Presiding Officer to the language of the Constitution in another article. The article of the Constitution controlling this question speaks of two thirds of the Senate. The Presiding Officer will observe in article one, section three, paragraph six, on the subject of impeachment, that it is provided that the Senate shall try the impeachment, "and no person shall be convicted without the concurrence of two thirds of the members present." In one case the Constitution speaks of two thirds of the members present deciding the question, and in the other case the bill must have two thirds of the body. I wish also to call the attention of the Chair to the provision for the ratification of treaties.

Mr. HOWARD. While the Senator is looking at the Constitution, I wish to know what the question is before the Senate?

The PRESIDENT *pro tempore*. A question of order is raised.

Mr. HOWARD. Then I submit that it is not in order to debate it.

The PRESIDENT *pro tempore*. The question of order is raised that the vote was not carried because there were not two thirds of the entire Senate in the affirmative, but only two thirds of the members present.

Mr. HOWARD. I ask for the decision of the Chair.

Mr. HENDRICKS. I wish to call the attention of the Senator from Michigan, if he desires to look into the subject, to the second section—

Mr. HOWARD. It is not debatable.

The PRESIDENT *pro tempore*. Questions of order are not debatable.

Mr. HENDRICKS. I do not desire to debate it.

The PRESIDENT *pro tempore*. The Chair has decided the question precisely as all these propositions for amendments have been heretofore decided. The exception probably has never been taken.

Mr. TRUMBULL. If the Chair will indulge me a moment, this very point was raised in regard to a constitutional amendment some years ago, and the Senate decided by a vote, almost unanimously, that two thirds of the Senators present were sufficient to carry a constitutional amendment. I think that the Presiding Officer upon reflection will recollect it. It was the constitutional amendment that was proposed before the war. I myself made the point for the purpose of having it decided,

and it was decided, I think by a nearly unanimous vote, that two thirds of the Senators present, a quorum being present, was sufficient to carry a constitutional amendment.

Mr. HENDRICKS. I will ask the Senator from Illinois if that vote did not show two thirds of the Senators of the States then represented in Congress?

Mr. TRUMBULL. No, sir. The constitutional amendment to which I refer was proposed before the war, at the close of Mr. Buchanan's administration, when Breckinridge was the Presiding Officer of the Senate; and I myself raise the question whether two thirds of the Senate, there being a quorum present, could propose a constitutional amendment.

Mr. EDMUNDS. What was the amendment?

Mr. TRUMBULL. The amendment, which passed, was one that perhaps is foreign to this question, and the Senator from Vermont will not want to hear it at this time. It was a proposition to amend the Constitution so that never hereafter should slavery be abolished; and I am sorry to say it passed this body, not by my vote, however, at that time.

Mr. POMEROY. That was before the flood.

Mr. TRUMBULL. I raised the question then—the Senator from Rhode Island [Mr. ANTHONY] recollects it—for the very purpose of having it decided.

Mr. ANTHONY. I recollect that the Senator raised the question, and I believe I asked him why he raised it, and he said he did it to settle the question that less than two thirds of all the Senators might propose a constitutional amendment.

Mr. WILLIAMS. I ask for a decision on the question of order.

The PRESIDENT *pro tempore*. I believe it has been decided according to all the precedents. The Senator from Oregon is entitled to the floor.

PRIVATE LAND CLAIMS IN MISSOURI.

Mr. WILLIAMS. I move to take up House bill No. 1204. It will take but a minute to pass it, I think.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1204) to confirm certain private land claims in the State of Missouri. It provides that the claims of the legal representatives of Gabriel Cerre and Sophia Bolaye, falling within the exterior boundaries of the commons of Carondelet, the former entered as No. 60, for four hundred arpens, and the latter as No. 279, for one hundred and fifty arpens, in the first class of decisions of the board of land commissioners under the acts of Congress approved 9th July, 1832, and 2d March, 1833, for the adjustment of private land claims in Missouri, as recommended by the board, (House Ex. Doc. 59, first session Twenty-Fourth Congress, page 187, and Senate Doc. 16, same session, page 40,) which claims were confirmed by the act of Congress approved 4th July, 1836, subject to location elsewhere than in place in case of conflict, shall be confirmed in place, subject to any valid adverse rights, if such exist, and patents for the claims shall be issued accordingly.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

OCEAN MAIL STEAMSHIPS.

Mr. RAMSEY. I move that the Senate proceed to the consideration of Senate joint resolution No. 186.

The PRESIDENT *pro tempore*. Let it be read by its title for information.

The CHIEF CLERK. A joint resolution (S. No. 186) declaratory and amendatory of the act entitled "An act to provide for an American line of mail and immigrant passenger steamships between New York and one or more European ports," passed July 27, 1868.

Mr. SHERMAN. It is very evident that that resolution, on account of its weight, will occupy some time, and I have been trying to get the floor to pass one or two House bills which I do

not think will excite any debate, and I am quite sure that that resolution will.

Mr. RAMSEY. I have kindly yielded to such suggestions frequently before this, and the result is that this resolution has been postponed until the session and the Congress have almost expired.

Mr. SHERMAN. That proposition is so important that I do not think it can be acted upon to-night.

Mr. RAMSEY. I would yield any courtesy in the world to the Senator from Ohio; but we are within four or five days of the expiration of the Congress, and he cannot expect me to yield now. I prefer to have a vote on my motion.

Mr. MORRILL, of Maine. I desire to say that I do not want any bill taken up to-night which is likely to extend over to-morrow. The Senate will remember that we have the Army appropriation bill still unfinished.

Mr. SHERMAN. I will state to my friend from Maine that the bills I propose to call up are one in regard to bank returns, and another in regard to certified checks; and if they are objected to I shall not be able to press them to-night.

Mr. POMEROY. Those will have to be debated.

Mr. MORRILL, of Maine. I desire to call up the Army appropriation bill, which is unfinished, so that it shall be the order of the day for to-morrow without being subjected to the necessity of struggling for the floor after the morning hour to-morrow. I wish to say now that the legislative, executive, and judicial appropriation bill has just passed the House of Representatives, but not in season to reach here until to-morrow at twelve o'clock—too late, of course, for the consideration of the Committee on Appropriations to-morrow; therefore it must go over until Monday. The Senate will perceive that they cannot afford to allow any bill to step in ahead of the consideration of the Army appropriation bill and the Post Office appropriation bill which I desire to bring up to-morrow. I hope, therefore, that my friend from Minnesota will not bring up any bill to-night that will be likely to be carried over until to-morrow.

Mr. RAMSEY. This resolution can be disposed of in a very short time, and it might as well be taken up and disposed of now as at any other time, I imagine. There will not be a day from this to the close of the session that the same kind of argument may not be used that the Senator uses now.

Mr. MORRILL, of Vermont. There are at least three bills on this subject, I believe; one from the Post Office Committee, one from the Committee on Commerce, and I do not know but another from the Committee on Finance. It will be utterly impossible to have this joint resolution considered to-night without a very considerable debate. I hope, therefore, the motion of the Senator from Minnesota will not be agreed to.

The PRESIDENT *pro tempore*. The question is on taking up the joint resolution mentioned by the Senator from Minnesota.

The motion was not agreed to; there being on a division—ayes 15, noes 21.

ARMY APPROPRIATION BILL.

Mr. MORRILL, of Maine. I now move that the Senate proceed to the consideration of the Army appropriation bill.

The motion was agreed to.

Mr. MORRILL, of Maine. I move that the Senate adjourn.

Mr. CHANDLER. I hope not. I desire to pass a little resolution, and I ask the Senator to allow the Army bill to be laid aside informally, so that it will not lose its place, to enable me to call up House resolution No. 211.

Mr. MORRILL, of Maine. If it can be laid aside informally so that it will be the order to-morrow I will consent to withdraw the motion to adjourn, but not otherwise.

The PRESIDENT *pro tempore*. The Army bill can be laid aside informally and other bills

taken up if there be no objection. The Chair hears none.

HENRY S. GIBBONS.

Mr. CHANDLER. I ask the Senate to proceed to the consideration of House resolution No. 211.

By unanimous consent, the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 211) for the relief of Henry S. Gibbons, late postmaster at St. Johns, Michigan, the pending question being on the amendment reported by the Committee on Post Offices and Post Roads, to add the following proviso:

Provided, It shall be proven satisfactorily to the Postmaster General that funds belonging to the Post Office Department to the amount of \$500 was stolen by burglars, and that said Gibbons was not guilty of neglect in the custody thereof.

The amendment was agreed to.

Mr. CONKLING. I wish to offer an amendment to this bill. There are two other cases here just like this which were considered the other evening, but the Secretary could not lay his hand upon the report, the reading of which was called for. I am told by the chairman of the Post Office Committee that the papers are here now, and there will be no objection to the amendment. I hope the Senator from Michigan will make no objection to allowing them to be considered together. I offer them as an amendment. There is no impropriety in it, for they are just such cases as this exactly, and they may just as well go together as be acted upon separately.

The PRESIDENT *pro tempore*. Does the Senator offer an amendment?

Mr. CONKLING. Yes, sir; I offer the bill for the relief of Luther McNeal and Seth M. Gates as an amendment to this bill.

Mr. CHANDLER. I hope the Senator will allow this bill to pass, and then he can call up the cases to which he refers, and I will help to pass them if they are as good cases as this one.

The PRESIDENT *pro tempore*. The amendment offered by the Senator from New York will be read.

The Chief Clerk read the amendment, which was to insert as additional sections the following:

And be it further resolved, That Luther McNeal be paid the sum of \$175 46 for money and postage stamps belonging to the United States, and which were stolen from the post office at the town of Lancaster, Erie county, New York, while he was postmaster, and which sum he has paid to the Government on settlement with the Post Office Department as such postmaster, and that such sum be paid out of the Post Office fund by the Postmaster General upon the said McNeal making proof to his satisfaction that said money and stamps were stolen without any fault of said McNeal.

And be it further resolved, That in the settlement of the accounts of Seth M. Gates, postmaster at Warsaw, New York, with the Post Office Department, the Postmaster General be, and he is hereby, authorized to allow a credit to the said Seth M. Gates of \$726 73, the amount in value of postage stamps belonging to the United States stolen from the post office on the 16th of July, 1867, while the said Gates was postmaster: *Provided*, That it shall satisfactorily appear to the Postmaster General that the said Gates was guilty of no negligence in the custody of the said stamps.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the joint resolution was ordered to a third reading. The resolution was read the third time, and passed.

On motion of Mr. CONKLING, the title was amended so as to read "A joint resolution for the relief of Henry S. Gibbons, Luther McNeal, and Seth M. Gates."

GUARDIANS FOR INDIAN CHILDREN.

Mr. POMEROY. I ask the unanimous consent of the Senate to take up a joint resolution giving authority of law to appoint guardians for seven Indian children in my State so that they may draw their pension. There is no law at present allowing a guardian for an Indian child. The father of these children served in the war and was killed. They want their pension. I have a letter from the Second Auditor

in which he says that there is no law for the appointment of a guardian, and therefore they cannot be paid. I ask the unanimous consent of the Senate to take up and consider Senate joint resolution No. 165, which simply authorizes our courts to appoint guardians for these children.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 165) authorizing the Commissioner of Indian Affairs to appoint guardians or trustees for minor Indian children who may be entitled to pensions or bounties under the existing laws. It recites that sundry Indians served in the Federal Army, some of whom died in the service and others leaving minor heirs; and that there is no provision of law for these minor Indians to obtain bounties, back pay, or other benefits to which their ancestor was entitled. It therefore proposes to empower the Commissioner of Indian Affairs to appoint guardians or trustees of any of said minors, and to take bond and security for the performance of such duties; and the guardian or trustee so appointed is to be authorized to collect from the Government all such back pay, bounties, or other rights to which the minors may be entitled, and to expend the same for their use and benefit.

The Committee on Indian Affairs reported the resolution with an amendment to add to it the following words:

With the consent and under the direction of any court of record of the United States or of any Territory having jurisdiction at the place where such minors may reside.

The amendment was agreed to.

Mr. POMEROY. I move further to amend the joint resolution in line eight by striking out the words "other rights" and inserting the word "pensions." It means pensions, and I wish to have that word inserted.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

REPORTS OF NATIONAL BANKS.

Mr. SHERMAN. I move that the Senate proceed to consider House bill No. 1881. It was a bill that was called up the other day, and objected to for the moment, in regard to the returns of banks. It is a public measure which ought to be passed at once.

Mr. POMEROY. I suppose the Senator wishes to proceed with it by unanimous consent, so as not to displace the Army bill.

Mr. SHERMAN. I do not propose to displace the Army bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1881) regulating the reports of national banking associations.

The PRESIDENT *pro tempore*. There is an amendment pending reported by the Committee on Finance, which will be read.

The CHIEF CLERK. The amendment is to strike out all of the original bill after the enacting clause and to insert:

That in lieu of all reports required by section thirty-four of the national currency act every association shall make to the Comptroller of the Currency not less than five reports during each and every year, according to the form which may be prescribed by him, verified by the oath or affirmation of the president or cashier of such association and attested by the signature of at least three of the directors; which report shall exhibit in detail and under appropriate heads the resources and liabilities of the association at the close of business on any past day to be by him specified, and shall transmit such report to the Comptroller within five days after the receipt of a request or requisition therefor from him; and the report of each association, in the same form in which it is made to the Comptroller, shall be published in a newspaper published in the place where such association is established, or if there be no newspaper in the place, then in the one published nearest thereto in the same county, at the expense of the association; and such proof of publication shall be furnished as may be required by the Comptroller. And the Comptroller shall have power to call for special reports from any particular association whenever in

his judgment the same shall be necessary in order to a full and complete knowledge of its condition. Any association failing to make and transmit any such report shall be subject to a penalty of \$100 for each day after five days that such bank shall delay to make and transmit any report as aforesaid and in case any association shall delay or refuse to pay the penalty herein imposed, when the same shall be assessed by the Comptroller of the Currency, the amount of such penalty may be retained by the Treasurer of the United States, upon the order of the Comptroller of the Currency, out of the interest, as it may become due to the association, on the bonds deposited with him to secure circulation; and all sums of money collected for penalties under this section shall be paid into the Treasury of the United States.

Mr. CORBETT. Was there not an amendment offered to that amendment by the Senator from Iowa, [Mr. GRIMES?]

The PRESIDENT *pro tempore*. The Chair understood that the pending amendment was the one reported by the committee.

Mr. CATTELL. The Senator from Iowa offered no amendment.

Mr. SHERMAN. He talked about one; but I believe he did not propose any.

Mr. CORBETT. He proposed to offer an amendment, and he spoke to me about it and asked me, if he was not here when the bill should be called up again, to modify it so as to require reports three times a year instead of five, in addition to the regular reports.

The CHIEF CLERK. When the bill was last under consideration it was proposed to amend the amendment in the first line by striking out the words "lieu of" and to insert "addition to;" so as to read "that in addition to all reports required by section thirty-four," &c.

Mr. CORBETT. I desire to modify that amendment so as to require three instead of five reports in addition.

Mr. CATTELL. I trust the amendment offered to the amendment of the committee will not prevail; and I will take just two minutes to make a plain statement of this case. As the law at present stands the banks are required to make four quarterly statements upon given days in the year. They are advertised of the time when these statements are to be made, and consequently can make their arrangements so as to make favorable statements and not give the actual running condition of the banks. Besides, these quarterly statements create a contraction and expansion of currency at four different periods of the year and produce an evil. The amendment of the Committee on Finance provides that the Comptroller of the Currency instead of four reports, as now, shall call for five, on the condition of the bank upon a day past, which will enable him to get the actual running condition of the bank. It further provides that in cases where he deems it necessary he may call for reports from the banks more frequently than five times per annum. This alteration in the law has been recommended by the Comptroller of the Currency in two successive annual reports; and I hold in my hand a letter from him addressed to the chairman of the Finance Committee to-day, in which he calls attention to this bill, and says:

"This is a measure of great public importance, and I hope, if nothing else passes relative to national banks, this bill may succeed."

He approves it in this form. It was submitted to him, and in his judgment it is the wisest and best method of asking for the reports from the national banks.

Mr. CORBETT. I understand that this is to do away with the quarterly reports entirely.

Mr. SHERMAN. It substitutes five instead of four reports.

Mr. CORBETT. It seems to me that quarterly reports are very necessary in order that we may know at certain periods the condition of the banks. We should give an opportunity to the Comptroller to require additional reports at any time he may see fit—say three times a year. I think that would not be unreasonable. These regular reports are necessary. I think the suggestion was made by the Senator from Iowa the other day, and very properly, that under this proposition corruption might creep into the office under some other Comptroller;

that if we should happen to get a Comptroller who desired to favor particular banks he might inform them at what time he would call upon them for a report, and in that way they might be specially favored in that respect. I have no particular feeling about this matter myself; but I was requested by the Senator from Iowa, in case he was not present when this bill was called up again, to modify his amendment in that way so as to make it three times additional; and I do not think it unreasonable. I believe it to be a very good suggestion.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment reported by the Committee on Finance.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

CERTIFYING CHECKS BY NATIONAL BANKS.

Mr. SHERMAN. I have another bill from the House in reference to certifying checks by national banks. I ask that that be taken up.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1973) in reference to certifying checks by national banks.

The Committee on Finance reported the bill with an amendment to strike out in lines eight, nine, ten, and eleven the words:

And it shall be the duty of the officers of any national bank certifying any check to enter the same to the account against which it is drawn as if the amount of such check had been paid in money.

And to insert in lieu thereof the words:

And any check so certified by duly authorized officers shall be a good and valid obligation against such bank.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. CORBETT. I should like to hear the bill read as it stands amended.

The Chief Clerk read as follows:

Be it enacted, &c., That it shall be unlawful for any officer, clerk, or agent of any national bank to certify any check drawn upon said bank unless the person or company drawing said check shall have on deposit in said bank at the time such check is certified an amount of money equal to the amount specified in such check; and any check so certified by duly authorized officers shall be a good and valid obligation against such bank; and any officer, clerk, or agent of any national bank violating the provisions of this act shall subject such bank to the liabilities and proceedings on the part of the Comptroller as provided for in section fifty of the national banking law, approved June 3, 1864.

The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

METROPOLITAN POLICE.

Mr. NYE. I ask the Senate to take up Senate bill No. 797. It is the bill regulating the police of this city.

Mr. MORRILL, of Maine. I suppose it is understood that all this business is done by unanimous consent.

The PRESIDENT *pro tempore*. It is all done by common consent. The title of the bill proposed to be taken up will be read.

The CHIEF CLERK. "A bill (S. No. 797) to amend and consolidate the several acts establishing and relating to a Metropolitan police of the District of Columbia."

Mr. HENDRICKS. That is rather heavy for to-night, I object.

Mr. NYE. Let it be laid aside informally.

The PRESIDENT *pro tempore*. It will be laid aside.

BLANTON DUNCAN.

Mr. HENDRICKS. I move to take up Senate bill No. 953.

The motion was agreed to; and the bill (S. No. 953) for the relief of Blanton Duncan was

read the second time, and considered as in Committee of the Whole.

Mr. HENDRICKS. I presume it is not necessary to read the original bill. I send to the desk the substitute reported by the Judiciary Committee.

The Chief Clerk read the amendment, which was to strike out all of the original bill after the enacting clause and to insert:

That the property other than money of Blanton Duncan, of the State of Kentucky, now in the possession of the district court of the United States for the district of Kentucky, under proceedings instituted against him and his property under the act of July 17, 1862, for the confiscation of said property, be restored to the said Duncan, and the officers of the United States who may have the possession of such property are required to deliver the same to said Duncan.

Mr. NYE. It seems to me that is a pretty heavy bill for so late a time at night.

Mr. HENDRICKS. I want to take it up and then we will discover how weighty it is.

Mr. NYE. The honorable Senator said that about the police bill. The object of that bill was to keep thieves from confiscating property.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the committee.

The amendment was agreed to.

Mr. WILLIAMS. What committee does this bill come from?

Mr. HENDRICKS. The Committee on the Judiciary have considered it. If Senators wish to know what this case is I will state it. During the war the property of Mr. Duncan, in Louisville, was ordered by the court to be confiscated. The marshal of Kentucky took possession of it and received the rents upon it. There was a considerable amount of property. There was no sale of the property, and Mr. Duncan received a pardon, under which, as a matter of course, his property goes back to him. There will be no sale after he has been pardoned. This bill as modified directs the marshal to give him possession of the property but not of the rents. The change in the amendment from the original bill is in regard to the rents, leaving that under the control of the court inasmuch as the rents were received.

Mr. WILLIAMS. I should suppose his property belonged to him without any bill.

Mr. HENDRICKS. I thought so, too, but it seems not. He cannot get possession of it, and he is in a starving condition.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. HOWE. I should like to have the yeas and nays on the passage of that bill.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 8; as follows:

YEAS—Messrs. Abbott, Anthony, Buckalew, Cole, Corbett, Cragin, Davis, Drake, Hendricks, Kellogg, McCreery, McDonald, Nye, Osborn, Pomeroy, Pool, Rice, Robertson, Sawyer, Tinton, Trumbull, Van Winkle, Vickers, Wade, Wiley, and Williams—26.

NAYS—Messrs. Cattell, Frelinghuysen, Harris, Howe, Morgan, Morrill of Maine, Morrill of Vermont, and Patterson of New Hampshire—8.

ABSENT—Messrs. Bayard, Cameron, Chandler, Conkling, Conness, Dixon, Doolittle, Edmunds, Ferry, Fessenden, Fowler, Grimes, Harlan, Henderson, Howard, Morton, Norton, Patterson of Tennessee, Ramsey, Ross, Saulsbury, Sherman, Spencer, Sprague, Stewart, Sumner, Thayer, Warner, Welch, Whyte, Wilson, and Yates—32.

So the bill was passed.

HOT SPRINGS IN ARKANSAS.

Mr. RICE. I ask the unanimous consent of the Senate to take up House bill No. 1276.

The motion was agreed to; and the bill (H. R. No. 1276) for the sale of the Hot Springs reservation, in Arkansas, was considered as in Committee of the Whole.

The Committee on Public Lands reported the bill with an amendment, to strike out all of the original bill after the enacting clause and to insert in lieu thereof the following:

That upon the passage of this act the Secretary of the Interior shall cause to be surveyed, platted, and laid out into streets, blocks, and lots, or parcels of ground, of such form and area as will best facilitate the construction of a town, all that portion of the public domain described as follows, to wit: the south half of sections twenty-eight and twenty-nine; all of sections thirty-one and thirty-two, township two

south, range nineteen west; and north half of sections four and five, township three south, nineteen west; in all four sections, known as the Hot Springs reservation, in Hot Springs county, State of Arkansas: *Provided*, That no parcel of ground surveyed and platted for lot, block, or street shall approach nearer than one hundred feet to any spring included in the group of hot or warm springs embraced within the aforesaid reservation. When the survey shall have been made, in accordance with the provisions herein provided, the Secretary of the Interior shall cause maps and plats to be made of said survey and the ground embraced within said reservation; said maps and plats shall show each lot, block, and street of said survey, each stream of water, and the elevation of each block of ground above some fixed point to be designated on a level with the drainage of said reservation, each spring and its elevation above the point designated, also the temperature of each spring, and shall furnish said maps and plats to persons who may apply for information: *And provided further*, That the circuit court in and for the eastern district of Arkansas shall have original jurisdiction of all claims and disputes and controversies existing or arising relating to the title to said reservation, or any part thereof; and that the United States, in all controversies, suits, and proceedings relative to said reservation, shall appear and be represented by the Attorney General of the United States, or the United States district attorney for the eastern district of Arkansas, or such other attorney as the Attorney General may employ, and shall be subject to the same rules, practice, principles, judgments, and decrees as a natural person party to said action. Any person claiming any right, title, or interest in or to said reservation, or any part thereof, may bring his suit in equity in said court at any time within ninety days after the passage of this act, making the United States, and any other parties claiming adversely, parties to said action; and thereupon the same pleadings and proceedings shall be had, (the service of the subpoena upon the Attorney General by delivery to him of an attested copy of the same, being sufficient notice to the United States); and the said court shall hear, try, and determine said cause according to the rules and practice of the circuit court aforesaid in equity cases. All parties to said action shall plead, answer, or demur within thirty days after service of subpoena; and in case of failure so to do the bill shall be taken as confessed. And within twenty days after the time for answering or demurring has expired a master in chancery shall be appointed by the judge of said court to take testimony in said cause, and all testimony shall be submitted to said master within ninety days after his appointment; and immediately thereafter the said master shall file his report with the clerk of the said court, and thereupon said cause shall take precedence for trial over all other cases on the docket, and a final judgment and decree shall be entered therein during the first regular term of the court thereafter, or at a special term of said court held after the filing of said report, and before a regular term, which the judge of said court is hereby authorized to order and hold for the purpose of more speedily determining said controversy, which judgment and decree shall be binding and conclusive upon the United States, as well as upon all other parties, any party to said action having the right of appeal to the Supreme Court of the United States if taken within thirty days after said decree; and if said appeal is not perfected within said thirty days, it shall be null and void and of no effect; and thereupon the judgment of said circuit court shall be final. And on the trial of said cause it shall be competent for any of the parties to said action to submit in evidence exemplified copies of the records of any or all proceedings heretofore had, including the evidence given in any of the State or United States courts, in which the title to said reservation has been the subject of such proceedings, and such exemplifications so submitted shall form a part of the evidence to be considered in the determination of said cause. And in case of an appeal to the Supreme Court by any party to said action, the same shall take precedence on the calendar of said court of all other causes, and shall be called, heard, and determined by said court in its said order at the first term of said court held thereafter, or that may be in session at the date of perfecting said appeal. And the same proceedings, orders, and decrees shall be had thereon as is provided by the rules and practice of said court in equity cases; and it shall be the duty of the President of the United States to cause land patents to be issued for any portion of said reservation to which any party or parties to said action may be entitled in accordance with the final judgment and decree of the court entered in said cause; and should said court determine that the title to said reservation, or any part thereof, is in the United States, then and in that case only said reservation, or so much thereof as may be by said court adjudged and decreed to belong to the United States, shall be sold as is provided herein: *Provided further*, That all persons failing to prosecute their claims to said land, or part thereof, in the manner and within the time above provided, shall be forever debarred of the right of instituting or maintaining any action or suit in any court for the recovery of the same.

SEC. 2. *And be it further enacted*, That the Secretary of the Interior shall, within sixty days after said reservation is surveyed and platted, as above provided, appoint three disinterested freeholders, who shall appraise the said lots or parcels of ground so platted and surveyed, each at the cash value thereof, and return the same to the Secretary of the Interior.

SEC. 3. *And be it further enacted*, That after such surveys have been made, plats and maps prepared, and report of appraisers returned as provided, and after final decision by the court, the Secretary of the

Interior shall advertise in one newspaper authorized to publish the laws of the United States in each State once each week for the period of sixty days; that upon a day to be designated in the advertisement, which shall be immediately succeeding the expiration of the period above named, the proper officers will sell upon the reservation, at public auction, to the highest and best bidder, all those lots or parcels of ground above described. Upon the day designated in the advertisement the Secretary of the Interior shall cause the sale to be made as provided, in accordance with existing laws made and provided for the sale of public lands: *Provided*, That no lot or parcel of ground shall be sold for less than its appraised value: *Provided also*, That no lot, block, or parcel of ground containing a spring of the character described as aforesaid, in section one, shall be sold or offered for sale; but said lot, block, or parcel of ground shall forever remain the property of the United States, subject to the control and authority of the Secretary of the Interior, whose duty it shall be to protect the said property from the occupation of any person or persons whatever, and keep it at all times open and free to the use of the public; and the said Secretary of the Interior shall report annually to Congress the situation of the said lot or block or parcel of ground, and what legislation may be necessary to carry out the purposes of this act. The Secretary of the Interior shall have surveyed and set apart a plat of ground, not to exceed one hundred acres in area, upon what is known as Hot Springs mountain, for a public park, which may be excepted from the survey into lots, blocks, and streets, the title of which shall vest in like manner as the title of the springs hereinbefore provided.

SEC. 4. *And be it further enacted*, That the proceeds of the sale provided for in the foregoing sections of this act shall be returned to the Secretary of the Interior, who shall first pay all costs of survey, appraisal, and sale; after which he shall invest the residue in United States securities and hold it in trust until otherwise directed by law.

SEC. 5. *And be it further enacted*, That the interest accruing upon said securities shall be applied *pro rata* for the education of all the children in the State of Arkansas which may be between the ages of six and twenty years.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill read a third time. The bill was read the third time, and passed.

REVISION OF RULES.

The PRESIDENT *pro tempore*. The Chair will announce the committee provided for by the resolution to amend the rules of the Senate. The committee will consist of Mr. ANTHONY, Mr. POMEROY, and Mr. EDMUNDS.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 812) to allow deputy collectors of internal revenue acting as collectors the pay of collectors, and for other purposes, and the enrolled joint resolution (S. R. No. 8) proposing an amendment to the Constitution of the United States; and they were thereupon signed by the President *pro tempore*.

INTERNAL-REVENUE STAMPS.

Mr. BUCKALEW submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to furnish to the Senate a statement, if any has been filed, of the account of internal revenue stamps issued by the Government since the passage of the act approved July 1, 1862, with the amounts received therefor, and a statement of the adjustment of such account by the Comptroller, if any has been made; with any explanation of such account as may be necessary to a proper understanding of its present condition.

PECOS AND PLACER DITCH COMPANY.

Mr. POMEROY. I ask the unanimous consent of the Senate to take up a bill relating to a canal or a ditch in New Mexico. The bill has been before the Senate the whole of this Congress and was reported in the fore part of the Congress, and there is a substitute reported by the committee. It relates to the irrigation of a little tract of land in New Mexico. The Senator from Nevada [Mr. STEWART] drew the amendment, which I think is very carefully drawn, because it confines the sale of all the lands they irrigate to actual settlers at \$2 50 an acre. They say they can irrigate it and sell it to actual settlers at \$2 50 an acre, whereas now it is not worth a cent. It is Senate bill No. 287, granting the right of way and lands to the Pecos and Placer Ditch and Mining Company of New Mexico.

Mr. CONNESS. I am inclined to think that that bill had better not be considered to-night. All bills that propose to give the possession of water in countries as dry and arid as New Mexico had better be carefully considered. It is almost too late to-night to take up a bill of this kind.

Mr. HOWE. I hope the Senator from Kansas will allow me to call up a bill that was reported from his committee this morning.

Mr. POMEROY. If the Senator from California objects of course I cannot press the bill.

Mr. CONNESS. I should have to object to that.

Mr. POMEROY. I know that nothing can be done except by unanimous consent. Objection being made, of course I cannot insist on the motion.

STURGEON BAY SHIP-CANAL.

Mr. HOWE. I ask the Senate to proceed to the consideration of Senate bill No. 707, extending the time for the completion of the Sturgeon Bay canal, reported this morning by the Senator from Indiana, [Mr. HENDRICKS.]

The PRESIDENT *pro tempore*. That bill will be taken up if there be no objection.

Mr. POMEROY. I do not think that bill has been returned from the printer.

Mr. COLE. That bill was only reported this morning; and I have been trying for some time to call up a bill which has been up once or twice before and can be passed in a few moments.

Mr. HOWE. If you object of course I cannot press it.

Mr. COLE. You will object to mine, I suppose, if I object to yours.

The PRESIDENT *pro tempore*. The Chair is informed that that bill has been sent to the printer and has not yet been returned.

SAFETY OF PASSENGERS ON VESSELS.

Mr. COLE. I move that the Senate take up for consideration and completion Senate bill No. 247, which has been twice up and been crowded off. It will take but a little while. It is to secure the safety of passengers traveling on vessels.

Mr. BUCKALEW. Oh, no. We cannot pass that to-night.

Mr. COLE. There is no objection to it. It will save hundreds of lives. If we had passed it at the last session it would have saved hundreds if not thousands of lives.

The PRESIDENT *pro tempore*. The Senate must be aware that the Chief Clerk has had a pretty heavy day's work and is wearied out by this time.

Mr. COLE. I appeal to the humanity of Senators to allow this bill to be taken up. I am sure they cannot object to it. It is to save human life. It will take but a few moments.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 247) to amend an act entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam," and for other purposes.

The PRESIDENT *pro tempore*. The question is on an amendment proposed by the Senator from Nevada, [Mr. NYE.]

Mr. CORBETT. I call for the reading of the amendment. If I remember it aright, it designates a particular kind of patent, which I think is improper to be added to this bill.

The CHIEF CLERK. The amendment is to insert as an additional section the following:

And be it further enacted, That every vessel carrying passengers shall supply each of her state-rooms or one half of the bunks in each state-room with Golding's cork mattress.

Mr. HENDRICKS. I do not know anything about the merits of that proposition, nor would I undertake to discuss it; but I recollect that the other evening the Senator from Nevada [Mr. NYE] took a very decided interest in favor of the proposition, and argued that the safety of passengers would be very considerably promoted by its adoption. I submit to Senators whether we ought to vote it down

when he is not in his seat. I do not suppose that he thought a bill of such great importance would be brought up to-night.

Mr. MORRILL, of Maine. He was here a moment ago.

Mr. CORBETT. I will state that I have examined these mattresses since the amendment was offered. I discover that they will probably have to take up about eighteen inches more room and will have to raise the decks of vessels in order to accommodate one of these mattresses. It is very hard and rounding, and it will require a mattress two or three times as thick as one on the ordinary flats. This bill provides for life-boats and rafts and other life apparatus for the general safety; and this mattress can be adopted under that provision if it is deemed proper to do so by the board. If the inspectors desire they can substitute this mattress. There is nothing to prevent them from doing so. This is a general provision. I think it is improper in such a bill as this to designate a particular mattress. They have had this mattress on exhibition in the room of the Committee on Commerce in the House and they declined, as I understand, to embrace it in the bill there.

The amendment was rejected.

Mr. MCCREERY. I desire to offer an amendment to the bill, which I send to the desk.

Mr. COLE. I hope my friend from Kentucky will not insist on any other amendment to this bill. It comprises now two simple subjects, life-boats and rafts. One has a tendency to make the vessel itself a life-preserver and the other provides for the safety of the passengers.

The PRESIDENT *pro tempore*. The Senator from Kentucky offers an amendment, which must be read before it is discussed.

Mr. COLE. I hope the Senator will withdraw it.

Mr. MCCREERY. I hope the gentleman will not ask me to withdraw it until he hears it read. This bill provides for the preservation of life against drowning. I want to prevent people from being burned up also.

Mr. COLE. The Senator stated to me the other day what the amendment was, and therefore I knew its purport when I asked him not to press it.

The PRESIDENT *pro tempore*. The amendment must be read before it is discussed.

The Chief Clerk read the amendment, which was to add as additional sections the following:

And be it further enacted, That sixty days from and after the passage of this act all fire pumps, water barrels and buckets, and other appliances required by law for the purpose of extinguishing fires on steamers plying upon the navigable waters of the United States, shall be kept in perfect order and ready for immediate use at all times and during all seasons of the year, and that all stoves used on said steamers shall be well and securely fastened to the decks thereof with iron bolts.

And be it further enacted, That it shall be unlawful for passenger steamers to carry as freight or use as stores, except for the purpose of lubricating the machinery thereof, any of the following-named articles, to wit: crude petroleum, naphtha, benzine, benzole, or coal oil; and the officers or owners of any such steamers, upon which any of the before-mentioned articles shall be found in violation of the provisions of this act shall be required to pay a fine of not less than \$500 nor more than \$1,000 for each and every offense, one half of which fine shall go to the informer; and the United States circuit and district courts shall have jurisdiction under this act.

Mr. CORBETT. I think this amendment ought to be submitted to a committee for examination, in order that it may be attached to some other bill, if there are no provisions of this kind already in the law. I think there are some provisions of law for preventing the carrying of some of those articles. I hope the amendment will not be adopted.

Mr. MCCREERY. I cannot see any possible objection to the adoption of this amendment. This body certainly have time to consider the merits of the proposition. We are all well aware of the terrible accident that occurred on the Ohio river not far below Cincinnati, where the America and the United States came in conflict and nearly one hundred lives were lost owing to the fact that one of those boats, or both of them, were laden in

whole or in part with petroleum. In that instance the flames communicated to the tops of those vessels in three or four seconds after the fire commenced, and the whole water for rods around was in a blaze. I think that this proposition that I have introduced is of more consequence than the bill itself which the gentlemen are pressing here, unless they much prefer being burned instead of being drowned. I cannot see why the two measures cannot go together. I cannot see that there is any possible conflict between them. They are providing for life-boats and life-preserving apparatus. I cannot see why we may not at the same time provide against destruction by fire. I trust that the Senate will adopt the amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. WILLIAMS. I should like to inquire of the Senator from Kentucky in reference to his amendment, whether he has consulted with any men engaged in transportation on the Ohio river, whether it will not seriously interfere with the business of the boats? It seems to me that very much of the business of those boats consists in the transportation of some of the articles mentioned in that amendment, though I am not particularly acquainted with that business.

Mr. MCCREERY. I will answer the gentleman. The freight boats can do all that business; and it is a well-established fact that this article of petroleum cannot be carried on passenger boats with safety. It cannot be stowed in the hold of the boat. It will injure whatever it comes in contact with. It must be stowed upon the deck of the boat, and from the leakage and other causes the decks will become saturated. We all know that these boats carry torches when they are approaching a landing; we know the danger that may arise from a spark; and the whole deck of the boat being saturated with this petroleum or benzine the flames will communicate in a moment. Let not the lives of hundreds of people be endangered from having our passenger boats freighted with this article. Let this description of freight be transported on the freight boats within sixty days from the passage of this act, as is proposed by my amendment.

The amendments were concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed. The title was amended so as to read, "A bill to provide for the better security of the lives of passengers on board of vessels, and for other purposes."

Mr. MORRILL, of Maine. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

IN SENATE.

SATURDAY, February 27, 1869.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. HOWARD, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

CREDENTIALS.

Mr. FESSENDEN presented the credentials of Hon. Hannibal Hamlin, elected by the Legislature of Maine a Senator from that State for the term commencing March 4, 1869; which were read, and ordered to be filed.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, recommending an appropriation to pay the expenses of a delegation of the eastern Cherokees to Washington city; which was referred to the Committee on Indian Affairs.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the report of a special committee of the Ohio Legislature, against the extension of admiralty jurisdiction by judicial construction over the

navigable waters of the interior of the country, and in favor of congressional legislation to restrict such jurisdiction to tide-waters and sea-going vessels; which was referred to the Committee on the Judiciary.

PACIFIC RAILROAD AND BRANCHES.

Mr. HOWARD. I ask the consent of the Senate to proceed to the consideration of Senate joint resolution No. 202.

The PRESIDENT *pro tempore*. It requires the unanimous consent of the Senate at this time. Does any Senator object?

Mr. CONNESS. What is it?

The CHIEF CLERK. "A joint resolution (S. R. No. 202) more effectually to insure the faithful completion of the Pacific Railroad and its branches according to law."

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It is a direction to the Secretary of the Treasury to reserve and withhold from delivery to the Union Pacific Railroad Company, and from each of the branches severally connected therewith, Government bonds to the amount of \$3,000 for each mile of railroad of the company and each of its branches as a security for the complete and faithful construction of the lines of railroad of each according to the provisions of law; which bonds are to be reserved and withheld until the President of the United States shall certify and declare that the line of the Union Pacific Railroad Company and each of its branches have been respectively faithfully completed according to the provisions of law applicable to each; which certificate of the President shall only be made upon the report of commissioners appointed by him, not exceeding — in number, who shall make a thorough and careful examination of each line of railroad after each company shall claim that its road is fully completed; and the expenses of such examination are to be paid by the railroad companies respectively.

Mr. HOWARD. I move to insert in line five, between the words "and" and "from," the word "severally." It is a verbal amendment to make it more precise.

The amendment was agreed to.

Mr. HOWARD. I also move to strike out the words "branches severally," in the sixth line, and to insert the word "roads."

The amendment was agreed to.

Mr. HOWARD. I also move to insert after the word "therewith," in the sixth line, the words "including the Central Pacific railroad of California."

Mr. CONNESS. I wish to speak to that amendment. In the first place, I will say that this resolution came up in the Committee on the Pacific Railroad very suddenly and was reported without material consideration. The general purpose that it has I favor, as I think every legislator should; but I doubt very much the fairness of the rule as proposed to be applied in the resolution. It proposes to withhold an arbitrary sum per mile from each of the companies engaged in constructing the Pacific railroad or any of its branches as a guarantee for the full and complete construction of their respective parts of the road, without any reference to the difference in construction that may exist as to the work performed by each or either of those companies. Therein I think it is faulty, and very much so; and I confess that I should like to see it put upon some other basis, that it should be put upon the basis of the report to be made soon, or that has been made, by authorized commissioners appointed by the President to examine the various roads and the estimates that they have made of the sums necessary to make them complete structures as contemplated by law; or based upon the immediate examination by a new board of commissioners to be appointed by the new President as soon as he shall come into office, so that each company shall be held; and if you please let no more bonds be issued

until that report is made to either of the companies; but when that report shall have been made let it describe exactly by as near an estimate as can be the amount necessary to make good by each company engaged in the construction of the Pacific railroad its part of the work, and then let such an amount be withheld until the complete construction and acceptance of the work. I cannot see any other rule that would approach fairness in the premises or that would give the Government the degree of protection that it requires.

What the United States want, as they have contributed and generously to the building of the Pacific railroad, is that the structure shall be a complete one; that it shall be complete for all the purposes of trade, for the safe transition of passengers and freight, and for all the other uses for which it has been projected. The guarantee they want and need is the guarantee that will secure that. There can be no fairness, sir, in exacting a bond from you, you having performed the whole of your duty, that I shall perform the whole of mine; and this resolution as it now stands before the Senate contemplates just such a rule. I hope that the Senate will give it fair consideration, and that when it is passed upon finally it will give the adequate and sufficient security that the Government should have.

Mr. COLE. This proposition, as I understand it, is to withhold a certain portion of the bonds due the several branches of the Pacific railroad until an investigation may be had by commissioners to be appointed to determine whether there has been a compliance with the obligations imposed by law on those companies. It cannot escape the attention of Senators that there are already commissioners appointed by the Government to make examinations of this work. They are required to report upon the several sections of the road as they are from time to time completed, as to the quality of the road, and whether there has been a strict compliance with the law in its construction. If these commissioners have failed to do their duty the proper remedy, it seems to me, is to remove them and appoint more faithful commissioners. We shall gain nothing by the appointment of another set of commissioners, that I can see, in the way of securing a proper compliance with the law; and the resolution which proposes to withhold a portion of the subsidies from the railroads will certainly, in my judgment, work a delay in the completion of the road and it will retard that great work.

The companies engaged in it, I presume, need whatever aid has been offered, and probably they have made their calculations upon receiving that aid. If this is withheld it may work serious postponement in the completion of the work, and unless there is some better reason than has been urged for the appointment of another set of commissioners I hope it will not pass.

I have heard really no complaints against the work so far as the California end of it is concerned, unless it be merely vague rumor. I do not know that there is any authentic, well-grounded complaint against the Union Pacific Railroad Company. If there is, as perhaps the chairman of the Committee on the Pacific Railroad knows better than any one else, let the resolution go to that extent, but not to the extent of impeding the work so far as it relates to the other end of the road.

Mr. HOWARD. Mr. President, the present resolution is the result of a consultation on the part of the Committee on the Pacific Railroad, who had before them a report of a special commission appointed by the President of the United States in October last for the purpose of examining the Union Pacific railroad so far as it had been completed. The commission consisted of General G. K. Warren, J. Blickensderfer, and James Barnes. We all know that General Warren is a very skillful engineer, and he seems to have given the matter which was intrusted to him very careful attention. Among other inquiries submitted to him by the

President was one directing him to estimate "the expenditure which will be required in order that the road so far as built may be rendered equal to a fully completed first-class railroad." He examined the route from Omaha westward to very near Cheyenne, and in answering the inquiry, which I have just recited, he states in his report, or rather the commission state in their report, as follows:

"In estimating the expenditure which will be required in order that the road, so far as built, may be rendered equal to a fully completed first-class railroad, we have considered each class of work required in as much detail as circumstances and the desire expressed in our instructions that our report be made with the 'least practicable delay' would allow, and in deciding on the probable amounts required we have been governed by the results of our own observations, taken in connection with data obtained from the profiles, maps, and other sources of information derived from the company. The estimate is as follows: Changing locations to improve line and to diminish curvature at Black's Fork, Red Desert, Rawlins, Rock creek, Red Buttes, Dale creek, Granite cañon, and Hazard, not including cutting off large bends on Rock creek..... \$200,000
Completing embankments to full width, filling trestle-works (six and a half miles) and riprapping..... 240,000
Completing excavation of cuts to grade out Black's Fork, Bitter creek, &c., &c..... 20,000
Reducing grades between Omaha and Elkhorn, to conform with condition on which change of line was approved..... 245,000
525,000 cross-ties, to replace those of cottonwood timber, including transportation, removal of old ties and placing new in track, at one dollar..... 525,000
Ballasting, including transportation, lifting track, placing material, surfacing and readjusting track, and curving rails eight hundred and ninety miles..... 910,000
70 abutment and 26 pier foundations, including excavating, piles, grillage, and securing with riprap, at \$1,500..... 144,000
30,480 yards masonry in abutments and piers, at \$15..... 457,200
8,450 lineal feet Howe truss, namely, 49 spans of 150 feet, and 11 spans of 100 feet, at \$45..... 380,250
Supplying 121 openings of truss-work of 50 feet length and under, between Omaha and North Platte, with permanent works of masonry and girders, at \$500..... 60,500
Supplying 254 openings of trestle-work of 50 feet length and under, between North Platte and end of track, with permanent works of masonry and girders, at \$900..... 228,600
Supplying 184 openings of trestle-work averaging 103 feet each, with permanent structures of masonry and girders, or short trusses, including foundations, at \$1,500..... 276,000
Renewing Dale Creek bridge, or replacing same by embankment and arched waterway..... 100,000
Probable expenditure for additional waterways in Mary's creek, Bitter creek, and other points not provided for, and renewing and enlarging stone culverts..... 100,000
60 new passenger locomotives for through travel on opening of road, at \$14,000..... 840,000
Thorough repair, say of one third of locomotives, used in construction and on hand when road is opened, say 50 at \$3,000 each..... 150,000
44 new passenger cars, for through travel on opening of road, at \$5,000..... 264,000
30 baggage, express, and mail cars, at \$3,800..... 114,000
500 box freight cars, at \$900..... 450,000
50 additional locomotive stalls, at \$4,000..... 200,000
Completing shops at Cheyenne, additional shops at Bryan, and enlarging shops at Omaha, with tools for Cheyenne, Rawlins, and Bryan..... 350,000
Additional water stations and probable additional expenditure to secure full supply of water between Rawlins and Bitter creek..... 80,000
Additional station buildings..... 75,000
Additional snow fences..... 50,000
Additional fencing against stock..... 30,000
Total..... \$6,489,550

It will be recollected by Senators that their charter requires them to make and complete the road in the manner of a first-class railroad. It seems to me that if there be such a deficiency as is here stated by the commission—nearly six million five hundred thousand dollars—it is high time the attention of Congress was called to it, and that we ought to enact some laws to secure to the Government the performance of those conditions of the charter which we imposed upon the company, in order to obtain a first-class railroad, which is the railroad they are bound to build.

Now, sir, the present resolution simply requires the Secretary of the Treasury to retain the sum of \$3,000 per mile out of the cash subsidy which is to be granted to the Pacific Railroad Company and its branches by its

charter, as a security for the final completion of such roads as they are bound to construct by their charter. It seems to me that this is not a very great amount of security for the Government to retain to secure the great object which we have in view. We have no disposition to oppress the company or any of its branches. The Senate will recollect that the company is entitled upon a part of this route to a cash subsidy of \$16,000 a mile; on other portions of its route \$32,000 a mile; and on other portions, which are the most mountainous portions of the route, \$48,000 a mile.

It seems that thus far the road has not been completed and finished according to the terms of the charter; and I think the country may well require that a certain portion of these bonds shall be withheld until the perfect completion of the lines in the manner prescribed by the law; and that is only \$3,000 a mile. It seems to me this retention cannot very seriously injure the credit of the companies. It is, however, for the Senate to say. I am simply doing my duty as the organ of the committee who recommended this joint resolution. The joint resolution provides that there shall be appointed by the President to ascertain whether the road is completed or not another commission consisting of — persons. I move to fill that blank with "three." I think that will be sufficient.

Mr. NYE. Will the honorable Senator allow me to ask him a question?

Mr. HOWARD. Certainly.

Mr. NYE. Is there any report in regard to the Central Pacific road before the committee which induced them to couple it with the other road?

Mr. HOWARD. In answer to that question I beg to say to the honorable Senator that no such report has come to my knowledge as yet; but I understand the commission appointed last fall have prepared their report or have it in the course of preparation. What may be the fact as to that I really cannot say. I think, though, no report upon that end of the line has been formally made.

Mr. CONNESS. I answer by saying there was such a report made. The substance of it was sent by telegraph here. I have little doubt that the official report is now received in due course of mail and accessible to the committee. The report of the commission, which was composed of very distinguished men, who examined the Central Pacific railroad was that it would require to make it a first-class road between three and four hundred thousand dollars. The report made by the commission with which General Warren was connected, and from which the chairman of the Pacific Railroad Committee has read, stated that it would require between six and seven millions to make the Union Pacific road good. Now, what this resolution proposes is to exact a security of less than one half that which the commission report would be necessary to make the Union road a first-class road, but to exact from the Central Pacific company a security five times as large as the commission reported would be necessary to make their road a first-class road. I submit that there is no fairness in that; and I think the committee had better take this resolution and view it in the light of both reports, as the other report must necessarily be here now, and the telegraphic transcript of it is at the Interior Department and obtainable; and they can amend the resolution consistent with the acts. I wish to say very distinctly that I am in favor of the exaction of the greatest amount of security of each and all of these companies, so as to secure their making a first-class road, and to that end in favor of withholding bonds.

Mr. WILSON. When this resolution—

Mr. SHERMAN. If my friend will allow me, if this resolution is to lead to debate I must interpose. I desire very much to get a vote, in the morning hour to-day, on House bill No. 1744, to strengthen the public credit and relating to contracts for the payment of

coin. I trust Senators will allow me to take it up and to get a vote on it, because it is very important.

Mr. WILSON. I was going to suggest that this resolution be recommitted for the purpose of putting it in the shape suggested by the Senator from California, to have a future investigation and have this thing done properly and right. I am in favor of taking security for every mile of the road, central and eastern, wherever it is needed; and I think we ought to have a thorough investigation of the matter, for I have no faith in the management of the Department of the Interior in regard to this road from the beginning, and time will show that I am right.

Mr. SHERMAN. I will move that the pending order be postponed—

Mr. CONNESS. If the Senator will permit me, I will make a motion to recommit the joint resolution to the Committee on the Pacific Railroad.

Mr. SHERMAN. That will be the same thing. There is no use in recommitting the resolution at this period of the session. I move to postpone all prior orders and take up House bill No. 1744.

Mr. HOWARD. I beg to say one word.

Mr. SHERMAN. I trust the Senator will allow me to take up this bill and have a vote upon it.

Mr. HOWARD. I have been endeavoring to call up this resolution, which to my mind is a very important one, and to have action upon it ever since the report was made, which was on the 22d of January last.

Mr. CONNESS. Why not recommit it and let the committee have the whole subject under consideration?

Mr. HOWARD. The country is looking with great anxiety toward this Union Pacific railroad. I have endeavored to do my duty in regard to it. If the Senate now recommit the resolution to the committee it will not of course be my fault; I ask the attention of the Senate to it. If it is recommitted it is clear that nothing will be done on the subject at this session of Congress, nor during this present year.

Mr. SHERMAN. If the Senator prefers to have the resolution recommitted without further debate I have no objection to that.

Mr. HOWARD. I am opposed to its recommitment. I think we ought to pass the resolution now.

Mr. CONNESS. Mr. President—

Mr. SHERMAN. I believe my motion is in order. I move to postpone all prior orders and to take up the bill I have indicated.

Mr. CONNESS. I hope the Senator will allow me to say a single word. I simply desire to say that my purpose in moving to recommit is that the resolution may be reported on Monday morning.

Mr. HOWARD. That is impossible.

Mr. CONNESS. It is not impossible, for we can get those reports. That is all I have to say.

Mr. CRAGIN. I hope the motion to recommit will not prevail. If anything is to be done with this resolution it ought to be done now.

Mr. CONNESS. There is no motion of that kind pending.

The PRESIDENT *pro tempore*. The motion is to postpone the resolution until to-morrow.

Mr. CRAGIN. That question is debatable, I believe.

The PRESIDENT *pro tempore*. Certainly.

Mr. CRAGIN. Unless this resolution is passed now these roads will be built and completed and the bonds all paid over. Unless this Congress acts on this resolution and withholds the bonds from these companies they will very soon have them in their pockets and be beyond the control of Congress. It is a matter of great importance, and I think it should be acted upon, and that promptly. I hope it will not be recommitted.

Mr. THAYER. I hope it will be postponed, for I have something to say upon it. I desire to state one fact—I am not going to take time in behalf of the Union Pacific Railroad Com-

pany. They have already deposited with the Government bonds to the amount of \$3,000,000.

Mr. HOWARD. What kind of bonds?

Mr. THAYER. Bonds such as the Government accepted as security for the completion of this first-class road.

The PRESIDENT *pro tempore*. The question is on postponing the present and all prior orders for the purpose of considering the bill indicated by the Senator from Ohio.

The motion was agreed to; there being, on a division—ayes 24, noes 10.

SUFFRAGE CONSTITUTIONAL AMENDMENT.

Mr. STEWART. With the permission of the Senator from Ohio I offer the following resolution, in order to send the constitutional amendment to the Secretary of State, and ask for its present consideration:

Resolved by the Senate, (the House of Representatives concurring.) That the President of the United States be requested to transmit forthwith to the Executives of the several States of the United States copies of the article of amendment proposed by Congress to the State Legislatures to amend the Constitution of the United States, passed February 26, 1869, respecting the exercise of the elective franchise, to the end that the said States may proceed to act upon said article of amendment, and that he request the Executive of each State that may ratify said amendment to transmit to the Secretary of State a certified copy of such ratification.

Mr. DAVIS. I object to that resolution.

The PRESIDENT *pro tempore*. Objection being made, it goes over.

REPORTS OF COMMITTEES.

Mr. FESSENDEN. The Committee on Public Buildings and Grounds, to whom was referred the resolution in relation to lighting the Senate Chamber, ask to be discharged from its further consideration, simply for the reason that there is no time to attend to it at this session.

The committee was discharged.

Mr. FESSENDEN. I desire to make a verbal report from the joint committee (so far as that part of it which was raised by the Senate is concerned) to equalize the pay of the employes of the two Houses. I wish to state on behalf of the committee on the part of the Senate that the joint committee had one meeting, not a full meeting however on the part of the House, and agreed on a plan of action. In accordance with that understanding a bill was drawn early in the last session, as early as the month of April, in full, so far as the Senate committee was concerned, with regard to the employes of the Senate, and handed to the chairman of the committee on the part of the House. From that committee we have never heard until within two or three days, when we obtained the papers and also a bill drawn by the chairman of the House committee, which he said he had not submitted to his committee nor had an opportunity to submit because he could not get them together.

I state this in justification of the committee on the part of the Senate, who acted early on the subject. I simply wish to say that under the circumstances, as there is no possibility of having any joint action or coming to any conclusion, the committee on the part of the Senate desire to be discharged by the Senate from the further consideration of the subject.

Mr. POMEROY. It exhibits the folly of having joint committees on any subject. The Senate should have passed its bill and sent it to the House.

The committee was discharged.

Mr. ROBERTSON, from the Committee on Claims, to whom was referred the petition of members of the Legislature of South Carolina, praying for aid to the Sisters of Mercy in Charleston, South Carolina, in rebuilding an orphan asylum, asked to be discharged from its further consideration; which was agreed to.

BILL INTRODUCED.

Mr. WELCH asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 241) to restore R. L. May to the Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1672) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1870; and

A bill (H. R. No. 2008) in addition to an act entitled "An act to relieve from legal and political disabilities certain persons engaged in the late rebellion," approved July 27, 1868.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 1321) granting a pension to Mrs. Susan Carson;

A bill (H. R. No. 1434) granting a pension to William M. Simpson;

A bill (H. R. No. 1586) granting a pension to Mrs. Naomi Adams;

A bill (H. R. No. 1600) granting a pension to Mary R. Brown;

A bill (H. R. No. 1632) granting a pension to Joseph M. Hudson;

A bill (H. R. No. 1903) granting a pension to Charles Mains, of Tennessee;

A bill (H. R. No. 1917) granting a pension to Charlotte Webster, widow of Timothy Webster, deceased;

A bill (H. R. No. 1918) to increase the pension of William H. Johnson;

A bill (H. R. No. 1919) granting back pension to Edmund W. Wandall, of Wilkesbarre, Pennsylvania;

A bill (H. R. No. 1920) granting a pension to Katharine Dreyer, widow of Sylvester Dreyer, deceased, late private in company H of the tenth regiment Minnesota volunteers;

A bill (H. R. No. 1921) granting a pension to Katharine O'Connors, widow of Timothy O'Connors, deceased, late private company C of thirty-third regiment Massachusetts volunteers;

A bill (H. R. No. 1922) granting a pension to Mary J. Hutton, widow of John C. Hutton, deceased;

A bill (H. R. No. 1923) granting a pension to Elizabeth Radigan, widow of John Radigan, deceased, who was a private in company A of the forty-ninth regiment Pennsylvania volunteers;

A bill (H. R. No. 1924) granting a pension to John A. Parker, a soldier in the war of 1861;

A bill (H. R. No. 1925) granting a pension to Clarissa K. Grant;

A bill (H. R. No. 1926) granting a pension to Ann Smith;

A bill (H. R. No. 1927) granting a pension to Harriet M. Mills, widow of Samuel J. Mills, deceased;

A bill (H. R. No. 1929) granting a pension to Juliet E. Hall;

A bill (H. R. No. 1931) granting a pension to Jacob Higgins;

A bill (H. R. No. 1932) granting a pension to John M. Flynn;

A bill (H. R. No. 1933) granting a pension to Henry Riemann;

A bill (H. R. No. 1934) granting a pension to Mahala M. Freeman;

A bill (H. R. No. 1935) granting a pension to Charles H. B. King;

A bill (H. R. No. 1936) granting a pension to Mary Ann Shurlock;

A bill (H. R. No. 1937) granting a pension to Lucinda A. Pangle;

A bill (H. R. No. 1938) granting a pension to Julia A. Fisher;

A bill (H. R. No. 1939) for the relief of John Gestiger;

A bill (H. R. No. 1940) granting a pension to Cyrus Hall;

A bill (H. R. No. 1941) granting a pension to Betsey S. Jackman;

A bill (H. R. No. 1942) granting a pension to Lucinda A. Wilder;

A bill (H. R. No. 1943) granting a pension to the widow and minor children of Lieutenant Richard H. Allen;

A bill (H. R. No. 1944) granting a pension to Bridget Hayes;

A bill (H. R. No. 1945) granting a pension to Sarah A. Scherr;

A bill (H. R. No. 1946) granting a pension to Mary A. Amer;

A bill (H. R. No. 1947) granting a pension to Catharine S. B. Spear;

A bill (H. R. No. 1948) granting a pension to Nancy Reed;

A bill (H. R. No. 1949) granting a pension to James H. Maguire;

A bill (H. R. No. 1950) granting a pension to Richard Look;

A bill (H. R. No. 1951) granting a pension to Martha E. McKinney;

A bill (H. R. No. 1952) granting a pension to Matilda Carney;

A bill (H. R. No. 1953) granting a pension to John R. Ray;

A bill (H. R. No. 1954) granting a pension to Maria Walters;

A bill (H. R. No. 1955) increasing the pension to William J. Patten;

A bill (H. R. No. 1956) granting a pension to Lorenzo Day;

A bill (H. R. No. 1957) granting a pension to Rachel C. Floyd;

A bill (H. R. No. 1958) granting a pension to Allen E. Rector;

A bill (H. R. No. 1959) granting a pension to Edward W. White;

A bill (H. R. No. 1960) granting a pension to Ellen Green;

A bill (H. R. No. 1961) granting a pension to Sarah A. Wilcox;

A bill (H. R. No. 1962) granting a pension to William McDonald;

A bill (H. R. No. 1963) granting a pension to Emily H. Gardner;

A bill (H. R. No. 1971) granting a pension to Jacob S. Baker; and

A bill (H. R. No. 1599) making appropriations for the naval service for the year ending June 30, 1870.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. VICKERS, Mr. FESSENDEN, and Mr. HOWE submitted amendments intended to be proposed to the bill (H. R. No. 1672) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1870; which were referred to the Committee on Appropriations.

Mr. POMEROY submitted an amendment intended to be proposed to the bill (H. R. No. 1911) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes; which was referred to the Committee on Appropriations.

HOUSE BILLS REFERRED.

The bill (H. R. No. 1672) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1870, was read twice by its title, and referred to the Committee on Appropriations.

The bill (H. R. No. 2008) in addition to an act entitled "An act to relieve from legal and political disabilities certain persons engaged in the late rebellion," approved July 27, 1868, was read twice by its title, and referred to the Committee on the Judiciary.

CENTRAL PACIFIC RAILROAD.

Mr. CONNESS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be directed to report to the Senate a copy of the report of the commissioners appointed to examine the Central Pacific railroad and to determine what amount of money is necessary to make the same a first-class railroad.

SAFETY OF PASSENGERS ON VESSELS.

Mr. NYE. I desire to enter a motion to re-

consider the vote by which the Senate passed the bill (S. No. 247) to amend an act entitled "An act to provide for the greater security of the lives of passengers on board of vessels propelled in whole or in part by steam, and for other purposes."

The PRESIDENT *pro tempore*. That motion will be entered.

Mr. NYE. If the bill has been sent to the other House I desire to have it recalled.

The PRESIDENT *pro tempore*. The bill will be sent for to the other House if no objection be made.

THE PUBLIC CREDIT.

The PRESIDENT *pro tempore*. The bill mentioned, called up on the motion of the Senator from Ohio, being House bill No. 1744, to strengthen the public credit and relating to contracts for the payment of coin, is now before the Senate as in Committee of the Whole.

The bill provides in the first section that in order to remove any doubt as to the purpose of the Government to discharge all just obligations to the public creditors, and to settle conflicting questions and interpretations of the laws by virtue of which such obligations have been contracted, it is hereby provided and declared that the faith of the United States is solemnly pledged to the payment in coin, or its equivalent, of all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver; but before any interest-bearing obligations not already due shall mature or be paid before maturity the obligations not bearing interest, known as United States notes, shall be made convertible into coin at the option of the holder.

The second section declares that any contract hereafter made specifically payable in coin, and the consideration of which may be a loan of coin or a sale of property, or the rendering of labor or service of any kind, the price of which as carried into the contract, may have been adjusted on the basis of the coin value thereof at the time of such sale or the rendering of such service or labor, shall be legal and valid, and may be enforced according to its terms; and on the trial of a suit brought for the enforcement of any such contract proof of the real consideration may be given.

The Committee on Finance reported the bill with an amendment to strike out in line nine of the first section the words "interest-bearing," and also to strike out the proviso at the end of the first section in the following words:

Provided, however, That before any of said interest-bearing obligations not already due shall mature or be paid before maturity the obligations not bearing interest, known as United States notes, shall be made convertible into coin at the option of the holder.

Mr. DAVIS. I move to recommit this bill to the Committee on Finance, with instructions in lieu of it to report a bill embodying the following propositions:

First, That gold and silver coin is the measure and the par established by the world and adopted by the Constitution of the United States for all property, values, debts, and other pecuniary liabilities; and the Government of the United States having, on the sale of the bonds which constitute the bulk of the national debt, received greatly less, when measured by the par of gold and silver coin, than their nominal amount, said bonds should be discharged by the payment in coin of their value by that par at the days they were respectively sold by the Government; and the future interest upon said bonds should be reduced to four and a half per cent. per annum on their value as aforesaid, payable in coin.

Second, That all other debts and pecuniary liabilities created or incurred since the issue of legal-tender notes, and which do not express to be payable in gold or silver coin, were contemplated and intended by the parties to be met and paid in currency; and on the general resumption of specie payments such debts and liabilities should be discharged by the payment in gold or silver coin of their value by that par when they become due and payable.

Third, That the annual expenditures of the Government should be reduced within the following general scale: for the civil service, \$45,000,000; pensions and Indians, \$30,000,000; Department of War, \$25,000,000; Navy Department, \$20,000,000; contingencies and miscellanies, \$10,000,000; and interest on the public debt, \$50,000,000; and the whole surplus of the

revenue should be faithfully applied to the extinguishment of the public debt.

Fourth. The taxes which are now so grievous as burden upon the people of the United States should be reduced at least \$100,000,000 annually, of their aggregate amount; and a day, within three years, should be named for the general resumption of specie payments.

My object, Mr. President, is to get a general system, according to my judgment, for the settlement of the difficulties of the country in relation to the public debt and the resumption of specie payments to be reported by the Committee on Finance; and in support of that general proposition I beg leave to offer some considerations.

Mr. President, our country and its Government and affairs are in a bad condition. In our recent great civil war the people generally dismissed their habits of business, industry, and frugality, and gave their attention, time, and energies to the absorbing conflict. The Constitution, laws, and restraints upon power ceased to be respected, the just and legitimate objects of the war were abandoned by the men in power, and the conflict on our part degenerated into one for the conquest, subjugation, and enslavement of the insurgents; by them it had been commenced for their separation and independence. The enlarged, illegitimate, vicious, and dangerous purposes of our Government created apprehension and discontent with a large mass of the enlightened and determined opponents of the secession movement; and in the name and with the cry of preserving the Union and saving the life of the nation the party in power made war alike on the insurgents, the Constitution, its supporters, and the liberties of the people, and they were victorious over all. The contest was formidable from the beginning, but its giant proportions were imparted to it by the expanding and criminal ambition of the leaders of the Radical party, who formed the purpose to hold themselves in power, though it should necessitate the subversion of the Constitution, the utter failure of our mixed system of general and State governments, and the political slavery of the people.

Such a game of war and such stakes demanded a proportionate expenditure of blood and treasure, and the profusion of both was far beyond all parallel. More than five million men took part in it, and not less than seven hundred thousand perished. From June 30, 1861, to July 1, 1865, four years, the United States expended in this civil war \$3,500,000,000, or double the amount of all the previous expenditures of the Government from its beginning; and from the latter date to June 30 next, will have expended \$1,600,000,000 more; and still the liquidative national debt created by it and unpaid is \$2,589,031,844. The unascertained debt cannot be proximately estimated, but must largely exceed \$1,000,000,000; and the total destruction of property and the blasted fruits of industry in all its fields would amount probably to an equal aggregate, making a grand total of more than twelve thousand million dollars. But the misery and woe which in these terrible throes of the nation rent the hearts and souls of our people, God alone can measure and comprehend.

All, all this vast and frightful sacrifice was offered up to the Moloch of personal ambition and sectional hate, and the people, North and South, were prepared and perverted to this immeasurable folly, crime, and insanity by the arts of a few wicked and daring political and church demagogues. Indeed all factions of church or State "is the madness of the many for the benefit of the few." If both sections in the beginning of our trouble had brought a score or two of their bad men to a public execution they would have averted from their common country those vast ills, and it would have moved on without obstruction toward that grand destiny to which the wisdom and virtues of our fathers had lighted the way. The utter overthrow of the rebellion broke the spell which so long held the southern people; but the pig-headed masses of the North, forming the majority there, are still enthralled, and

with frenzied passions and reeling reason they continue to shout and follow their leaders, and will to the final catastrophe. The great national debt which was created as well to make one revolution as to prevent another, and beneath whose galling weight the mass of the people of the United States are crouching to the earth, has no sanctity.

When I contemplate our disjected Constitution and its great provisions and principles in the condition of the *débris* of the noblest system of autonomy ever formed by man, and see the rightful governments of one third of the States swept away, and other governments, administered by strangers and negroes, forced upon them by a military despotism, and the people of those States stripped of all their rights and liberties, and then reflect that this national debt was largely made to organize and support the lawless power that enacted so much wrong, outrage, and ruin, I confess the feelings of revulsion with which I regard it. I have always been willing to accord untold millions, all of property and life, to enforce the law, to suppress insurrection, to perpetuate the Union under the Constitution, to "preserve, protect, and defend the Constitution;" but nothing to subjugate and enslave any portion of the people of the United States, or to weaken a single principle of the great charter of our liberties. The utmost that can be asked in reason and decency for the national debt is, not to tolerate and recognize it, but to eliminate it to the utmost verge of justice and equity; and one mode of so treating it I propose to present for the consideration of the Senate.

Every measure yet proposed relating to the national debt contemplates the payment of the whole amount of the bonds, which is \$2,107,836,100, in gold and silver coin. My position is that the United States have the equitable right to discharge those bonds by the payment of their value in gold and silver coin at the dates they were respectively issued, with interest upon such value; and that the excess of interest above that measure heretofore paid upon those bonds should be applied in satisfaction of so much of the principal; and that this difference between the nominal amount and gold value of those bonds, with the usury which has and will have been paid on them by the 1st of July, 1869, amounts to \$893,058,112, leaving unpaid but \$1,214,787,988; and that the payment by Congress of their nominal amount of \$2,107,836,100, would defraud the people of the United States, and pay to the bondholders more than is rightfully due upon them by the sum of \$893,058,112.

The United States borrowed in greenbacks and other depreciated paper:

	Greenbacks, &c.	Worth in gold.
In 1862.....	\$60,982,450	\$44,030,649
In 1863.....	160,987,530	101,890,850
In 1864.....	381,292,250	189,697,636
In 1865.....	279,746,150	208,214,099
In 1866.....	124,914,400	88,591,773
In 1867.....	421,469,530	303,215,303
In 1868.....	425,443,800	312,826,323
Total.....	\$1,854,836,200	\$1,248,466,625

for which were executed bonds bearing six per cent. per annum interest.

There was also borrowed in the same depreciated paper currency:

In 1864.....	\$71,110,450	\$35,375,383
In 1865.....	100,390,200	70,292,937
In 1866.....	300	213
In 1867.....	340,000	244,604
In 1868.....	23,298,600	17,131,323
Total.....	\$195,139,550	\$122,954,460

for which bonds bearing five per cent. per annum interest were issued or converted.

If these transactions had been between individuals it would be the right of the borrower in law, equity, and conscience to have his bonds reduced to the amount of the gold value of the depreciated paper at the time he borrowed it; and by resorting to the chancellor we could obtain that relief, and also the application of any excess of interest above the rate upon that value to the extinguishment of so much of the principal of his bonds. The Government of the United States is entitled to the

same measure of justice. In support of this position I will cite some authorities.

Every shift, device, or subterfuge which the ingenuity of man can invent to take, unlawful interest, either directly or indirectly, or by any shift or deceitful way or means, is included in the provision of the statute, (against usury.) Neither are cases of usury confined to precise loans of money; but they extend to cases where the relation of debtor and creditor exist, and to cases where that relationship subsists by the sale of wares, merchandise, and commodities. (1 Sch. and Le., Fr. 192.)

Where upon an application for the loan of money it is by the agreement made a condition of the loan that the borrower shall receive from the lender uncurrent bills at a higher rate than their value in cash or current funds, the loan is usurious. (Cleveland vs. Loder, 7 Paige, 557.)

A note payable in dollars for nominal amount of loan in Commonwealth's bank notes is usurious, and relief will be granted to the extent of the usury, which is ascertained by the value in gold and silver of the notes loaned at the time, and computing interest at the legal rate upon that value, the difference being the usury. (4 J. J. M., 48; 2 Dana, 225; 1 J. J. M., 49; 1 John. Chy., 193; 2 John. Chy., 537.)

Where there is usury in the first obligation it extends to all subsequent ones which comprehend and continue the matter of the first: and the obligor is entitled to the same relief against the assignee as against the obligee. (Campbell vs. Gill, 4 J. J. Mar. 89.)

The authorities that sustain these several propositions are multitudinous, uniform, and from every corner in which the questions arose.

It is thus seen that the true amount of the interest-bearing bonds of the United States, instead of being \$2,107,836,100, is \$1,214,777,988, and the interest if reduced to four and a half per cent. per annum, as it should be, would amount to \$54,665,459, whereas there is now paid upon it \$121,022,437. The Government in interest would be saved \$66,356,978 annually. The amount of interest that is now paid on these bonds in gold if continued nine years and eight months would make a sum exceeding \$1,214,777,988, the equitable and true amount of what is now due upon these bonds, and if the nominal amount of the bonds and this rate of interest should be continued to be paid until they fall due the holders will have received more than three times that amount.

In connection with this subject President Johnson, in his late annual message, propounds this proposition:

"Upon this statement of facts it would seem but just and equitable that the six per cent. interest now paid by the Government should be applied to the reduction of the principal in semi-annual installments which in sixteen years and eight months would liquidate the entire national debt."

This suggestion threw the Senate into a paroxysm of honest indignation, and drew from it the cry of "repudiation;" but it seems to have the solid foundation of truth, justice, and equity, as it would secure to the bondholders the gold value of what was paid the Government for the bonds, with a reasonable interest.

The only point upon which a plausible question can be raised of the justice of such arrangement and the power to make it is as to the interest. States do not allow themselves to be sued by their subjects or citizens, and they establish and modify according to their own will the rates of interest upon bonds which they execute to their people. The interest of the national debt of England was successively five, four and a half, four, and three per cent., and has ultimately been reduced by that Government to three per cent. on the whole of it. Nations, when they reduce interest upon their public debt, generally give it the form of a contract by proposing terms to their creditors, and the latter, having no power to sue or coerce their debtors, are constrained to accept them. There is no freedom of will on the part of the creditors. If there were they would reduce interest on their debts neither for the Government nor individuals. The matter is regulated

absolutely by the Government, and when it establishes a reasonable rate of interest there is no injustice to its debtor. Four and a half per cent. on long bonds would be fair and just to the holders of our public debt.

There are four modes of dealing with the national debt by Congress:

1. To pay the nominal amount of the bonds in gold and silver coin.
2. To pay them with greenbacks.
3. To pay their gold value with coin.
4. To repudiate them.

The first would be to give to the bondholders an enormous amount more than they are entitled to by the plainest principles of justice and equity, and would perpetuate upon the people a most oppressive burden of taxation. The second would expand largely and continue indefinitely a depreciated paper currency, a curse that always undermines the morals and blights the prosperity of a people. The third would avoid this spurious paper currency, liquidate the bonds by the standard of every civilized age and country, gold and silver coin, secure to the public creditors all which they can rightfully claim, relieve the people of a large portion of their taxes, and with a wise and economical administration of the Government insure the payment of the national debt and bring the country back to a general and early resumption of specie payments, when a circulation consisting of gold and silver coin, and paper always convertible into it, would represent every pecuniary transaction of society and be the measure of all values. This is the medicine required by the diseased condition of our monetary affairs, public and private, and unless it be administered the fourth alternate, repudiation of the national debt attended with great derangement in business and widespread distress, becomes a necessity.

I have stated all the modes proposed or practicable of disposing of the public debt; and the one which I advocate seems to me to be clearly the most eligible. It would be in harmony, too, with a just and easy liquidation of private debts. Where there is an absence of expression that the debt is to be paid in gold or silver the parties to every pecuniary obligation made since a greatly depreciated paper has been the only circulation, contrasted with reference to such circulation and intended and understood that in it all debts were to be met and discharged. The great mass of such debts were without any question paid in such currency as or soon after they were contracted, and if upon the general resumption of specie payments the parties themselves do not liquidate the residue, the chancellor, on being invoked, would hold them to be paper currency obligations, ascertain their value at maturity in gold and silver coin, and decree their extinguishment upon the payment of such value.

It would be less onerous upon both government and people to have their debts treated as paper currency debts, and to discharge them by the payment of their value in gold and silver coin, than to pay their nominal amount in that currency; for the latter operation would make it impossible to resume specie payments until some time after it should have been accomplished, and would thus long continue the general paralysis of industry and business, while that resumption would greatly energize, expand, and increase them, and thus augment the resources of government and people. The value in gold of paper debts could be obtained after resumption with more facility and certainty than the whole nominal amount of those debts in the paper currency could be before; and thus the resumption of specie payments which would so greatly promote the general prosperity, would be also beneficial to all debtors, whether government or people.

We have seen that the interest at the present rates upon the nominal amount of the interest-bearing bonds of the United States is more than one hundred and twenty-one million dollars in gold and silver coin annually, and that the just and equitable reduction of the principal and interest of those bonds which I

have suggested would save to the Government \$66,356,978 of that sum. The Secretary of the Treasury estimates the receipts from customs, which are payable in gold and silver coin, for the fiscal year ending June 30, 1870, at \$160,000,000, which would leave an excess, after paying the interest on the public debt, of \$105,334,541 in gold. With that amount, or anything near that amount of annual surplus of gold from the customs, the Government could come easily and speedily to the resumption of specie payments itself and aid all solvent banks and individuals to achieve the same result without material detriment to any, but with great benefit to all.

But I propose not only the saving of upward of \$66,000,000 of interest annually by this liquidation of the public debt and reduction of interest upon it, but also that there shall be such retrenchment in the civil service of the Government as will reduce the expenditures from \$50,000,000, the Treasury estimate, to \$45,000,000; and in the War Department from \$75,000,000 to \$30,000,000. Thus, in the interest on the public debt a saving of \$66,356,978, in the civil service of \$5,000,000, and in the War Department of \$30,000,000, making an aggregate of \$111,356,978, one third of the total amount of the taxes of the people of the United States. That this estimated saving on the public debt can be easily and justly made is manifest; and as to the other two heads the end is not less certain. In the civil service there are a great many items of expenditure that might be wholly cut off without any detriment to the public interest, and many more where the amounts might be advantageously reduced. A retrenchment of \$5,000,000 in an expenditure of \$50,000,000 in times of such extravagance and profligacy as the present is very moderate; a skillful and willing knife could cut much more with healthful results to the body-politic.

As to the Military Department the practicability and necessity for retrenchment and reform is palpable. An appropriation of \$75,000,000 to the Army in the present condition of the country is enormous, and must cover future sinister purposes. For many years before the rebellion the regular Army had not reached seventeen thousand men, rank and file, and for 1860 the appropriations to the Military Department were \$15,694,790, and for 1861 were \$16,090,941, and in both years for every branch of the service. The great resources of our country and the warlike qualities of our people so signally demonstrated to and now acknowledged by the world, with the practice of justice and moderation by the Government, will give us immunity from collisions of arms with all foreign nations. The Indian tribes within our borders and upon our frontiers are generally yielding in their long and obdurate resistance to our policy toward them; and the prospect is certain that they will make no more serious outbreaks and in the future cause us but little expenditure of money, except in teaching them the arts of civilized life, and for that but a reasonable and moderate amount. African slavery no longer exists, and the States which rebelled in assertion of the principle of secession have renounced it forever and accepted, and now desire to perpetuate, negro suffrage. Between those and the other States there is no longer any differences of institutions to produce future civil wars, and they acknowledge the supreme authority of the United States under the Constitution and are obedient to their laws.

There is no more cause for an army or the presence of soldiers in the southern than any other States; and nowhere in the United States except on the Indian frontier are they required for any proper purpose but to tenant forts and posts and guard military property. There never was less necessity than now for a regular Army in our country; and the gigantic national debt and the load of taxation upon the people under which they are staggering cry aloud for large retrenchment in our Army expenditures, and there is no proper consideration to delay it.

The strength of the Army should be less than it was before the war. Twenty thousand men, rank and file, would give an excess of force; and \$30,000,000 ought to cover every dollar of expenditures in the military department of the Government. The retrenchments I suggest would leave the Treasury estimates for the next year's expenditures thus: for the civil service, \$45,000,000; pensions and Indians, \$30,000,000; Department of War, \$35,000,000; Navy Department, \$25,000,000; and interest on the public debt, \$55,000,000; making an aggregate of \$190,000,000. And the Secretary estimates the produce of the revenue for the same period to be \$327,000,000, which shows an excess of receipts over expenditures of \$137,000,000. But the great and just reduction of the principal and interest of the national debt, the retrenchment in the civil service and War Department, the practice of a general and judicious economy in the expenditures of the Government, the release of the people from more than one hundred million dollars of their taxes, wisely and honestly adjusted, and an early resumption of specie payments by Government and people would give such great impulse to industry and production that the excess of revenue would make good the \$100,000,000 of taxes withdrawn from the people and yet leave a surplus of more than that amount. Each year would bring its increasing aggregation to individual and national wealth, general and permanent prosperity would be established on a sound foundation, and the payment of the public debt would be put beyond all question.

Mr. President, the pecuniary situation of the nation is but the aggregation of the situation of the individuals who compose it; and consequently the laws and conditions of the prosperity or adversity of both are essentially the same. If an individual is industrious and frugal, makes more than he consumes, buys and sells at fair prices, pays and receives in gold and silver coin or equivalent paper, and is not in either operation defrauded and plundered by a spurious circulating medium, and owes no debt to eat up with interest and usury his surplus earnings, he is prosperous and may become rich. The nation is not in that happy condition; and it is the object and would be the effect of the combined operation of the several measures which I propose, within a reasonable time, to get back to it. The action of each one would be to aid all the others toward this consummation. The large reduction of principal interest on the public debt would allow the withdrawal of a very large amount of taxes from the people, which would be so arranged as to materially lessen the cost of subsistence and of many crude articles that enter into our manufactures and mechanic arts and proportionably to cheapen all products of the field and the shop.

The resumption of specie payments would not increase the value or the burden of debts, public or private, but it would bring all labor, merchandise, property, and values to be measured by gold, the standard of the world, established for many centuries, and before which every competing standard has heretofore and must hereafter speedily fail. Pure gold is counted at twenty-four carats, and where there is alloy the amount of the genuine present metal is ascertained by that standard throughout the commercial world, and is so everywhere received. The interests of labor and of every legitimate business demand that there shall be a sound and uniform currency; and all communities from which it is banished will thereby be subjected to illicit and heavy burdens. The industry of nations is now largely competitive and is daily becoming more so. The people that have a sound gold circulation have as much advantage in this contest over another which has a vicious paper circulation as one man possessing a healthy, life-giving blood would have in a long personal contest over another whose diseased and slowly-coursing fluid was the sure precursor of death. The crowning achievement of the system which I propose would be to renew the industrial and

commercial life and energies of the nation, by restoring to it a sound and healthy circulation.

During Mr. DAVIS's speech, at one o'clock, The PRESIDENT *pro tempore*. The Senator from Kentucky will suspend his remarks. The morning hour having expired, the unfinished business of yesterday is before the Senate, being the bill (H. R. No. 1803) making appropriations for the support of the Army for the year ending June 30, 1870, and for other purposes.

Mr. MORRILL, of Maine. I do not desire to take the Senator from Kentucky from the floor; and I have no objection, by common consent, to allowing the unfinished business to be laid aside in formally to enable the Senator to proceed.

The PRESIDENT *pro tempore*. The Senator from Kentucky may proceed unless objection be made. The Chair hears no objection.

Mr. DAVIS resumed and concluded his speech.

WILLIAM M'GARRAHAN.

Mr. SAWYER. I desire the unanimous consent of the Senate to make a motion that the Senate on Monday take a recess from four until seven o'clock for the purpose of taking up in the evening House bill No. 65, known as the McGarrahan bill.

Mr. STEWART. I hope it will be taken up at one o'clock, and not at night.

Mr. SAWYER. I have no objection to changing the time and making it the order for one o'clock, provided it is understood that it shall be considered at that hour.

The PRESIDENT *pro tempore*. It is moved to make the bill mentioned by the Senator from South Carolina the special order for Monday at one o'clock.

Mr. TRUMBULL. I wish to say that I have no knowledge of this McGarrahan case; but to set aside either a day at one o'clock or an evening at seven o'clock to consider a private claim, with the pressure of public business which is now upon this body, it seems to me would be wholly inadvisable. Let that private claim go over until the next Congress. It is impossible to consider it now and discharge our public duties.

Mr. CONNESS. Mr. President—

The PRESIDENT *pro tempore*. There is another bill before the Senate. The motion cannot be entertained unless by unanimous consent.

Mr. CONNESS. Very well.

The PRESIDENT *pro tempore*. Is there any objection to considering the motion?

Mr. CONNESS. I object.

The PRESIDENT *pro tempore*. Objection being made it cannot be received.

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. The Army appropriation bill is regularly under consideration.

Mr. SHERMAN. I hope my friend from Maine will consent to let that be laid aside informally. I wish a vote upon the bill which has been under discussion.

Mr. MORRILL, of Maine. With the probability that that will not occupy much time I have no objection to laying aside the Army appropriation bill informally.

Mr. SHERMAN. I hope the friends of the bill we have up will speak as little as possible. I do not intend to say anything myself unless it is called out by amendments.

Mr. POMEROY. I hope the Army bill is not going to be laid aside.

Mr. MORRILL, of Maine. Only informally.

Mr. POMEROY. If laid aside at all it will be for all day.

Mr. HENDRICKS. I object to any informal laying aside.

The PRESIDENT *pro tempore*. The Senator from Ohio moves that the pending bill be passed over informally for the purpose of continuing the consideration of the bill (H. R. No. 1744) to strengthen the public credit and relating to contracts for the payment of coin.

Mr. POMEROY. I submit that the motion

cannot be made to do it informally. It can only be done informally by unanimous consent.

The PRESIDENT *pro tempore*. Does any Senator object?

Mr. SHERMAN. No one objected, as I understood.

Mr. HENDRICKS. I objected.

The PRESIDENT *pro tempore*. Then it requires a motion.

Mr. SHERMAN. I move that all prior orders be postponed with a view to continue the discussion and consideration of this subject; and I will state to my friend from Maine that I will then, as a matter of course, stand by him until the Army bill is disposed of.

Mr. EDMUNDS, (to Mr. SHERMAN.) Move to lay the Army bill on the table so that it can be taken up again to-day.

Mr. SHERMAN. I move that the Army bill be laid on the table.

Mr. MORRILL, of Maine. Will my friend withdraw that motion to allow me to make a single remark?

Mr. SHERMAN. Certainly.

Mr. MORRILL, of Maine. I appreciate the desire of the chairman of the Committee on Finance to consider his bill; but at the same time I feel it my duty to say that if the appropriation bills are to pass at this session of Congress they must be attended to at once and constantly. If this bill is to occupy but a short time I have no objection to yielding to the motion to lay on the table and trying that experiment with the understanding that I may call it up again if it should turn out otherwise.

Mr. EDMUNDS. We can finish it in an hour.

Mr. MORRILL, of Maine. Very well; with the understanding that we can finish it in an hour I have no objection.

Mr. EDMUNDS. We will not have an understanding, but we will stand by you in putting the appropriation bills through afterward.

Mr. SHERMAN. I move, then, to lay the Army appropriation bill on the table.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 1911) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes.

REPORTS OF COMMITTEES.

Mr. GRIMES, from the Committee on Naval Affairs, to whom was referred the joint resolution (S. R. No. 241) to restore R. L. May to the Navy, reported adversely thereon.

Mr. WARNER, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 1051) to grant certain islands to the State of Wisconsin as swamp lands, and for other purposes, reported adversely thereon.

He also, from the same committee, to whom was referred the bill (S. No. 512) granting land to the Iowa and Missouri State-Line Railroad Company, and for other purposes, reported it with amendments.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, reported a bill (S. No. 978) to establish a postal telegraph system in connection with the Post Office Department; which was read, and passed to a second reading.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, transmitting, in compliance with the resolution of the Senate of this day, the report of the special commissioners upon the Central Pacific railroad in California; which was ordered to lie on the table, and be printed.

HOUSE BILL REFERRED.

The bill (H. R. No. 1911) making appropriations to supply deficiencies in the appropriations for the service of the Government for the year ending June 30, 1869, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

THE PUBLIC CREDIT.

Mr. SHERMAN. I now move that the Senate resume the consideration of the bill to strengthen the public credit.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1744) to strengthen the public credit, and relating to contracts for the payment of coin.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kentucky, [Mr. DAVIS,] to recommit the bill with instructions.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment reported by the Committee on Finance, which will be read.

The Chief Clerk read the amendment, which was in section one, line nine, to strike out the words "interest bearing;" and also to strike out the following proviso at the end of the section:

Provided, however, That before any of said interest-bearing obligations not already due shall mature, or be paid before maturity, the obligations not bearing interest, known as United States notes, shall be made convertible into coin at the option of the holder.

So that the section, if amended, will read:

That in order to remove any doubt as to the purpose of the Government to discharge all just obligations to the public creditors, and to settle conflicting questions and interpretation of the laws by virtue of which such obligations have been contracted, it is hereby provided and declared that the faith of the United States is solemnly pledged to the payment in coin, or its equivalent, of all the obligations of the United States except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver.

The amendment was agreed to.

Mr. BAYARD. Mr. President, I have not the slightest objection to the first section of this bill; but my motion will be to strike out the second section altogether. The section provides that in any contract hereafter made specifically payable in coin, no matter what the consideration, wherever that condition is carried into the contract on the coin basis it shall be legal and may be enforced according to its terms; and that on the trial of a suit brought for the enforcement of such a contract proof of the real consideration may be given. This section is either utterly useless and superfluous or it is meant to embarrass and limit the recent decision of the Supreme Court, and really to destroy commerce. It can have no other effect. Although it is true that the case in the Supreme Court arose on a contract made antecedent to the legal-tender law, yet the principles of the decision cover all contracts made specifically payable in coin; and there is not the slightest necessity for the second section of the bill. Where a contract has been made specifically payable in coin under the decision of the Supreme Court it can be enforced according to its terms whether made before or after the passage of the legal-tender law, if I do not misapprehend the wording of that decision, and I do not think I do. This section as it stands will give rise to controversy in a variety of shapes. Take for instance a case where a contract is specifically payable in coin, and the consideration is household property. A sells to B his property, say for ten or twenty thousand dollars, and B agrees to pay in gold. A wants to dispose of that contract to pay in gold; he wants the money; he discounts it or sells it, as he has a right to do. The result is that when a suit is brought to enforce it against the party who has stipulated to pay in gold the question whether the price of the property was adjusted on the gold basis or not may become a question of law and may affect the rights of the party who prosecutes. That is one case. Gentlemen may tell me that the courts would decide the other way; but in reality it opens the whole question of commercial law as regards the right of a *bona fide* holder of commercial paper to enforce it without regard to the consideration. What is the language of the section?

And on the trial of a suit brought for the enforce-

ment of any such contract, proof of the real consideration may be given.

That is not true as regards commercial contracts now under the law merchant. If the holder is a *bona fide* holder he can recover against the maker of the note, no matter what may be the character of the contract between him and the party with whom he contracts; but this section is general in its language. I do not mean to say that the courts will not apply the commercial law to that; but I do mean to say that this provision opens needlessly a series of litigations, and if the bill passes with this section in it the proper title to give it would be "A bill to increase litigation, to impair public confidence, and to embarrass the operations of commerce."

There is no necessity whatever for this second section. The Supreme Court have covered it entirely in the principle of their decision, and the only effect of it would be to limit and emasculate that decision, and create a widespread series of lawsuits. Then why should Congress insert it in this bill, which is entitled "A bill to strengthen the public credit, and relating to contracts for the payment of coin?" It is a proposition to open the question of consideration in a contract which specifies, no matter what its nature, between A and B to pay in coin. Good faith requires the debtor to pay in coin; but this section imposes a disability on the party who makes a contract payable in coin; that is, it imposes upon the party to whom the coin is payable the further disability that exists in no other contract—that in all cases he may make it a defense at law that the consideration of the contract was not adjusted upon the coin basis. The effect of that necessarily is to increase litigation; and so far from "strengthening the public credit and relating to contracts payable in coin," if the second section is retained in the bill it will destroy commercial confidence altogether.

My own belief is that we ought to approximate to specie payments, and that the decision of the Supreme Court will tend in that direction more than anything else, because of the confidence existing between men when they begin to deal in their transactions upon the payment of coin, whether as to personal or real estate. The use of coin, the demand for it, for the purpose of actual business will have the same effect that it has had in California, where all transactions are carried on in coin. The coin that is now hoarded will come into use, and the effect of it will be that the finances of the country will be in a far better position, because confidence will be restored. But this second section only tends to impair confidence. I move that it be stricken out; and on that question I mean to ask for the yeas and nays.

Mr. SHERMAN. As this is an important question, and there is some doubt in the Senate, perhaps I ought to state briefly why this section was inserted. The decision of the Supreme Court does not extend beyond the mere fact that a contract made payable specifically in coin, before the legal-tender act took effect, can be enforced according to its terms. It does not at all reach the proposition made in this section. This section declares that any contract hereafter made specifically payable in coin shall be enforced according to its terms, except in certain cases. The criticism made by my honorable friend from Delaware I think does apply to the last clause of the section, and I invite the close attention of Senators to that, because I think it is subject to an objection, and if it strikes the minds of others as it does my own I think it ought to be stricken out. The last clause provides that—

On the trial of a suit brought for the enforcement of any such contract, proof of the real consideration may be given.

Suppose a suit is brought by the holder of a note without the knowledge of the usury that enters into the contract. Can the payer of the note set up this usury in order to defeat the right of a *bona fide* holder of a negotiable instrument? If so, that is contrary to the established mercantile law which makes the holder

of a negotiable instrument hold his obligation free from all equities between the original parties to the note. It seems to me that that last clause may defeat the object of this section. The last clause is not necessary where a suit is brought between the parties to the note, because then the real consideration can be given in evidence as a matter of course under the rules of common law. It would only apply to cases where the suit is brought by a third party who may be entirely innocent. If he had notice of the usury which entered into the original contract as a matter of course the proof of real consideration might be given. But suppose he had not notice, then under this section his right to sue upon a negotiable instrument might be defeated by the want of equity between the original parties.

It seems to me that the whole object of the section, which is substantially the same as one we have passed twice in the Senate, might be effected by striking out the last clause, and I think that would make it much clearer. Then the section would simply provide that the parties may make a contract specifically payable in gold where the consideration itself was founded upon gold value. That is precisely as we passed the same section a year ago twice in the Senate, and I believe that is the substance of the second section as it now stands in the bill, except that the last clause might enable a debtor to defeat a just claim in the hands of a *bona fide* holder, and I believe would be a departure from the established rule of commercial law, which protects a negotiable instrument from all defenses between the original parties. Now, if my friend from Delaware will modify his motion so as to strike out the last clause of the second section, I shall have no objection to it.

Mr. BAYARD. Not with my views. I cannot agree to modify the motion, because I do not agree with the honorable Senator. I think the whole thing unnecessary, in view of the decision of the Supreme Court. I admitted in my previous statement that I believed the contract on which the Supreme Court decided was made antecedent to the legal-tender law, as it is called; but the principle of the decision covered all contracts made before or since, where they were made specifically payable in coin. I have not a doubt of it. I cannot enter into that now. I have not the decision before me; but I think if it were here I could satisfy the Senate that there is not a shadow of doubt that this section is utterly unnecessary; and therefore, if it is unnecessary, it is injurious. But, beyond that the honorable Senator desires to put in a modification of my proposition which shall protect the *bona fide* holder without notice. The first class of cases I stated I think would hardly be covered by that. I have no objection to that modification if I cannot get the section stricken out; but I do not see any necessity for the section itself. I cannot see why or for what purpose the section should be introduced at all, except for embarrassment and to increase litigation and to promote speculation.

The honorable Senator is mistaken in his recollection that we passed a bill a year ago like this in the Senate. The bill that we passed had no such provision in reference to the question of consideration. That bill, which the House never acted upon, simply made legal all contracts that were specifically payable in coin, nothing more. That was before the decision of the Supreme Court; but this clause, which relates to the right to inquire into the consideration where the contract is specifically payable in coin, is entirely the product of this session, and comes from the House of Representatives and never has been proposed by the Senate. In other words, the bill that you passed at the last session was totally different from this section. It was a proper bill then, necessarily, because the Supreme Court had not decided the question of gold contracts; but useless now, though I should have no objection to pass it in that shape if it were desired; but the provision as it stands I am utterly opposed

to, and if it is retained I shall vote against the bill, although otherwise I should be perfectly willing to see the first section of the bill passed.

Mr. MORTON. I am myself opposed to authorizing contracts at this time to be executed in coin, but the Supreme Court has made a decision which will authorize any kind of contract to be executed in coin. It is true in that particular case the contract was made before the legal-tender acts were passed, but the reasoning of the Supreme Court does not place it upon that ground at all, nor does the dissenting opinion in that case place it upon that ground. The reasoning of the Supreme Court is put on the broad ground that there are two kinds of money that may be used as a legal tender, what we call United States notes and gold and silver coin, and that parties have a right to contract for either kind of this money; and the decision is just as applicable to contracts made since the passage of the legal-tender acts as to those made before. That being the condition of the question now, under the decision of the Supreme Court, this bill ought not to be passed without containing this provision, because it is a limitation upon the power to make contracts as decided by the Supreme Court. It provides that this right to make contracts shall only be applicable to those hereafter made. That is a very important limitation upon the decision of the court. It provides that contracts to be executed in coin may not be made in regard to loans of legal-tender notes or national bank currency, but only for loans of coin or for sales of property or contracts for labor and service.

Then, being in the nature of a limitation of the right to make these contracts as held by the Supreme Court, I think the bill ought not to pass without containing it. In other words it is to that extent a limitation of what I regard as an evil. Undoubtedly the objection mentioned by the Senator from Delaware as to the concluding part of this section is well taken. It would authorize the question of consideration to be gone into although the paper was held by an innocent holder who had taken it for a valuable consideration; and in this way it would make all contracts to some extent uncertain, because it would be important to the party taking the assignment or the transfer of paper of that kind to know in advance what the consideration was, a thing upon which he could not always be certainly and well informed. Therefore it would create embarrassment in the transfer of negotiable paper. But, sir, on the other hand, if this condition is not put in here it will enable all adroit parties to avoid the whole section. They may for a loan of paper money in violation of the section, by putting it into a negotiable security defeat the entire section. Therefore, regarding this as a limitation upon the power to make coin contracts as established by the Supreme Court, I think if the bill passes it ought to contain this section or something like it.

Mr. FRELINGHUYSEN. I move to strike out all after the word "terms" in the eighth line of the second section. That will leave the section making a declaration of the general principle that gold contracts may be made without entering into the details of proof, which will be properly regulated by the courts. This section, as it stands with the words I propose to strike out, might lead to the difficulty suggested, that the *bona fide* holder of negotiable paper without notice before maturity might be subjected to defenses entering into the consideration of that note, which, by the law as it now stands, such holders of negotiable paper are not liable to. Therefore I move to strike out these words.

The PRESIDENT *pro tempore*. The amendment will be read.

The CHIEF CLERK. It is proposed to strike out of the second section the following words:

And on the trial of a suit brought for the enforcement of any such contract proof of the real consideration may be given.

Mr. HOWE. Will the Senator from New Jersey tell me: suppose these words be stricken

out, upon whom will be the burden of proof rest to show what the consideration of a contract is which on its face is payable in coin?

Mr. FRELINGHUYSEN. That is a question which it would take a great while to answer. It is a question which would be settled by the general principle of law, by the court doubtless applying these general principles of law when the case arose. In the case of negotiable paper in the hands of a *bona fide* holder for value before due it would imply that it was a gold contract if the contract so stated, and it would be on the defendant to prove that it was not. In the case of *choses* in action the law would be different, although there the party making the contract would be estopped by the terms of the contract as between the first contracting parties.

Mr. HOWE. Do I understand the Senator that a contract on its face payable in coin would import that the consideration was settled upon a coin basis?

Mr. FRELINGHUYSEN. If it was commercial paper held by a *bona fide* holder for value before due, yes.

Mr. HOWE. Suppose it was held by the payee?

Mr. SHERMAN. If it was held by the payee, as a matter of course the consideration could be inquired into without this clause, because the consideration is always open as between the parties to the contract and never closed except in favor of the *bona fide* holder of a negotiable instrument, so that without the clause the consideration could be inquired into.

Mr. HOWE. I find that the Senator from Ohio differs from my friend from New Jersey and other friends about me in the interpretation of the law as it would be if this amendment were adopted. If the Senator from Ohio gives the right interpretation of it, let me suggest whether it would not be better, instead of striking out these words, to add words which would save the rights of innocent indorsees.

Mr. SHERMAN. I will state to my friend from Wisconsin that there can be no doubt that as between the original parties to the contract the consideration could be inquired into as a matter of course and as matter of law.

Mr. HOWE. But is the Senator warranted in saying that there cannot be any doubt on that when it is positively denied by two lawyers right about me of very eminent standing?

Mr. SHERMAN. I have never heard that denied, and I presume the Senator misunderstood the Senator from New Jersey, because the consideration of a contract is always open between the parties to it.

Mr. FRELINGHUYSEN. The presumption would be, between the maker and the payee, that the contract was what it stated to be, but the consideration would be open to investigation.

Mr. HOWE. The consideration is simply to pay.

Mr. FRELINGHUYSEN. To pay in coin.

Mr. HOWE. The contract is to pay in coin. The consideration is a distinct thing. When I promise for value received to pay a certain sum of money now, neither the law nor the courts trouble themselves about what the particular character of the consideration is. If the contract says that there is a consideration, that is enough on which to render judgment. But your bill proposes to say that if the consideration is of a particular character and the promise is of a particular character, then the judgment shall be of a particular kind. The contract on its face will show what the promise is; it may not show on its face what the consideration is. What I wish to know is, if you strike out these words upon whom is the burden of proof to show what the consideration is? If the consideration is on a coin basis and the promise is to pay in coin payment is to be made in coin; but who shall show whether the consideration is of that kind or not when the paper is in the hands of the payee?

Mr. FRELINGHUYSEN. The presumption is that it is in coin.

Mr. TRUMBULL. *Prima facie* it is payable in coin if it says so.

Mr. FRELINGHUYSEN. Like the law of proving consideration in any other contract. If we strike out these words it leaves the law in reference to consideration to apply to these as to all other contracts.

Mr. HOWE. I did not understand the Senator so before.

Mr. EDMUNDS. Mr. President, I will not occupy any time; but I think I can convince my friend from Wisconsin that it is better to strike out these words. I am sure he must remember, although both of us left the law a good while ago, that as applied to contracts that are made invalid by statutes of particular characters, as between the original parties to the contracts they are *prima facie* valid if they appear to be so on their face. But that is merely a question of evidence. The defendant may go into evidence to show that the contract was of a character that the statute did not warrant, and if he succeeds in making that out he prevails. That is perfectly simple as between the original parties to the contract. Then, when you come to an indorsee of negotiable paper he is protected by the general principles of law under a statute like this and under all statutes where the statute does not say in terms that the contract shall be absolutely null and void if he can show that he took the paper while it was current for value and without notice. Now, leaving it on the general principles of law that are perfectly well settled as applied to each particular case which can possibly arise, we make no confusion at all.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New Jersey.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the motion of the Senator from Delaware to strike out the second section. On that motion the Senator from Delaware calls for the yeas and nays.

The yeas and nays were ordered.

Mr. HENDERSON. Is it in order to move an amendment to the section now before the vote is taken on striking out?

The PRESIDENT *pro tempore*. Certainly; before it is stricken out it can be amended.

Mr. HENDERSON. I move to amend the section by striking out all after the word "coin" in line two to "labor" in line seven. The latter clause has already been stricken out on the motion of the Senator from New Jersey.

The CHIEF CLERK. It is proposed to amend the second section by striking out the words:

And the consideration of which may be a loan of coin or a sale of property or the rendering of labor or service of any kind, the price of which, as carried into the contract, may have been adjusted on the basis of the coin value thereof at the time of such sale or the rendering of such service or labor.

So that if amended the section will read:

And be it further enacted, That any contract hereafter made specifically payable in coin shall be legal and valid, and may be enforced according to its terms.

Mr. SHERMAN. I desire before the question is put on that to state that while I would be myself willing to see the simple declaration made as we sent it to the House of Representatives last year, yet I do believe such an amendment might endanger the passage of the bill in the other House. I do not think the words as they stand change very materially but rather modify and limit the power to make contracts, and they were put in there as a limitation, and the reason why the Senate bill was defeated was simply because it did not contain some guards against usury. Under the circumstances, I think, rather than endanger this bill, we had better take the section as it stands. It is right in itself. This law ought not to be made a pretext for usury, harsh contracts, or injurious stipulations. It should not be made the groundwork of transferring a currency obligation to a gold obligation unless a specie consideration was the foundation. Therefore I would leave the matter in that respect with the guards provided by the House. I shall vote against the amendment.

Mr. FESSENDEN. I have never been able to see any reason why the people of this country should not be permitted to make their contracts just as they choose to make them. Why should we limit them in this matter? People can protect themselves. I see no danger under this bill as proposed to be amended that one class of the community will be injured by another, which is the argument urged with so much force by the honorable Senator from Indiana.

It may be always the case that it is in the power of one man to impose on another; but I do not think that granting the power to the community to make their contracts as they please, with reference to such medium of payment as they please, will increase that danger in any way whatever. At any rate, the possibility of evil from such a source as that is not, in my judgment, to be compared to the trouble that is brought upon the business community by attempting to provide a limit to their power to make such contracts as they think suitable to themselves. For that reason I have always been in favor of this proposition, and I am more especially in favor of it now, to allow it to an unlimited extent in the fullest possible terms, precisely as we allow anything else, for the simple reason that I believe its effect is to be very beneficial in hastening the return of what we all profess to desire—not all, perhaps, but the greater portion of the community—a return to specie payments. I see no sort of object in making these limitations. They are very trifling in themselves, and I do not think the argument we hear so much of with reference to general legislation of this kind, that we may endanger the bill by adopting a sensible proposition to which I think the House has shown itself sufficiently committed, is of much force in this case. I believe the bill passed the other House by a very large majority; I do not know precisely how much; but I presume the limitations, if they may be called limitations, that are on this section did not influence the mind of anybody in voting upon the general question.

Therefore, although I should not have moved it, because I do not like to interfere with bills coming from committees which have considered them carefully, the amendment being moved, I cannot avoid expressing my entire agreement with the honorable Senator from Missouri, that it is better to put this on the broadest basis, and simply let the people of this country make their contracts payable in what they please. There is no reason why they should not make their contracts payable in any coin just as well as make their contracts payable in every sort of merchandise that they choose to promise to deliver.

Mr. CONKLING. Mr. President, I should be greatly grieved to see anything imposed upon this bill which would retard its progress or endanger its success in either House, because I rejoice that at last the day has come when Congress is about to say that, taking honesty, integrity, and the force of obligations as the rule, the Government of the United States is to acknowledge and pay that which it honestly owes. But I cannot think that an amendment such as the Senator from Missouri proposes will endanger the fate of the bill. My opinion is founded on the reasons which have been assigned by the honorable Senator from Maine and a further reason which I will state. The Senator from Ohio argues that by dispensing with the words the amendment proposes to strike out some danger by way of imposition or exaction will arise under the enactment which as it stands now would be excluded. I cannot see that, Mr. President, at all.

The argument supposes that the creditor is to attempt extortion on the debtor. Is there anything in the section as it stands now likely to be a barrier against that? Look at one provision; these contracts under the proposed language may always be made for the sale of property. Is there a door wider than that? Suppose one man wishes to lend money to another and take back an agreement obligating

his debtor to render him coin in return? It would be only one of the stereotyped, one of the immemorial devices of usury which every man who has tried these causes has long been familiar with, to mingle as an ingredient with the contract the sale of property. It need not be even real estate. I once knew a man very famed during a long life of rigid usury-taking, who always sold either tin-ware or percussion caps whenever he lent money. One of those two things was always an accompaniment, and he could always prove by people whom he was careful to take to witness it that the whole amount of money was rendered all that professed to be, and that there was nothing in addition to it except that on that day tin-ware and percussion caps were also sold. This one phrase, I submit, would leave the section just as open to the extortion of usurers as it would be without any qualification at all, and so of the residue of the language.

But, Mr. President, I have another objection to it. It would be a hotbed of litigation. Here is professedly a certain restriction in these contracts; and every man who is called upon, either by the *bona fide* holder of commercial paper taken in the ordinary course of business for value before due, or by anybody else, would be at liberty to contest upon the various objections presented here, because although we have stricken out the latter clause of this section all Senators will observe that the amendment only goes to the *onus* of proof. If the case of commercial paper the defendant would always be permitted to go into the consideration, provided in the first place he could rebut the presumption of *bona fide* holding; and if he could give evidence that it came to the hands of the plaintiff after it was due, or that he did not pay value, then the question of consideration would be open.

Now, I agree with the Senator from Maine that if coin contracts are to be licensed for the future at all, let us leave parties twenty-one years of age and upward permitted to speak for themselves in all other things, to speak for themselves in that regard also, and do not let us attempt to bind with a mere rope of sand the option of men to make their own agreements. It would fail, as I believe, upon that language; it would stimulate litigation; it would impede commerce; it would establish nothing unwholesome, but would simply diminish the good effect expected from authorizing contracts answerable in the medium and money of the world.

Mr. HOWE. Mr. President, I shall vote against this amendment. I am not sure that the making of the amendment would embarrass the passage of the bill. I do not believe its passage can be embarrassed either by anything you strike out or anything you add. I guess that it is bound to go, and I do not know but that it ought to go. I am going to vote against this amendment because these words which the pending motion proposes to remove from the bill do affect to protect the community against usury, to secure to the community the protection of existing usury laws. It affects that any way; and removing them will strike down that affection. That the existence of these words there will secure that protection I am not so sure. I am not so sure that the Senator from Delaware is not correct in saying that a recent decision of the Supreme Court covers the whole ground occupied by this section as it stands, or as it would stand if this amendment were made. But, sir, I am one who, unlike the Senator from Maine and unlike the Senator from New York, do think the usury laws of real advantage to the public.

Mr. FESSENDEN. I do not know what right my honorable friend has to say that he is unlike the Senator from Maine in that particular. I ask him if you strike out these words would not coin contracts have all the protection of the usury laws as other contracts have?

Mr. HOWE. No, sir; I think not. I said I was unlike the Senator from Maine in that particular, because I understood the Senator

from Maine to say, as did the Senator from New York, that men of twenty-one years of age should be intrusted with the making of their own contracts, and if they see fit to make a contract payable in gold, or if they see fit to make a contract payable with ten per cent. interest or twenty-five per cent. interest, let it be so.

Mr. FESSENDEN. I said nothing about interest.

Mr. HOWE. But that is one kind of contract; and if they can be intrusted to make all their contracts they can be intrusted to regulate the rate of interest as well as the amount to be paid.

Mr. CONKLING. Would these words affect the rate of interest on the usury laws?

Mr. HOWE. I think, practically, they would regulate it very essentially, because I do not see how it is possible for a borrower to get any possible security from the usury laws. He borrows a thousand dollars to-day; he agrees to pay a certain sum in gold six months hence. Every contract to pay money becomes a contract to deliver gold. Certainly the court cannot know what gold is going to be worth six months hence. If a man contracts to deliver a certain amount of gold, that contract cannot be set aside that I see on the ground of usury.

Mr. CONKLING. Would not the price be equally uncertain whether he contracted to deliver coin or greenbacks?

Mr. HOWE. But if a party promises to pay a certain sum of money in the currency of the country, with a certain rate of interest, and that interest is no more than the amount prescribed by law, that contract cannot be impeached for usury. If it is in excess of the rate prescribed by law, it can be impeached for usury; but I do not see how it is possible to impeach any contract for usury if it is made payable in coin, let the consideration be what it may. If the Senator from New York can point out any way in which it can be done I shall be happy to hear it. That will remove my objection.

Mr. CONKLING. If the Senator will permit an interruption, I beg to submit to him a proposition. I understand this language to have nothing to do with considerations of usury. Striking it out, I understand that the usury laws would operate upon it as they would operate upon any other contract. They operate now only upon contracts for the loan or forbearance of money. So they would operate striking these words out; because, if I loan to the honorable Senator—which is a very extreme case, both in respect to his necessity to borrow and my ability to loan—a certain sum of money, with an agreement that he is to pay me that at a future day, with interest, the usury law would take hold of the question whether in truth I did furnish the money, whether in truth he did pay me anything in addition to the promised interest, or not. That, it seems to me, would be so equally with or without these words; the restrictive character of the words, as I understand them, being to confine to certain species of consideration and of contract the option to make them answerable in coin. Now, all contracts by this section are made answerable in coin if they are for the "loan of coin, or a sale of property, or the rendering of labor, or service of any kind, the price of which, as carried into the contract, may have been adjusted on the basis of the coin value thereof at the time of such sale or the rendering of such service or labor," which three elements, I think the Senator will agree with me, would permit and introduce all the uncertainty of which he has spoken. I render service in the erection of a house for him, and we determine that that service shall be paid for at a future day in coin. Suppose the market tosses up gold to 285, as it once did, there comes in the uncertainty, without let or hindrance, just as much as it would if I furnished to him money which he was to render me back again on a certain day in coin, with the interest at a certain rate.

Mr. FRELINGHUYSEN. With the con-

sent of the Senator from Wisconsin I should like to ask the Senator from New York this question: if I should borrow \$1,000 of greenbacks, legal tenders, from the Senator from New York, and make a contract to pay \$1,000 in gold at the end of six months, that contract would not be vicious on account of the usury law, and yet it would effectually avoid the usury laws if gold is worth 138. Now, I understand this provision is to prevent just that evasion of the usury laws.

Mr. CONKLING. I answer my honorable friend thus, as I understand the laws: first, it is wholly ineffectual to prevent any such thing. Why? Because I borrow from him \$1,000. The theory is, I borrow it in coin. Does he lend me the coin? No, sir. On the contrary he gives me his check. What fixes the amount? The price of coin as it is adjusted between him and me on that day, just like the price of any other property. I am aware that there is a market value, which value fluctuates abundantly for the purpose of my illustration. Thus, were the words in, I borrow of him his check, the loan being for coin, the price of which has been adjusted between us. Therefore the whole thing is subjected to the agreement and option of the parties.

But again, no such thing as he speaks of ever can occur in the present condition of the market. Why? Because with the difference between gold and currency of forty in the hundred no necessity, no improvidence, no vicissitudes of circumstance or of the market ever would lead any man to borrow greenbacks to be returned in coin, dollar for dollar, with such a margin marking the difference between them. Until coin approximates greenbacks in its value or the reverse, until the margin gets very narrow, no such thing could occur, because the proposition implies the addition of one third at once to the value of money. Therefore I say to the Senator that his case would not arise until the near convergence of the lines of value between coin and currency, and when the margin gets so narrow as that then I repeat the borrower would be equally, with or without those words, at the mercy of the lender.

Mr. HOWE. Mr. President, resuming the few words I had to offer on this subject, as I do now, with the better light shed on the subject by the Senator from New York, I concede the proposition which I understand him to make, that even with these words in the bill borrowers or the business community will lose a great part of the protection which they now enjoy from the usury laws. I said in the outset that I was not sure these words did protect against the abuse of those laws, but I said they affected to afford some protection. They affect to afford some protection because they restrict the validity of these contracts to a particular kind of consideration. The bill as it stands says that if a man loans coin or does labor or sells property, the value of which is ascertained upon the coin basis, he may contract to pay for those services or for that property or repay that coin in kind, leaving us to infer that upon all contracts for the mere borrowing of money, all contracts merely between borrower and lender, the law shall stand as it is now, and the promise shall be to repay what we borrow with the legal rate of interest for deferring payment. The Senator says they can avoid that, because they can reduce the greenbacks to the coin value and call that a loan of coin, and take a promise for the payment of coin. I am not sure that that cannot be done. I am not sure that there are not other modes of avoiding the usury laws even with those words in.

I was profoundly sorry, and that is the main purpose I have in saying anything about this subject, to hear of the decision which has been recently pronounced by the Supreme Court. I have been profoundly sorry to see any of these efforts to legalize coin contracts, which would have the effect to strike down the usury laws. I think this Government should be wise enough and strong enough to take the business of this country back to a specie basis, and at no great

length of time, without by force of law doing what I think this bill will do if so amended, and what I very much fear the decision of the Supreme Court has done already; that is, to ally and enlist all the poor and all the borrowers and all the debtors together on the side of the bulls in Wall street, making them all clamorous for coin, when we have made it the obligation of nobody in the world to furnish it. I do not mean to take up the time of the Senate, but I cannot help expressing here my dissent to this policy. I believe it is unnecessary, and yet I ought to express that opinion with a great deal of diffidence, because I am bound to suppose that if there was a safer way than this back to the stable foundations of business the very able gentlemen who control the finances of the country in the Senate would have found that way some time ago; and because they have not found it I ought to suppose it was invisible, and yet it ought not to be. I have thought that I could see another way myself, but I have so little confidence in my own eyesight that I have never ventured to express it, and I shall not take the time to express it now.

Mr. WILLIAMS. I should like to ask the Senator a question. Does he understand this second section to modify the decision of the Supreme Court so as to make all contracts invalid except such as are founded upon the consideration specified in this section? What is the effect of this section, supposing it becomes a law, upon the decision of the Supreme Court, in his judgment?

Mr. HOWE. I have not considered that question. I said in the outset that I was not sure it affected the subject at all, and was not sure but what the decision of the Supreme Court covered this whole ground. I have not examined the decision of the Supreme Court with sufficient care to express an opinion upon it. I said in the outset expressly that I did not know but that the Senator from Delaware was correct in saying that this section was wholly needless and nugatory.

Mr. MORGAN. I shall vote against the amendment proposed by the Senator from Missouri, but not for the reason that has been urged here and not because I think it is material; but the House of Representatives do think it material, and being anxious to secure the passage of the bill I prefer to take it as it came from the House of Representatives. The Senate has twice during this present Congress passed the section in the form in which it will be left if the motion of the Senator from Missouri prevails, and both times it has been rejected by the House of Representatives. I am two anxious for the passage of the entire bill to jeopard it, and I shall therefore vote against the amendment.

Mr. HENDERSON. I am not going to occupy the time of the Senate in discussing the propriety of the amendment, but, like the Senator from New York, I do not feel that the adoption of the amendment will endanger the passage of the bill. I cannot imagine such a proposition to be true. If I understand the purport of the decision of the Supreme Court it is to the effect that contracts of this character now are valid, and not only that they are valid, but that they have been at all times since the passage of the legal-tender law. I myself have never had any doubt of that fact. It is true that a decision of the supreme court of my State in a case that I took there myself settled it against me, and I did not choose to take the case any further, but let it rest there; and so far as my own State is concerned we have rested upon the law that a judgment, even though the contract was payable in gold, had to be taken in legal tender. I have never believed it to be the law. I cannot conceive that a contract payable in gold was not as valid as a contract payable in wheat. If gold is demonetized, it is an article of commerce; and why is not a contract in one article of commerce as good as a contract in another?

Now, Mr. President, if this section be adopted as it stands will it not limit the effect of the decision of the Supreme Court of the United

States, and will it not make uncertain that which by the decision of that court has been rendered certain? You will observe that no contract, impliedly at least, will be legally payable in gold unless the consideration may be a loan of coin or a sale of property or the rendering of labor or service. One of those three things must exist in order to make the contract valid as payable in gold, and the price as carried into the contract must have been adjusted on the basis of coin value at the time that the contract was made. With that limitation what will be the effect? A contract made between parties, for instance a contract between the Senator from Oregon [Mr. WILLIAMS] and myself, passes into the hands of the Senator from Connecticut, [Mr. DIXON.] Can it be inquired into in his hands? Can any of these facts be inquired into? Can the character of the contract, can the fact be ascertained whether the consideration was gold coin or a sale of property or a rendering of service or labor when the value was carried into the contract? If that is not the case can it not be very easily avoided by always so arranging the contract as to put it in the hands of a third party? In other words, if I desire to enforce a contract, although really the maker, I would make a contract with a third party and let it be assigned. As some Senator behind me suggested when the proposition was made, if the Senate are not prepared to adopt the amendment we ought to be prepared at least to appoint guardians for all parties making contracts in this country. It seems to me it results in that. If we refuse to adopt the amendment and leave the section as presented by the House it merely complicates our difficulties. Why not declare at once that all contracts made specifically to be paid in coin shall be payable in coin, and of course parties twenty-one years of age who are competent to contract and not under some disability will understand immediately, or at least in a very short time, that such contracts can be enforced and will be enforced, and they will contract accordingly.

Mr. EDMUNDS. I will only occupy a moment. I hope the Senate will stand by this section as it now is, as the committee has reported it with the slight modification at the end, which has already been agreed to, which will not affect the sense, and which we may suppose will not be objectionable to anybody else. There is something more in this than the mere matters that have been alluded to by gentlemen who are urging this amendment. The object of this section, as it appears to me—and I derive that impression from reading it—is to prevent legal gambling in gold. We are to declare that all contracts made payable in coin of a particular kind shall be valid and enforceable. Now, if you strike that out and say that all contracts of whatever kind payable specifically in coin shall be enforced in coin, you certainly authorize as plainly as the law can authorize anything a person to lend openly, without any concealments, without any device, without any subterfuge, currency depreciated twenty-five per cent. and demand the repayment of it, if he can press his debtor enough to make him agree to it, in coin at the end of a month or at the end of the time he lends it for. We ought not to do that by legislation, because as far as those two items go, of coin and currency, it is really legalizing practical usury without any limit at all.

The Senator from New York has said, it is true, the difference is so great that a debtor could not be pressed enough to agree to that. Suppose he cannot be pressed enough to agree to that entirely, but suppose a creditor lends \$1,000 in currency and takes a promise to pay \$950 in coin at the end of a month. It enables him to graduate it down to the last drop of the debtor's blood that he can get. Now, the question is whether Congress ought to authorize that species of usury, because it is nothing else as currency now is? So that as far as we can go with safety and propriety, if we mean

to protect the business men of the country, who wish to borrow money or who are obliged to borrow money, let us say that they may make their contracts for real transactions upon the basis of gold and pay them in gold; but they shall not be made the prey of usurers and money-lenders and capitalists by making it lawful for the capitalists to lend currency and require payment in coin when currency is depreciated. This section prevents that; but if you strike out what the Senator from Missouri wishes to strike out, instead of preventing it you will legalize it, and I for one do not wish to legalize it.

It is true I am so much gratified at the advance we are making on the subject of public honor and public honesty and good faith in the first section of this bill that I am willing to waive almost all objections to any other part of the bill; but it appears to me that this is an important provision, one that the committee unquestionably must have had in view when reporting it entire, as they did, and one on which I think we shall make a great mistake if we do not stand to it.

Mr. DIXON. It seems to me, Mr. President, that it would be better to strike out the clause as proposed. The section now reads:

That any contract hereafter made specifically payable in coin, and the consideration of which may be a loan of coin or a sale of property or the rendering of labor or service of any kind, the price of which, as carried into the contract, may have been adjusted on the basis of the coin value thereof at the time of such sale or the rendering of such service or labor, shall be legal and valid, and may be enforced according to its terms; and on the trial of a suit brought for the enforcement of any such contract proof of the real consideration may be given.

I take it as between the parties themselves, without considering the rights of third persons in cases of negotiable paper, the only consideration which can exist in any case is either a loan of coin or money of some kind or a sale of property, or a rendering of labor or service of some kind. I cannot at this moment conceive of any other consideration which can make a contract good at all. That must include everything for which a contract can be made, except possibly the loan of greenbacks. Now, if we propose to legalize these contracts, and to say that there may be a case in which you may go into the consideration between the original parties when the suit is between third parties, then you propose to alter the entire law with regard to the relation of parties in the case of negotiable contracts. I do not suppose it is the intention of the bills to provide that in the trial of a suit brought for the enforcement of a contract proof of the real consideration may be given in a case where the paper given—for instance a bill of exchange or promissory note due—has passed into the hands of third parties. That cannot be the intention. We do not propose to change the whole commercial law of the country on that subject.

It seems to me, therefore, better, especially as the Supreme Court, as I understand, have made a decision which covers this whole case, which includes in their reasoning, if not in the actual decision, cases which have occurred since the passage of the legal-tender act, to leave out this section. I know the case upon which they acted occurred before the passage of the legal-tender law; but, as I understand, the reasoning of the court applies to all cases, and their decision seems to go to the length that all contracts of that kind made specifically for coin may be enforced in kind whether before or after the passage of the legal-tender act. If so, the matter is well enough as it is. If it is not so, then we ought in a different manner from this, it seems to me, to change the law, and not to raise a question which can be raised here whether the whole subject of the law with regard to commercial paper and the question of consideration is to be changed. But I will not dwell upon that. I think I shall vote for striking out this clause.

I wish to say one word with regard to the first section. I intend to vote for that section. I see on referring to the Globe as to the debate in the other House—and I suppose it is proper

to refer to this official paper—some question was raised as to whether this bill changed the law as it now stands. Some members took the ground that the law was already well understood, that the bonds were to be paid in gold, and that in voting for this bill they only voted to declare the law to be so. That was the opinion of some. One distinguished member from New York took that ground. I do not undertake to say whether that is the law or not. I intend to vote for the bill; and I beg leave to say, if it is proper to refer to it, that I find by the official report in the Globe that all the members in the other House from my own State agreed in supporting the bill. I was glad to see it. I was glad to see that there was no party division so far as the members from the State which I have the honor in part to represent are concerned in the other body on this subject; that there was a unanimous support of the bill; that those of the one party and those of the other party agreed in voting for the bill. The four votes from Connecticut were given for it. I shall vote for the bill, and if my colleague does so also the vote of Connecticut will be given for it here.

Mr. WILLIAMS. I inquire if a motion to amend that part of the section which the Senator from Missouri proposes to strike out would be in order at this time?

The PRESIDENT *pro tempore*. It would be, in the opinion of the Chair. The matter to be stricken out may be first amended before it is stricken out.

Mr. WILLIAMS. I move to amend that portion of the section by inserting between the words "shall" and "be," in the seventh line, the word "only;" so that the section will read:

That any contract hereafter made specifically payable in coin, and the consideration of which may be a loan of coin or a sale of property or the rendering of labor or service of any kind, the price of which as carried into the contract may have been adjusted on the basis of the coin value thereof at the time of such sale or the rendering of such service or labor, shall only be legal and valid, &c.

Mr. SHERMAN. That is not in order now. It is not an amendment to the matter proposed to be stricken out.

Mr. WILLIAMS. I see it does not relate to it; but I wish to make one or two remarks on the motion submitted by the Senator from Missouri.

Now, sir, this bill taken as a whole must be construed as legislation in favor of the creditor class of the country, and in that point of view it seems to me it would not be improper to consider that there is another very large class of people in this country called the debtor class, and that they are entitled to some consideration. This section proposes to make contracts founded upon certain considerations legal and valid, and it ought to be so amended if it does not now express that idea, as to declare that only such coin contracts shall be legal and valid, so that there may be no doubt, no door open to controversy and litigation as to the meaning of the section.

The object of specifying these different considerations on coin contracts is this: men are in debt at this time and debtors to a great extent are in the power of their creditors. Suppose a creditor has a mortgage upon a man's farm for a large debt and it becomes due. The debtor at that time is in the power of the creditor, and he may go to him and say, "I demand that you renew this contract and make it payable in coin; otherwise I will foreclose this mortgage and strip you of your property." The debtor is in the power of the creditor under such circumstances, and he may be compelled by the necessity of the case to enter into that contract, trying to save his property and hoping that something may turn up in the future to enable him to comply with its terms. Those are one class of persons who will be protected by this section if it is allowed to stand in its present shape.

Then again, another class of persons are those whose necessities compel them to borrow money. If the amendment proposed by the

Senator from Missouri should be adopted, then the lender, if the necessities of the borrower are such as to justify him, may insist upon the pound of flesh. He may insist that before he relieves the necessities of the man who seeks to borrow he shall make a contract to pay the amount specified in coin; and many men are deluded in that way into making onerous and oppressive contracts with the hope that the future may enable them to comply with their conditions, and so they become involved. Considering the circumstances of the country and that the great bulk of the money is currency with which the people do business, it seems to me that these provisions which are intended for the protection of the debtor class will produce some effect in that direction; if they do not completely protect them they will protect them to some extent. It seems to me that we can afford to agree with the House so far as this section is concerned, and adopt it as it has been sent to us by that body.

Mr. DAVIS. Mr. President, it seems to me that the Senate are about entering into a new field of legislation. Suppose I were to offer an amendment to this bill that hereafter all wills executed should be deemed legal and valid if attested by a single witness. It would strike the honorable Senator from Missouri and everybody else, I suppose, that that was rather a novel and improper subject for any legislation of Congress. Now, what is proposed in this second section:

That any contract hereafter made specifically payable in coin, and the consideration of which may be a loan of coin, or a sale of property, or the rendering of labor or service of any kind, the price of which as carried into the contract may have been adjusted on the basis of the coin value thereof at the time of such sale, or of the rendering of such service or labor, shall be legal and valid, and may be enforced according to its terms; and on the trial of a suit brought for the enforcement of any such contract proof of the real consideration may be given.

What power has Congress to decide what contract shall be legal and valid and what contract shall be void? What power has Congress over the subject of the rate of interest in the State of Kentucky or any other State? What power has Congress to decide what shall be the usurious interest reserved in the contract? All these matters pertain to State legislation. They are subjects over which Congress has no power whatever. The idea of Congress passing a law, general and universal in its operation, declaring what contracts shall be legal and valid and may be enforced according to their terms to my mind is preposterous. Why, sir, what contract is valid in the State of Wisconsin depends on the laws of Wisconsin. What rate of interest is legal or illegal in Wisconsin depends on the law of Wisconsin. What effect the reservation of usurious interest may have in contracts made in Wisconsin depends upon the laws of that State; and so in relation to the laws of every State in regard to these matters; and the Supreme Court of the United States and all the courts of every State in relation to such contracts inquire into what is the meaning and provision of the laws of the State where the contract is made, and they interpret and construe and enforce contracts according to the laws of the particular States in which they are made.

I believe that the utmost limit that Congress has yet advanced is to declare what shall be money; and in that I think they have advanced a very long step beyond their proper sphere. Money is defined by the Constitution; money is established by the judgment and laws of the world; money is gold and silver and nothing else; and the idea of giving anything else, paper or any other substance than gold and silver coin, the character of money and making it a legal tender in the payment of debts, is not only unconstitutional, but very absurd. Nothing is money but gold and silver coin; and when Congress attempted to declare that the greenbacks should be lawful money I think it advanced, as I said before, a long stride beyond the pale of its powers. But now, when it follows up this aggregation of power and presumes to declare by law what shall be a legal

and valid contract and enforced according to its terms, it is still further transcending the pale of its power and trenching upon the legitimate powers of the States. All these matters are to be decided by State laws, and by the laws of each State for itself and its people. What contracts are valid or invalid, are void or legal, are usurious or not usurious, and what is to be the effect of usury reserved in the contract, all these matters are to be decided by State legislation for that locality, and the people of each State; and every contract of the kind that is entered into in a particular State, when it is sued upon in a Federal court, or in the court of any State, has to be construed and to be enforced precisely according to the laws of the State in which it is made.

The idea of Congress legislating upon such subjects is preposterous. The State of Minnesota decides for itself what rate of interest shall be usury, what shall be the effect of a contract in which a larger rate of interest is reserved. The State of Minnesota decides for itself what class of contracts in that State are against public policy and void. The State of Minnesota decides for itself what considerations in contracts are vicious and illegal, and must have the effect of rendering a contract void and not enforceable in law; and so every State decides for itself. The idea of Congress entering into this field of legislation and regulating these matters is not only novel, but it is eminently improper and absurd. I think the second section falls because it is wholly without the jurisdiction and the pale of the power of Congress.

Mr. SHERMAN. Now, I hope we shall vote on this. The Army bill is waiting, and I desire to have this passed as soon as possible.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Missouri to the second section.

Mr. HENDERSON called for the yeas and nays, and they were ordered.

Mr. HENDRICKS. I should like to ask the Senator from Missouri, in explanation of his amendment, whether he intends to legalize contracts that are objectionable under the law for other reasons than because of their terms in regard to the currency in which they shall be paid? Is the purpose of the Senator to legalize, if it be otherwise now, all promises to pay in coin, whatever may be the consideration?

Mr. HENDERSON. I will state in short my view of this matter. Under a decision of the Supreme Court, as I understand, all contracts now made specifically payable in coin are valid contracts anyhow. I have always thought so, but, as I said before, it was doubted, and not only doubted by the business men of the country, but doubted by the supreme courts of the several States almost entirely throughout the Union. Now, if this bill is passed as it stands we shall have some contracts that are specifically payable in gold that are void. I differ with the Senator from Connecticut, [Mr. Dixon.] There are other contracts that may be made; contracts which may not arise upon any of the considerations mentioned in this bill; and what will be the decision of the Supreme Court on such contracts? For instance, I contract to guaranty the payment of a note made by the Senator from Ohio for a certain consideration that is not a consideration mentioned in this bill. I compromise a suit that is binding in a court of law. That is not a sale of property; that is not a loan of gold, and the contract is upon this compromise to pay in coin. Now, the meaning of the section is, if there is any meaning at all in the proposition now pending, that this is not to be paid in coin. The contract may have been made specifically payable in coin, but yet, contrary to the decision of the court, it must be held, impliedly at least under this section, that such a contract must not be paid in coin.

Now, if we are to legislate on the subject at all, let us say that all contracts made by parties competent to contract, specifically payable in coin, may be enforced in the courts. That is all I propose. The State Legislatures, of

course, will determine what amount of fraud may render invalid a contract under this law. It will not affect State legislation, as my friend from Kentucky imagines. As it has been understood in the States since the passage of the legal-tender act, that which was payable in coin before was subsequently payable in greenbacks. All that this section is intended to do is to do away with that presumption. It is, so far as Congress can say, that all contracts specifically payable in coin may be enforced in the courts; that is all, leaving the State legislation to exist exactly as it was before.

Mr. SHERMAN. It is manifest that unless the friends of this bill take the bill substantially as it is and do not attempt to modify and change every word or parse every clause of the bill it will occupy the whole day. I supposed the Senator from Missouri would be satisfied with a *viva voce* vote on his amendment and let it go, but now the yeas and nays are called for. If it prevails it makes legal and valid every gaming contract in the United States, provided it is payable in coin. It makes legal and valid every usurious contract, provided it is payable in coin. The words will read thus if his amendment prevails:

That any contract hereafter made specifically payable in coin shall be legal and valid, and may be enforced according to its terms.

That includes all contracts, whatever may be the consideration, whether legal or not, and declares that any contract hereafter made specifically payable in coin shall be legal and valid, and may be enforced according to its terms. The intention of the House was to limit this declaration to certain contracts which ought to be equitably enforced in coin, and it covers every class of contracts that can be lawfully made without usury in coin. I can imagine no lawful contract for the payment of coin which is not legalized by the House section.

Mr. HENDERSON. An insurance contract.

Mr. SHERMAN. An insurance contract is legal and valid if made on a coin basis. Any attempt to change the phraseology in this way will lead to confusion and difficulty.

Mr. DRAKE. I wish to ask the Senator what the effect of this act would be upon bonds issued by cities, counties, railroads, and other corporations payable in gold, but the consideration of which is not gold advanced to them; would not those contracts be invalidated?

Mr. SHERMAN. I am not prepared to say as to that. If they were made before this act took effect as a matter of course they would not be affected by the act.

Mr. DRAKE. But hereafter.

Mr. SHERMAN. Another answer to that is that bonds are made payable to bearer and are in the nature of a negotiable security passing to bearer, and they are never owned by the persons to whom they are made payable. They are always issued to trustees and transferred from hand to hand, and consequently there can be no question about their validity in the hands of a *bona fide* holder wherever they may go. That is the answer to the case put by my honorable friend. But if you attempt to make virtually the declaration that all contracts, without excepting any, made payable in coin are legal and valid, as a matter of course you will not only prevent the adoption of this section by the House but you will defeat it in the Senate.

I trust, therefore, the Senate, without prolonging this debate unnecessarily, will take the section substantially as it is which legalizes gold contracts covering the great bulk of the cases—nearly all the cases I can think of where they ought to be legalized. The words of the House certainly can do no harm. They are intended to prevent usury, fraud, and oppression of the debtor class, and to the extent that they will have any effect whatever they are useful; they are not injurious in any sense. No contract is invalidated by this clause that ought to be enforced upon terms of equity and good faith. I trust, therefore, the Senate will take the section as it is.

Mr. CONKLING. I wish to make an inquiry

of the Senator from Ohio. Am I right in supposing that he construes the section as it would stand were the words stricken out as authorizing the enforcement of all coin contracts whether usurious or not?

Mr. SHERMAN. Without the limitation I am inclined to think the words of the act would so operate, but the bill we passed in the Senate was so framed that it would not, but provided that all lawful contracts hereafter made may be enforced according to their terms.

Mr. CONKLING. Now, I wish to suggest this inquiry to the Senator, based upon that: if it be true that the section as it is would stand with the words stricken out would render all contracts enforceable whether usurious or not, what would become of all contracts whether usurious or not falling within the specification if we let the section stand? Obviously, the Senator will see, if divesting the section of the restriction you make contracts generally although usurious enforceable at law, leaving the section as it is equally enforceable would be all usurious contracts if they fall within the description.

Mr. BAYARD. Allow me to make a suggestion to the honorable Senator from Ohio. Suppose he alter the amendment proposed by the honorable Senator from Missouri so as to make the section read in this way:

That any contract hereafter made specifically payable in coin may be enforced according to its terms. And then leave the whole question of usury to the States.

Mr. SHERMAN. That is precisely the way we sent it from the Senate originally and the House after fully considering it voted it down. We again sent it in another form with a proviso providing that the contract should not be made the cover of usury. We sent that to the House, and they voted that down. Now that they have inserted words which seem to accomplish a good purpose, which prevent frauds and usury and oppression, why not agree to these words? It seems to me it is idle at this late period of the session to engage in mere grammatical construction of words where the substance is according to our wishes. I therefore hope we shall take the second section stripped of the last clause, which I think would create oppression, and I am perfectly willing to vote for it as carrying out the wishes of the Senate twice expressed by their unanimous vote.

Mr. CORBETT. I desire to say that we have had substantially the proposition of the Senator from Missouri in operation in our State during the past four or five years and we do not find any complaint such as is stated by the Senator from Ohio. We have greenbacks and we have gold; we have contracts made specifically payable in gold, principal and interest, and there is no trouble about making these contracts and enforcing them. These contracts have heretofore been held valid by our State courts, and if they are carried to the Supreme Court of the United States according to its late decision I have no doubt they will be held valid there. There is an opportunity as well under the present system to make usurious contracts as there is under the proposition of the Senator from Missouri. I do not see that that proposition, a plain, broad proposition to make contracts specifically payable in coin legal and valid, is objectionable, as I have seen and observed the workings of it in our State, and therefore I feel bound to vote for the proposition of the Senator from Missouri, believing it is less objectionable and less complicated and will lead to less law than the proposition submitted by the House.

Mr. HENDRICKS. Mr. President, I am not able to see why a man of sufficient intelligence may not make a contract according to his pleasure. It is known to the Senate as it is known to the commercial world that there is in fact a difference in value between gold and the paper currency of the country. Now, if two men contracting in regard to a consideration that is legal agree the one to pay gold and the other to receive gold, shall it not stand? I understand that the principle established by

the Supreme Court recently will sustain such contracts, though the case was somewhat peculiar in its facts, and the amendment of the Senator from Missouri being made sufficiently guarded I shall support that amendment.

Now, if there be any question about it, why not after the word "contract" in the first line insert the words "otherwise legal and valid?"

Mr. SHERMAN. Read it as it would then stand with those words inserted.

Mr. HENDRICKS. "That any contract otherwise legal and valid shall be lawful and binding."

Mr. SHERMAN. You will have to change the whole phraseology.

Mr. HENDRICKS. The idea of the Senator's amendment, as I understand it, though I do not understand it as clearly as I would desire, is that a promise to pay in gold upon a valid consideration may be enforced in the courts. That idea I wish to support. That thought certainly can be clothed in proper language so as to provide that if a person of sufficient judgment to contract shall promise to pay gold upon a consideration that is legal, that contract shall stand in the courts. That is all I desire to say, and I suppose that that is the doctrine of the Supreme Court, but it may be that the States will not fully regard that decision. It may be necessary that Congress shall make a declaration on that subject. I do not wish to see the action of Congress go beyond its clear jurisdiction on a question of this sort. The supreme court of the State of Indiana has decided that where a party has promised to pay in gold it may be satisfied by a payment in legal-tender notes upon a consideration that under the proposition of the committee would sufficiently support the promise to pay gold.

Now, I wish to suggest to the Senator from Missouri, if he cannot make this read right, then say, "upon a legal and valid consideration." That would be found in the second line of the section. I do not want to vote for an amendment which will appear to legalize a contract that is offensive to the laws of the States; but if the contract be legal according to the laws of the States, then let it be enforced according to its terms. For such a proposition I will vote, although under the decision of the Supreme Court legislation would seem not to be necessary. Yet we have some evidence that it is necessary to give additional strength to the decisions of the Supreme Court. In this District they are disregarded and defied, and perhaps they will be by the courts of some of the States.

Mr. President, I do not design to vote for the first section of this bill. I do not believe in the construction that the first section has undertaken to place upon the former legislation. I understand the first section as it now stands, with the amendments that have been made, simply to provide that all the obligations of the Government shall be discharged in gold unless the law or the contract itself expressly provides that they may be paid in the paper currency of the country. For that proposition I am not prepared to vote, and I say that there is no occasion for passing such a section. It is not practical in its character. It does not propose the immediate payment of any of our obligations, but simply to declare without practical effect a construction of contracts heretofore made. This first section would be a legislative construction of the laws heretofore enacted, an attempt by Congress to put construction upon the laws and contracts heretofore made. That is the first section of the bill. The Senator from Ohio thinks I am mistaken in this respect.

Mr. SHERMAN. My friend will allow me to interrupt him. I do not wish to discuss it, but I look on the first section as a declaration of public policy that the United States ought not to pay any portion of its debt except in gold and silver coin unless the right to pay it otherwise is expressly reserved. As to the strict construction of the five-twenty act, I agreed with the Senator that we had a right to pay in lawful money, but we are bound to pay

that lawful money, and ought to have paid it long before this time in gold and silver.

Mr. HENDRICKS. I have no doubt the purpose of the Senator from Ohio is as he states, but that will not be the proper construction of this section, as I think. It provides:

That in order to remove any doubt as to the purpose of the Government to discharge all just obligations to the public creditors, and to settle conflicting questions and interpretations of the laws by virtue of which such obligations have been contracted, it is hereby provided and declared that the faith of the United States is solemnly pledged to the payment in coin, or its equivalent, of all the obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver.

I have read now the whole section as it stands. The purpose is, first, to remove any doubt, and, in the second place, to settle any conflicting questions and interpretations of the laws. That is the purpose of the section, to remove doubts and settle conflicting interpretations of existing laws under which the debt was contracted. For that purpose this section is enacted, and being enacted it will be a settlement of conflicting questions upon the construction of the laws; it will be a removal of doubts, and make the laws to read that the debt shall be paid in coin. That is the effect of this first section. It is, as I believe, simply to put a legislative construction upon existing statutes. It is not to provide for the payment of the debt, it is not to provide means for its payment, but simply and solely to put a construction upon existing laws.

Now, Mr. President, existing laws do not authorize such construction in regard to a portion of the debt. There are, perhaps, \$1,600,000,000 of the debt in the form of bonds that do not provide that the principal shall be paid in gold or silver, but that do provide that the interest shall be paid in gold or silver; and it has been, and is now, a fair argument that when the bonds provide for the payment of the interest in gold and silver, and for the principal without specifying gold or silver, the principal, under such a contract, may be paid in the lawful money of the United States. That is the fair construction; that construction no man, as I think, has yet been able to overcome.

On the 12th of December, 1867, the Senator from Ohio, representing the Finance Committee, made an elaborate report, a very able report, on this subject. In that report reference is made to the act of Congress under which the debt was contracted, to the various kinds of debts that had been contracted, the peculiar terms of the obligation; and I wish to call attention very briefly to this report. The report, speaking of the legal-tender notes, says:

"These new notes were declared to 'be receivable in payment of all taxes, internal duties, excises, debts, and demands of every kind due to the United States except duties on imports, and of all claims and demands against the United States of every kind whatsoever, except for interest upon bonds and notes, which shall be paid in coin, and shall be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest as aforesaid.'"

That is a quotation mainly from the act of February 25, 1862, the act which authorized the issue of legal-tender notes. I ask Senators to observe the language: these notes were made receivable in payment of all taxes, internal duties, excises, debts, and demands of every kind due to the United States except duties on imports; and of all claims and demands against the United States of every kind whatsoever, except for interest upon bonds and notes, which shall be paid in coin, and shall be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest as aforesaid.

A legal tender and payment in discharge of all debts from the United States, to be paid by whom? By the debtor, by the United States. Then, as plainly as words can express it, the United States may use the legal-tender notes issued under the act of February 25, 1862, and

the subsequent acts providing for the issue of like notes in paying her obligations except only the interest on the public debt. It is not fair to argue that this law was intended to include obligations of the United States in which she expressly agreed to pay gold, and I do not contend for that; but where the United States has neither in the law or in the security which she has issued promised to pay in gold, does that obligation not come clearly within this statute providing that these Treasury notes may be a legal tender and payment in their discharge?

Then, Mr. President, to my mind it is very clear that this class of public indebtedness may be discharged by the Government of the United States by her legal-tender Treasury notes, and the learned committee, making its report through the Senator from Ohio, did not contend for another construction, but seemed to concede that as the proper construction, for they go on to state that—

"On the 11th of July, 1862, before any of the fifty-two bonds were negotiated, Congress authorized the further issue of \$150,000,000 of the United States notes, with a like provision to convert them into bonds at par."

"On the 3d of March, 1863, before any considerable amount of the fifty-two bonds were negotiated, Congress authorized the further issue of \$150,000,000 United States notes, and by the same act provided that the holders of United States notes issued under and by virtue of said acts shall present the same for the purpose of exchanging the same for bonds, as therein provided, on or before the 1st day of July, 1863, and thereafter the right so to exchange the same shall cease and determine."

Upon this statement of fact the committee claimed at that time that when the bonds were issued the purchasers of the bonds knew that the Government had issued this large amount of Treasury notes with the quality that they might discharge any obligation of the United States, so that the persons who purchased the bonds from the United States at the time they made the purchase knew that it was the law of the land that these bonds might be discharged in Treasury notes. In another part of this report, the committee say:

"These notes were issued to the amount of \$400,000,000 before the bonds were negotiated."

Four hundred million dollars of these Treasury notes had been issued before any persons purchased from the Government the bonds known as the fifty-two bonds, and the logic of the committee in this report is that the purchasers of the bonds then knew that these \$400,000,000 Treasury notes might be used in the discharge of the obligation of the Government under these bonds. But there is a very peculiar passage to be found in this report on the sixth page. I will read it:

"If this question—"

The committee is discussing the question of the possibility of discharging the fifty-two bonds with legal-tender notes—

"If this question rested solely upon the act of February 25, 1862, and the bonds had been negotiated under that act alone, it would be manifestly a breach of faith to redeem the bonds with the present United States notes. They are very different from the first legal-tender notes, which, from the limited amount authorized, and the privilege to convert them into bonds, could not have had a less market value than the bonds. But it was found that with such restrictions upon the notes the bonds could not be negotiated, and it became necessary to depreciate the notes in order to create a market for the bonds. The limit of notes was trebled and the right to convert them taken away. The amount of United States notes in circulation when the bonds were negotiated was equal to the amount now outstanding, so that the question arises whether by the terms of these several acts the bonds may be redeemed with notes of the precise character paid for the bonds when negotiated by the United States."

Here is a simple statement of fact that under the act of February 25, 1862, there was authorized but a limited amount of Treasury notes to be issued, \$150,000,000, convertible in a peculiar manner. There were also to be issued bonds of the United States, and those bonds could be purchased from the Government by the payment into the Treasury of Treasury notes. When the business thus stood the committee says that the bonds could not be sold; that a market could not be found for them; that for the purpose of creating a market for

the bonds steps must necessarily be taken to depreciate the paper currency of the country, and with a view to the depreciation of the paper currency of the country \$300,000,000 more of Treasury notes were authorized by Congress so as to float the bonds, to use a common expression of the times. With an issue of \$150,000,000 of notes the bonds which the Government desired to sell could not find a market. Then, to create a market and make the bonds an object in the market, the paper money must first be depreciated. The first \$150,000,000 that had come into the hands of the people almost at par, as this report says, would not allow the sale of six per cent. bonds. They could not be sold, they would not float the bonds, and therefore they must be depreciated, and that was to be done by trebling the quantity in the market and in the channels of trade and business. That was accomplished so that \$400,000,000 or \$450,000,000 of Treasury notes were issued, and then Treasury notes were sufficiently depreciated, according to the doctrine of this report, to make the bonds an object in the market. Then the bonds could be floated upon this depreciated currency. The Government deliberately, according to the statement of the Finance Committee—rather I will say Congress, for the committee could only speak for Congress—Congress deliberately and for a purpose issued this large amount of Treasury notes that it might have a depreciated currency in the country, and that the bonds might be worth in the market more than these Treasury notes, and therefore the people would buy the bonds with the notes.

Mr. WILLIAMS. With the permission of the Senator I wish to say that when he refers to the speech of the Senator from Ohio I do not acknowledge his right to say that the Finance Committee have made the expressions contained in that speech. I suppose the Senator from Ohio holds himself individually responsible for that speech, and there is no evidence before the Senate or the country that the Finance Committee acquiesced in his views of that question.

Mr. HENDRICKS. I will ask the Senator from Oregon whether he submitted to the Senate a minority report? This is a report made by Mr. SHERMAN.

Mr. MORTON. A report or a speech?

Mr. HENDRICKS. It is a report. I am not reading from any speech. I am reading from the report made from the Finance Committee by its chairman on the 17th day of December, 1867.

Mr. EDMUNDS. What page do you read from?

Mr. HENDRICKS. I am reading from page 6, under the inquiry, as the Senator will see—

"Are they [the fifty-two bonds] redeemable in legal-tender notes?"

That is the subject that the Finance Committee is discussing, and when the chairman makes a report from that committee and the gentlemen who constitute the committee other than himself do not dissent from his views, I take it that it is the doctrine of the committee. This is not a speech—and I will ask the Senator's attention—this is not a speech of a Senator, and although unquestionably the report was written by the distinguished Senator from Ohio, it is not his report; it is the report of the committee, made by him.

Mr. EDMUNDS. What clause does the Senator read from, which he says amounts to that?

Mr. HENDRICKS. If the Senator will look to the sixth page I will again read what I read before.

Mr. EDMUNDS. I have the sixth page.

Mr. HENDRICKS. The inquiry is,

"Are they redeemable in legal-tender notes?"

The answer is:

"The question now arises whether these fifty-two bonds are redeemable at the expiration of five years from their date in any other money than the coin of the United States?"

"If this question rested solely upon the act of February 25, 1862, and the bonds had been negotiated

under that act alone, it would be manifestly a breach of faith to redeem the bonds with the present United States notes. They are very different from the first legal-tender notes, which from the limited amount authorized and the privilege to convert them into bonds, could not have had a less market value than the bonds. But it was found that with such restrictions upon the notes the bonds could not be negotiated, and it became necessary to depreciate the notes in order to create a market for the bonds."

That is the clause that I read from, I will say to the honorable Senator from Vermont.

"The limit of the notes was trebled and the right to convert them taken away."

In two respects the notes were depreciated as stated by the committee; first, in increasing the quantity so largely, and in the second place, by taking away a valuable quality from them. Then there was a market furnished—

Mr. WILLIAMS. If the Senator will allow me, I understood him to be arguing that the Finance Committee had reported or said that these bonds were payable in currency. I did not understand him to be referring particularly to that passage of the report, but to affirm that the Finance Committee of the Senate had reported in some way that these bonds were payable in currency, and what I wished to say was simply that the committee as a committee, so far as I know, has never decided in favor of that proposition. If I misunderstood the gentleman I wish to stand corrected, that is all.

Mr. HENDRICKS. I was not discussing that question just then. When the Senator interrupted me I was discussing the question which I intended to be the question, whether the holders of the bonds have an equitable claim upon us now while the difference between paper and gold is so great as it is to declare that these bonds shall be payable in gold? I am not going to say that the committee in this report take the ground squarely that the bonds may be redeemed in Treasury notes.

Mr. EDMUNDS. If the Senator from Indiana will permit me to call his attention to the statute referred to in this report, the act of March 3, 1863, taken in connection with the report, he will see that the statute does not import any such proposition as he is now maintaining.

Mr. HENDRICKS. I have no objection to the Senator reading from the act of 1863. Of course it being upon the statute-book it is presumed to be a part of the report as a law is supposed to be a part of the contract.

Mr. EDMUNDS. The statute of 1863 on this subject of the act of February 25, 1862, touching the five-twenties as they are called, merely says that—

"So much of the act to authorize the issue of United States notes, and for other purposes, approved February 25, 1862, and of the act to authorize an additional issue of United States notes and for other purposes, approved July 11, 1862, as restricts the negotiation of bonds to market value, is hereby repealed."

So that my friend from Indiana will perceive that he is putting an unfair construction on this report, taking it together instead of selecting one line at a time, when he undertakes to say that the legislation of 1863 operated upon the bonds of 1862 otherwise than as merely repealing the limitation in the previous act that they must be negotiated at market value, and that was all.

Mr. SHERMAN. After consulting with Senators—it is a matter in which I have no interest or feeling—I move that at half past four o'clock the Senate take a recess until seven o'clock. It is manifestly necessary from the state of the public business that we should finish this bill to-night, and at the same time it is manifest that if we do not take a recess by five or six o'clock we shall be without a quorum, and thus lose the whole evening. My experience has convinced me that it is best to take a recess at a reasonable hour. I submit the motion.

Mr. ANTHONY. I quite agree with the Senator; but has not this discussion closed? Can we not take the vote on this question now?

Mr. SHERMAN. I should not object to that. I should like it very much. If we can take the vote by half past four it may relieve us from an evening session.

Mr. TRUMBULL. It does seem to me that

unless the Senate has resolved that the public business necessary to be done shall not be done we must vote upon some of these questions. The appropriation bills are all behind, and if we are to go on discussing from day to day and over and over again a question of this kind we can do no public business. I do, appeal to Senators to let us vote on this question. Is there a man in the Senate who does not understand it? Let us vote upon it one way or the other, and dispose of it now, before the recess.

Mr. SHERMAN. If we can take the vote before half past four o'clock I shall be very glad.

Mr. TRUMBULL. Who wants to make a speech?

Mr. SHERMAN. I do not know.

The PRESIDENT *pro tempore*. The motion is that at half past four o'clock the Senate take a recess until seven o'clock.

Mr. CONNESS. I wish to remind the Senator from Ohio that now for several times there has been no opportunity to rescind the order for a recess when it has been deemed necessary. The Senator occupying the floor has the privilege of putting that over. I hope that the recess will not be taken, but that we shall go on and finish this bill without a recess.

The PRESIDENT *pro tempore*. The motion cannot be put except by unanimous consent, there being another matter pending.

Mr. HENDRICKS. If this question is to be debated I do not yield. I do not understand that it is a debatable question to take a recess. I yielded to the chairman of the Committee on Finance for the purpose of making the motion.

Mr. SHERMAN. I submit the motion. I do not wish to debate it.

The PRESIDENT *pro tempore*. If there be no objection the motion will be put that at half past four o'clock the Senate take a recess until seven o'clock.

Mr. GRIMES. And that from that time on this bill be under consideration.

Mr. EDMUNDS. Yes, and the Army bill, both.

The motion was agreed to.

Mr. DRAKE. With the assent of the honorable Senator from Indiana I move that after this day the Senate meet during the remainder of this session at eleven o'clock in the morning.

Mr. HENDRICKS. I wish the Senator would allow me to finish before that is put.

The PRESIDENT *pro tempore*. The Senator from Indiana is entitled to the floor.

Mr. DRAKE. I only ask the assent of the Senator to make the motion.

Mr. HENDRICKS. Of course I assent if you want to make the motion.

Mr. DRAKE. I make the motion that during the remainder of the session the Senate meet at eleven o'clock.

The motion was agreed to.

Mr. HENDRICKS. I did not enjoy particularly the criticism of the Senator from Illinois [Mr. TRUMBULL] upon Senators who choose to debate the questions that are brought in here. It was in the midst of my remarks, and it would seem to be on his part an expression of disapproval of the fact that I am occupying some of the attention of the Senate. I did not expect that from him; nor do I receive it from him as that he has any authority to make any such suggestion to me. Here, when important measures as brought up, so far as I am concerned I must be the exclusive judge of what it is decorous and right for me to say. If he chooses he may address himself to the Senator from Ohio and to the Finance Committee, who have brought into this body a proposition by which the bonded debt of this country shall be increased in value \$600,000,000 without an increase of the ability of the people to pay it, and without, in fact, the measure being one of practical legislation at all. If this were a bill to provide means for the payment of the debt, to lighten the taxes upon the people, or to adjust the system of taxation more justly and equitably among them, I would recognize its importance. But, sir, when it is brought

in for no purpose of the sort, not to decrease the debt, not to lighten the burdens upon the people, not to readjust the system of taxation, but simply to declare here by legislative enactment that the public debt shall all be paid in gold, let the Senator from Ohio be lectured. It is an important measure. It affects deeply the interests of the people. And I claim when a bill like that is brought in the right to discuss it fully and freely and without any criticism from any gentleman of the majority in this body. I have no control here of what bills shall be brought from the committees. But the distinguished chairman of the Finance Committee is presumed to have a large control of the business and action of the Senate because of his official relation to the body. He has thought it proper, that committee have thought it proper, to bring in a bill that is not practical in its provisions, but declaratory of the meaning of existing laws, a declaration of the meaning of existing laws in which I do not concur. Therefore, sir, it is right and proper that I should discuss the bill.

When interrupted the Senator from Vermont was calling my attention to the act of March, 1863, as bearing on this. If the Senator had listened to my remarks he would not have said that I was reading a line at a time from this report. He would have heard that I called attention to the act of March, 1863. I called attention to that act because of the use that the committee itself had made of that act. The committee in this report state that act as an important one bearing upon this question, because under that act an additional \$150,000,000 of Treasury notes were allowed to be issued of less value upon their face than the first notes, and thereby the currency was depreciated and made to float the bonds. It was an act that I had called attention to, and the Senator will see that that act is referred to by the committee on page 5 of the report.

"On the 11th of July, 1862, before any five-twenty bonds were negotiated, Congress authorized the further issue of \$150,000,000."

After this act took effect the five-twenty bonds were negotiated. Why does the committee make that use of the acts of 1862 and 1863? To establish this proposition I presume that when the purchasers from the Government of the five-twenty bonds paid their money into the Treasury they did it with the knowledge that this act provided that the Treasury notes might be used in payment of the bonds. And it is after the committee has referred to these two laws that the committee goes on to say that the last two, the acts of July 11, 1862, and March 3, 1863, were in pursuance of a policy to depreciate the currency so as to furnish a market for the bonds.

Then, Mr. President, according to the facts stated in this report, what equitable claim have the bondholders upon Congress to make this declaration at this time? Before these bonds were sold, before they could be sold, before the moneyed men of the country would purchase the bonds, Congress had to issue Treasury notes in such quantities as would depreciate them and make them in the market of less value than the bonds.

Mr. EDMUNDS. I should like to ask the Senator a question. What does he mean by saying that the moneyed men of the country were the purchasers of these bonds, when his own candidate for the Presidency truly stated in a speech which he made which exhausted the subject that a very large proportion of them were held by those who represented the widows and orphans of the country?

Mr. HENDRICKS. I have not discussed this question or thought of it in any partisan or political sense. When I spoke of the moneyed men of the country I spoke of the persons who had money with which to buy the bonds. These bonds in some instances, rare indeed, were purchased by persons of limited means, but in the great part, as I have no doubt, by persons of means who wished to make a profitable investment; and they waited, it seems, according to this report, until the

first issue was troubled and the currency depreciated, and then with the depreciated currency the bonds were purchased from the Government.

Mr. EDMUNDS. Does the Senator mean to say that he is for sacrificing the poor in order to punish the rich?

Mr. HENDRICKS. Mr. President, I do not propose to sacrifice anybody; and when the rich man and the poor man, if the gentleman will insist that the poor man was the purchaser of these bonds, purchased these bonds from the Government and had notice upon the statute-book that they might be redeemed and paid by the Government with legal-tender notes, it is no sacrifice of anybody when the Government complies with that contract; so that it is not a question of sacrificing anybody. The very Treasury notes that the purchasers of the bonds paid into the Treasury when they bought the bonds had printed upon their backs that they were a legal tender in the discharge of the very bonds that they were buying. Every single legal-tender note that was paid into the Treasury in the purchase of a five-twenty bond had upon its back this extract from the law making it a legal discharge of the bonds at the pleasure of the Government. So, Mr. President, it is not a question of sacrificing anybody. It is simply a question of what is the contract. If the contract be that bonds shall be paid in gold, then I am the last man to ask to violate that contract; but if the contract be that they may be paid in Treasury notes, then I am opposed now, while there is this large difference between paper and gold in the country, to a law which has no practical bearing except to commit the Government to a construction of the laws contrary, in my judgment, to their true and just and proper meaning; and I call the Senator's attention to another passage in this report:

"It is clear that if the bonds are 'payable' when due in legal tenders, they are 'redeemable' after five years from the date in same kind of money. The word 'payable' imports a duty or obligation which must be performed at the time stipulated. The word 'redeemable' implies a discretionary power which may be or may not be exercised. But the same kind of money in the same mode tendered will redeem a note or pay a note."

So that the committee then took the square ground that if at the end of twenty years these bonds may be paid in legal tenders, of course it follows that at any time after the expiration of five years they may be redeemed in legal tenders.

Mr. President, I should like to know of the Committee on Finance if they propose now to pay off the five-twenty bonds? Are we in a condition without a further issue of Treasury notes to pay these bonds to the bondholders? This is not a question that is confined to the rich men or the poor men of the United States. It is a question that affects the bondholder in Europe who has made his investment in our securities because of their value. He had full knowledge of the terms of this law. The foreigner when he purchased our bonds knew very well when he read the law, and he is presumed to have read the law, that they might be paid in legal tenders, or, in the language of the law, "in the lawful money of the United States."

So, sir, this question of appreciating the bonds by the bill before us does not apply alone to citizens of the United States, but wherever these bonds are held an additional value is to be given to them by this act, and for what purpose? For no benefit to the people; not to lighten their burdens; not to readjust the taxes, as I remarked, equally among all, but only for the purpose of making gold bonds out of bonds that might have been paid otherwise in legal tenders.

Mr. President, I did not suppose it was necessary that this question should be raised at this time. I think if the right policy be pursued we may in the end come to a specie basis for our currency. I do not look for that at any early day. I do not expect it to be brought about by any action of Congress in regard to the currency, either in extending or restricting the circulation of the country. I

look only to the productions of the country for the restoration of our currency, for its increase, for its appreciation.

Upon this subject I differ very widely from my able colleague. He thinks that by action of Congress we may appreciate the legal-tender currency of the country and bring it up to par with gold, I believe, in about two years. I have no such opinion. I think his proposition would simply produce a very great contraction of the currency. I think in the first place it directly proposes to hoard the gold in the Treasury. The effect of his proposition would be to make persons holding the legal-tenders hoard them also, so that the currency of the country would be to a very large extent contracted. But I do not care to discuss that now. I do not agree with him in his very ingenious proposition. I am not in favor of a contraction of the currency, because that is oppressive to the business of the country. I am not in favor of such an increase of the currency of the country as will destroy its value in the pockets of the people. We must, as far as Congress has control of the subject, furnish to the people the best currency that can be commanded and in such quantities as the legitimate business of the country requires.

But, Mr. President, I look to that policy of the Government which will encourage production; which will introduce into our business affairs stability and confidence and restoration of free Government and encouragement to business and to enterprise, so that here at home we may become producers of those staples that will command a foreign market, and so that the currency in gold and silver shall turn toward our own shores instead of being carried from them. Our business now every year is carrying from us large sums of gold. While that is the case I am not able to see how we can return to a specie basis for our currency. Our paper money will not go abroad. Experience shows that we cannot use either our national bank paper or our greenbacks in purchases abroad. If our purchases abroad exceed our sales abroad that difference must be paid in gold; and while nearly seventy millions annually of the gold of the country is being carried to Europe to pay the difference between our purchases and our sales we cannot have a specie basis to our currency; and all paper promises, all promises by law or otherwise, however ingeniously supported by argument, will but deceive and mislead.

Mr. President, we must have productions that will command a foreign market. New England ought to command a market at home with the advantages of high protection which she now enjoys. I should be very glad to see the looms of New England and the mines of Pennsylvania supply the channels of trade throughout the country. I should be very glad to see it, but I do not understand how it is that they keep putting up their prices so much when they have such extraordinary protection. Their prices still go up so that the foreign article can be brought in here and sold. There is some fault somewhere in that respect. I think that the wants of the revenue of the country furnish such a protection to domestic manufactures at this time as that it is extraordinary that so large a supply comes from abroad.

But, Mr. President, my main hope is in the production of the staples that always command a market abroad. Our wheat sometimes commands a market abroad; our stock raised in the great Northwest, many of the productions of the Northwest; but the important staples that command a foreign market are found south of the Ohio river—cotton and tobacco. It is a fact to which my attention was called upon an investigation of a kindred subject that during the three years after the close of the war, cotton and tobacco constituted one half of our exports, including, as I now recollect, the coin that was carried abroad, perhaps including the bonds that were sold abroad; but I am not sure about that.

Now, Mr. President, if we but have stability in our policy, and our policy be wise, we can

increase our productions, we can increase the productions of the staples to which I have referred, and command a foreign market. The word "king" is offensive to gentlemen as applied to cotton. It is not important at all whether it be called "king" in the market or not. It is an article, produced as we produce it, of the quality that is found in the United States, that always commands a market; and so of tobacco. Then, let us have a policy which will increase the great productions of the Northwest and of the South and of the Southwest, and increase our sales abroad so that they shall exceed our purchases, and we shall soon have a restored currency, both in its value and in its quantity.

I am in favor of such reasonable issue of Treasury notes as the business of the country may require. I do not expect to vote for any increase of the bank currency; I do not think it necessary to interpose the credit of a bank between the people and the credit of the Government. The bank notes rest for their credit in the business world upon the Government securities that are filed in the Treasury. I would rather have the promise of the Treasury direct than the indirect promise of the Treasury coming through a bank.

Mr. President, if we can adopt this policy, can restore the balance of trade so that we shall sell as much as we buy and secure a return from other countries of the precious metals, then the difference between our paper money and our gold and silver will rapidly decrease. That is the restoration that I look for, in the legitimate prosecution of business and trade in the country and in our foreign commerce. When that is done the questions that are attempted to be provided for in this bill will disappear. We shall have then a currency of uniform value. I do not look for it before that time; but if these bonds are to be paid now, or if they are to be paid at any time when there is a difference between the paper currency and the coin of the country, I want them to be paid according to the contract.

After the contract has been executed, after the purchasers of the bonds have paid a depreciated currency into the Treasury upon a promise that they should be paid in like money, I am not willing by a subsequent Congress to change the contract and to say it shall be gold and, as the difference now stands between paper and gold, to increase the value of the bonded debt from five to seven hundred million dollars.

Mr. CORBETT. Mr. President, I desire to make a few remarks upon this first section. This question is more particularly a question as to the propriety of passing this law at this time. Looking at this question in a point of view for the advantage of the whole country, I do not understand that Congress are enacting laws or levying taxes to pay the national debt at this time. The debt does not mature for the next fifteen, twenty, or forty years. It simply resolves itself into this: by declaring that these bonds are payable in coin we advance the price of the bonds, and for all those bonds which are sent abroad we get just so much more money or gold in return. In other words, we retain just so much gold in the country in place of the bonds that are sent out of the country. If we can advance the price of these Government bonds five, ten, or fifteen per cent., what is the result? Suppose we send \$500,000,000 of bonds out of the country, by an advance of exchange we gain by that if we advance it ten per cent. \$50,000,000; if twenty per cent. we gain \$100,000,000 for the amount of bonds exported.

As I said before, we do not propose to pay these bonds yet and for some years to come, or till they mature probably; we are only preparing to pay the interest upon them which is payable in gold. Therefore the burden is no greater upon the Government in paying the interest of these bonds than though we do not pass this bill. I say we must expect to return to specie payments before these bonds mature. It is the view of the Finance Committee, it is

the view of Congress and the view of the people and the commercial community, that before these bonds are paid we shall return to specie payments. Therefore this bill does not add one cent to the debt of the Government. We can only pay the interest on these bonds in gold, and we derive that from the duties on imports, which are payable in gold. This is simply a financial measure. What would you do if you had bonds out that were seventy-five cents on the dollar? If your own notes were out, worth seventy-five cents on the dollar, would you not promise to pay gold to satisfy your creditors and thereby raise the value of the notes, or would you keep them in doubt? We are sending these bonds abroad continually. We are sending amounts, perhaps, varying from twenty to thirty or forty millions a year, and whatever price we can advance the bonds to over and above the present price we gain just that much to the country.

Mr. President, it seems to me that the idea that this adds to the debt of the Government is a fallacy. It does not in reality add one cent to the Government debt, because we do not propose to pay it at this time. I simply wished to present the matter in the light in which, as I understand, the Finance Committee and Congress and the people view it. It is just advancing the price of the bonds so that whatever bonds go abroad we get just so much more money or productions from abroad in return for them.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Missouri, [Mr. HENDERSON.]

The question being taken by yeas and nays, resulted—yeas 10, nays 34; as follows:

YEAS—Messrs. Cole, Conkling, Corbett, Dixon, Fessenden, Henderson, Pomeroy, Ross, Stewart, and Trumbull—10.

NAYS—Messrs. Abbott, Anthony, Cameron, Cattell, Chandler, Conness, Cragin, Davis, Doolittle, Drake, Edmunds, Ferry, Frelinghuysen, Harlan, Howe, Kellogg, McDonald, Morgan, Morrill of Vermont, Morton, Nye, Osborn, Patterson of New Hampshire, Ramsey, Rice, Sawyer, Sherman, Sumner, Thayer, Wade, Welch, Willey, Williams, and Wilson—34.

ABSENT—Messrs. Bayard, Buckalew, Fowler, Grimes, Harris, Hendricks, Howard, McCreery, Morrill of Maine, Norton, Patterson of Tennessee, Pool, Rice, Robertson, Saulsbury, Spencer, Sprague, Tipton, Van Winkle, Vickers, Warner, Whyte, and Yates—22.

The PRESIDENT *pro tempore*. The question now recurs on the motion of the Senator from Delaware, to strike out the second section of the bill.

Mr. COLE. Before that question is taken I desire to move an amendment to the section, to strike out the word "hereafter," in the second line, so that it may apply to all contracts, whether made prior to the existence of the law or contracts that may be made hereafter. I believe from the intimations I have on the subject that the decision of the Supreme Court goes to the extent of affirming contracts made payable in coin that have been made heretofore.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from California, to strike out the word "hereafter" in the second line of the second section.

The amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from Delaware, to strike out the second section, on which the yeas and nays were ordered.

The Chief Clerk proceeded to call the roll, and Mr. ABBOTT answered to his name.

Mr. DOOLITTLE. I desire to address the Senate on the subject-matter of this bill.

Mr. SHERMAN. Let us take the vote on this amendment.

Mr. DOOLITTLE. I observe that the Senator from Delaware, who made the motion, does not appear at this moment in his seat, and it is so near the time of the recess that perhaps we had better take the recess now.

Mr. SHERMAN. He said to me that he had accomplished his purpose, and was feeling unwell and went away.

Several Senators. Let us vote on this.

Mr. WILLIAMS. I insist on the vote.

Mr. DOOLITTLE. I have no objection to

the vote being taken on this particular section. I wish to address the Senate on the general subject of the bill, and may discuss the second section also.

The call of the roll was resumed and concluded, resulting—yeas 7, nays 36; as follows:

YEAS—Messrs. Chandler, Cole, Davis, Doolittle, Fowler, Howe, and Wade—7.

NAYS—Messrs. Abbott, Anthony, Cameron, Cattell, Conkling, Conness, Corbett, Cragin, Dixon, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Harlan, Kellogg, McCreery, McDonald, Morgan, Morrill of Vermont, Morton, Nye, Osborn, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Sherman, Stewart, Sumner, Thayer, Trumbull, Welch, Willey, Williams, and Wilson—36.

ABSENT—Messrs. Bayard, Buckalew, Grimes, Harris, Henderson, Hendricks, Howard, Morrill of Maine, Norton, Patterson of Tennessee, Pool, Rice, Robertson, Saulsbury, Sawyer, Spencer, Sprague, Tipton, Van Winkle, Vickers, Warner, Whyte, and Yates—23.

So the Senate refused to strike out the section.

Mr. McCREERY. I now move to strike out the first section of the bill.

The motion was not agreed to.

Mr. HENDERSON. I move to amend the first section of the bill by striking out after the word "that," in the third line, the words "in order to remove any doubt as to the purpose of the Government to discharge all just obligations to the public creditors, and to settle conflicting questions and interpretations of the laws by virtue of which such obligations have been contracted;" and to strike out all of the section after the word "to," in the eighth line, in the following words:

The payment in coin, or its equivalent, of all the obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver.

And to insert the words:

An early resumption of specie payments by the Government in order that conflicting questions touching the mode of discharging the public indebtedness may be settled, and that the same may be paid in gold.

So that the section, if amended, will read:

That it is hereby provided and declared that the faith of the United States is solemnly pledged to an early resumption of specie payments by the Government in order that conflicting questions touching the mode of discharging the public indebtedness may be settled, and that the same may be paid in gold.

Mr. DOOLITTLE. I believe the hour for the recess has arrived.

Mr. COLE. If the Senator will give way I will move that we now take a recess.

The PRESIDENT *pro tempore*. The hour of half past four o'clock having arrived, the Senate, according to order, will take a recess until seven o'clock.

EVENING SESSION.

The Senate reassembled at seven o'clock p.m.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 979) for the more equal distribution of national banking capital; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 242) to authorize the recognition of the independence of Cuba; which was read twice by its title.

Mr. SHERMAN. I ask to have the resolution read at length.

The Chief Clerk read as follows:

Whereas the United States observe with profound interest the civil war existing in Cuba, and sympathize with its people as with the people of all American nations in their efforts to secure independence of European Powers; yet the United States cannot depart from its established policy of strict neutrality until by the usages of nations the people of Cuba establish a *de facto* Government: Therefore,

Be it resolved, &c., That the President of the United States is hereby authorized to recognize the independence of Cuba whenever in his opinion, according to the usages of nations and the precepts and practice of Spain, a *de facto* Government is maintained by the people of Cuba which secures liberty to all its inhabitants and other essential principles of a republican Government.

Mr. SHERMAN. I move the reference of the joint resolution to the Committee on Foreign Relations.

The motion was agreed to.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 243) relating to the Turko-Greek controversy; which was read twice by its title.

Mr. COLE. Ask that the resolution be read at length, and then I will consent to its reference to the Committee on Foreign Relations.

The Chief Clerk read as follows:

Be it resolved, &c., That the President of the United States be requested to communicate to the great Powers of Europe the grave concern with which the United States would regard any further interference on the part of those Powers favoring the perpetuation of the Turkish supremacy in the isles of Greece.

Mr. NYE. That is all over. I hope we shall have no such thing introduced here.

The joint resolution was referred to the Committee on Foreign Relations, and ordered to be printed.

MASONIC MUTUAL RELIEF ASSOCIATION.

Mr. RICE. I ask the unanimous consent of the Senate to take up House bill No. 1758 for consideration.

Mr. GRIMES. Oh, no; let us go on with the business regularly before us.

Mr. RICE. There will be no objection to this bill. It is simply to organize a Masonic relief association in the city. It has passed the House and been reported upon favorably by the Committee on the District of Columbia. There can be no objection to it at all.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1758) to incorporate the Masonic Relief Association of the District of Columbia. It proposes to incorporate William Mertz, Edward Edwards, Thomas B. Campbell, A. C. Adamson, John J. Callahan, A. T. Dessau, John McClellan, E. H. Atkins, Richard Goodhard, Thomas Rishon, C. H. Dickson, T. D. Winter, H. V. Cole, T. H. Donahue, Thomas U. Graham, M. A. Watson, W. D. Chase, Thomas Dowling, R. B. Tompkins, James O. Lee, Charles E. Kern, and Robert Ball; and their successors, by the name of the Masonic Mutual Relief Association of the District of Columbia, with the usual powers of a corporation. The particular business and object of the society or corporation is to be to provide and maintain a fund for the benefit of the widow, orphans, heir, assignee, or legatee of a deceased member immediately upon proof of such death.

Mr. GRIMES. I should like to have some explanation of the bill.

Mr. NYE. I should like the Senator from Arkansas to tell us what he means by it exactly.

Mr. RICE. This bill is drawn from a bill of incorporation by the Legislature of the State of New York for a Masonic association in the city of New York. It is with a view of concentrating certain funds, so that there shall always be a sufficiency to supply not only temporarily but permanently the widows and orphans of deceased Masons. The association is to be made up of the members of all the lodges, and this is to be a perpetual fund that is not to be used or diverted for any other purpose, or ever to be distributed among the members, but is to remain in the corporation to be devoted to that exclusive purpose. I do not know of its adoption elsewhere than in the city of New York, but it has been adopted there, and, my information is from Masons here in this city, with entire success. They have organized this association heretofore, and have been acting under it, but now wish to have it incorporated. I have heard of no objection to it. The bill has been before the House and before the Senate for a long time, and there has been no objection from any Mason of the city; but on the other hand, there have been frequent applications to me since it was put under my charge to see that it was passed this session. That is all I know about it.

Mr. RAMSEY. Has it passed the House?

Mr. RICE. It passed the House, and has been before the Committee on the District of Columbia for some time. It was referred to me to inquire into. I made the inquiries, and every one of whom I did inquire seemed anxious to have it pass, and I so reported to the committee, and they directed me to report it favorably to the Senate, and I was also requested to call it up and secure its passage.

Mr. NYE. I do not wish to object to it if I understand it; but I do not understand from the bill itself that they became the custodians of all the funds of all the lodges in the District. I do not see myself what is gained by it.

Mr. GRIMES. The lodges do not have anything to do with it according to this bill.

Mr. RICE. It does not divert any money from the lodges, but it creates a new fund.

Mr. GRIMES. Then the lodges have not anything to do with it?

Mr. RICE. Not at all. It is for the creation of a permanent sinking fund for a specific purpose to pay to any Mason regardless of the lodge to which he belongs.

Mr. GRIMES. It is not limited to Masons. Neither the corporations nor the directors are limited to Masons.

Mr. RICE. They are Masons.

Mr. GRIMES. They may be Masons now, but they are authorized to elect anybody else to become directors that they choose to associate with them.

Mr. RAMSEY. That can be no objection if the corporations are willing to act on so liberal a plan.

Mr. GRIMES. I have no objection to the bill if the Congress of the United States sees fit to occupy its time in passing an act of incorporation for such a purpose as this.

Mr. RICE. It is almost a literal copy of a bill incorporating a similar institution in the city of New York.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

McPHERSON MONUMENT.

Mr. SHERMAN. I move that the Senate now resume the consideration of the finance bill.

Mr. WILSON. Before that is done I hope the Senator will allow me to call up a little resolution in regard to the McPherson monument, which is now lying on the table.

Mr. SHERMAN. I have no objection to that. By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 466) donating condemned cannon and muskets to the McPherson monument. It authorizes the Secretary of War to furnish to the McPherson Monument Association, of Clyde, Ohio, four pieces of condemned iron cannon, four pieces of condemned brass cannon, twenty-five cannon balls, and one thousand condemned muskets with bayonets to be placed about the monument.

Mr. GRIMES. What on earth do they want muskets for?

Mr. SHERMAN. The plan of the monument contemplates that they should have them. The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill and joint resolution:

A bill (H. R. No. 2009) authorizing the Secretary of War to place at the disposal of the National Lincoln Monument Association at Springfield, Illinois, damaged and captured ordnance; and

A joint resolution (H. R. No. 468) authorizing the Union Pacific Railway Company, eastern division, to change its name to the Kansas Pacific Railway Company.

ENROLLED BILL SIGNED.

The message also announced that the Speaker

of the House had signed the enrolled bill (H. R. No. 1204) to confirm certain private land claims in the State of Missouri; and it was signed by the President *pro tempore*.

THE PUBLIC CREDIT.

Mr. MORRILL, of Vermont. I think it is quite time that we commenced with the business which we came here this evening to transact.

The PRESIDENT *pro tempore*. The bill (H. R. No. 1744) to strengthen the public credit and relating to contracts for the payment of coin is before the Senate as in Committee of the Whole, the pending question being on the amendment offered by the Senator from Missouri, [Mr. HENDERSON,] upon which question the Senator from Wisconsin [Mr. DOOLITTLE] is entitled to the floor.

Mr. DOOLITTLE. Mr. President, the relations which we bear toward this great question of finance are not those of a party. We, as members of the Senate and members of the House, are not parties to any contract with anybody. We are here in a representative capacity, representing not only the tax-receivers but the tax-payers, and the duties which we owe are equally binding upon us toward them both. In discussing this great question as to what shall be done with the finances of the country we must bear in mind the fact that we represent both the bondholders and the tax-payers. We represent them all, because the two classes combined embrace the whole of the American people and all the States. The tax-payers on the one side and the tax-receivers on the other are the parties to this gigantic controversy which is now upon our country and which may rest upon it for, it may be, a generation to come. In meeting these great questions we must meet them as judges, as men who, under the Constitution, are clothed with the power of dealing with them, not as parties to them at all, but in a judicial or a representative capacity. We are bound to do justice and justice to them both. If we deny the just obligation toward the creditor, that is repudiation. If we deny the just obligation to the tax-payer, that is repudiation also; and it is repudiation as oppressive, as unjust, as unjustifiable as the repudiation of the public debt. We must do neither; we must stand upon the contract in its spirit and in its letter. We must stand upon the principles of eternal justice and equity, not as parties, but in a much higher relation—as judges upon whom the responsibility of decision rests. There is no higher tribunal upon the earth than the Congress of the United States in dealing with this question of finance. No suit can be brought by a creditor against the Government; no suit can be brought by a tax-payer in any tribunal against the Government; but here in this Senate and in the House of Representatives the question must be considered. Before this high tribunal, having sole and exclusive jurisdiction over the whole matter, stand these parties. On one side are the bondholders, with \$2,000,000,000 of bonds; on the other side the thirty or forty million people, who are the tax-payers, and must bear the burden, whatever it is, both of the principal and the interest. We are here to discuss and decide this question neither in the interest of the one nor in the interest of the other, but to do justice between them both for the good of our common country and those who are to come after us.

Mr. President, when we bear in mind that Congress is no party to these bonds, although many of its members may be bondholders, that Congress has nothing to do as a Congress with the contract, but that it is sitting in judgment upon the just claims of the bondholder on the one side and the just rights of the tax-payer on the other, Congress must rise to the height of this great argument and take the responsibility. In view of the principle of eternal justice, in view of the contract, both in its letter and in its spirit, Congress is to decide between them.

Now, Mr. President, this measure is brought forward at this very late period in the session, and pressed upon the Senate for its decision

at a time when our term is so short that we can hardly have an opportunity to consider it; and when members of the Senate are so impatient of any discussion why should a question as important as this be pressed at this late period of the session, and pressed with haste, with pertinacity, and almost with a disposition to complain of any man who rises here to give utterance to his opinions upon it? I say to the honorable Senator from Ohio this is one of the most important measures which have been brought forward at this session, or can possibly be conceived to be brought forward at any time. And why has this measure such great importance? Has not my honorable friend from Ohio, in his speeches in the Senate and in his reports to the Senate from the Committee on Finance, from time to time urged the funding of the national debt at a lower rate of interest? Have we not often heard him, as we have heard many others, say that this great amount of interest at six per cent. in gold is more than the people can bear, and that it is necessary that we should fund the debt at a lower rate of interest? Sir, it is this high rate of interest which is pressing upon our people. It is this high rate of interest, higher than any Government has ever paid or can ever pay for any great length of time upon a debt as large as this, which presses down our people and calls for some financial remedy.

But what is this measure? This measure, Mr. President, is in substance to put it out of the power of this Government to fund the five-twenty bonds at any lower rate of interest than six per cent. Pass this bill, and what is the effect of it? Let us see. I refer particularly to the five-twenties, for it is upon the five-twenties that this bill has its operation. This bill says substantially that whereas a conflict of opinion has arisen whether the five-twenties are to be payable the principal in gold or not, for the purpose of settling these "conflicting questions and interpretations of the laws by virtue of which such obligations have been contracted it is hereby provided and declared that the faith of the United States is solemnly pledged for the payment in coin or its equivalent of all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver."

Mr. President, allow me to ask you how you can fund the five-twenty bonds bearing six per cent. interest into a bond bearing a lower rate of interest after the Congress of the United States in a public act expressly pledges the faith of the Government to pay the five-twenty bonds, principal and interest, in gold at six per cent.? Sir, put the case home to yourself; suppose you had \$10,000 in five-twenty bonds, and Congress now enacts this statute and declares that the faith of this Government is pledged to the payment of those \$10,000 with six per cent. interest, principal and interest in gold; and then afterward suppose my honorable friend from Ohio should propose to exchange bonds bearing five per cent. interest, or four per cent. interest, or four and a half per cent. interest with you for those five-twenty bonds, you would laugh in his face; you would not take his bonds; you would not consider his proposition. It is impracticable and absurd to talk about funding the five-twenty bonds when you have passed this bill.

Mr. DIXON. Will my friend allow me to ask him a question?

Mr. DOOLITTLE. Yes, sir.

Mr. DIXON. My question is whether the resumption of specie payments will not have the same effect; whether if we were to resume specie payments to-day the effect would not be the same; and whether the Senator's argument does not go against the resumption of specie payments until the debt is funded at a lower rate of interest?

Mr. DOOLITTLE. Mr. President, the question of the resumption of specie payments is altogether a different question; a question that depends, in my opinion, upon other considera-

tions; a question which is to be determined by the revived industry of the country, and which is to take a period of time, I cannot say how long, but perhaps a long period before specie payments will be completely resumed; but it does not bear on this question. I admit if specie payments were resumed by everybody, by the Government of the United States and by private individuals, and our greenbacks were as good as gold, that the question as to the five-twenty bonds would have disappeared, because practically there would be no other money than gold and silver, or its equivalent; for greenbacks then would have become the equivalent of gold and silver.

Mr. DIXON. Could you then fund at a lower rate of interest? Would not the same argument apply to that subject?

Mr. DOOLITTLE. The question of resuming specie payments is an entirely different one from the question I am now discussing; and if my honorable friend will allow me, it is distracting my argument upon this bill and drawing me off on altogether another subject of consideration, the question of the resumption of specie payments.

The PRESIDENT *pro tempore*. The Senator from Wisconsin must not be interrupted without his consent.

Mr. DOOLITTLE. Now, Mr. President, to return to the subject. There are some authorities to which I should like to refer and to give some information which has come into my possession. I have had placed in my hands by a friend in the city of New York a copy of a letter from a gentleman connected with a financial house in London in which originated the scheme of funding the first national debt of the United States and which was carried through to a success. This gentleman says:

"In this office in the year 1793 the first scheme for the mode of discharging the principal and interest of the six per cent. stocks of the United States was first eliminated, and it was ultimately adopted and carried out by Congress. It was an accumulative interest of two per cent.

Having been intimately connected with the funds of the individual States from that date to this time it will be readily comprehended that I have steadily followed and studied all the financial matters connected with the different loans of the United States.

It is evident to me that a large loan in sterling money might be raised in this country, the proceeds to be applied to the payment (in greenbacks) of the six per cent. bonds known as five-twenties.

A stock bearing four and a half per cent. interest, principal and interest payable in sterling, and having an accumulative sinking fund of one and a half per cent., which would pay off the debt in thirty-one years, could be negotiated at seventy-five per cent. in sterling money, and this sum of money converted into greenbacks will pay the capital of the debt at par and leave a balance to the Treasury.

"The larger the loans the wider the basis and the more marketable it would become."

Mr. SHERMAN. I should like to remind my friend of a fact at that point. We passed at the close of the last session and sent to the President of the United States a funding bill based upon that idea of having a sinking fund of one per cent. and a bond paying four and a half per cent. interest, and the President, with whom my friend is so much in love, pocketed the bill, and we have never seen it from that day to this.

Mr. DOOLITTLE. My honorable friend from Ohio is now raising another question. I wish to discuss the point on which I am addressing the Senate, to wit, that if you pass this bill, in which you pledge yourselves and the faith of this Government that you will pay these five-twenty bonds in coin, principal and interest, at six per cent., you cannot after you have made that pledge fund them at a lower rate of interest.

Mr. CORBETT. If the Senator will allow me—

Mr. DOOLITTLE. My friend will excuse me. I am endeavoring to make an argument. I do not intend any discourtesy to the honorable Senator.

Mr. CORBETT. I should like to ask the gentleman a question right on the point he is discussing.

Mr. DOOLITTLE. My friend has just come in. I have been questioned by gentlemen on the right twice on that point, and now on the

left my friend who has just come in puts the question over again. I confess that for one I do not like the mode into which we seem to be falling in the Senate of the United States, that the moment a Senator rises to address the Senate three or four begin to put questions. It is not the best mode of discussing and arguing questions, in my opinion. I think it beneath the dignity of the Senate.

The PRESIDENT *pro tempore*. The Senator must not be interrupted. It is a new practice in the Senate, and a bad one.

Mr. DOOLITTLE. I was referring to information contained in this letter which I think important. The writer continues:

"To make this proposition clearly understood I will suppose that a foreign holder of \$10,000 of six per cent. bonds, redeemable after five years, before twenty years from date of issue, he gets \$600 per annum, which he sells for four shillings sterling per dollar, equal to £120 per annum; but he is in doubt if his capital may not be returned to him at any moment in greenbacks, in which case at this time the rate will be two shillings and nine pence per paper dollar, equal to £1375."

He speaks as a foreign capitalist. He tells you the truth, that the holders of these bonds, both at home and abroad, feel an instinctive consciousness that the principal of their bonds may be paid to them in greenbacks under the terms of the law under which they were issued.

"If he can exchange his bonds in London and obtain £2,000 of four and a half per cents., true he will only get an income of ninety pounds per annum, but there he will be sure of £2,000 ultimately, and as the bonds would be drawn payable at par he would be sure of the cash within thirty-one years, which is the entire period requisite under the action of this accumulative sinking fund.

"But if he held twenty bonds of £100 each he might reasonably expect to have two of them drawn every three years on an average. The commercial world has now become so used to the action of these accumulative sinking funds and to calculations dependent thereon for the profits arising from the difference between the par value of the drawn bonds and the price at which it is replaced in the market that we can and do estimate it in this instance at about one half per cent. annum on the capital. If this be added to the interest it will make the total five per cent."

"As soon as it is notified to the holders that any of the present bonds are called in for redemption in greenbacks and that the coupons thereon would not be paid after a certain date the holders would become very anxious and debate in their minds the propriety of sending their bonds to the United States to be cashed or of making an exchange in London, thereby saving all the commissions and other expenses."

"To show the effect of this proposition on a large scale we will deal with having interest to the extent of £400,000,000 sterling now carrying six per cent. interest, say £24,000,000. If nothing is done to alter matters at the end of thirty-one years the debt will be the same, but if my plan be carried out it will be paid off altogether, both principal and interest."

"Each bond of \$1,000 or £200 should give the owner the option of receiving the capital for his bond when drawn under the action of the sinking fund either in America or in London, giving three months' notice. And the same applies to the coupon, which should be either forty-five dollars or nine pounds, at the option of the holders, which is customary in the European loans."

The point to which I wish to call special attention is that British capitalists do understand that these bonds, which were issued under those laws of Congress authorizing the issue of greenbacks and making those greenbacks a legal tender in the payment of everything but the interest on the bonds, may be called in and may be paid in greenbacks. There is precisely the same understanding in the German market.

Mr. EDMUNDS. Where is the evidence of that?

Mr. DOOLITTLE. The evidence is the market price of the bonds, precisely running *pari passu* with the value of the greenback as compared with gold. It is because they know it was not a gold contract that they doubt whether they can receive the gold. True, as parties to the contract they will press upon this Government to pledge itself to pay principal and interest in gold; and so will the bondholders at home; it is their interest to do so. But what is the fair construction of the contract? When these bonds were issued the very law which authorized them to be issued declared that the legal-tender notes which were authorized to be issued should be lawful money and a legal tender in payment of every public debt except the interest and except the duties on

imports. When it is so declared in the law, and when you take into account the fact that what the Government received was depreciated paper money, and when the bondholders took the bonds they took those bonds under a law which declared in express terms that that very same lawful money which they loaned to the Government should be a legal tender, should be received in discharge of all debts, public and private, except the interest upon the public debt and duties upon imports, they knew that they took the bonds subject to that contingency.

I have no desire to waste the time of the Senate; I simply wish, as briefly as possible, to express my views on this question. I will refer you to the authority of one of the ablest men of our time or of the last generation, who is still living among us—a man for a long time a member of this body, the associate of Webster, of Wright, of Calhoun, of Clay, and of Benton, and in some respects greater than either of them; I refer to Mr. Thomas Ewing, of Ohio. When speaking upon this great question how these bonds are to be construed in the eye of justice, how they would be construed by any court, he holds this unequivocal language:

"The act of February 25, 1862, which provides for the issue of the \$500,000,000 of five-twenties, provides expressly that Treasury notes, which it also authorizes, 'shall be receivable in payment of all taxes, internal duties, excises, debts, and demands of every kind due to the United States, except duties on imports and of all claims and demands of every kind whatsoever against the United States, except for interest upon bonds and notes, which shall be paid in coin, and shall also be lawful money and a legal tender in payment of all debts public and private within the United States, except duties on imports and interest as aforesaid.'"

"This law is the authority of the Secretary of the Treasury to borrow the money. Having defined his powers in this it gives him instructions as to the management of the finances; but these instructions have nothing to do with the loan or the contract with the creditor no more than the economical resolution of the ordinary debtor has to do with his contract with his creditor. The creditor in either case has much interest in the general good financial management of his debtor, but a departure by the debtor from his expressed purposes is no breach of the contract unless it be distinctly inserted and expressed as a pledge. In this case the United States borrows its own legal-tender notes and stipulates that the interest on the bonds which it exchanges for them shall be paid in gold; but the creditor is at the same time told, and it is made part of the contract, that when the principal becomes payable at the end of five years he must receive in payment legal-tender notes, precisely the character of funds which he lent, unless by a new arrangement the creditor may give him something which he prefers; and there is no pledge contained in the law or in the contract, unless raised by forced implication, that the United States will not provide in due time in the way deemed most expedient legal-tender notes to make the payment."

"What is said of promises made by the Secretary of the Treasury and his agents, that the bonds would be redeemed in specie, is so far absurd that no respectable lawyer would venture to urge it in a court of justice. The act of Congress, which was the Secretary's power of attorney, was in the hands of the whole reading public, especially of the capitalist and his counsel, who could not fail to know that the Secretary had no power to pledge the Government by parol, or in any manner not written down in the law. He doubtless entertained and expressed a strong opinion that specie payments would be resumed before the bonds became payable, but the nation is certainly under no obligation now to bankrupt itself and add its whole wealth for ages to the already enormous profits of the capitalists in order to make good the prediction."

"This settles the question as to the right of the United States to pay these bonds in legal-tender notes if nothing more acceptable to the debtor and creditor can be agreed on. I would then propose that the Secretary of the Treasury be directed to prepare and hold ready for delivery \$1,000,000,000 in bonds, payable at the option of the United States at any time after the expiration of forty years, bearing an annual interest of four per cent., payable semi-annually, both principal and interest in gold, continue by law the payment of gold for the customs duties and pledge their proceeds for the payment of interest on the bonds until they be paid and retired, and by a present act appropriate the proceeds of those duties to the payment of such interest during the continuance of the bonds, and authorize and require the Secretary of the Treasury, without any further act of appropriation, to pay such interest as it shall accrue, and exempt the bonds from taxation by the United States and all States and Territories and all municipal corporations in any State or Territory or district within the United States."

Again, I quote his clear and powerful statement of the true equities of the case:

"We are not bound in faith or morals to make the fund which we pay to the creditor for his principal—be it what it may, gold or legal-tender notes—worth

more at the time of payment than it was worth when it was borrowed. This appears to me strictly just the view which a righteous arbitrator or judge would take of the subject if submitted to him for decision; and it were better for the creditor than an exuberant generosity which would promise him more than he is entitled to when the debtor is but just able to comply with his actual contract, fairly interpreted. Looked at in this point of view names are nothing. If you borrow a piece of coin called a dollar, having in it one hundred cents' worth of pure metal, and by virtue of your sovereign power so debase your coin that the dollar contains but seventy-five cents' worth, it is repudiation or its equivalent act of injustice. If you, in behalf of the nation, borrow coin having in it but seventy-five cents' worth of pure metal and call it a dollar and afterward improve your coin and put in it one hundred cents' worth of pure metal to make the dollar and pay this improved dollar to discharge the loan of the baser coin it is generosity to the lender and injustice to the nation; it is taking from the tax-payer without reason and giving to the capitalist without consideration; the same is the case whether the fund loaned and borrowed be adulterated coin or depreciated currency."

Now, Mr. President, put this case: suppose that you in your individual capacity were the sole creditor of the United States, holding all its five-twenty bonds, and suppose that you in exchange for those bonds gave depreciated paper money worth only fifty cents upon the dollar, and the Government by the express language of its contract with you, the express language of the law by which it authorized the bonds to be taken by you, declared that that same paper money which you give to the United States in exchange for the bonds shall be taken by you for the principal of the debt, and that meantime the interest upon it shall be paid at six per cent. in gold. I ask you would it be just for you, having given paper money worth but fifty cents on the dollar, having received for six or seven years six per cent. interest in gold upon that depreciated money, which would be equivalent to twelve per cent. upon the gold value with which you parted, would it be just in the sight of Heaven for you to say that you would not take back the same money in payment, when it is just as valuable and more valuable than that which you let the Government have? Would it be just in the sight of God or man to persist on payment in gold of the whole amount of the face of the bond? That is the question. If the Government had said in the bond that they would pay you in coin it would be bound to pay it; but it said they would pay you interest in coin, and that the paper money which you let the Government have should be a legal tender in the discharge of every debt, public and private, except the interest.

Mr. President, the great question with us is how to reduce this amount of interest, for as Mr. Ewing says, in that able paper to which I have referred:

"It is not the depreciated currency but the heavy annual interest on the debt that pressed with such enormous weight on the productive industry of the country. We, the people, want to reduce this burden of interest and bring it within manageable compass."

That is or should be the great purpose of our legislation; first of all, of course, to reduce our expenses within the range of economy, but as far as the public debt is concerned to reduce the rate of interest by funding the debt in some shape at a lower rate of interest. The burden of taxation in this country has become so great that everywhere the great mass of the people whom we represent, and whose interests we are bound to defend as well as the bondholders', whose interests we also are bound to protect, according to a fair construction of the contract with them, are so heavily burdened by the taxes which are now drawn from them that it is all-important that the Government should take no step by which it renders itself powerless to reduce the rate of interest. I maintain that if this bill shall pass which declares that it is hereby provided and declared that the faith of the United States is solemnly pledged to the payment, in coin or its equivalent, of the principal of these five-twenty bonds as well as the interest, it will put it out of our power to fund this debt at a lower rate of interest, without repudiation. The burden will become so great, so oppressive, and the great mass of the people will feel it to be so unjust

that it may be the means of creating throughout the country an excitement against this mode of dealing with the public debt so great that we may have greater troubles than we have yet conceived of in the discharge of our indebtedness. The burden of debt resting upon us almost realizes what Sidney Smith said would one day come upon Brother Jonathan if he should ever indulge in the fiendish luxury of war. He declared in 1820, in speaking of Brother Jonathan, and what he declared then seems almost to be prophecy now:

"We can inform Jonathan what are the inevitable consequences." "Taxes upon every article which enters into the mouth, or covers the back, or is placed under the foot; taxes upon everything which it is pleasant to see, hear, feel, smell, or taste; taxes upon warmth, light, and locomotion; taxes on everything on earth and the waters under the earth; on everything that comes from abroad or is grown at home; taxes on the raw material; taxes on every fresh value that is added to it by the industry of man; taxes on the sauce which pampers man's appetite and the drug that restores him to health; on the ermine which decorates the judge and the rope which hangs the criminal; on the poor man's salt and the rich man's spice; on the brass nails of the coffin and the ribands of the bride; at bed or board, couchant or levant, we must pay. The schoolboy whips his taxed top; the beardless youth manages his taxed horse with a taxed bridle on a taxed road; and the dying Englishman pouring his medicine which has paid seven per cent. into a spoon that has paid fifteen per cent. flings himself back upon his chintz-bed which has paid twenty-two per cent., makes his will on an eight pound stamp, and expires in the arms of an apothecary who has paid a license of a hundred pounds for the privilege of putting him to death. His whole property is then immediately taxed from two to ten per cent. Besides the probate, large fees are demanded for burying him in the chancel; his virtues are handed down to posterity on taxed marble, and he is then gathered to his fathers to be taxed no more. In addition to all this, the habit of dealing with large sums will make the Government avaricious and profuse; and the system itself will infallibly generate the base vermin of spies and informers, and a still more pestilential race of political tools and retainers of the meanest and most odious description; while the prodigious patronage which the collecting of this splendid revenue will throw into the hands of Government will invest it with so vast an influence and hold out such means and temptations to corruption as all the virtue and public spirit even of republicans will be unable to resist."

Mr. EDMUNDS. Whose lucubrations are those?

Mr. DOOLITTLE. Sidney Smith. He was giving advice to Brother Jonathan not to go to war and get into debt.

Mr. EDMUNDS. Not to have a revolution against British power!

Mr. DOOLITTLE. Not to go to war and get in debt.

Mr. DAVIS. Is that written about the present condition of things in this country?

Mr. DOOLITTLE. This was written a long time ago, as long ago as 1820. One of my friends here suggests that it is a little out of date. Mr. President, old-fashioned, homely truths seem to be getting out of date; but it is well enough occasionally to remind ourselves of some of these wholesome truths. Here, almost as if he were an inspired prophet, he gave to Brother Jonathan, forty years in advance, a foretaste of the luxury he would enjoy after having great wars with their armies, debts, and taxation. Sir, we have almost realized this prophecy to the very letter. The very first point, as it seems to me, in dealing with our financial question is in some mode or other to reduce this exorbitant rate of interest upon the public debt; and I think that this bill with which my honorable friend from Ohio is charged is the very bill of all others to prevent him from ever changing the five-twenty bonds into bonds bearing a lower rate of interest.

Mr. President, I hold that the principles of sound morality require me to deal justly with the whole people of the United States. If the law provided that when the creditor parted with this depreciated paper and took the bonds of the Government we should pay him six per cent. interest in gold, and that he was bound, if we tendered him back the same money which he let us have, to take it in discharge of his debt, if such was the law of the contract, then I say it would be repudiation on the part of those who contend that the Government shall now declare that these bonds shall be paid, principal and interest, in gold.

What have you done, sir? You have issued your paper until the currency has become depreciated so that it stands at the depreciated figure now of seventy-five cents on the dollar; precisely the same as if you had introduced just so much copper into your coin; and there is no more justice in saying that a contract which has been made between man and man in reference to this depreciated money shall be enforced by payment of one hundred cents in gold than there is in saying that the whole debt shall be repudiated. It is injustice both ways.

Suppose, sir, that instead of issuing this paper by which we depreciated our money to seventy-five cents on the dollar you added one fourth of copper to your coin and then put it in circulation as the lawful money of the country, and men had all arranged their contracts on the depreciated basis; will you tell me that it would be right to insist that the debtor shall pay one hundred cents of pure gold in the dollar when his contract was only made for seventy-five cents of gold in the dollar? There is no justice in it. It will not bear scrutiny. You cannot go before the tribunal of earth and heaven, where justice is done, and maintain that it is just to enforce a contract made in depreciated money in an appreciated money. I agree that those contracts which were made before the passage of the legal-tender act, before the depreciation of our currency by this vast inflation of paper took place, were payable in gold and silver; and I never believed that Congress had the power to discharge those contracts in anything but gold and silver, and when the legal-tender act was before this body I moved in the Senate of the United States to except from the operation of that law all contracts made before the passage of the act, upon the express ground that the contract was made in reference to gold and silver as its basis, that the men entering into the contract had agreed in substance to pay so many ounces of gold and silver of a certain quality in order to discharge the debt, and the Government had no power to change that; but in relation to contracts in *futuro* the rule would be different, because since the passage of the legal-tender act and the depreciation of the standard of value by the infusion of this vast amount of paper which now stands at a depreciation of twenty-five per cent. contracts are now made in reference to this depreciated currency, and therefore justice requires them to be enforced in this depreciated currency or its equivalent.

What did a contract made any time within the last two years to pay a given number of dollars mean? So many of the current dollars; and what are they? Your lawful money, your circulating medium; and the Government has no right to come in now and say that these contracts can be discharged only by a different kind of currency. We have no more right now, in my opinion, to compel private debts or public debts to be discharged in a currency of one hundred cents pure gold on the dollar than we had in the beginning to say that contracts which had been made payable in gold and silver by their terms—for the law of the case was a part of the contract—should be discharged in depreciated paper. We have no more right to say the one than we had to say the other, and we have no right to do either, and the Supreme Court, by their decision, as I understand the reasoning of the Supreme Court, have placed themselves upon that position. Although the case decided was one which arose before the passage of the legal-tender act, and one in which gold and silver coin was specifically promised by name, still the reasoning of the case in my opinion goes so far as to hold that all contracts made previous to the passage of the legal-tender law would be enforced in gold or its equivalent. Therefore, sir, having that view of the case, I voted to strike out the second section of this bill altogether.

Mr. President, if instead of issuing paper money we had done what almost every Government upon the face of the earth has done, and which I think we have done on a small scale

on two or three occasions, if we had alloyed our currency, depreciated it by adding to it so much alloy at the beginning of this war, if we had taken away one fourth of gold and added one fourth in copper, so that the real value of a dollar in gold, instead of being one hundred cents of pure gold would have been but seventy-five cents, and that had been our currency during all this time, and you had parted with your bonds to the public creditor and received that amount of currency, what would you say now if Congress should by law declare that bonds which were given in exchange for seventy-five per cent. of gold and twenty-five per cent. of copper should now be paid one hundred per cent. in gold without any copper or alloy? Would it be just?

Mr. President, I know that on this question there is a great division of opinion. There are around me gentlemen who maintain one side just as earnestly as I maintain the other side. What is advisable to be done? In my opinion it is better to rest upon the law as it is. If the law under which you issued your bonds by its fair construction makes the principal payable in gold let the law stand where it is; but if the law be otherwise, as I maintain its fair construction is, let the law stand; do not come in now with a new declaration which is equivalent to issuing over again your fifty-two bonds. It is just the same as if you took in all these fifty-two bonds to-day and passed this law that hereafter they shall be paid in gold coin, principal and interest, and then issued them again to-morrow. That is the effect of the passage of this bill; and what effect will it have in Wall street? What effect will it have in the markets of London, Paris, and Frankfort-on-the-Main? Who does not know that the effect of this declaration will be at once to produce a great amount of speculation in the markets in New York and abroad? Perhaps the speculations have already been made; the purchases on time perhaps have already been made by millions and by hundreds of millions, and fortunes, if this bill passes, are to be realized by the operators in Wall street to the extent of millions upon millions of dollars, and what good can it do our country? What good does it do towards relieving our burdens? Does it enable you to fund your bonds at a lower rate of interest? How does it enable you to reduce the amount of taxation?

Mr. President, as I said in the beginning, I have no disposition to stand in the way of the action of the Senate; but this question is so important that I could not allow the bill to pass without frankly expressing some of the opinions which I entertain upon it. I have done so freely. I do not believe it is wise. If the honorable chairman who represents the Committee on Finance desires ever to succeed in what is most to be desired in reference to the public debt, the reduction of the rate of interest which it bears, I do not believe that he can succeed by pressing this bill through the Congress of the United States. He had better pause and let things be as they are. Let the industry of the country revive; let economy begin to be practiced; call home those Americans who by thousands upon thousands are all over Europe carrying our bonds abroad and spending the proceeds and bringing home nothing valuable in return; let him urge and let all the men who lead public opinion urge upon our people a more economical mode of life, less extravagance in life, in dress, in equipage, for it is in these things that the substance of our people is now eaten out. Sir, it is by economy, it is by industry, it is by reviving all the industries of the whole country, East and West, North and South, that we can ever hope to overcome this great difficulty which stands in the way of our progress.

We were not always burdened thus. The time was when the burdens of this Government rested so lightly upon all the people that they were scarcely felt at all; and I believe the very prosperity of our condition, the burdens of our Government resting so very lightly upon all sections of the country, was the basis of one of

those fatal delusions which led the people of the South to believe that the Government had no power to maintain itself, because it imposed no burdens upon the people which could be felt—the burdens and the blessings of this Government rested upon us like the air which surrounds us, essential to our life and our being, yet we do not feel it. And may we hope and trust that the time will come when industry, frugality, and economy will be revived, when we shall once more enjoy what we enjoyed in the past, a Government whose blessings came down like the dews of Heaven, unseen and unfelt save in the richness and the beauty they contribute to produce.

Mr. COLE. Mr. President, I cannot persuade myself even at this late hour of the session to permit this bill to go to a vote without expressing my dissent to its provisions. I regret that it comes in for discussion so late in the session, for now its discussion must be attended with more or less restraint. I believe the second section of the bill is rendered entirely unnecessary by a recent decision of the Supreme Court. That decision, as I understand it, goes to the extent of sustaining a contract payable specifically in coin, a contract made prior to the rebellion, but the principle enunciated in that case I believe covers all other specific contracts, and is sufficient to sustain contracts made after the passage of the legal tender-law as well as contracts made prior to that, and it will cover all cases of specific contracts which may be made hereafter. If I am correct in this there certainly can be no necessity for the passage of the second section of the bill for any purpose of authorizing specific contracts in coin. But it is alleged that the passage of this section is desired for the purpose of restricting the operation of this decision of the Supreme Court. If so, I am equally opposed to it.

I am also opposed to the first section of the bill, which declares that the faith of the United States is solemnly pledged to the payment in coin or its equivalent of all the obligations of the United States except in the cases where the law authorizing the issue of any of said obligations has expressly provided that the same may be paid in lawful money or other currency than gold or silver. This proposition was before the Senate over a year ago, and was then very fully discussed. Since that time until these last hours of the session it has been permitted to rest upon your table, and is now brought up, as I believe, without adequate opportunity for its discussion.

The Senator from Vermont [Mr. EDMUNDS] this afternoon congratulated the country on the advances made toward sustaining the honor and good faith of the country. It seems to me his congratulation would have been more applicable had it been directed to the bondholders for their advances upon the interests of the tax-payers, of the aggressions of the creditors of the country over the labor and industry of the country.

We are told by the chairman of the Finance Committee that it is only intended as a declaration of policy; but what are we to understand by this? Is it to be merely a vain and empty declaration of policy, or is it to be a solemn act of Congress, a declaration of law, which is to be binding upon us? It seems to me the latter will be its force and effect if it passes.

Perhaps it is well that this question should be disposed of without further delay, in order that the people may know with some degree of certainty the weight of burden upon them. If they really owe the whole \$2,556,000,000 in gold coin, as the passage of this section will indicate, or the equivalent of that sum in currency, amounting at the present rate to about thirty-three hundred and fifty millions, the sooner it is proclaimed the better. It can be of no advantage to the people to fondle a delusion, however pleasant, which must finally cost them hundreds of millions. It is customary to speak of the national debt as about two and a half billions, but if we owe the whole of

this \$2,500,000,000 in gold dollars we actually owe about three and a third billions, as we usually estimate money.

If, as is alleged, it will improve our credit to put forth the statement that our national debt is three and one third billions, I am sure there is no rule by which that proposition can be demonstrated, and the result must depend upon a trial for its proof. I believe the hope is father to the opinion and the latter a most illegitimate production.

With an acknowledged indebtedness of \$2,500,000,000, honored in all respects according to the strict letter of the obligation, our securities are worth less than seventy-five cents on the dollar, can it be said that by largely increasing the indebtedness, as this proposition virtually does, our credit will be improved? However clear this may seem to the bondholder it has not yet been made so to the debtor. The people will never take that view of the case. An insolvent whose available assets are unequal to his obligations, and whose credit in consequence is below par would not expect a favorable result from a similar transaction. It would take a long time for him to reestablish his credit by the process of adding voluntarily to his indebtedness. If unfortunately one is unable to meet his currency obligations he cannot improve his credit by acknowledging the indebtedness to be upon the basis of coin and by binding himself to pay all in gold. Such a step on the part of a person or firm would be regarded as rash in the extreme, and instead of improving would work an utter destruction of credit.

What is to be gained by the adoption of this proposition? It will not of itself pay a dollar of our obligations even in greenbacks, much less in gold. It will not dispense with a single exaction. The tax-gatherer will come as before and be not a whit less extortionate.

An admitted indebtedness of \$3,300,000,000 will afford a better pretext, if one shall be wanting, for demanding a larger percentage on your small salary and mine. It will furnish a strong argument for increasing taxes and tariffs, which are already too high. The debtor class, the people, the labor of the country, which after all has to pay the debt, would repel this monstrous proposition at once could they be heard. The people do not nor have they ever asked by petition or otherwise for the adoption of the principle embodied in this bill, and their creditors have no shadow of right to demand it. The form and substance of the bonds are prescribed by the public laws, and in accordance with them interest is paid regularly in gold. Let their holders be content with what is nominated in their favor, lest popular impatience should eventually require the utmost exactness in taking the pound of flesh.

It is not easy to divine the real object of this proposition. The debt is either payable in gold or it is not. If it is payable in gold as the law now stands then there can be no necessity for its passage. It would only be a vain repetition of an existing fact, and any number of reiterations would not alter it. But if, on the other hand, a large portion of our debt is not payable with gold dollars it would be great injustice to the debtors to declare it so payable while any description of lawful money bears a less value, dollar for dollar, than gold. Suppose my note is in bank for \$1,000; if the banker can exact of me its payment in gold, the gold being at thirty-five per cent. premium, my debt is actually \$1,350, and my banker would not relieve my anxiety nor improve my ability to pay by graciously informing me that it is not due till some time hence. Such a demand, if it could ever be enforced, would tend to impair rather than improve my credit, and no sophistry could prevent that result.

Is it in a spirit of braggadocio that this declaration is sought to be enacted? Is our contempt of a burden of \$2,556,000,000 so great that we ought voluntarily to shoulder about seven hundred millions more? Can we prove our ability to pay \$2,550,000,000 by voluntarily, or at the dictation of our creditors, adding

largely to it? To suppose so is to forget entirely that the present amount, mostly due as it is in a medium easiest to raise, weighs down our credit to a deplorable degree. I am not unmindful of the indignation, assumed or otherwise, which bondholders manifest toward those who, like myself, believe that it is not unfair to pay in kind, if of equal or greater value, this borrowed money, and that the creditor has no right to demand coin for his greenbacks unless the contract calls for coin or unless we are paying coin when they become due; but at the same time I will not forget that the people, the many, have rights no less sacred than the fortunate few.

The \$283,000,000 of 1881 bonds ought to be and unquestionably will be paid in gold, as they were mostly purchased with that commodity. In like manner the \$221,000,000 of ten-forty bonds must be paid every cent in coin; for upon those terms the loan was made. But what justice or equity demands that the fifty-two securities should be paid in a different medium from that with which they were purchased, especially if that medium possessed a value far greater than it had at the date of purchase? All this loud talk about the dishonor of a refusal to respond to this extraordinary demand of the bondholder shall pass by me as the idle wind. Repudiator is one of the commonest appellations indulged in against the opponents of this measure; but that name is equally applicable to him who refuses his purse to the footpad.

I have already said that if the fifty-two bonds were really payable, as this bill attempts to declare, in coin, or its equivalent, there could be no necessity for its passage; but the very fact that the measure is brought forward is a palpable confession of the truth that they are not so payable. The letter and spirit of the law are in harmony; and these bonds should be discharged, like the ordinary and multifarious obligations of the country, in any lawful money—in gold if we are paying gold when they must be paid, and if not, then not. Should business reach a specie standard before these bonds become due, of which there is some hope provided we do not rashly forfeit our credit, as is now proposed, the holders of them would have nothing either to complain of or deplore, for they would be paid in current gold dollars. But here we are met with the statement that we are soon to reach specie payments in spite of events; and that the fifty-two bonds will in that case be paid in coin, and the passage of this bill therefore can do no harm. The fallacy of such a position is easily exposed. If we could arrive at a gold basis without much delay, and notwithstanding this proposed action the statement would possess considerable force. But some calculation is admissible to determine the effect of adding this \$700,000,000 to our acknowledged indebtedness.

Before the war, when we owed but a few millions, not more than fifty or sixty, United States bonds commanded a premium of fifteen or twenty per cent.; but when that indebtedness is run up to \$2,556,000,000, they are thirty-five per cent. below par. If it were increased to \$3,300,000,000, they must go still lower, and we should be fortunate if we escaped financial ruin like that which overtook this Republic at an earlier period of its history. It may have escaped the attention of some who ought to remember the historical fact that millions upon millions of the old continental or sage-leaf money became utterly worthless, and very many citizens who had exchanged their property, the produce of their farms and workshops, for it were utterly ruined. It is true that as a nation we were then weak and poor, and, boasting aside, we are comparatively so still, certainly poor if we may judge from the rate our securities bear in the markets of the world. Our population was then four millions, it is now ten times that number; but if I mistake not our debt is nearly as large in proportion to population as that which our forefathers neglected to pay.

But we are told our resources are inex-

haustible, and much calculation is made upon a great unborn population and boundless wealth yet undeveloped. A ready response to this is furnished in the fact that our ancestors had all the undeveloped wealth of the new world, all that has since been developed and all that will be forever hereafter, and still they flatly repudiated.

We expect to discharge our debt in full, principal and interest, down to the last cent, but it may be well to suggest to the creditor before hundreds of millions are unnecessarily added to our burdens that our fathers survived the death of the continental money, and the action of Washington and his compeers in this regard is not even remembered against them.

The persistent effort of the bondholders to carry their point by appeals to our fears and false pride may eventually succeed, but a victory gained by such device would be no less dishonorable than the worst form of repudiation; and in my judgment far from advantageous to those who are urging it. It may result in utter discouragement of the people.

It was a great mistake in the first place to make the interest on any portion of the public debt payable in coin. The object was to tempt the cupidity of money-lenders; and it succeeded admirably; but it was a most unfortunate step for the Government. Better have resorted to more stringent taxation, or even to forced loans, than to have submitted to this exaction. Capitalists were more interested in the suppression of the rebellion than any other class of people, and their property should have been required to contribute to its overthrow without any extraordinary inducement such as gold interest or high premiums upon loans. The consent of the drafted man to render his service was never asked; he was compelled to march and to fight, and the capital of the wealthy is not more sacred than the life or limb of the poor. If "it is sweet and becoming to die for one's country," it ought to be equally agreeable to surrender a portion of one's property for the common safety. There was really no overwhelming necessity for this promise to pay interest in coin, and had half its evil results been foreseen it would never have been made. About the only public advantage I am able to see in that provision is found in the fact that it prevents the exportation of an amount of coin sufficient for that use. It is but poorly disguised, even by the able and ingenious arguments of Senators, that by far the greater portion of the coin that was in the country before the war has gone abroad, and the principal obstacle in the way of getting back to specie payments will prove to be the want of specie itself.

An unintentional confession of the need of coin in the country before its use can be resumed appears in the persistent effort of its advocates to show that a large amount is already in the country, whereas, in fact, the amount is extremely limited. One hundred million dollars—a little more or less—are in the Treasury, but not nearly as much beside, in my judgment, in the country all told. But for this requirement of coin to pay interest there would have been no necessity for even this \$100,000,000 which revolves over and over in connection with the Treasury, and that, too, would have sought a foreign market. This solitary advantage, however, weighs but lightly in the balance against the disadvantages to the country from that source. The obligation to pay interest in coin presents a strong inducement for the holders of securities to depreciate their value. It is too plain to need more than the bare assertion that the lower the price of such bonds the higher will be the yield of interest on the capital invested in them. Six per cent. gold interest on a bond at par is equal to twelve per cent. when the bond is worth only fifty cents on the dollar, and nine per cent. when it is worth but seventy-five cents on the dollar. The holder of securities bearing gold interest therefore has a powerful incentive to deery their value in the market. He puts money in his pocket precisely in proportion as he injures the public credit.

It is impossible to tell to what precise extent men are governed by their own interests, and equally impossible to prove that the extremely low price of United States bonds all along is attributable to this cause; but I cannot withhold the belief that it has had very much to do with depressing their value. That the bondholders have it in their power to affect the public credit at any time few will deny; and the only question to consider is whether or not their interests would lead them in that direction. The reduced rates of our securities in the markets of America and Europe is a profound mystery if it cannot be ascribed to this influence. The United States six per cent. securities are hardly second to the best in the world, and ought to command a large premium; but the German banker, with an outlay of \$75,000, draws his six per cent. gold interest semi-annually on \$100,000, which is equivalent to nine per cent. on his capital. He at least can have no motive in building up our credit while more bonds can be purchased. By reducing it he adds to his capital and his income.

Suppose the bonds were silent as to the kind of interest to be paid, and the interest were discharged regularly in current money the same as all other obligations of the Government, the case would then be precisely the reverse. It would then stand the creditor in hand to build up the public faith. He would gain in that case by the enhanced value of the money he received as interest, and every detraction from the credit of the Government would result directly in loss to each and every bondholder.

Further argument upon this head seems superfluous, and I hasten to notice the disadvantages of recognizing a distinction between coin and the Government currency. But when this distinction is so clearly acknowledged by the Government itself as it is in paying all its ordinary obligations in paper and interest on the public debt alone in coin, the people individually cannot avoid discussing it, and comparisons are often drawn unfavorable to the public credit. This leads to frequent disparagement of the Government securities, and it turns out that these paper promises are a much better representative of the public credit than of dollars. The reputation of a Government, like that of an individual, for solvency is impaired by being much questioned.

We have long been hoping that by some means we might succeed in funding our national debt into a security bearing a less rate of interest. Plans for that end have been introduced almost without number, and the committee that reports this bill have brought forward at least one plan during this session for the funding of the public debt. But pass the bill and you will have reached the end of the question of funding the public debt. It will be utterly impossible to effect loans at a less rate of interest than that which these bonds which are already issued bear. When we agree to pay the principal and interest in gold, interest at six per cent., who will be induced by any motive you can present to take a bond at a less rate of interest? No one. The suggestion is absurd. The debt will not again be funded.

It will be remembered that the public debt affords an opportunity for a very large proportion of the capital of the country to escape taxation entirely, and as a consequence the burdens of taxation fall the heavier on the remaining property. The interest on the public debt, therefore, should be no higher than the ordinary net profits on prudently conducted business. It should in no case exceed the clear income upon money otherwise invested and subject to taxation, which, as a rule, falls far below six per cent.

Every inducement presented to capital to evade active employment is a disadvantage to the public. Its tendency is to stifle industry and retard the increase of fixed capital. And from this cause possibly it may turn out that too high an interest is disadvantageous in the long run, not only to the producing classes, but to the bondholders themselves. The best rule for all

is to pay regard to the interests of all—the poor as well as the rich, to labor as well as capital, to the unfortunate as well as the fortunate. I fear the tendency of much of our legislation is to make the rich richer and the poor poorer. This is not an unnatural result of the great calamity of civil war and the creation of a large creditor class in the Republic. The rich and powerful are always vigilant and active, while the poor, intent alone upon their own subsistence, are apt to overlook their rights.

But the eternal principles of justice can never be violated with impunity. While we render unto Cæsar the things that are Cæsars the more humble citizen must not be neglected or forgotten.

The PRESIDING OFFICER, (Mr. WELCH in the chair.) The question is on the amendment of the Senator from Missouri, [Mr. HENDERSON.]

Mr. SHERMAN. Let it be read.

The CHIEF CLERK. The amendment is to strike out in the first section, after the word "that," the following words:

In order to remove any doubt as to the purpose of the Government to discharge all just obligations to the public creditors and to settle conflicting questions and interpretations of the laws by virtue of which such obligations have been contracted.

And after the words "pledged to," in the eighth line, to insert:

An early resumption of specie payments by the Government, in order that conflicting questions touching the mode of discharging the public indebtedness may be settled, and that the same may be paid in gold.

And to strike out the residue of the section, so that the section, if amended, will read:

That it is hereby provided and declared that the faith of the United States is solemnly pledged to the early resumption of specie payments by the Government, in order that conflicting questions touching the mode of discharging the public indebtedness may be settled, and that the same may be paid in gold.

Mr. SHERMAN. I suggest if the Senator wants this section amended that he move to strike out all the words down to the close of the seventh line, so as to read grammatically, and then it will stand:

That the faith of the United States is hereby solemnly pledged to the payment of the debt in coin.

Mr. HENDERSON. I do not object to that. Strike out to the end of the seventh line containing the first word "that," so as to read:

That the faith of the United States is solemnly pledged to the early resumption of specie payments, and, &c.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. MORTON. Mr. President, as this bill came from the House it was applicable only to the payment of bonds; it was made applicable only to interest-bearing obligations; but it has been amended by the committee here so as to strike out the words "interest-bearing," and therefore applies the pledge to payment in coin of all the obligations of the United States except those that are expressly made payable in currency. Under the operation of this amendment the pledge to pay in coin is made applicable to the United States notes, commonly called greenbacks. This part of the bill meets with my approval. I believe it is the first time that it has been proposed in Congress to declare that the greenbacks are to be paid in coin. Although logically there is nothing else in which a greenback can be paid, yet I believe it has never been sought or desired on the part of those who have been tinkering with the law upon this question to declare that the greenbacks were payable in coin.

Mr. President, if the bill shall pass in this form the faith of the Government is solemnly pledged to the payment of the currency in coin—not that the currency may be funded; not that it may be indefinitely postponed; not that it shall be allowed to run until natural causes shall improve it; but it is now proposed to pledge the faith of the Government that it shall be paid in coin.

Mr. POMEROY. That was so before.

Mr. MORTON. That was the logical result before, but it has never been so declared, and

I congratulate the Committee on Finance as having taken a long step in the right direction. When this Government has given an assurance to the country that the United States notes shall be paid in coin certain duties will result from that pledge. It will then become a duty to take steps to make the pledge good and to pay these notes in coin. They are now due, over due; the bonds will not be due for years; and when we solemnly pledge the faith of this Government that they shall be paid in coin it devolves on us an immediate duty of making preparations for such payment.

If I could vote for this part of the bill without voting for the rest of it I would be glad to do so, but I cannot vote for this first section because it commits me to a definition of the contract and a construction of the law in regard to the five-twenty bonds that I do not believe to be true. This bill proposes to settle conflicting questions in regard to the interpretation of the law and to declare the true intent and meaning of the statutes creating the several classes of bonds, and providing that all of them, except those expressly made payable in currency, shall be paid in coin. I do not believe that is the law. I cannot vote for that declaration without proving false to my own convictions, and therefore I will not vote for it.

And now I propound this question: it is either intended by this bill to make a new contract, or it is not. If it is intended to make a new contract I protest against it. We should do foul injustice to the Government and to the people of the United States, after we have sold these bonds on an average for not more than sixty cents on the dollar, now to propose to make a new contract for the benefit of the holders. And therefore, if the effect of this declaration is to make a new contract, is to assume an obligation that does not now exist, I protest against it. If it does not propose to make a new contract, but simply to enforce that which now exists by law, then it is unnecessary.

Mr. President, this bill begins with a title "An act to strengthen the public credit." It is a small stump speech injected into the title of the bill. The idea that we are to strengthen the credit of the United States by this enactment would be absurd if it did not emanate from such a highly respectable quarter. That the credit of this Government is to be improved, or, in the language of this bill, is to be strengthened by a resolution, I do not believe. No, sir; that will not be the effect of it. What is the purpose of it, and what will be the effect of it? Simply to raise the price of bonds in the market and to put money into the pockets of the speculators.

Sir, it is understood, I believe, that the passage of a bill of this kind would have the effect in Europe, where our financial questions are not well understood, to increase the price of our bonds and increase the demand; and that will enable the great operators to sell the bonds they have on hand at a profit. It is in its nature a brokers' operation. It is a "bull" movement, intended to put up the price of bonds for the interest of parties dealing in them. This great interest is thundering at the doors of Congress and has been for many months, and by every means attempting to drive us into legislation for the purpose of making money for the great operators. That is what it means, and nothing else. So far as it may have any effect upon the future result, as to whether these bonds actually will be paid in coin or currency, it can have none possibly. Why, sir, do we not all know just as well as we know anything that if when the first five-twenties shall come due in 1882 our currency is still depreciated and we have not returned to specie payments we cannot pay these bonds in gold? This Government cannot procure the gold on a depreciated currency to pay these bonds. Hence, no difference what the contract may be, no difference what may be the declaration of the law, if when these bonds come due we have returned to specie payments and our currency is equivalent to gold, then we

shall pay in gold or its equivalent without regard to the contract, because we shall have nothing else to pay in. So far as the final result is concerned, it makes no kind of difference what the contract is, one way or the other. If when these bonds come due we have returned to specie payments we shall have nothing to pay with but gold or its equivalent. If we shall not have returned to specie payments we cannot pay in gold; we must either pay in currency or not pay at all.

What good is to be obtained by this declaration so far as the final result is concerned? Absolutely nothing. Why, sir, here is an exception in the bill that is wholly unnecessary:

Except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money.

That exception is of no importance at all, because when we come to specie payments our lawful money will be equivalent to coin. Therefore we will pay those bonds in just the same money that we will pay others that are provided expressly to be paid in coin. Then, Mr. President, why this higgling about the contract? It cannot possibly affect the future result. It is therefore for the present. It is simply for speculative purposes, and for no others.

Mr. President, I confess my surprise that the same committee that brought forward the bill which we discussed the other day, and which, I believe, died a natural death in this body, should now indorse this one. What was the purpose of that bill? It was to provide that the surplus gold now in the Treasury, and that which is hereafter to accrue through the form of gold notes, should be applied to the purchasing of these securities in the market at the market price. Of course it was the interest of the Government to get those bonds, when it came to buy them thus, at as low a price as possible; but here is a bill the object of which is to put up the price of those bonds in the market so that the Government would have to pay more for them. I disagreed to that policy, because I said it was bad faith—and I desire to repeat that statement here to-night—to take the gold in the Treasury and use it for the purpose of buying up bonds that would not become due for years, instead of applying it to the payment of obligations that are now due and which we are bound to pay in coin or not at all.

But, sir, while it is contended one day that we shall take our gold and buy up these bonds in the market and let the currency go, by the next bill the attempt is made to raise the price of these bonds in the market, and thereby increase the cost for which we will get them. As has been stated here to-night, if this bill passes all prospect of funding the public debt until we return to specie payments has passed away. When you have declared that a six per cent. bond is to be paid in gold, and you give the public a general assurance of that kind, will you expect the holder of that bond voluntarily to give it up and take a four and a half per cent. bond? No, sir; all prospect of funding the debt after the passage of this bill must be put by until we return to specie payments.

When do the Committee on Finance expect to return to specie payments? According to the bill we had before us the other day there was a theory for that; there was a mode of returning to specie payments; and that was that the currency was not to be brought to par until the five per cent. bonds were brought to par—until the bonds bearing the lowest rate of interest and the last ones to get to par had been bought up. Why, sir, it would take ten or fifteen years, perhaps, to accomplish that. The currency was put behind the whole bonded debt, according to the theory of that bill. Although that bill has perished its friends have not given it up; and here is a bill that says substantially to the country, all ideas of funding must be put away until we have returned to specie payments.

Now, sir, after we return to specie payments we can fund the debt. How? We can take

a bond drawing as low a rate of interest as it will sell for at par in gold, take the gold and redeem the six per cent. bonds, and by repeating that operation we can fund the debt. But you cannot sell a new bond bearing a low rate of interest at par in gold until you return to specie payments. Therefore, returning to specie payments is the condition precedent for the whole operation. The idea has been cherished—I confess I never thought very well of it, but I know it was the idea of the Committee on Finance—that we might fund the debt in a four and a half per cent. bond. I believe we passed a bill through the Senate, and I think I voted for it, providing that we should offer the bondholders a four and a half per cent. bond. We did not say whether the existing bonds should be paid in gold or not, but we left them to understand that perhaps they would be paid in greenbacks, and it was thought that that would be an inducement for exchanging the existing bonds for this new bond that was expressly payable in gold. That bill passed the Senate upon that very idea. But even that poor chance of funding is now expressly discarded by this bill.

Mr. President, I regarded the other bill as a bill for the benefit of the speculators. This bill is unmistakable in its character; it is a bill for the benefit of those who are operating in bonds and who expect to profit largely even by a small rise in them. That it can have any ultimate effect on the final result as to whether the bonds shall be paid in gold or not is utterly impossible. That does not depend upon the law at all. It depends upon the simple fact of our ability and our condition at that time. If in 1882 we have returned to specie payments we shall then pay our bonds in gold, but if at that time we have not returned to specie payments we cannot pay them in gold; it makes no difference how many declarations we make on that subject. When you return to specie payments you have nothing to pay any of your bonds with but gold or its equivalent, and therefore the exception here in favor of bonds expressly in currency is utterly worthless, because we shall have nothing then but gold and silver with which to pay those bonds.

Why, then, Mr. President, at this late hour of the session is this bill so earnestly pressed? I do not doubt the patriotism of those who are urging it; but that its only effect can be to improve the present value of the bonds in the market, and put money into some men's pockets, is clearly manifest. The provision in it that the greenbacks are specifically payable in coin I regard as valuable, if it is put in to mean anything. If it is put in as a mere *placebo*, for the purpose of getting votes and allaying the apprehension in the public mind, it means nothing and will not be acted upon. But if we mean what we say, that this currency is specifically payable in coin, then we should begin the preparation to pay it in coin. And how shall we do it? By collecting the gold to do it. You cannot pay the debt unless you have got the money to pay it. You cannot pay the greenbacks in gold unless you have the gold. But we are told we cannot get the gold to pay \$350,000,000 of greenbacks; and yet we are required solemnly to pledge ourselves to pay \$2,200,000,000 of bonded debt in coin. When we ask for the redemption of the currency in coin we are told it is impossible. The Government cannot get gold enough to do it; and yet the same Senators turn round and ask us to pledge the faith of the Government solemnly to pay \$2,200,000,000 of bonded debt in gold. Sir, as the payment of these bonds in gold does not depend upon the form of the contract, but depends entirely upon the future condition of the country, why should we be higgling about this contract? This bill ought not to pass. It is tinkering with the law, not to strengthen the public credit, not for the permanent good of the country, but for the benefit of men who are dealing in bonds.

Mr. SHERMAN. The Senate seem to manifest impatience, and I thought nothing in the world could tempt me at this late hour of the

night to say a word upon this bill, but the remarks made by the honorable Senator from Indiana are so extraordinary that I deem it my duty to reply, and if it were night or morning I would do it alike.

The Senator seems to attack with great violence the Committee on Finance ever since we had the misfortune to disagree with him in regard to his plan to promote the public credit and resume specie payments. We were not able to report in favor of it, but reported against it, and ever since that time everything that we have done seems to meet his disfavor. He says the plan reported by us is dead, still-born. I suppose he killed the bill, according to his idea. Let me inform the Senator from Indiana that every word and every clause in the bill introduced by the Committee on Finance, in my judgment, will be the law of the land within twelve months from this time. This bill contains one section of it; and I have no doubt that all the other features of that bill will be embodied in the law of the land. If we could have had a vote of the Senate upon it, probably by this time it would have received the sanction of the Senate; but everyone saw the impatience of Congress, the hesitation and delay, and unwillingness to settle this question on broad principles.

The bill that is sent to us from the House of Representatives is not a bill of my own choosing. So far as it goes I approve of it; so far as it meets my views I approve of it. What does it contain? The remarkable declarations now made by the Senator from Indiana to cast reproach on this bill will attract attention. What is the bill? The second section of it has been often debated and has twice passed this body. What is the first section? It does not contain a single thing except the preamble, or in the nature of a preamble, but what the Senator himself advocated. He proposed the resumption of specie payments in two years, and then every dollar of this debt became payable in gold. According to his plan the people were to hoard the greenbacks and the United States were to hoard the gold, and by this process we were to get back to specie payments; and because not a single member of the Committee on Finance could see any virtue in this remedy of his therefore everything that we do meets with his disapprobation.

Mr. MORTON. I enter my protest against the declaration of the Senator that I have attacked the committee. I have not. I have imputed nothing wrong to the committee. I attribute to them nothing but patriotism and the desire to do what is for the best interests of the country. But, sir, I have attacked their measures; and I suppose I have the right to do that without having it regarded as personal. Certainly for the distinguished chairman of that committee I entertain nothing but profound respect. But so far as the measures of that committee are concerned they are public property. Now, sir, in regard to the bill—

Mr. SHERMAN. I think I have given way long enough.

Mr. MORTON. Just one word. The Senator stated that I intimated that I had killed the bill. Did I say one word like that?

Mr. SHERMAN. About the same thing.

Mr. MORTON. No, sir; I intimated nothing of the kind. I did not refer to the fact that I had said one word about the bill, but I did say it died a natural death, and who can dispute it? I did not say it was murdered by me or by anybody else.

Mr. SHERMAN. Mr. President, I dispute it. It is not only not dead, but it liveth and will be the law of the land; and you here in this bill will make one of the most important and fundamental provisions, the first section of that bill, the law of the land, and I suppose that every section of it will be hereafter made the law of the land. Now, in justice to the Committee on Finance let me state what those sections were, because one of the organs of this body cannot sit here quietly and hear its measures thus arraigned at any time, in the night or in the morning, without a reply. What were

the measures of that bill? The first was that gold contracts should be legalized. Here it is in this bill. The second was that \$140,000,000 should be set aside to redeem the public debt, and that will be done unquestionably. Now, more than that is set aside, but it is not applied because the law is not put in force. The third was to tie the fate of the greenbacks to the fate of the bonds. That is done here by the amendment proposed by the Committee on Finance, so as to put the bond and the note precisely on the same footing, both to be paid in gold, both to be treated alike; and I have no doubt whatever that at the next session of Congress the demand of the public as well as the sense of justice of Congress will compel us to authorize the holder of the greenback to receive his bond, dollar for dollar, for his paper money; there is no doubt of it.

What else? The other section of the bill, the only material one, was a section which provides for free banking. The Senator himself professed to be in favor of it. He himself desired and voted to withdraw from all the eastern States nearly or more than one half of their circulation with a view to place it in the South, and then to compensate the East by free banking. Those were the provisions of the bill from the Committee on Finance, and there was not one of them that I think the honorable Senator himself would not approve.

But now this bill came to us from the House of Representatives, and I will state very briefly what it is, for I know it is wrong for me to delay the action or vote of the Senate upon it. What is the first section of this bill? It is simply a solemn pledge of the United States that all the obligations of the United States, notes and bonds, shall be paid in gold and silver coin, except only those where the law expressly provides that they shall be paid in lawful money. But my honorable friend says, why the exception? It shows that he has not examined this question with his usual care or he would not have asked that question. Why, sir, there are some fifty or sixty million dollars of three per cent. certificates expressly payable in currency. If they were not excepted from this declaration they would to-morrow be payable in coin on demand at the Treasury of the United States. Therefore this exception is made. There are also bonds issued to the railroads expressly payable in currency. But for this exception they would be paid principal and interest in gold. The interest on those bonds is semi-annually paid in lawful money. It was necessary to except certain currency obligations. But we say that with regard to all other obligations, paper money and bonds, they shall be paid in gold and silver coin.

Now, sir, the first part of this section I should like to see the Senate strike out, because it makes the declaration clearer, stronger, and more emphatic than I wish. Why? I do not believe, and I never could reason myself into the belief, that the law which authorized the issue of these bonds made a discrimination against the lawful-tender money of the United States. I think so yet; and I do believe now that by a fair and reasonable construction of those laws the bonds of the United States might be paid in lawful money issued within the limits and according to the terms of those laws. But do we propose to pay those bonds in lawful money? Certainly not. We have not the money to pay them. We dare not increase the taxes in order to gather in this lawful money to pay the bonds. We must postpone the payment of the bonds. I repeat that under the condition of our finances it is impossible to pay any considerable sum of the principal of this public debt either in lawful money or in gold. Our people do not and will not ask us to levy more taxes upon them in order to avail themselves of the legal privilege or right which they have to pay in lawful money.

My honorable friend from Wisconsin was talking about taxes. According to his doctrine he would have us levy more taxes in order to gather in this lawful money so as to avail ourselves of the legal privilege to pay the bonds in

lawful money. That is his idea. Sir, the people of the United States do not desire now to pay any more of the principal of this public debt than one per cent., a small amount, and to adopt a policy which will in the end pay the whole of it. But what shall we do in the mean time? Shall we suspend specie payment until we can pay the whole of this debt by taxes? Is that the policy of the gentleman? Is the payment in specie to be postponed indefinitely? My friend from Indiana says only for two years, and then he would bring it about by hoarding gold and by hoarding greenbacks.

Do our Democratic friends propose to postpone the resumption of specie payments until this debt matures, until we can gather in a sufficient amount of taxes to pay off the principal of the debt in lawful money? No, sir. The honor of the country, the good faith of the nation, the public interest of the laborer, the rich and the poor, all classes demand that we should resume specie payments as early as possible and place all the obligations of the people of the United States upon the solid basis of gold and silver coin. We cannot delay that primary duty; and therefore I look upon this first section as simply a declaration that we will now perform our primary duty of making our notes equal to coin, and I have no doubt that if that policy is pursued and adopted the bondholder will be glad to get the lawful money of the United States in payment of his bond. But now all that this first section does is to declare as a matter of public policy that the notes and the bonds shall alike be paid in gold; the bonds as they gradually mature, and the notes long before any of the bonds mature. Why, sir, none of these bonds mature until 1881, and we cannot get the lawful money to redeem them even at the end of five years, when we have the right to redeem them, except by taxes. We cannot draw in the lawful money of the United States except by taxation. We cannot adopt the repudiating scheme of our Democratic fellow-citizens of the United States of issuing broadcast in violation of law a large amount of legal tenders and thus repudiating our debt. I never could see how honest men could propose that. Then, the only way we can get lawful money to pay this debt is by taxation, and our people will endure no more than they are now paying. They have no desire to assume all the burdens of paying the public debt now. They are willing to see a portion of it postponed, but in the mean time we cannot prolong this suspension of specie payments until we can avail ourselves of that privilege.

I say, then, that the primary duty of the United States is to resume specie payments as rapidly as possible and make the lawful money of the United States equivalent to gold. Therefore I look to see the bonds of the United States advancing step by step with the money of the United States to the par of gold. Sir, it gave me a thrill of pleasure when I saw that the bonds of the United States are now worth eighty-nine cents in gold in the markets of London. I do not care who made money by it; God knows I did not. I have no interest in it directly or indirectly. I was glad to see our bonds appreciate in the market, and that the holders should get the benefit of that appreciation; and I trust that in three or four or six months, or a year, these bonds will touch par in gold.

But my honorable friend from Wisconsin comes back and says, how can you fund the public debt? I will tell him. We will do it just as England and just as every other country did that reduced the rate of interest. Whenever the bonds of the United States rise above par in gold then we can place in the money market of the world a bond bearing a lower rate of interest. If our bonds this day had reached the par of gold we could put in the market without question or difficulty a bond bearing a lower rate of interest. Sir, I believe that if we would now wisely and persistently, firmly and boldly, march to the resumption of specie payments in such a way as not to distress our people, not by increasing

taxes, but by steadily appreciating our public credit until the five per cent. bonds rise to par in gold, the whole of the six per cent. bonds could be paid off. There is now only about fifteen per cent. difference between the market value of the ten-forty bonds and gold. If we can wipe out that fifteen per cent. by an appreciation of the public credit then your funding will go on with rapid speed; the whole of the five-twenty bonds will be paid off.

Why, sir, when the bonds of England rose to one hundred and three per cent., three per cent. above par in gold, then it was that they reduced the rate of interest one per cent. by putting a bond at a lower rate of interest in the money market. That is the only way that you can carry out a process of funding. In my judgment it is the most rapid way. If we were able to gather in taxes more rapidly, if we were able to levy upon our people a larger amount of taxes and apply fifty or one hundred million dollars to the payment of the principal we could carry on the process just so much the more rapidly, but we dare not extend our system of taxation without losing the confidence of the people. The only other resort is to advance our public credit, to elevate our bonds from the slough of despond in which they were cast by the burden of the war, to elevate our public credit to where it was before the war, and then the burden of this interest will pass away by the reviving credit of our country, and we may hope to see our bonds bearing in the money market of the world, in the hands of the rich and the poor, the foreign and the native, all the credit that now clusters around the three per cent. consolidated debt of England. Then it may be that we will not satisfy ourselves by reducing the rate of interest to five but to four and a half or four per cent.; and probably within twenty or thirty years we may stand as Great Britain does with our credit such that we can get par for our bonds at three and a half per cent. interest in gold.

But, sir, in the mean time we must not be diverted from the difficulties that stand in our way. In my judgment the plan reported here at this session by the Committee on Finance is the best, the most rapid, and the most effectual way to bring about this state of affairs. I am not discouraged by the reluctance of the Senate to assume it. I know that such propositions are always of slow growth. But I assure my honorable friend from Indiana that if he supposes that any section or line or word of that currency bill is dead, or even that it sleeps, he is very much mistaken. He will find it either in whole or in part meeting him at every stage of this progress until every word of it is ingrafted in the laws of the United States.

I know that my friend, for whom I have the utmost kindness and the greatest good feeling, did not intend any unkindness in the remarks he made; but when he attacks an organ of this body, and speaks of me as the chairman of that committee, and accuses them of being guilty of vacillation and mutations and changes in their reports of bills, as a matter of course he naturally excites a feeling which will not submit in quiet to that imputation.

Sir, I myself came with slow reluctance to the declaration made in the first section of this bill. I declare now to you here that my construction of the law under which these five-twenties and under which the greenbacks were issued still remains unalterable; for I have examined it carefully again at the present session; but I do assert, as a question of public policy, that it is wise now for us to declare in the language of this bill that the bonds and greenbacks alike shall be paid in gold as rapidly as we can do so; that these greenbacks and these bonds may be linked together in every law that is passed; that every privilege that is given to the bondholder shall be given to the holder of the greenback; that both together shall rise gradually to the par of gold, when the bondholder may be paid off by bonds bearing a lower rate of interest and with a large saving of interest to the people of the United States in that most oppressive form of our expenditure.

I again beg the pardon of the Senate; not for being excited—I do not think I am excited—but for being aroused to occupy a few moments of their time at this late hour of the evening. I think this question has been fully considered, and I hope, therefore, that without any more debate on the subject to-night we may have a vote upon it.

Mr. DOOLITTLE. I shall occupy but a moment in reply to the honorable Senator from Ohio. He began in the fore part of his speech by saying, and he concludes by saying, that the five-twenty bonds by the fair construction of the law and the contract are payable in greenbacks. Now, sir, I take him at his word. By the law of the case the principal of these five-twenty bonds is not payable in gold, but in greenbacks; and the question that I put home to the Senator from Ohio is this: if the principal of nearly two thousand millions of bonds are payable in greenbacks by the fair construction of the law, as he has often said and now repeats as his deliberate opinion, can you now justly force the people of the United States to pay them in gold without a violation of the contract in letter and in spirit? If the contract to which the great mass of this people are pledged is to discharge those bonds in greenbacks, which are only worth seventy-five cents on the dollar, can any man who takes that view of the law of the case, who says that is the true construction of the law under which the bonds were issued, stand before the American people and say "You are bound to pay them in gold?" No, sir; no man can give that construction to the law and consistently vote for this bill. You must either stand upon the law, that the true construction is that the people were bound to pay the principal in gold or that they were bound to pay them in greenbacks; and if they are allowed to pay them in greenbacks, you cannot, without inflicting injustice upon the people of the United States, now say that they shall pay them in gold.

Mr. WILSON. May it not be their interest to do that very thing?

Mr. DOOLITTLE. The honorable Senator from Massachusetts asks me is it not the interest of the people of the United States to pay in gold when they have only agreed to pay in greenbacks? No, sir. It makes about eight hundred million dollars difference in the amount of their public debt. It adds that amount to the debt if you take the whole debt; but if you refer simply to the five-twenty bonds, it adds about one fourth to their amount.

Mr. EDMUNDS. Will the Senator permit me to ask him a question?

Mr. DOOLITTLE. I am arguing now with the Senator from Ohio, the chairman of the Committee on Finance, and replying to his speech, and if my honorable friend from Vermont will wait until I have replied to him, if he then makes a speech I may reply to that, though I do not wish to occupy the time of the Senate further.

Mr. EDMUNDS. As the Senator misstated the fact entirely with reference to the amount of these bonds, I wished to call his attention to it.

Mr. DOOLITTLE. I am dealing with the Senator from Ohio, the chairman of the Committee on Finance.

Mr. EDMUNDS. Yes; but you are misstating facts.

Mr. DOOLITTLE. The chairman of the Committee on Finance admits here, and repeats it twice solemnly, after a full examination of the law at this session, that these bonds are payable in the lawful currency of the country, or the greenbacks; and yet he stands here urging the Senate of the United States to declare that the people who may discharge these bonds in greenbacks, which are worth seventy-five cents on the dollar, shall discharge them in gold at a hundred cents on the dollar.

Now, Mr. President, the honorable Senator from Ohio says, while he gives that construction to the contract, the difficulty is to know where can you get the greenbacks? He asks, will you adopt the repudiating scheme of

the Democratic party, and issue an unlimited amount of greenbacks equal to the amount of bonds? Nobody ever proposed anything like that.

Mr. STEWART. Pendleton did.

Mr. DOOLITTLE. No, he did not. The gentleman says Pendleton did. Even Mr. Pendleton, who went further than any other man on this subject of issuing greenbacks, distinctly, and over and over again in the canvass repudiated as false the declaration that he was in favor of issuing an unlimited amount of greenbacks in order to discharge these bonds; and I can say for myself—and I believe for the great mass of those who acted with me in supporting for President Mr. Seymour in the last canvass—the large majority of them everywhere maintained that the law under which the greenbacks were issued limited the amount of greenbacks to the amount of \$450,000,000. I stand upon the law. I am not for repudiating it in favor of the bondholder, nor am I for repudiating it in favor of the tax-payer. I stand upon it as it was made. I take the construction of it that the Senator from Ohio gives it, and in this argument I hold him to that construction. I assume, therefore, they are payable in greenbacks, and not in gold.

Mr. STEWART. I should like to ask the Senator—

Mr. DOOLITTLE. I desire not to be interrupted when I am dealing with an important subject of this sort.

Mr. STEWART. I did not wish to interrupt the Senator. I only wished to ask him how he was going to pay them in greenbacks?

Mr. DOOLITTLE. I will come to that in a moment. The honorable Senator from Ohio asks, where will you get the greenbacks?

Mr. MORTON. Where will you get the gold?

Mr. STEWART. Let him answer first where he will get the greenbacks.

Mr. DOOLITTLE. Mr. President, if the Senator from Ohio had given his attention to the important letter which I read in the Senate to-night he would have had no difficulty on that subject in seeing just how it could be done. That letter was from a member of the same house in London that negotiated the first six per cent. stocks of the United States which funded our original debt, the house which eliminated the scheme and put it in operation.

Mr. STEWART. Tell us how it was done.

Mr. DOOLITTLE. If the honorable Senator will be quiet for a moment, I will repeat the substance of the letter. It was in substance this: that the Government of the United States should issue its stocks for four and a half per cent.; that upon that stock seventy-five per cent. in sterling could be realized, and with your seventy-five per cent. in gold you could obtain your greenbacks, which are worth seventy-five cents in gold upon the nominal par, and then with your greenbacks you could pay the principal of these five-twenties which have become payable under the law.

But the Senator says there are not as many greenbacks as there are bonds. That is very true; but what did you get for your bonds? You got these same greenbacks and nothing else. They were paid over and over and over again; and you can go into the markets of the world, at home or abroad, and with a four and a half per cent. stock pledging the Government to pay principal and interest in gold you can raise the gold and exchange that gold for greenbacks, and with the greenbacks discharge a portion of the public debt; and you would not be compelled to go further than to pay one or two hundred million dollars of the principal of these bonds in greenbacks before every holder of your five-twenties bonds would gladly accept a four and a half per cent. bond, or a four per cent. bond payable principal and interest in gold in lieu of his present six per cent. five-twenties bond. That is the substance of the proposition of the man who represents the very house in London that negotiated the first debt of the Government of the United States.

Mr. STEWART. The proposition, then, is to compel the bondholders to agree to a repudiation of twenty-five per cent of their bonds by searing them into taking bonds of less value.

Mr. DOOLITTLE. I am interrupted by the Senator from Nevada to say—

Mr. GRIMES. Will the Senator be kind enough to allow me one moment?

Mr. DOOLITTLE. Certainly.

Mr. GRIMES. As I am anxious to get through this debate in time to-night to make proper preparations for church to-morrow morning, and as I find by a rule of the Senate that it is out of order for any Senator to interrupt another while speaking, I give notice that from this time forward I shall call any one to order that interrupts the speaker.

The PRESIDENT *pro tempore*. It is out of order to interrupt a Senator on the floor.

Mr. STEWART. I shall not do it again.

Mr. DOOLITTLE. The Senator from Nevada interrupts me to say that we propose to the bondholder to repudiate one fourth of the debt. We propose no such thing. We propose to pay the debt according to the letter and spirit of the law. The Senator from Ohio, to whom I am replying, expressly declares to the Senate, speaking for himself, that by the fair construction of the law we are not pledged to pay anything but greenbacks. We are not pledged to pay the gold; and therefore it is not repudiation. I say to the Senator from Nevada that if that be the fair construction of the contract that the people are bound only to pay these bonds in the lawful money of the country, which is worth but seventy-five cents on the dollar, you are for repudiating the contract; you are the repudiator; you would tax the people one hundred cents where by the law of the contract you only have the right to tax them seventy-five. I brand your proposition as repudiation; repudiation, and nothing but repudiation.

The PRESIDENT *pro tempore*. Senators must address the Chair and not each other.

Mr. DOOLITTLE. Mr. President, I stand upon the contract as the Senator from Ohio admits it to be; and you have no more right to repudiate it so as to bring heavier burdens upon the people than you have to repudiate it in order to destroy the real and just obligation which the bondholder has against the Government. The bondholder has his obligation worth seventy-five cents on the dollar in gold, as it now stands, and no more; and you propose to put this additional burden of twenty-five per cent. on the people of the United States. You repudiate the contract. We agreed to pay a dollar in paper money, not a dollar in gold.

Sir, this cry that it is our purpose to repudiate the just obligations of the Government is a false cry from the beginning to the end. We stand for the contract. You are for repudiating it. You began by repudiating the old contracts when you passed your legal-tender law. You made the paper money issued under that law a legal tender in payment of contracts already in existence as well as a legal tender for contracts *in futuro*. You declared that you would allow a contract which a man had solemnly engaged to pay in gold to be discharged in paper money.

Mr. President, I confess that I feel some interest in pleading in this case. I am not pleading, I admit, for the bondholders or the bond-purchasers in Wall street or London or elsewhere, but I am pleading for the great mass of the people of this country who have to bear the burdens, who have to pay these bonds and pay the interest upon them. You admit that they are only bound to pay seventy-five cents on the dollar; that they have the right to discharge them in the lawful money of the country, which is only worth that amount at the present time, and yet you propose to force upon them the necessity of meeting these obligations at one hundred cents on the dollar in gold.

I should not have spoken again on this subject but for the fact that the Senator from Ohio charged me with favoring repudiation, when

upon his own ground he is for repudiation and I am for standing by the contract.

Mr. MORTON. One word further, sir. My friend, the distinguished chairman of the Committee on Finance, spoke with some asperity. I do not think he had occasion to do so, but I do not complain of it. I simply desire to call attention at the conclusion of this debate to the fact that the main position that I took he has not answered and did not even approach. I took the ground that if when these bonds became due the Government had not returned to specie payments and our paper money was still depreciated the Government could not pay the bonds in gold, and that when we had returned to specie payments and our paper currency was convertible into gold then we would have nothing but gold or its equivalent to pay, and therefore the particular form of the contract was unimportant; that this change that he proposes to make in the contract could not affect the final result, and therefore the only object of it was to affect the present price of the bonds. That was my position; and with all his knowledge and ingenuity he did not even approach it.

I might also refer to what has been referred to by the Senator from Wisconsin, that he distinctly admits in his speech, as he has done perhaps upon a dozen occasions in the Senate, that according to the law of the contract the Government has the right to pay the five-twenties bonds in legal-tender notes. He admits that here to-night; but he presents a bill that proposes to make a new contract for the Government of the United States by declaring that the faith of the Government is pledged to pay in coin a bond which he admits by the terms of the original contract may be paid in legal-tender notes. Let it be understood then that according to the confession of the chairman of the committee this bill is intended to make a new contract. Long after these bonds have been sold and long after they have been taken upon the old contract it is now proposed to make a new contract. For whose benefit? Not for the benefit of the Government of the United States; but to enable the men who deal in bonds to realize a rise upon them and a speculation. It is a new contract, because if the old contract is, as he says it is, and as he has always declared it to be, he now proposes to change it and say that the Government has not got the right to pay in legal-tender notes, but is bound to pay in coin.

Mr. HENDRICKS. Will my colleague allow me to suggest to him—

Mr. FESSENDEN. I call the Senator from Indiana [Mr. HENDRICKS] to order. He has no right to interrupt the Senator on the floor. Notice has been given that that rule would be enforced.

Mr. HENDRICKS. I am not interrupting my colleague; I am asking my colleague if he will allow me to ask him a question.

Mr. MORTON. Certainly, with pleasure.

Mr. FESSENDEN. Then I addressed the Chair before the Senator did, and I think I was recognized.

Mr. HENDRICKS. If the Senator from Maine wishes to speak I certainly do not wish to be in his way.

The PRESIDENT *pro tempore*. The Senator from Indiana.

Mr. HENDRICKS. I was going to suggest to my colleague, with his permission, before he took his seat, that this will not be the making of a new contract, for there is no new consideration passing as between the people and the persons who hold the public securities. It is an effort simply at a legislative construction of the law and the contract already made; and if it be competent for this Legislature to put a construction upon the contract it is equally competent for a future Legislature to put another construction upon it.

Mr. FESSENDEN. Mr. President—

Mr. MORTON. Will the Senator allow me to answer the question my colleague asked me, and then I will give way to him?

Mr. FESSENDEN. If every question is to

be asked in the form of a speech and to be answered by a speech I do not see that I shall get a chance to speak at all.

Mr. MORTON. I certainly give way to the Senator.

Mr. FESSENDEN. If the Senate will excuse me at this late hour of the night in saying a word or two I very much desire to do so, because I have heard doctrines advanced here to-day and this evening to which I cannot assent; and as I was somewhat intimately connected with the enactment of this law which has been so much commented upon I feel a little interest in it, that it should not be totally misunderstood and totally perverted.

The honorable Senator from Indiana, [Mr. HENDRICKS,] in the speech that he made this forenoon, undertook to say that the policy adopted by the Republican party, who passed the bill, was originally to depreciate our money; that they passed that bill with the design of issuing a depreciated currency and having it depreciated upon the market for the uses of the time. Sir, the Senator draws upon his imagination and not upon any fact when he makes that statement. That the money did become depreciated in consequence of the continuance of the war and the great expenses to which this country was subjected is true; but that it was the deliberate design or the dream of those who passed the bill to make a depreciated currency purposely I utterly deny. There is not a word of real foundation for the statement.

Mr. President, what were the circumstances under which we authorized the issuing of these notes? Senators will remember that gold had gone out of the market. Senators will remember that it was no longer in the power of the Government to obtain the gold. It was necessary that they should have some currency in which to collect the taxes which they were about to levy, and something which could pass as money for all the uses of the war. It was with that design that they issued their promises to pay; and it is a foul reproach upon the character of this people and of Congress to say to intimate that when they issued a currency, their own promises, in which they engaged to pay so many dollars to the holder, they meant to pay less than so many dollars to the holder. They guarded against the possibility of it, or endeavored to do so, in every way that they could imagine to be feasible.

What did they do? They provided that that money thus issued, those promises, might at any time be turned into a bond; and that bond should promise to pay so many dollars with so much interest, and that that interest was to be paid in gold. I will explain presently the distinction between the principal and the interest which existed. Was it the design that that should be depreciated paper? Was it the design that it should fall in the market, that less was to be paid for it than the promise that it bore on its face? Did they mean, when they said they would pay one dollar, that they intended to pay only sixty or seventy cents? Was that the object? The men of those States and the Senator himself, had he been here, would have repudiated the very idea as a reproach and a scandal; and for a Senator of the United States to rise here in his place to-day and say to the country and the world that the people of the United States, by their representatives, when they issued their promises to pay, did it with the design of defrauding the public, I say again is without the slightest foundation in fact. Sir, I meant what I said, and the Congress of the United States meant what it said, that it would pay so many dollars. What was a dollar? A dollar was defined by statute. It was gold or silver coin. That was the promise; and a promise which I for one meant to perform; and a promise which the people of the United States, through their representatives, meant to perform.

Now, sir, having alluded to that, I desire to say one word about another point, for I do not design to go into the argument. I utterly protest against the idea that two Senators in this body—the honorable Senator from Indiana

[Mr. MORTON] and the honorable Senator from Ohio, [Mr. SHERMAN,] the chairman of the Committee on Finance—shall be held as representing the Congress of the United States and the people of the United States on this subject because their opinions happen to be one way. Why, sir, this matter has been argued by the two Senators, and is argued by the honorable Senator from Wisconsin, as if the words of the Senator from Indiana and the Senator from Ohio were law to all the people of this country and to all the representatives of the people. I do not hold them to be law to me. The Senator from Indiana talks about making a new contract. Sir, it is no new contract. He assumes that as the basis of his argument. I deny it. It is the old contract.

Mr. MORTON. I assumed that on the admission of the Senator from Ohio.

Mr. FESSENDEN. And on the Senator's own admission, for he made a speech here at the last session of Congress in which he laid down the same doctrine; and I understood him to say at the time, very distinctly, that no man who was a lawyer could dispute the fact; and I undertook to dispute the fact at the time in so many words. He may be of the same opinion still; but it does not bind me.

Mr. MORTON. I never said that. You cannot find any such statement made by me.

Mr. FESSENDEN. Perhaps not, in so many words.

Mr. MORTON. The Senator cannot find it.

Mr. FESSENDEN. I think I could. That was the idea. I am very positive about that. It struck me at the time. It might have been that no man of common sense would do it; but that would be a little more offensive, and I do not think the honorable Senator said that.

Mr. MORTON. No, sir.

Mr. FESSENDEN. And the honorable Senator from Ohio, in the report that he brought in from the Committee on Finance, undertook to say substantially the same thing, that that was his construction of the statute, but did he represent the Committee on Finance in that? I understood not; that he represented simply his own opinions; and however much I may defer to his opinions, and however much respect I may have for him, and I certainly have a great deal, as I have for the honorable Senator from Indiana, I wish to say to them that they cannot get up here and argue at one another and let anybody else found an argument that because they think so therefore everybody else must think so; and yet that is really the style of argument that is adopted as between themselves, that they are to settle this question, and because they have given these opinions one is reproaching the other and holding him to it as if that was the conclusion of the country and of Congress. Sir, I undertake to say that if gentlemen accustomed to construe statutes will take the most ordinary, the best received rule of construction, and take that statute as a whole, there is no doubt about what the construction must be, and that is that the principal as well as the interest was to be paid in coin.

Gentlemen found themselves on this, and that is all the argument there is, because by the words of a section the interest simply is mentioned as to be paid in coin, it not being said that the principal is, therefore, as a matter of necessity, the principal is not. Sir, take all the statute together; construe it as a judge does; construe it as a lawyer does; find out what the meaning of the law is. I undertake to say that that construction would render the statute ridiculous and perfectly absurd on the face of it. What does it propose? It says that any man who has a given amount of these greenbacks, as they are called, may carry them at any time to the Treasury and take out a bond redeemable after five years and payable in twenty, bearing interest payable in coin. You must take that statute by itself, not as construed by other statutes, and what would be the result as a matter of fact? Why, sir, if the bond is payable in greenbacks which you have just received, the result is all a person has to do who has one of those bonds is to go

to the Treasury and receive his greenbacks for it; if it may be paid in greenbacks; and then he steps over to the other side after he has got his greenbacks and demands another bond, precisely the same thing on the same day, within any five minutes; and thus he keeps alternating from one side of the Treasury Department to the other, going and getting greenbacks for a bond, if it is payable in greenbacks; and then going over to another part of the building and getting a bond for it redeemable after five years and payable in twenty. Mind you, the statute which repealed that clause authorizing the demand of the bond for greenbacks was not passed until afterward; and when you are construing a contract arising upon a statute you cannot take a construction that is made upon a part of it afterward by a subsequent statute; you must take it by itself. Sir, the whole idea always struck me as a perfect absurdity on the face of the statute itself. It was sticking in a word against the whole spirit and the whole meaning of that law. I will not argue it over at length, because it is too late at night. I rose to enter my protest against this debate going out to the country between Senators who have expressed these opinions previously and who occupy high positions in this body as the sense of the body. It is not the sense of the body, as I take it the vote of to-night will demonstrate, if we ever get to a vote on this subject.

Now, sir, what does the honorable Senator from Wisconsin propose as a means of getting out of this difficulty and paying off our debt? That we shall issue our bonds and go into a foreign market and borrow gold? that we shall then come into this market with the gold and buy up our depreciated paper and pay off our old six per cent. bonds? that we shall trade in that way and settle our debts in that way? Sir, what would be thought of a private individual, a merchant, if he dealt in that way? Would you not call him a knave? Would you not say he was a cheat? Would you trust him? Would you have any confidence in his contract? Would you sell him a chest of tea or a bushel of corn? It is nothing but flat knavery; it is flat cheating; nothing more nor less than that; and when that is put forth as the doctrine of the Democratic party, as a new phase of the doctrine of repudiation, which they advanced in the last canvass, and which the people repudiated, I trust it will meet the same fate. It certainly deserves it. That is the short and the long of the proposition; the plain construction of it; and unless we mean—

Mr. DIXON. Allow me to ask the Senator a question.

Mr. FESSENDEN. It is out of order under the notification we have received.

Mr. WILSON and others. I object.

Mr. DIXON. With the Senator's consent I will ask him a question.

Mr. FESSENDEN. Well, sir, ask it. I have no objection.

Mr. DIXON. I desire to ask the Senator whether it is any more knavery when propounded by the Senator from Wisconsin than the same doctrine precisely when propounded by the Senator from Indiana? Anything that comes from the Senator from Wisconsin is called Democratic.

Mr. FESSENDEN. Well, sir, I stated that it was so because I did not hear the Senator from Indiana propound that doctrine, and I did hear the Senator from Wisconsin propound it; and as I have listened to the debate to-day from divers and sundry gentlemen of the Democratic party I see that this is to be their platform hereafter.

Mr. DIXON rose.

Mr. FESSENDEN. Not my friend's. I desire to exclude him, for he has put himself upon a proper platform. I only hope, with the company around him, he may be able to stand upon it. [Laughter.]

Mr. DIXON. If the Senator will allow me, he does not seem to hear what falls from the lips of the honorable Senator from Ohio and the honorable Senator from Indiana. He only

bears what falls from my friend from Wisconsin. The Senator was here present, I believe, at the time those Senators made their speeches. Now, with the Senator's leave—I will not go on without his consent—

Mr. FESSENDEN. I have no objection.

Mr. DIXON. The Senator from Indiana [Mr. MORTON] and the Senator from Ohio [Mr. SHERMAN] both declared in the hearing of the Senator this evening that in their judgment the law authorized the payment of the five-twenties in greenbacks; that we had a right to pay in greenbacks; that that was the contract. I think I did not misunderstand the Senators. Now, when that doctrine is propounded by those Senators, I ask my friend from Maine if it was not as dishonest and as objectionable as when it came from a Senator whom he calls Democratic?

Mr. FESSENDEN. There is a wonderful difference between the theory of knavery and the practice of it. That is all I have to say about that. The honorable Senators alluded to have contended and no doubt they believe that by the law of the case strictly we had a right to pay in greenbacks; but they have both placed themselves, as I understand them, on the higher plane that we ought not to pay in greenbacks, but that we ought to bring our credit up to the point and the greenbacks themselves up to the point where payment in greenbacks would be equivalent to payment in gold and a discharge of the contract.

Mr. DIXON. Does not the Senator from Wisconsin take the same ground?

Mr. FESSENDEN. No, sir; he does not take the same ground. He takes the ground, and he reads us a document to show what we ought to do, that we ought to issue our bonds at a lower rate of interest, go into the London market and get the gold, come back, buy up our greenbacks at a depreciated rate, and with those greenbacks pay off our six per cent. bonds. That is his proposition in so many words, and that is an entirely different proposition.

Mr. DIXON. I will wait until the Senator gets through to reply.

Mr. FESSENDEN. I am glad the Senator has concluded to wait until I get through. He cannot dispute that fact, because the Senator from Wisconsin has himself over and over again put it so this evening to my very great surprise. I characterize that now just exactly as I did before, as dishonest in its nature and essence, and that any private individual acting upon the same system would not have credit in any community or retain the reputation of an honest man. I have sufficient regard for my country to hope that it will not lose its reputation for integrity; and it certainly will whenever it resorts to any such plan of payment as that.

With regard to the bill before the Senate it meets my approbation altogether. I should like very much to have had the second section a little more definite. I voted to make it so. But with regard to the first section I never had any doubt about the true meaning of the law under which these bonds were issued. I have been with my honorable friend from Vermont [Mr. EDMUNDS] from the first time he made the proposition that we should make this declaration. Why? Not that it makes a new contract, as the Senator from Indiana stated, not that it in any way places us under any new obligations, but that inasmuch as a great party in this country has taken the ground that we ought not thus to deal with our contracts, and as two very distinguished Senators in this body have taken the ground that by the true legal construction of that law we had a right so to act, I wish to dissipate all such clouds that are overshadowing the credit of this country. I wish to put it upon the broad ground that by the original contract, according to any true legal construction of it, these bonds must be paid in gold, and also upon the fact that we ourselves time and again so declared by the proper officers of this Government, with the approbation of the people, that inasmuch as we did that we now make a legislative declaration of it that

we, the representatives of the people, that we at least who represent the great party which originated this debt, from the necessities of the case borrowed the money and promised to pay it, shall keep our faith intact. If Senators on the other side of the Chamber desire to go before the people again, as they say and as we may infer they mean to do, with the declaration in their mouths that we are not bound either in law or honor to pay the dollars that we promised to pay, according to the original meaning and promise, I wish the Congress of the United States to speak upon that subject and to say that until some other set of men acquire the power to rule in these halls and to make laws, we will keep the faith of this Government on the proud eminence where it has stood hitherto unshaken by any efforts that have been made willfully to break it down anywhere, unshaken even by the mistaken ideas of the contract that we entered into on the part of eminent and excellent gentlemen who are, I am sorry to see, mistaken upon a matter so vital to the welfare of the people.

My friend from Ohio, I think, began wrong when he adopted any such idea. That original error of his has tainted his excellent mind and his great knowledge of this subject all through. I am glad to see that it has not tainted his perceptions of right, and that, whatever may be his views with regard to what was the legal construction of the contract, the time has not come with him, and never will, when he wishes to avoid what is the truth and the fact in regard to it to enable the people of this country to do what they are expected to do, and that is, to discharge all their obligations in full faith and honor. This bill, this production of the Committee on Finance, now is a proof to me that all error upon that subject is fast vanishing, and that we can reach the point I have so long wished to reach, where there can be no doubt in the mind of any man in this country or elsewhere of what the people of the United States mean to do; that is, preserve their credit, keep their faith, raise the credit of this country to the point where it ought to stand, make themselves able to discharge all their obligations according to the spirit as well as the letter, and not be deluded by any idea that a party can rule here who seek to flatter and deceive the people into false notions of what constitutes public faith.

Mr. DOOLITTLE. Mr. President, the honorable Senator from Maine, it seems to me, has fallen into a very great error when he says that what I proposed to do, to pay the bonds in the legal-tender notes of the Government, is knavery; that it is not consistent with honesty to propose it. That, of course, depends upon the construction to be given to the contract. If the contract is as the Senator from Ohio and other Senators on this floor have admitted, and as I believe a fair construction of its language is, that the principal of the debt is payable in the lawful money which has been created by Congress, there is no dishonesty in discharging that debt according to its terms.

Now, Mr. President, let me bring the Senator from Maine to the point. Suppose that I as an individual had gone to him and borrowed of him \$10,000 of the lawful money of the United States, the greenback currency, which at the time he loaned it to me was worth forty cents on the dollar, and I agree in consideration of the loan that I would pay him six per cent. interest in gold so long as I kept it and until I paid the debt; and when I paid the debt I should pay him in the same money which he loaned to me, and which at the time I offered to pay it to him is worth seventy-five cents on the dollar. Is that knavery? I, for six long years, have paid him six per cent. interest in gold for the loan of paper money worth but forty or fifty cents in gold, equivalent to twelve per cent. interest on the amount of gold value which he loaned to me, and then I offer to pay him the principal of the debt by giving him the value in gold, not at fifty per cent., but at seventy-five per cent. The \$10,000 in currency which he loaned to me were worth \$5,000 in

gold. I pay him \$600 per year for the use of \$5,000 in gold. I pay him that sum for a term of years, and then I offer to discharge the debt by giving him \$7,500 in gold or its equivalent, \$10,000 in the same money which he let me have in exchange for my land; and that he says is knavery; that he says no honest man will do, and no honest man can justify himself for offering to do.

Sir, let me tell that honorable Senator that if he should appear in any court of equity, before any tribunal upon earth, and should insist upon my paying him in another kind of money than that which he loaned to me and I agreed to return to him, and should insist that I should pay him \$10,000 in gold, when the contract was between him and me that I could pay the debt in \$10,000 in paper money worth seventy-five cents on the dollar, every court on earth and every honest man would say that he was a usurer and a Shylock if he should undertake to enforce it against me.

The Senator talked about my repudiating the obligations of the United States. No, sir; I stand upon these obligations; and I will stand there for the benefit of the people of the United States as well as for the benefit of the bondholder. I will not be driven by the cry of repudiation from speaking the truth. I will not be driven into usury, nor into playing the part or suffer myself to aid others to play the part of Shylock, demanding not only what is nominated in the bond the pound of flesh, but good Christian blood. I will defend the rights of the people under this contract as well as the rights of the bondholder. While I oppose the idea of repudiating the debt which legally, morally, and equitably binds the Government of the United States, I repudiate as usurious and as based upon the principles of Shylock that other doctrine that would force the people to pay one hundred cents in gold where the fair construction of the contract is that they should discharge the debt in lawful money, worth from forty to sixty when borrowed, but now worth seventy-five. Sir, let us look at this thing as it is. The great mass of these bondholders let the Government of the United States have this depreciated currency at a value not exceeding sixty cents on the dollar in gold, much of it not exceeding forty cents. They have received their interest at six per cent. on \$100 in gold for a term of years, and now, substantially, the proposition to which I have referred is to offer to pay them in greenbacks. Not by the issue of new greenbacks; I admit that would be a species of repudiation, and I protest against it and all idea of violating the letter or the spirit of the law on that subject; but we may use all the greenbacks that we have on hand or the greenbacks that we can purchase for gold to pay the bondholders. If we choose to borrow the gold to purchase the greenbacks there is nothing dishonorable or objectionable in that.

Sir, I made no proposition such as the Senator refers to, that we should go to the London market and there borrow gold for the purpose of purchasing greenbacks. I only read a statement of a gentleman in London who is connected with the house that negotiated the first funded debt of the United States. He states that United States bonds bearing four and a half per cent. interest, payable in gold in London, would command seventy-five cents in sterling, and with that seventy-five cents in sterling we could discharge the bonds or a portion of them. You would not be compelled to proceed in the payment of more than \$100,000,000 of the five-twenty bonds in greenbacks before all the holders of those bonds would exchange them for your bonds at four and four and a half per cent., payable, principal and interest, in gold; and, sir, that would be no repudiation. The way to save ourselves from repudiation is to stand by the contract; and I tell gentlemen here if you do not stand by the contract in favor of the people the people will not stand by you in enforcing any new contract that you choose to make increasing their burdens twenty-five per cent. You must stand by the contract as

well for the benefit of the people who pay as you do for the people who receive the bondholders. Sir, let me read again this statement from the London gentleman, that Senators may see whether it is liable to the attack which the Senator from Maine has made upon it:

"In this office in the year 1793 the first scheme for the mode of discharging the principal and interest of the six per cent. stocks of the United States was first eliminated, and it was ultimately adopted and carried out by Congress. It was an accumulative interest of two per cent.

"Having been intimately connected with the funds of the individual States from that date to this time it will be readily comprehended that I have steadily followed and studied all the financial matters connected with the different loans of the United States.

"It is evident to me that a large loan in sterling money might be raised in this country, the proceeds to be applied to the payment (in greenbacks) of the six per cent. bonds known as five-twenties.

"A stock bearing four and a half per cent. interest, principal and interest payable in sterling and having an accumulative sinking fund of one and a half per cent., which would pay off the debt in thirty-one years, could be negotiated at seventy-five per cent. in sterling money, and this sum of money converted into greenbacks will pay the capital of the debt at par and leave a balance to the Treasury.

"The larger the loan the wider the basis, and the more marketable it would become.

"To make this proposition clearly understood I will suppose that a foreign holder of \$10,000 of six per cent. bonds, redeemable after five years, before twenty years from date of issue, he gets \$600 per annum which he sells for four shillings sterling per dollar, equal to £120 per annum; but he is in doubt if his capital may not be returned to him at any moment in greenbacks, in which case at this time the rate will be 2s. 9d. per paper dollar, equal to £137s.

"If he can exchange his bonds in London and obtain £2,000 of four and a half per cent., true he will only get an income of ninety pounds per annum; but there he will be sure of £2,000 ultimately, and as the bonds would be drawn payable at par he would be sure of the cash within thirty-one years, which is the entire period requisite under the action of this accumulative sinking fund.

"But if he held twenty bonds of £100 each he might reasonably expect to have two of them drawn every three years on an average. The commercial world has now become so used to the action of these accumulative sinking funds, and to calculations dependent thereon for the profits arising from the difference between the par value of the drawn bonds and the price at which it is replaced in the market that we can and do estimate it in this instance at about one half per cent. per annum on the capital. If this be added to the interest it will make the total five per cent.

"As soon as it is notified to the holders that any of the present bonds are called in for redemption in greenbacks and that the coupons thereon would not be paid after a certain date, the holders would become very anxious and debate in their minds the propriety of sending their bonds to the United States to be cashed or of making an exchange in London, thereby saving all the commissions and other expenses.

"To show the effect of this proposition on a large scale, we will deal with having interests to the extent of \$400,000,000 sterling, now carrying six per cent. interest, say \$24,000,000. If nothing is done to alter matters, at the end of thirty-one years the debt will be the same, but if my plan be carried out it will be paid off altogether, both principal and interest.

"Each bond of \$1,000 or £200 should give the owner the option of receiving the capital for his bond when drawn under the action of the sinking fund, either in America or in London, giving three months notice; and the same applies to the coupon, which should be either forty-five dollars or nine pounds sterling at the option of the holder, which is customary in the European loans."

To return once more to the point, let me inquire, Mr. President, why is this bond held by the bondholder in Europe or in the city of New York any more sacred than many other of the obligations of the United States? Here are the obligations to pay your soldiers, to pay your widows, those poor widows whose husbands have been sacrificed to save the country. You discharge your obligation to them in the paper currency of the country. Why? Because such is the law of the contract. Is that knavery? No, sir; no. It may be hard, but it is the law of the contract. Why do you pay the poor soldier who has come home from the battlefield maimed, with one arm or one limb, his pension in paper money and not in gold? Is there any contract more sacred? Are you repudiating because you pay him in paper money? No, sir; because it is the law of the contract; and if it be the law of the contract, as I maintain that it is, as the chairman of the Committee on Finance certainly maintains—and it was in the argument that I had with him him to-night, and in reply to him that I was making the observations which the Senator from Maine denounces as wanting in honor and as suggesting a species of knavery and dishonesty—if, I repeat, these

five-twenties may be discharged in lawful money in the same paper money which was given in exchange for them, the paper money which now, as we offer it to them is worth almost double what it was when they let us have it, there is no knavery, no dishonesty in our offering to pay them in the lawful money of the country any more than there is in paying the widow her pension or the maimed soldier his pension in the same money.

Sir, I repudiate this whole idea that because a man is a money-lender a contract to pay him is any more sacred than to pay anybody else. I protest against it, I spit upon it, and, sir, this charge hurled at me that I favor dishonesty, suggest knavery and dishonor, because I stand upon the contract, and stand upon the contract in favor of the rights of the great mass of the American people in letter and spirit, as well as stand upon the contract for the benefit of the bondholder. I will not repudiate the bondholder's just rights. I will not issue a flood of greenbacks, depreciate all values, bring bankruptcy and ruin and wreck upon the whole country for the purpose of making new greenbacks to discharge those debts. That would in my judgment be a violation of the spirit of the law under which they were issued, and under which the bonds were taken. But, sir, upon the law as it is, upon the greenbacks which have been issued under that law, the effect of which has been to depreciate the currency of the country and to make the word dollar in the contract which we made mean seventy-five cents in gold and not a hundred cents in gold, upon that law I stand, and I stand without dishonor. Let the Senator from Maine or any other Senator say what he will, I retort upon them and I charge home upon them that if they undertake to force a construction upon the law which it does not legitimately bear, if they undertake to add one fourth to the value of these five-twenties bonds against the true construction of the statute, they are the repudiators, they are the Shylocks, they are the men who advocate dishonesty, for there is nothing more dishonest than in the present condition of our country to increase in violation of law the burdens of an over-taxed and burdened people. Sir, the whole idea of repudiation, on the one side or the other, I reject and protest against; but in pleading and contending for the contract as it is, the contract as it was made, the contract as it was intended, and in the fulfillment of it which does ample justice to the bondholder, I am in the path of rectitude and the path of honor.

Mr. DIXON. Mr. President, I do not propose at this late hour of the night to go into the merits of the question now before the Senate, but I propose to call the attention of the Senate and of the country to the spectacle presented here this evening in view of the remarks which have fallen from the Senator from Maine [Mr. FESSENDEN] and the Senators from Indiana and Ohio, [Mr. MORTON and Mr. SHERMAN.] What have we heard? What have we seen? Sir, if there are any two men in the United States who may be called representative men they are the honorable Senator from Indiana and the honorable Senator from Ohio. One of them holds the high position of chairman of the Committee on Finance of the Senate; the other is acknowledged to be a leading member of the Republican party of the country. It is no disparagement to other Senators to say that those two Senators have no superiors in this body in talents, in influence, in character, in the estimation of the country. Now, what have we heard? The Senator from Ohio repeats what he has previously said; he repeats his deliberate opinion, as a question of law, that the five-twenties bonds are payable by the statute which created them in greenbacks, in paper currency. The Senator from Indiana declares the same opinion. He says he will not vote for this bill because it is against his convictions of the actual intention and meaning of the law; and he goes further and says that the sole object and the only effect of the bill is to benefit

the bondholders and the speculators in bonds, without any advantage to the country. He agrees fully with the honorable Senator from Wisconsin, [Mr. DOOLITTLE;] he quoted his argument; he cited his illustrations; he declared that, if this bill were to pass, there would be no possibility of funding the debt at a lower rate of interest until specie payments were restored. The honorable Senator from Ohio and the honorable Senator from Indiana have each of them a perfect right to their opinion. They are men capable of forming an opinion; and it is not my purpose this evening, although I differ from them somewhat, to dispute their opinions; I speak now for another purpose. These Senators having stated their opinions are responsible for the same, and I am sure they have no desire to shrink from the consequences. Whatever odium may attach to their opinions they are willing to incur.

But the Senator from Maine has seen fit, with his usual ability, to comment upon the debate which has taken place here to-day. He listened to what fell from the lips of the honorable Senator from Indiana and what was said by the honorable Senator from Ohio and also the speech of my friend from Wisconsin. He passed over what was said by those two Senators with approbation or with silence, yet he saw fit to comment with great severity upon the opinions of my friend from Wisconsin. Why was this? I am not here to impute any motives to that honorable Senator. He said that this was a new phase or a repetition of an old opinion of the Democratic party; that it was knavery, dishonesty, when it came from the honorable Senator from Wisconsin. I took occasion to ask him if it was not equally dishonesty and knavery when it fell from those two distinguished members of the Republican party, and he replied to me that those Senators took a different view of it; they had a different object and a different end from that of the honorable Senator from Wisconsin; that they desired to restore specie payments, and in that way that the bonds might be paid in specie. I replied to him that the honorable Senator from Wisconsin also desired to restore specie payments. He had said that it was his desire at the earliest possible day to restore specie payments. They stand upon precisely the same ground therefore in that regard, and in fact so far as I can see their views are practically identical. I am somewhat at loss therefore to understand why it is that what is knavery and dishonesty when avowed by one of these Senators loses this character and is pure, unsullied honesty and probity when announced by the others.

It is true—candor compels me to admit—that the honorable Senator from Ohio, as an act of generosity to the bondholders, says that now he is willing to pay them in gold, although he declares he does not think it our duty to do so; he does not think us bound in law to do so. If I agreed with him in regard to the question of law I certainly never should say I was willing to pass this bill. If I vote for it I shall not vote for it as an act of generosity. I do not propose to go to the bondholder and say to him, "I am not bound to pay you in gold; I have a perfect right to pay you in paper; but I propose to make you a present, a compliment, a gratuity of twenty-five per cent. upon your debt."

What right has the Senator from Ohio to make this gratuity to the bondholder? If there is anything which endangers the payment of the debt it is the doctrine taught by the Senators from Ohio and Indiana that it is not legally payable in specie; yet the Senator from Maine seems to think this a pardonable error, a venial offense only to be denounced when it comes from a Democrat, then it is knavery and dishonesty.

The honorable Senator from Indiana takes no such ground as that occupied by the Senator from Ohio, [Mr. SHERMAN.] He declares that we are not bound to pay in gold; that we have a right to pay in paper, and therefore he sturdily, and I have no doubt honestly, refuses to vote for the bill, because he says it is not

right; it is not the true meaning and intention of the law. He does not differ at all from the Senator from Wisconsin.

Now, sir, I desire the people of the country to understand that a large portion, a respectable portion, at least, in intellect and capacity, of the Republican party here declare this opinion. I might go further. I will not speak of members of the House of Representatives as such. I will allude to them as citizens of the United States. I desire to call the attention of the country to the opinions of two citizens of the United States of high position in the Republican party in talent, in character, in influence. One of them is no longer in the land of the living. Perhaps it is not proper to allude to him. I speak of a distinguished former member of the House of Representatives, now no longer living, highly respected by the Republican party of this country for the honesty of his opinions and the sincerity of his intentions—the late Thaddeus Stevens. What was his opinion on this subject? What did he believe with regard to it? What opinion did he pronounce to the people of this country? Every Senator knows very well what his opinion on this subject was, what his idea was with regard to the legal question whether the five-twenty bonds were payable in gold or payable in paper.

Permit me to call attention to the opinions of another distinguished citizen. I speak not of him as a member of the House of Representatives; I speak of him as a citizen of the United States; a leading member of the Republican party; a man of as much influence, of as much position, and of as much character in the estimation of that party as any citizen in this country. He has lately, in a position occupied by him, addressed the people of this country in his capacity as a member of the House of Representatives. He has put forth a plan for the payment of the debt. He has accompanied it by a speech; and it is utterly subversive of the idea of any payment other than in paper, either of the national debt or any other debt. It is repudiation in all its forms of every debt in this country, repudiation not only of gold and silver in payment of debts, but as a currency utterly throwing it out of view, in favor of abandoning the use of gold and silver as a currency, declaring it to be a relic of despotism, if not of barbarism. I am not at this moment animadverting on that opinion. But I desire the people of this country to understand that men holding the very highest position in the Republican party, standing in the front rank as Radicals, avow and advocate this doctrine that the debt of this country ought to be paid in paper. I have given these illustrations. And yet the honorable Senator from Maine thinks it his duty to say here to-night—I will not say for party purposes; no doubt for honest purposes; for I have not the least doubt he is sincere in his opinions—that this is exclusively a new phase, or a repetition of an old phase and doctrine of the Democratic party. Sir, the truth is that this idea of paying the Government debt in paper is a doctrine advocated by a very large portion of the Radical party. During the recent canvass and previous to it, especially in the western portion of the country, it was, as you well know, sir, in your own State and elsewhere in the West extremely popular. Democratic and Republican candidates for Congress placed before the people both advocated the doctrine; and it so happened in your own State that the man who advocated it with the most zeal and the most effect was the Radical candidate, and he was on that issue elected last winter to the House of Representatives.

But, sir, I will not at this time ask the attention of the Senate on this subject at any greater length. I wish it to be understood that here in this body leading and influential members of the Radical party have to-day announced the doctrine that the debt is properly and legally due and payable in paper currency. If that is a dishonest doctrine, if it is knavery, then it is knavery when it falls from the lips

of a Radical, unless it be that there is something so pure and lofty and holy in Radicalism that it redeems the iniquity and the knavery and the dishonesty of this doctrine which seems so completely to shock my friend from Maine when it is avowed by a Democrat.

Why, sir, when he spoke of the views of the Senator from Ohio, I could not but be struck with the mildness, the softness, the sweetness of his temper, the smile that played on his features, as compared with the holy horror which filled his whole soul when he commented upon the remarks of the honorable Senator from Wisconsin. He turned with the blandest and kindest smile to the Senator from Ohio and said it was true he had fallen into an error and entertained certain sentiments on this subject which did not entirely agree with his own opinions, but the Senator from Ohio favored this bill and therefore he was ready to pardon him. And then again his anger kindled against the honorable Senator from Wisconsin, and he went on to denounce the knavery and the villainy of the very same doctrine which, when held by the Senator from Ohio, was only a pardonable error and an innocent abstraction. That may be all consistent and right; I dare say it is; but it struck me as somewhat remarkable, and possibly in the partisan zeal of the Senator intended for partisan effect, and my object was to call the attention of the Senate to it as an instance of the effect of partisan zeal in warping the judgment of wise and candid men.

Mr. FESSENDEN. I desire to ask my friend a question before he sits down. Does he agree with the honorable Senator from Ohio and the honorable Senator from Indiana in that construction of the law, that the debt is payable in greenbacks?

Mr. DIXON. I stated that I did not. If the Senator had been present this afternoon he would have heard me remark that I intended to vote for this bill, as I am happy to say all my colleagues in the other House voted, and as my colleague, I presume, in this body will also vote. Connecticut thus seems to be a unit on this question in both Houses of Congress.

Mr. FESSENDEN. Then, Mr. President, the object of the Senator, as I understand it, is to prove not that he approves of doctrines of that kind, but to prove that although he differs from the doctrines of his party he means to be found a very strong defender of them anyhow; that is, that he will hold fast to the Democratic faith in other things, although he cannot agree with them in this doctrine with regard to money. That, I suppose, is the object of his speech.

Now, let me say that I find no fault with gentlemen, whatever party they may belong to or whoever they may be, who believe that by the true construction of the law this debt may be payable in United States notes or greenbacks. That opinion they may entertain. What I complained of was the doctrine advanced by the Senator from Wisconsin, that we should make such use of it as to commit what I called a fraud upon the community who hold the paper. That idea was not advanced by the Senator from Ohio or the Senator from Indiana; nor do I know that it was ever advanced by any gentleman holding the same political faith that they do. It was a speculative opinion upon the true construction of the statute as to what we might do. I do not know that either of them proposed to do it as the Senator from Wisconsin did. There was the distinction that I drew. If the Senator understands me now I suppose he will recognize that distinction.

Mr. DIXON. If the Senator will allow me a word—

Mr. FESSENDEN. I have no objection to the Senator saying what he desires to say.

Mr. DIXON. It seems that the difference between the Senator from Wisconsin and the Senators from Indiana and Ohio is this, according to the honorable Senator from Maine: the Senator from Wisconsin believes in a doctrine,

and, as the Senator says, proposes to carry it out; and the other Senators believe in the doctrine and do not propose to carry it out. Is that a fair statement?

Mr. FESSENDEN. No; I do not think it is. It may satisfy the Senator, however.

Mr. DIXON. Let us see whether they propose to carry it out or not. The Senator from Ohio announced the doctrine here a year ago, and introduced a bill in consequence of it and as a sequel to it proposing to compel the creditors of this country to accept bonds at a less rate of interest.

Mr. FESSENDEN. No, sir; he did no such thing.

Mr. DIXON. The bill on its face did not propose to compel them; the bill did not say "if the creditors will not accept this they shall take something less;" but the bill introduced by the honorable Senator from Ohio as the chairman of the Committee on Finance and the speech which he made in support and advocacy of it, taken together, were compulsory; for he declared in his speech that in his opinion the law authorized the payment of the five-twenty bonds in greenbacks; and he introduced a bill with a view to carry out that idea, which reduced the rate of interest at least to five per cent., and I think to four and a half per cent. on the long bond.

Now, let us see whether the Senator from Indiana proposed to carry out his views. He believes in a doctrine which he does not intend to carry out in practice, it is said. What has he done? It is true he has not introduced a bill precisely of that character; but he declared this evening in as strong language as the honorable Senator from Wisconsin that he would not vote for this bill because he did not think it right; because it was a bill introduced for the purpose of benefiting the bondholders; and then he alluded, by way of illustration, to the very argument of the Senator from Wisconsin, to which the Senator from Maine objects, that if this bill were adopted and became a law it would be impossible for us to fund the greenbacks at a lower rate of interest; in other words, that you must hold out the idea that the bonds can be paid in paper *in terrorem* over the creditor, or otherwise you cannot fund your debt at a lower rate of interest. If that is not carrying out a principle into practice, I do not know what is.

Mr. FESSENDEN. That is rather a long interjection into the very few remarks I intended to make about this matter. As I said before, there is a very great difference between expressing the belief that by the terms of a law we may do a dishonest thing and actually proposing to do it; and that is the difference between the Senator from Ohio and the Senator from Wisconsin, according to my construction of their remarks.

Now, sir, I have only one word more to say, for I will not protract this debate. I admit that the honorable Senator from Ohio does hold that by the true construction of that law we might pay our debt in greenbacks. I admit that the honorable Senator from Indiana held the same doctrine as a question of law. I do not admit that the honorable member of the House from Pennsylvania did hold that doctrine; for he said expressly in the debate on the bill that the principal was payable in coin, and had I time I could turn to his remarks and show it. However we may respect the authority of those two gentlemen, and however high may be their standing, what I endeavored to say was, that because they believed so their belief did not make the faith of the Republican party or of the Congress of the United States. The Senator from Connecticut does not hold with his party upon that point as he expressly says.

Mr. DIXON. Will the Senator allow me to say—

Mr. FESSENDEN. Not now. He expressly says he does not hold with his party.

Mr. DIXON. I have not said so.

Mr. FESSENDEN. The Senator proposes to vote for this bill. No other member of the party does propose to vote for it, and it has

been fought by every member of the party on this floor except the Senator from Connecticut. What are we to conclude? That they propose to carry out the doctrine of the New York Democratic platform. Now that the Senator himself is an exception to the great rule, although I admit that his powerful aid brought to that party may do a great deal; it does not give it a character, I am sorry to say, and never will so long as he holds his present opinions; and I am afraid that unless he becomes a little more orthodox he will not stay there with a great deal of comfort. Therefore I say that however I may respect the authority and the opinions of the gentlemen who have been referred to I hope the vote of the Senate to-night will show that they do not represent the opinions of those who made the Chicago platform, in which it was said that we intended to pay our debts not only according to the letter but the spirit of the contract into which we entered.

Mr. DAVIS. It is a very late hour, Mr. President; still I shall say a few words on this important subject.

Mr. POMEROY. Will the Senator give way to a motion to adjourn?

Mr. DAVIS. Oh, no; I do not want an adjournment.

Mr. President, the courts of the country have no jurisdiction over the subject-matter of the bill that is now pending before the Senate between the Government of the United States and the bondholders. I wish they had. I wish that the point in dispute between the bondholders and the Government could be referred to the Supreme Court of the United States for its decision, and I have no doubt what that decision would be. The Government has had a transaction of borrowing money from the bondholder. It did not receive in this loan coin. It did not receive gold or silver. It received greenbacks and a depreciated currency, and gave its bonds for the nominal amount of money thus borrowed. What is the law of usury, and what is the law against usury and extortion in such a state of case?

Suppose the honorable Senator from Ohio, the chairman of the Committee on Finance, had loaned me \$1,000 in greenbacks and I had given him my note for the repayment of the sum of \$1,000, and upon the maturity of the paper I refused to pay and he was forced to bring a suit against me, I could make him disclose upon oath as to the consideration and the manner in which that bond had originated, and could make him confess that it was a loaning on his part and a borrowing upon my part, not of \$1,000 in gold and silver, but of \$1,000 in greenbacks; and upon his admission of those facts, or my proof of them, what would be the judgment and the duty of the court? It would be that the greenbacks should be scaled at their value at the time of the loaning and the borrowing of the money, and that he should have his judgment for the value in gold and silver of these greenbacks with legal interest upon it. That would be the simple judgment of the court. I say that any court of chancery of intelligence in the United States in precisely an analogous transaction between individuals would render the judgment that I have indicated, and that decree would be according to the law and the equity of the case.

What is my further position? The same law that would regulate a transaction of this character between individuals ought to regulate it, and ought to be the rule of it between the Government and the bondholders. The Government does not permit itself to be sued. It establishes its own rate of interest. It may make it six, five, four, or three per cent., according to its sovereign will, and there is no power on earth that can control the action of the Government in relation to that matter. But, sir, when the Government goes into the market and borrows money, and that money is a depreciated paper, the same rule of law and equity, and the same judgment of the chancellor and the same judgment of the court that would be rendered in a case between in-

dividuals would be just, equitable, and reasonable between the Government and its creditors who had loaned it money.

Men may talk as much as they please about bonds and greenbacks. I am against any such medium of payment. The Constitution and the law know no greenbacks as a legal tender or as the payment of debt. The only legal tender is gold and silver currency; and when judgment is rendered in favor of a creditor against a defaulting debtor the only proper judgment that can be rendered is for dollars, meaning gold and silver. But when the transaction has been a lending and borrowing, and a depreciated, spurious currency has been the subject loaned, although the bond may call for dollars according to the nominal amount of this spurious and depreciated currency, it is usury, it is extortion, to exact it; it is against conscience; and whenever a chancellor is appealed to he ascertains the consideration of the bond, its value at the time of the loan, and he gives a judgment or decree for the value of the consideration of the bond in gold and silver. Now, Mr. President, I say that what is equitable and right and according to conscience between individuals in a court of chancery is equitable and right between the Government and its creditors, the bondholders.

I wish that this case could go before the Supreme Court just as it would between private parties who were residents in different States. Upon the making out of the transaction before that court as it appears before the Senate and Congress the only relief and the full extent of the relief to which the creditors, the loaners of this depreciated paper to the Government, would be entitled would be the value of their depreciated paper at the time it was loaned, with legal interest upon it.

Now, Mr. President, what does the bill under consideration propose to do? It proposes to pay about nine hundred million dollars more than the sum that is actually due the bondholders upon this equitable principle. The law of usury is familiar to every tyro in the legal profession. A bond may not say anything about borrowing and loaning money or about the medium in which it is borrowed; but all this may be the subject of allegation and proof, and when it is alleged and proved in a court of chancery the only relief that the lender is entitled to is the value of the depreciated paper which he has loaned with interest upon it. I ask these gentlemen by what authority, by what principle, can they give \$900,000,000 to those bondholders that they are not in equity entitled to? I turn to the honorable Senator from Ohio, and I tell him that if he was the executor of a deceased party who was a debtor for \$1,000 in just such a transaction as exists now between the bondholders and the Government he would be bound to plead the usury in a suit brought against him as the personal representative of the obligor. He would be bound to make the plea, and if he failed to make the plea he would be personally responsible for the difference between the gold value of the money and the nominal amount of the bond in gold.

Mr. President, I would appeal to the honorable Senator from Ohio in another aspect that will illustrate this whole matter. Suppose he was the guardian of an infant child whose father had had a transaction of borrowing money in this depreciated paper and that child was sued in connection with the personal representative, and the property which it inherited from its father was sought to be made subject to the payment of the debt. As guardian of that infant child he would have to put in the plea of usury, he would have to plead the facts of the case. If he omitted to do so he would be guilty of default in his fiduciary capacity, and of such default as would make him personally responsible for the amount which he might save to his ward by making the plea.

Sir, is the fidelity and obligation of a guardian or of an executor greater to his *cestui que trust* than is the obligation and fidelity of the Congress of the United States to their *cestui que trust*, the people? No, sir. It is the duty

of Congress now to ascertain the value of the greenbacks that were loaned upon the issue and sale of these bonds by the purchasers to the Government at the time of the transaction, and when this value is ascertained all that in justice and in equity, all that would not be condemned as usury and extortion, which Congress would be authorized to pay would be not the nominal amount of the bonds, but their value in gold and silver at the time that they were sold by the Government, at the time that the Government borrowed the money upon them.

Sir, there is no difference in principle, there is no difference in justice and equity between the Government of the United States when it borrows money and your honor who presides over the Senate if you borrowed money of the same kind. You, sir, having borrowed money in the form of these greenbacks, there is not a man who has read law for three months who would not concede that although you had executed your notes for the nominal amount, and although you had expressly promised in the most explicit language to pay in gold and silver coin, still you could go into an investigation of the nature and consideration of the contract of loaning and borrowing and you could scale it to the value of the paper which you borrowed, which with interest from that time would be the relief and the utmost relief that your creditor would be entitled to against you.

Sir, I ask for the application of this simple and universally executed principle of law and equity to prevent fraud, extortion, and usury. I ask for the application of this simple and just principle to the present bill. If it be applied there is no difficulty. All that is to be done is to ascertain what was paid for these bonds when they were purchased by the bondholders. At the time of the purchase they purchased by loaning to the Government money upon them; they received bonds for the nominal amount that was loaned, but it is a fact demonstrable that the average amount of money loaned on these bonds did not exceed sixty cents in the dollar. I have made the computation. The excesses of interest upon the gold value of the bonds that has been paid being six per cent. in gold is usury; and what is a universal principle of law in the decision of usurious contracts? That such sums as are paid in interest above the legal rate shall be applied to the satisfaction of so much of the principal at the time that it was paid.

I have made a computation upon these bonds on these two principles. I have ascertained their gold value at the time they were sold, and I have charged as principal the usurious interest that was paid from time to time as it was paid upon the bonds, and it makes a difference of upward of nine hundred million dollars between their nominal amount and what is really due according to their gold value at the time the money was loaned upon the bonds. What is the proposition of the honorable Senator from Ohio and of the majority in the Senate? It is simply to give as a gratuity to the bondholders against the people of the United States, and to make the people of the United States answer by taxes for \$900,000,000 beyond what they owe upon the bonds according to all the principles of law and of equity. Against that I protest, and I say that so far from this being a dishonest rule of settlement, any rule that would give this \$900,000,000 in addition is the foulest extortion; it is usury excessive; it is fraud and robbery upon the people; it is a flagrant violation of their trust and power by the Congress of the United States to the people who are to be taxed to pay this \$900,000,000 in addition to what is honestly and equitably due on the bonds, and I say that the bill for these reasons ought not to pass.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Missouri. [Mr. HENDERSON.]

Mr. HENDRICKS. Before the vote is taken I have a very few remarks to make. I did not expect to add anything to what I had said until

I heard the rather remarkable suggestion of the Senator from Maine, [Mr. FESSENDEN.] He attributed to me a sentiment that is to be found in the report of the Committee on Finance, and said that such a sentiment was a foul reproach. Of course the Senator did not understand that that sentiment had been first expressed by the Committee on Finance, but in this debate it was simply quoted by myself from their report as a part of my argument. And then the Senator went on further to state that it was not the report of the committee, but the report of the learned Senator from Ohio. I am sure that before the Senator from Maine expressed himself so positively he ought to have examined the subject. It is not right for him to attribute to me, and then to characterize in rather offensive language, sentiments that are found expressed in an elaborate report of the leading committee of this body. Now, sir, this report commences in this wise:

"The Committee on Finance, to whom was referred so much of the President's message as relates to the public debt, and the report of the Secretary of the Treasury on the state of the finances, is called upon to report upon three important subjects necessarily connected with each other."

Then the subjects are stated in the report, important subjects connected with each other; and the report closes, as in the language of the committee, by what was known as the funding bill. And yet the Senator from Maine in the excitement of the debate attributed this report, one of the most elaborate and deliberate productions of a committee that this body has witnessed, as simply a report of the Senator who made it. Why so? If this were a foul sentiment and a reproach that it should be uttered why did not the Senator so denounce it at the time, and why did he wait until I simply repeated the sentiment? Is it because the committee were of his own party and I was not? Is that the justice of the Senator in public debate?

Now, sir, I will read again the sentiment that he characterizes as a foul reproach; and then the question is distinctly between him and the distinguished committee that expressed it. Discussing the question whether the five-twenty bonds might be paid in greenbacks as an equitable and just proposition the committee uses this language:

"If this question rested solely upon the act of February 25, 1862, and the bonds had been negotiated under that act alone, it would be manifestly a breach of faith to redeem the bonds with the present United States notes. They are very different from the first legal-tender notes, which, from the limited amount authorized and the privilege to convert them into bonds, could not have had a less market value than the bonds. But it was found that with such restrictions upon the notes the bonds could not be negotiated, and it became necessary to depreciate the notes in order to create a market for the bonds. The limit of notes was trebled and the right to convert them taken away. The amount of United States notes in circulation when the bonds were negotiated was equal to the amount now outstanding, so that the question arises whether by the terms of these several acts the bonds may be redeemed with notes of the precise character paid for the bonds when negotiated by the United States."

Mr. President, I have read the entire passage.

Mr. SHERMAN. It is but just to the committee, and the Senator will find it in the report which is carefully considered, to say that the committee expressed no opinion whatever, and expressly disclaimed the purpose of expressing any opinion on the question of the legal construction of the law. I have no doubt some misapprehension has grown out of the fact that subsequently in a speech I made on the funding bill, in which I expressed my own opinions and expressly disclaimed expressing the opinions of the committee, I did give the opinion that has been commented on, that by the legal terms of the acts issuing the bonds there was no distinction made between the lawful money of the United States in the payment of the bonds. And in the report—I have not read it for a long time—I am quite sure the Senator will find that no opinion was expressed by the committee or for the committee as to the legal construction of the law, because there was a difference in the Committee on Finance as there was a difference in the Senate, and is to this day, as to the legal construction of the law.

Mr. HENDRICKS. I believe that I understand not only the letter but the very spirit of this report, and when I advert to it I think the Senator from Ohio will concede that I place a proper construction upon the language which it uses. I am not just now discussing the question which the Senator from Ohio raises in his interruption. I am answering the language of the Senator from Maine. He felt himself authorized to use that very strong language that it was a foul reproach that the sentiment was expressed that there had been a purpose to depreciate the currency of the country with a view to float the bonds in the market; that it became necessary. I was not a member of this body when the several laws were enacted authorizing the issue of the Treasury notes. I of course did not have a personal knowledge by any association with the gentlemen of this body of the purpose of the several enactments; but first it is plain that there were \$150,000,000 provided for, and again there was a further issue of \$150,000,000, and again six months afterward another \$150,000,000, making an aggregate of \$450,000,000 provided for.

I am commenting upon that action of the Senate and of the House at different dates providing for these large issues of Treasury notes, and how does the committee state it? That by the act of 25th February, 1862, \$150,000,000 of Treasury notes were provided for, and an issue and sale of Government bonds by the same act was authorized, and the committee states it logically and forcibly that the \$150,000,000 of Treasury notes would not float the bonds, that these Treasury notes had value because of their limited amount and because of the fact that at the pleasure of the holder they were convertible into bonds, so that these notes being thus convertible into bonds could not fall below the market value of the bonds, and it became necessary, says the committee, to depreciate the notes by taking away that quality which gave them a market value equal to bonds, a convertible quality, and treble their quantity. This was the means resorted to. I say I was not here to know the motive, and it was right for me, in judging of the purpose of this legislation and judging of the equities that are now urged upon us in favor of the bondholders, to ascertain the spirit and purpose of this legislation from the authoritative statement of the leading committee of this body; and when I did say so it was not right for the Senator from Maine to say that it was a reproach. Was it a reproach? Was it a reproach that deliberately the Congress of the United States by taking away the convertible quality of the notes and by trebling their quantity upon the market depreciated them, and that this was necessary in order to secure a market for the bonds? If that were necessary it is not to be charged upon me as a reproach that I referred to it in this debate.

Mr. President, the Senator also said that it was without foundation in fact that the people did ever intend to pay less than a dollar when they promised to pay a dollar. Who said they promised to pay less than a dollar? Who defined what a dollar is? I did not. I have never given a very earnest support to the doctrine that Congress ought to define what should be a dollar. I have not questioned, I have not yet felt it to be my public duty to question, the constitutionality of the legal-tender clause; but the Senator from Maine I expect was a supporter of the act of the 25th of February, 1862, and that act in as plain and emphatic language as can be commanded declares that these Treasury notes are dollars, declares that they are not only legal tenders in the discharge of public obligations and private debts but that they are lawful money of the United States. When the Senator by the act of February 25, 1862, said that these notes were lawful money of the United States what did it mean? I want to know of the Finance Committee what it meant. I understood it to be, in my plain understanding of language, that these Treasury notes in respect to their power to discharge debts and as a standard of value should be

equal in dignity and force with gold and silver, and that for the purpose of discharging all public indebtedness except the interest on the public debt and except where the Government has promised to pay gold, and also in the discharge of debts between man and man, these Treasury notes were dollars. Was it not so? If I am wrong now let the Senator correct me. If they were not dollars it was because your act had not constitutional force and validity. If it had constitutional force and validity you said that these Treasury notes were dollars, dollar for dollar, according to the face of the obligation.

Then, sir, my argument this afternoon did not state that the people of this country had ever undertaken to pay a dollar with less than a dollar, but that when the people of the United States promised to pay so much money, and did not expressly agree to pay it in coin, then the reading of the obligation is that they will pay it in the lawful money of the country. If I promise to pay to the honorable Senator from Maine by my note \$1,000 in money, let me ask him will he raise the question whether I may discharge that with less than dollar for dollar? He would not ask gold of me upon such an obligation; he would say that the construction of that promise made by me to him was a promise to pay in the lawful money of the United States, and that if I did not in my obligation agree to pay gold the legal construction would be Treasury notes, upon which you by law have impressed the quality of money.

Then, sir, why make the thing that somebody wants to pay less than a dollar for a dollar upon a promise of the Government? I have not suggested it. I have said, however, that when the promise is plain and the construction cannot be doubted we have no more right to impose upon the people of the United States an additional obligation without some new consideration than the Senator would have a right to demand of me twenty-five per cent. more than the legal construction of my contract entitled him to. That is where the question is. It is not a question of legal construction; it is a question of now making the bonded debt of this country, \$600,000,000, worth more than it is under the contract. That is the question.

Why, Mr. President, who can doubt it? The very law that said that these bonds might be issued and did not authorize the Secretary of the Treasury to say that the bonds should be paid in gold provided for the issue of paper which should be lawful money and which might pay these very bonds, and these Treasury notes were issued at the same time the bonds were issued and before the bonds were sold, and upon these Treasury notes you impressed the quality and the power to pay these bonds. What did you mean when you said in the act of February 25, 1862, that these Treasury notes should be receivable in the discharge of all the obligations owing by the Government except the interest of the public debt? What do those plain words mean to the people, to common-sense people? When you said in plain words that the Treasury notes, amounting in all before these bonds were negotiated to \$450,000,000, according to the statement of the committee, should be receivable in payment of the public obligations except the interest on the public debt what did your law mean? If these fifty-two bonds cannot be paid with the Treasury notes what public obligations can be?

The other bonds the laws provide shall be paid in gold. Then the other securities can be paid in currency. If these Treasury notes are not a legal-tender discharge at the election of the Government of these fifty-two bonds what is the meaning of the language in the act of 1862, I should like to know? It is not going to satisfy the country even for a Senator of the great weight and eminence before the country of the Senator from Maine simply to say that it is not honest. That will not quite do; he has got to come to the point for the people to understand it. In 1862 that Senator said that this paper was money, that it was lawful money,

that it was the lawful money of the United States, and by his vote that Senator said that this lawful money in the Treasury of the United States should be a full and sufficient discharge of the Government's obligations except the interest, and it would seem to be reasonable that the Government should then have so provided, for in that very law you said that these Treasury notes should be receivable by the Secretary of the Treasury in payment for the bonds when they were sold, and then when the bonds are to be paid the same kind of money should go in their discharge in the hands of the holder. That is just the plain statement of what your law says. If it is knavery to stand by that, then you have induced me to the knavery by very singular language. Go back and correct the language of 1862 before you talk to me about knavery. Go back and correct your own legislation. Do not charge me with knavery when I form a judgment that is supported by the language that you put upon the statute-book; and when you vote a gratuity of \$600,000,000 to be taken from the people and to be given to the men that hold these bonds do not say that it is knavery if I refuse, because I stand upon the letter of the statute. I stand there. I wish to see the bondholders get all that is consistent with the interests of the people and with the obligations of the people toward them; but I wish to see it brought about by a restoration of prosperity, by an increase of production, by a sale abroad of our great staples which will bring the gold in a current toward our shores instead of a constant flow from them. I have no faith at all in a restoration of our finances to a sound condition and a sufficient volume of currency in the country, except as we find it in a restoration of production, an increase of production, and a command of the foreign market.

We may be deluded. We may have fair promises made. It is not the first time. Assurances are very easily given; but commerce has never yet been restored in this world by mere paper promises. Commerce has its own great laws, and it is restored, becomes sound and successful by its own development, by production, by the results of labor. Our legislation must be of such stable and wise character as that it will give confidence to industry and will stimulate enterprise and investment. We must have the lands that are now lying waste cultivated once more. Our untilled fields must blossom and bloom and ripen with the grain and with the cotton and tobacco. Then I see a way to a sound currency and a sufficient volume. But in the assurances that are given us I do not see it; I do not expect to see it. When I know that there is an increase of production then I know that we shall have an increase of currency. When the people have much to sell there is no difficulty in having plenty of currency. He who causes two blades of grass to grow upon the ground where but one grew before renders a higher service to his country than the ablest politician. That is the philosophy upon which we are to have restored prosperity in this country, in my judgment. We must have abundant corn crops, and stock, and all the productions of the different sections, buy less and sell more, and we shall soon have a specie basis for our currency; but you may tell the Secretary of the Treasury to commence paying out gold to-morrow, and the result will be what was beautifully described by the Senator from Kentucky [Mr. McCREERY] a few days ago. The sun of that day, as he said, will go down upon an exhausted Treasury. It cannot be done. You cannot pay a debt of this magnitude with \$200,000,000 of gold in the country.

Mr. President, I have occupied now more of the attention of the Senate than I expected to do on this question. It is an important one, and ought not to be disposed of in this way. If we are ready to provide for this debt let us do it. If Congress is now ready to provide for this debt let us go to the work. This bill does not pay it. It does not pretend to pay it. It does not suggest resources from which the pay-

ment is to be brought. It simply proposes a construction. What an advance would a couple of gentlemen make in the adjustment of their affairs, one owing the other and not having the means to pay and the debt not being due, if they met and held a consultation as to the meaning of the contract? That is what we are at to-night, as I understand it. We are trying to put upon the contract a construction that the letter will not admit; that is the trouble of it, and a construction that the people of this country will not hold themselves bound by if you put it upon it to-night.

If we have such a return of prosperity as that the currency will become of uniform value, that our paper currency will be of the same value with the gold currency, then, indeed, this question will be removed, all controversy about it will be removed; but as long as there is a material difference between gold and paper the people will say, "We will stand by the contract." I think so, and I guess they have the right to say so. If this declaration of construction to-night were made upon a new consideration then of course it would become obligatory.

Mr. PATTERSON, of New Hampshire. I should like to ask the gentleman if it was not a part of the contract in the law of 1862 that the greenbacks should be absorbed in five-twenties. Now, if they had been all absorbed in the five-twenties, in what would the five-twenties be redeemed but gold and silver?

Mr. HENDRICKS. The act of February 25, 1862, did provide that the holder of the greenback might deliver that to the Secretary of the Treasury and receive a bond. That was the convertible quality of that note: but under the acts of July 11, 1862, and March 3, 1863, referred to in this report, there was not that convertible quality, so that \$300,000,000 of the Treasury notes were not of the character that the Senator refers to, and hence his question does not have very much bearing on the matter. The right to convert was repealed after the first \$150,000,000 were issued.

Mr. MORTON. And as to the first \$150,000,000.

Mr. HENDRICKS. My colleague says it was repealed as to the first \$150,000,000, and that was done before these were negotiated, according to the statement of the committee.

Mr. PATTERSON, of New Hampshire. The gentleman appealed to the Senate to know what that act of February 25, 1862, meant if it did not mean that the bonds were to be paid in greenbacks, when the very act itself provided for the absorption of the greenbacks into the bonds.

Mr. HENDRICKS. The act provided that the bonds might be bought by the people with greenbacks, and then provided that the Government might pay to the people these bonds in greenbacks again.

Mr. PATTERSON, of New Hampshire. Oh, no.

Mr. HENDRICKS. At any rate that is the construction I put upon the law. The Government might reissue these bonds when they came in. Have they not done it always? So that if \$100,000,000 of greenbacks found their way into the Treasury in payment for bonds the Secretary of the Treasury was authorized to reissue them, I suppose.

Mr. PATTERSON, of New Hampshire. Are not the greenbacks redeemable in gold, and what difference does it make whether you pay the bond in gold or pay the bond in greenbacks and then pay the greenbacks in gold?

Mr. HENDRICKS. You may say that in law the greenbacks are redeemable in gold, but still they are not redeemable in gold, they have not been yet that I have heard of, and they have not had a par value yet; and because they do not have a par value this question is an important and essential one.

When I was interrupted I was just about concluding what I had to say. This bill, which is simply a construction of former laws and former contracts, is not upon any new consideration, and subsequent Congresses will claim

the same right to put a construction upon the laws of 1862 and 1863 that we exercise, and they will not regard this construction as conclusive upon them. I simply wish to state that I should be very glad if we have a return in specie payments by that return of prosperity that I look for in the country, and then of course there will be no controversy about a question of this sort; but at a time when there is a difference of twenty five or thirty per cent. between the paper and gold currency of this country I am not willing that we shall volunteer an attempt to tie the hands of the people to a construction that is not the right one of the contract made.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Missouri, [Mr. HENDERSON.]

Mr. HENDRICKS. I was desired by the Senator from Pennsylvania [Mr. BUCKALEW] and the Senator from West Virginia [Mr. VAN WINKLE] to say that they have paired off. Mr. BUCKALEW, if here, would vote against the bill and the Senator from West Virginia would vote for it.

The amendment was rejected.

Mr. FOWLER. Mr. President, I wish to say in a few words why I oppose the bill. The first section is merely a declaration of the opinion of Congress as to the meaning of a section of a certain law. I think it objectionable legislation always after a Legislature has passed a law to be construing it. The construction should be left to the courts, and the Legislature should not usurp that province themselves. I do not see any good that can result from this mere declaration except benefiting a few speculators and jobbers in bonds.

There is another objection I have to it. I do not see clearly through this financial question, and am not exactly willing to commit myself on a question that I do not thoroughly understand. I am very well aware that most of the Senators appear to understand the subject well, as most of them have expressed their opinions, but I believe that every one who expresses an opinion thinks that his opinion is better than anybody else's. I have not arrived at a satisfactory conclusion yet in regard to the solution of this problem. I shall not vote for a measure that commits me in this kind of style.

Again, I do not think that any of the financial measures that have come before Congress meet the question which I think is necessary to be settled in order to the solution of this great problem.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. HENDERSON. I now renew the amendment to the first section. On my amendment to the second section I did have a yea and nay vote. I ask for the yeas and nays on my amendment to the first section.

The yeas and nays were ordered.

Several SENATORS. Let the amendment be read.

The CHIEF CLERK. The amendment is to strike out the following words, commencing in the third line:

That in order to remove any doubt as to the purpose of the Government to discharge all just obligations to the public creditors and to settle conflicting questions and interpretations of the laws by virtue of which such obligations have been contracted it is hereby provided and declared—

And then, after the word "to," in the eighth line, to insert:

An early resumption of specie payments by the Government in order that conflicting questions touching the mode of discharging the public indebtedness may be settled, and that the same may be paid in gold.

And to strike out the residue of the section; so as to make it read:

That the faith of the United States is solemnly pledged to an early resumption of specie payments by the Government in order that the conflicting questions touching the mode of discharging the public indebtedness may be settled and that the same may be paid in gold.

Mr. SHERMAN. I desire a division of the question. Let the question first be taken on striking out.

Mr. EDMUNDS. That is contrary to express rule. You cannot divide a motion to strike out and insert.

Mr. SHERMAN. It can be, because it is to different parts of the section.

Mr. EDMUNDS. The rule expressly declares that you cannot.

Mr. SHERMAN. You can where the motion applies to different parts of a bill. It is a double motion.

The PRESIDENT *pro tempore*. The question is on the amendment.

Mr. WILSON. I wish to announce that Mr. VICKERS has paired off with Mr. TRUMBULL.

The question being taken by yeas and nays, resulted—yeas 8, nays 24; as follows:

YEAS—Messrs. Cole, Davis, Henderson, Morton, Pomeroy, Robertson, Ross, and Spencer—8.

NAYS—Messrs. Abbott, Cattell, Conkling, Conness, Corbett, Cragin, Dixon, Edmunds, Ferry, Fessenden, Frelinghuysen, Grimes, Harlan, Harris, Howard, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Osborn, Patterson of New Hampshire, Sawyer, Sherman, Stewart, Sumner, Thayer, Tipton, Wade, Warner, Welch, Willey, Williams, and Wilson—24.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Cameron, Chandler, Doolittle, Drake, Fowler, Hendricks, Howe, Kellogg, McCreery, Norton, Patterson of Tennessee, Pool, Ramsey, Rice, Saulsbury, Sprague, Trumbull, Van Winkle, Vickers, Whyte, and Yates—24.

So the amendment was rejected.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time.

Mr. EDMUNDS called for the yeas and nays; and they were ordered.

Mr. ANTHONY. On this bill I am paired with the Senator from Minnesota, [Mr. NORRIS.] If he were present he would vote against the bill, and I should vote for it if I was at liberty to vote.

Mr. CATTELL. I am requested by the Senator from Pennsylvania [Mr. CAMERON] to say that he is paired off with Mr. KELLOGG, of Louisiana. If they were present Mr. CAMERON would vote for the bill and Mr. KELLOGG against it.

The result was announced—yeas 30, nays 16; as follows:

YEAS—Messrs. Abbott, Cattell, Conkling, Conness, Corbett, Cragin, Dixon, Edmunds, Ferry, Fessenden, Frelinghuysen, Grimes, Harlan, Harris, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Robertson, Sawyer, Sherman, Stewart, Sumner, Thayer, Tipton, Willey, Williams, and Wilson—30.

NAYS—Messrs. Cole, Davis, Doolittle, Fowler, Henderson, Hendricks, McCreery, McDonald, Morton, Osborn, Patterson of Tennessee, Pomeroy, Ross, Spencer, Wade, and Welch—16.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Cameron, Chandler, Drake, Howe, Kellogg, Norton, Pool, Ramsey, Rice, Saulsbury, Sprague, Trumbull, Van Winkle, Vickers, Warner, White, and Yates—20.

So the bill was passed.

Mr. SHERMAN. I move to amend the title so as to read "An act relating to the public debt."

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by W. K. MEHAFFY, one of its clerks, announced that the House had passed a joint resolution (H. R. No. 469) granting the use of military equipments for the inauguration ceremonies, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 568) explanatory of the act entitled "An act declaring the title to land warrants in certain cases."

HOUSE BILLS REFERRED.

The bill (H. R. No. 2009) authorizing the Secretary of War to place at the disposal of the National Lincoln Monument Association at Springfield, Illinois, damaged and captured ordnance was read twice by its title, and ordered to lie on the table.

The joint resolution (H. R. No. 468) authorizing the Union Pacific Railway Company, eastern division, to change its name to the Kansas Pacific Railway Company was read

twice by its title, and referred to the Committee on the Pacific Railroad.

MILITARY EQUIPMENTS FOR INAUGURATION.

The joint resolution (H. R. No. 469) granting the use of military equipments for the inauguration ceremonies, was read twice by its title.

Mr. WILSON. I ask unanimous consent to act on that joint resolution now. It is necessary that it should pass to-night.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 469) granting the use of military equipments for the inauguration ceremonies. It is a request to the Secretary of War to deliver to the mayor of the city of Washington, for the use of such volunteer military organizations as shall take part in the inauguration ceremonies on the 4th of March next, four thousand muskets, with equipments, accouterments, six brass field pieces, with caissons, equipments, and accouterments, and a suitable number of infantry, cavalry, and artillery flags; taking such security as he may deem proper for the careful preservation and prompt return of said property.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

INTERNAL REVENUE STAMPS.

Mr. CONKLING. I wish to enter a motion to reconsider a resolution which was adopted last evening on the motion of the Senator from Pennsylvania [Mr. BUCKALEW] calling on the President to furnish a long statement about stamps.

The PRESIDING OFFICER. The resolution has been transmitted to the President of the United States.

Mr. CONKLING. Then I desire to have it recalled, and submit that motion.

The amendment was agreed to; and it was Ordered, That a message be sent to the President of the United States requesting him to return to the Senate the resolution of the Senate of the 26th instant, requesting him to furnish a statement of the account of the internal revenue stamps issued by the Government since the passage of the act of July 1, 1862.

SUFFRAGE CONSTITUTIONAL AMENDMENT.

Mr. STEWART. I desire to have the concurrent resolution in regard to sending the constitutional amendment to the Secretary of State passed. I move to take it up.

The motion was agreed to; and the following resolution was adopted:

Resolved by the Senate, (the House of Representatives concurring.) That the President of the United States be requested to transmit forthwith to the Executives of the several States of the United States copies of the article of amendment proposed by Congress to the State Legislatures to amend the Constitution of the United States, passed February 26, 1869, respecting the exercise of the elective franchise, to the end that the said States may proceed to act upon the said article of amendment, and that he request the Executive of each State that may ratify said amendment to transmit to the Secretary of State a certified copy of such ratification.

ARMY APPROPRIATION BILL.

Mr. MORRILL, of Maine. I move that the Senate proceed to the consideration of the Army appropriation bill.

The motion was agreed to.

Mr. MORRILL, of Maine. I move that it be postponed and made the special order for half past twelve o'clock on Monday next.

The motion was agreed to.

Mr. COLE. I move that the Senate adjourn. The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, February 27, 1869.

The House met at eleven o'clock a. m. The Journal of yesterday was read and approved.

EASTERN CHEROKEE INDIANS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs with

an estimate of the expenses of a delegation of the eastern Cherokee Indians and recommending an appropriation; which was referred to the Committee on Appropriations.

AMERICAN OCEAN STEAMERS.

Mr. ELIOT, of Massachusetts, by unanimous consent, presented resolutions of the Legislature of the State of Massachusetts in favor of the passage of Senate bill for the establishment of a line of American ocean steamers; which were referred to the Committee on Commerce, and ordered to be printed.

ORDER OF BUSINESS.

Mr. CHANLER. I call for the regular order.

The SPEAKER. The first business in order is the question of privilege pending at the adjournment last night, being the report of the Committee of Elections upon the contested-election cases from the second congressional district of Louisiana.

Mr. BOUTWELL. I hope the gentleman from New York [Mr. CHANLER] will withdraw for a moment the call for the regular order, that I may report from the Committee on Reconstruction a bill to supply an omission in a bill which was passed in last July to remove disabilities from about twenty persons, among whom is one gentleman who is a member of the other side of the House.

Mr. CHANLER. The bill does not propose any new legislation?

Mr. BOUTWELL. No, sir; it simply corrects an error in an act already passed.

Mr. CHANLER. I withdraw for the present the call for the regular order.

REMOVAL OF DISABILITIES.

Mr. BOUTWELL, from the Committee on Reconstruction, reported a bill (H. R. No. 2008) in addition to an act entitled "An act to relieve from legal and political disabilities certain persons engaged in the late rebellion," approved July 27, 1868.

Mr. HARDING. I object.

The SPEAKER. The Committee on Reconstruction have the right to report at any time when they can obtain the floor.

The bill was read a first and second time. It provides that (two thirds of each House concurring) all legal and political disabilities imposed by the fourteenth article of amendments of the Constitution of the United States, by reason of the late rebellion, be removed from the persons named in an act approved July 27, 1868, entitled "An act to relieve from legal and political disabilities certain persons engaged in the late rebellion."

Mr. BOUTWELL. I will only state that in the act of July 27, 1868, removing disabilities from about twenty persons, among whom was Mr. YOUNG, now a member of this House, the words "be, and the same are hereby, removed" being the operative words, and necessary to give force to the act, were accidentally omitted, either by the engrossing clerks or by the committee. This bill is designed merely to give effect to that act of Congress.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time.

The question being taken on the passage of the bill, it was decided in the affirmative, two thirds voting in favor thereof.

Mr. BOUTWELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NORMAN WIARD.

Mr. SCHENCK. I ask unanimous consent to submit a report from the Committee on Ordnance upon the case of Norman Wiard.

Mr. CHANLER. I call for the regular order.

ENROLLED BILLS SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined

and found truly enrolled bills of the following title; when the Speaker signed the same:

A bill (H. R. No. 1821) granting a pension to Susan Carson;
 A bill (H. R. No. 1434) granting a pension to William M. Simpson;
 A bill (H. R. No. 1586) granting a pension to Mrs. Naomi Adams;
 A bill (H. R. No. 1600) granting a pension to Mary R. Brown;
 A bill (H. R. No. 1632) granting a pension to Joseph M. Hudson;
 A bill (H. R. No. 1903) granting a pension to Charles Mains, of Texas;
 A bill (H. R. No. 1917) granting a pension to Charlotte Webster, widow of Timothy Webster, deceased;
 A bill (H. R. No. 1918) granting a pension to William H. Johnson;
 A bill (H. R. No. 1919) granting back pension to Edmund W. Wandell, of Wilkesbarre, Pennsylvania;
 A bill (H. R. No. 1920) granting a pension to Katherine Dreyer, widow of Sylvester Dreyer, deceased, late private of company H of the tenth regiment of Minnesota volunteers;
 A bill (H. R. No. 1921) granting a pension to Catherine O'Connors, widow of Timothy O'Connors, deceased, late private company C of the thirty-third regiment Massachusetts volunteers;
 A bill (H. R. No. 1922) granting a pension to Mary J. Hutton, widow of John C. Hutton, deceased;
 A bill (H. R. No. 1923) granting a pension to Elizabeth Radigan, widow of John Radigan, deceased, who was a private in company A, forty-ninth regiment Pennsylvania volunteers;
 A bill (H. R. No. 1924) granting a pension to John A. Parker, a soldier in the war of 1861;
 A bill (H. R. No. 1925) granting a pension to Clarissa A. Grant;
 A bill (H. R. No. 1926) granting a pension to Ann Smith;
 A bill (H. R. No. 1927) granting a pension to Harriet M. Mills, widow of Samuel J. Mills, deceased, late a private in company F of the second regiment Connecticut volunteers;
 A bill (H. R. No. 1929) granting a pension to Juliet E. Hall;
 A bill (H. R. No. 1931) granting a pension to Jacob Hawkins;
 A bill (H. R. No. 1932) granting a pension to John M. Flynn;
 A bill (H. R. No. 1933) granting a pension to Henry Riemann;
 A bill (H. R. No. 1934) granting a pension to Emily M. Freeman;
 A bill (H. R. No. 1935) granting a pension to Charles H. R. King;
 A bill (H. R. No. 1936) granting a pension to Mary Ann Shurlock;
 A bill (H. R. No. 1937) granting a pension to Lucinda Pangle;
 A bill (H. R. No. 1938) granting a pension to Julia A. Fisher;
 A bill (H. R. No. 1939) for the relief of John Gestiger;
 A bill (H. R. No. 1940) granting a pension to Cyrus Hall;
 A bill (H. R. No. 1941) granting a pension to Betsey S. Jackman;
 A bill (H. R. No. 1942) granting a pension to Lucinda A. Walter;
 A bill (H. R. No. 1943) granting a pension to the widow and minor children of Lieutenant Richard H. Allen;
 A bill (H. R. No. 1944) granting a pension to Bridget Hayes;
 A bill (H. R. No. 1945) granting a pension to Sarah A. Scherr;
 A bill (H. R. No. 1946) granting a pension to Mary A. Amer;
 A bill (H. R. No. 1947) granting a pension to Catharine S. B. Spear;
 A bill (H. R. No. 1948) granting a pension to Nancy Reed;
 A bill (H. R. No. 1949) granting a pension to James H. Maguire;

A bill (H. R. No. 1950) granting a pension to Richard Look;

A bill (H. R. No. 1951) granting a pension to Martha E. McKinney;
 A bill (H. R. No. 1952) granting a pension to Matilda Carney;
 A bill (H. R. No. 1953) granting a pension to John R. Ray;
 A bill (H. R. No. 1954) granting a pension to Maria Walters;
 A bill (H. R. No. 1955) granting a pension to William J. Patton;
 A bill (H. R. No. 1956) granting a pension to Lorenzo Day;
 A bill (H. R. No. 1957) granting a pension to Richard C. Floyd;
 A bill (H. R. No. 1958) granting a pension to Allen E. Rector;
 A bill (H. R. No. 1959) granting a pension to Edward W. White;
 A bill (H. R. No. 1960) granting a pension to Ellen Green;
 A bill (H. R. No. 1961) granting a pension to Sarah A. Wilcox;
 A bill (H. R. No. 1962) granting a pension to William McDonald;
 A bill (H. R. No. 1963) granting a pension to Mary H. Gardner;
 A bill (H. R. No. 1971) granting a pension to Jacob S. Baker; and
 An act (H. R. No. 1599) making appropriations for the naval service for the year ending June 30, 1870.

SMITHSONIAN INSTITUTION.

Mr. HOOPER, of Massachusetts. I desire the House by unanimous consent to take from the Speaker's table, for action now, a joint resolution from the Senate providing for the appointment of Professor Agassiz as a Regent of the Smithsonian Institution.

Mr. CHANLER. I insist on the call for the regular order.

CONTESTED ELECTION—LOUISIANA.

The SPEAKER. The regular order being called for, the House resumes the consideration of the question of privilege pending at the adjournment yesterday, being the report of the Committee of Elections in the contested-election case from the second congressional district of Louisiana. The gentleman from Michigan [Mr. URSON] is entitled to the floor, having fifty minutes of his hour remaining.

Mr. UPSON. Mr. Speaker, the close of the session being so near, and so much business pressing upon the attention of the House, I design to occupy only a brief period in making a statement of this case. I shall then yield fifteen minutes to the gentleman from Louisiana [Mr. BLACKBURN] who presented last evening the resolution in favor of Mr. Jones. After that I propose to yield ten minutes to the gentleman from Tennessee, [Mr. MAYNARD,] and then, unless there is a manifest desire to continue the discussion, I propose to call the previous question.

The case of Jones vs. Mann comes from the second congressional district of Louisiana. The election took place in April last under what are known as the reconstruction acts. In July last Mr. Mann appeared here, presented a certificate of election, and was sworn in as a member with the other members of the delegation from that State.

In the subsequent month of August Mr. Mann died, but previous to his being sworn in a notice of contest was served upon him by Mr. Jones, the contestant. Evidence had been taken under that notice of contest, and had been closed just previous to Mr. Mann's death. It is under that notice and that issue there made and the evidence then taken that this case is presented to the House for its consideration. The House is to determine the merits of the issue made in that notice and the evidence thereunder. The grounds of notice are set forth in the report of the committee in this case, No. 27 of the present session. I may say briefly that it consists chiefly of allegations of intimidation and violence preventing the friends of the contestant from voting. In one or

two instances allegations are made of stuffing ballot-boxes in one or two precincts. There was the further allegation that Mr. Mann was ineligible at the time of his election. The committee deemed it proper to consider mainly whether under the evidence Mr. Jones is shown to have received a majority of all the votes; and under that evidence they are compelled, as they have reported unanimously, to say that he has failed to make out a case. In the first place Mr. Jones utterly failed to show what was the vote cast in the district, either in the aggregate or at the several election precincts. He has utterly failed to show how many election precincts there were. In order, then to enable the committee to come to any conclusion as to the vote we had to call upon the commanding general for a statement of the vote cast. It will be found in the testimony under the head of "additional testimony in the case of Jones vs. Mann, second congressional district, Louisiana." The vote is there stated to be as follows:

For James Mann.....	6,784
For Simon Jones.....	5,634

showing a majority of 1,150 votes for Mr. Jones. This is the only legal evidence as to the vote cast in that district. It was objected on the part of Mr. Jones that the certificate of the commanding general was no evidence and cannot be received. Now, as evidence of the vote cast, by the provisions of the supplementary reconstruction act of March 11, 1868, it is declared—

"That 'the same election officers who shall make the return of the votes cast on the ratification or rejection of the constitution shall enumerate and certify the votes cast for members of Congress.'"

Accordingly, in the States of Louisiana, Georgia, and South Carolina these returns were so made and certified to the commanding general and an election certificate given by him on that statement of the votes. The House has received members from all those States on those certificates, and it seemed under that phraseology of the statute and under the action of the House that was a construction of the law recognizing the propriety of the commanding general in the reconstructed States certifying to the person elected. We have, therefore, accordingly recognized that the commanding general acted officially in receiving the returns made to him and in giving a certificate to the person who received the highest number of votes.

Looking upon that as *prima facie* evidence of the vote cast we find no evidence presented which overturns it. On the part of Mr. Jones there is no evidence of the vote cast either in the aggregate or in any precinct. Consequently there was nothing by which any fraud or irregularity or illegal votes could be purged from the aggregate vote. But so far as the committee is able to discover from the evidence there are not exceeding 100 votes which can be recognized as illegal or as having been cast fraudulently, or which could be subtracted from the majority of Mr. Mann and added to the vote of the contestant. Nothing is found to do away with the majority of Mr. Mann of 1,150 votes. That being so, the question of ineligibility of Mr. Mann the committee believed to be of little consequence in this investigation. It was claimed that Mr. Mann was not a resident in the sense of the law of Louisiana at the time of the election. We had one or two affidavits on that allegation, but nothing clear or satisfactory; nothing that would justify the committee in deciding that Mr. Mann was ineligible as a candidate at the time of the election. There are also affidavits taken on the part of Mr. Mann during his life which, if admitted in evidence, would go far to do away with the force of the testimony taken on the part of Mr. Jones. It was objected, however, to the testimony on the part of Mr. Mann that it was taken before a notary public, and therefore was not competent evidence. The objection under the law the committee considered good; but as Mr. Mann has since died, and as that evidence contains statements in relation to his

eligibility, the committee did not feel authorized to strike it out of their own motion, but leave it to this House to say whether it would consider it or not. But the committee considered it of no material consequence unless Mr. Jones was shown to have received a majority; for it was decided in this House, in the cases of *Blakey vs. Golladay* and *Smith vs. Brown*, that to entitle a person to be admitted as a member of this House as duly elected he must show that he has received a majority or a plurality of the votes cast in his district, and that no person who received a minority of the votes cast ought to be admitted to seat as a legal Representative from a congressional district.

The views of the committee were set forth so clearly and forcibly in the reports in the case of *Smith vs. Brown*, and also in the case of *Blakey vs. Golladay*, which were supported by the House, that we deem it unnecessary to do more than refer to the positions there assumed and sustained by the House as satisfactory and conclusive in this case, as adopting a rule in such cases from which the House would not deviate, there being no law of Congress or of the State of Louisiana providing for an election of a member of Congress by a minority. Considering that our Government is a Government in which officers are chosen by majorities, and not by minorities, the committee did not feel authorized to assume that the law was otherwise than had been heretofore announced by the House or than has been universally accepted as the rule of elections throughout the country so far as the election of members of Congress is concerned.

But I will state further, in relation to another matter of evidence which has been attempted to be introduced here, that the original evidence in this case was taken and concluded when Mr. Mann was alive. Notice of contest was served on the 22d of May, 1868; the answer was served on the 3d of June. On the 22d of June the testimony was commenced, and on the 10th of August it was concluded. On the 26th of August Mr. Mann died; and notwithstanding the testimony was closed and the time for taking testimony under the statute had expired, and no order for further time to take testimony had been given by the House, yet on the 8th of January, 1869, an affidavit was taken in this District on the part of Mr. Jones before a justice of the peace, without any authority of Congress, and without giving notice to any person representing Mr. Mann's interest. That *ex parte* affidavit is brought in here to show that there were 1,100 less votes given than the returns of the commanding general showed, and also that Mr. Jones received a majority of the votes. The man who makes that affidavit, Mr. Leon, was himself only an officer at one election precinct, and did not have the returns himself, but claims that he was present when they were read in a certain man's office, and swears to the result that the majority was so much for Mr. Jones. The committee considered that this *ex parte* evidence, being taken without authority six months after the time for taking the testimony had closed and sworn to by a party who could not be cognizant of the facts and testifies only from recollection of matters which he says he heard nearly a year previous, would not avail to set aside the returns of the commanding general under authority of law. It is too vague, general, indefinite, uncertain, and unreliable to be considered here, and it never would be received in any ordinary election case when taken under such circumstances. As the committee are unanimous in their report, I shall not take up the time of the House further, but will yield fifteen minutes to the gentleman from Louisiana who introduced the resolution yesterday on behalf of the contestant.

Mr. BLACKBURN. Mr. Speaker, in the few remarks which I may be permitted to make on this case I would not be understood as questioning the nice legal points assumed by the committee; nor yet should I be understood as attempting to impugn the integrity of the late member whose seat is contested. In a

personal sense he was my friend. I knew him well, and he was an honorable gentleman. But, sir, this is simply a political question, one which does not involve personalities or personal feelings. As I am allowed but a few minutes I will briefly state to the House that I simply ask the admission of Simon Jones as member of Congress upon this floor from the second congressional district of Louisiana upon general principles of right and justice, and as carrying out in good faith and practically the reconstruction policy inaugurated by Congress.

Now, sir, I lay down this proposition, and I defy a successful refutation of it, that whenever you see a gentleman coming up from the South claiming a seat upon this floor and claiming to have been elected in a district or section of country where there is a large and ruling majority of Republican votes, and who comes here as the enemy of the congressional plan of reconstruction, his pretended election is a fraud and a cheat. Such, sir, was the case in regard to my deceased friend, Colonel James Mann. He was a loyal man, it is true. He had fought the rebellion bravely and nobly, and when he laid down his sword, what did he do? He went down South; and with whom did he fraternize? He fraternized politically with the friends of Jeff. Davis and with those rebellious leaders whose hands were reeking with the blood of patriots who died that this nation might live. He received his commission at the hands of a gentleman who trod the same path, General Buchanan.

Now, how did it come to pass that James Mann was elected in a congressional district where there was a clear Republican majority of from five hundred to one thousand? I contend upon general principles, without minutely investigating the case, that it was a fraud; and Mr. Simon Jones, if he can be allowed to address the House, or his legal friends and advisers who may be permitted to do so, can clearly show that fact. Mr. Mann came here, and notwithstanding his case was contested, he was at once sworn in as a member of Congress in the month of July last. And here, sir, let me say to the House that while it admits members upon this floor from the South who come here elected in direct opposition to its own policy of reconstruction, this reconstruction policy is worse than a farce; it becomes a machinery to crush out every true loyal man in my section; and I am proud to be permitted to occupy this floor if but for a few moments, as a native southern loyalist, to speak in behalf of another of my own class. While I am not opposed to a judicious policy of clemency and forgiveness toward what I call the rebellious element of my native land, I tell this Congress that when it reaches over the dead bodies of the native southern loyalists in that section to honor and pardon rebels or to honor and raise into high places those who fraternize with them, it proves recreant to that liberty for which General Grant fought and in behalf of which he conquered. Mr. Speaker, I remember that since your election to the second office in the gift of the American people you stood up in the States of the free North and declared to the world that the time was at hand when the friends of this Government should be permitted to sing its national hymns upon the banks of the Mississippi and upon the banks of the Rio Grande with the same safety and liberty with which they exercise their patriotic devotions upon the shores of the northern lakes. But I tell you that day will never come while the national Legislature turns the back of the hand and gives the go-by to those few patriotic and devoted southern men who stood up for the flag of their country when surrounded by the friends of treason; when there was no Federal cannon's echo to cheer them on in their devotion to their country; when if they wanted to pray for their country they had to enter into the wilderness where the ear of treason could not hear and detect their words of devotion. If I had time I would fain dwell at length on these things which yet stir my soul when I remember them. As a new and inexperienced

member I feel a great difficulty in attempting to compete with the unanimous report of an old and experienced committee of this House. I can do nothing more than to plead, as I said at the outset, upon the general principles of right, which every member upon this floor, whether Republican or Democrat, if he loves his country, if he loves freedom, cannot fail to understand and appreciate. I therefore ask on the general principles of right, and as being in strict accordance with the true intent and meaning of the reconstruction acts of Congress, that my friend, Mr. Jones, who is a native loyalist, who has walked through tribulation and blood in his native land to uphold his Government, be admitted as a member upon this floor, and that he be sworn in as such. Now, the honorable gentleman who has spoken in behalf of the committee says that Mr. Jones has not made out his case. That may be true. And if that gentleman had lived where Mr. Jones lives, if he had endured what Mr. Jones has endured, if he had met the devilish machinations of treason there, when at the time this report was made all the civil power of Louisiana was in the hands of rebels, men who hate a southern loyalist more thoroughly than the devil hates holy water—if he had endured these things, then he might well understand why it was impossible for Mr. Jones, even if his motives had been as pure as the crystal drops which sparkle upon the trees by the stream of life, had he been as vigilant as the angels who vie around God's throne, could not have made out a clear case. No, sir; and why? Because the spirit of treason is wily, it is shrewd, it is intriguing, it is devilish, and it is unprincipled.

Now, sir, whatever may be said in regard to legal technicalities, and they may be against Mr. Jones in this case, I will remind the House of this fact, that but for those things known in law as legal technicalities, Andrew Johnson would have been convicted on his impeachment. That, sir, is the only excuse why he was not convicted. Certain conscientious lawyers in the other end of this Capitol planted themselves upon what are termed legal technicalities, and they let Andrew Johnson go unwhipped of justice. And in consequence of this, as I know of my own personal knowledge, hundreds, ay, thousands of patriotic men in the South now sleep in untimely graves. On the road to my home the wayside is dotted with the graves of the poor, unsophisticated freedmen who died by the hand of midnight assassins because Andrew Johnson was not convicted and removed from office. And why was he not? For the same reason on which gentlemen seek to deprive my friend, Mr. Jones, of a seat on this floor; because, forsooth, some legal technicalities stood in the way. I trust, sir, that this House will prove itself wise and patriotic enough to disregard all such formalities and do justice upon the naked principles of common sense and right.

Mr. UPSON. I now yield ten minutes to the gentleman from Tennessee, [Mr. MAYNARD.]

Mr. MAYNARD. Mr. Speaker, if members of the House will give me their attention for even so brief a time as ten minutes, I can, unless I deceive myself very much, satisfy them not only that the great principles of justice and right are in favor of the contestant, Mr. Jones, but also that our friends upon the Committee of Elections are mistaken even with regard to the questions of technical law.

The facts in this case are few. In the month of April last an election was held, under the reconstruction laws, in the second congressional district of Louisiana, for a member of this House. Mr. Jones and a gentleman by the name of Mr. Mann were the competing candidates. The certificate of General Buchanan, commander of that department, was to the effect that Mr. Mann had received a majority of the votes. Upon that certificate Mr. Mann was admitted to a seat in this House just at the close of the session last summer. A notice of contest was served upon him by Mr. Jones. While the contest was going on, and after a body of evidence had been taken, but before the proof

was complete, Mr. Mann was called away by death, leaving of course, no one with whom Mr. Jones could carry on the contest. Another election was ordered for that district in the autumn, to supply the place of Mr. Mann. At that election Mr. Hunt and Mr. Menard were the competing candidates, Mr. Jones of course taking no part in it, but claiming his seat under the previous election. Those two gentlemen are here, both of them claiming Mr. Mann's seat, and of course both denying the right of Mr. Jones to the seat; both of them being in fact his opponent, while in opposition also to each other.

The question we have now before us is whether, at the election in April, Mr. Jones was or was not elected; and this question is so simple that I think there will be no difficulty in understanding it, and, I trust, as little difficulty in deciding it. Mr. Mann, as I have said, received the certificate of General Buchanan to the effect that the returns, as they came to him, showed that Mr. Mann had the majority. But there was a body of evidence showing thoroughly and completely a state of facts justifying all that has been said by the gentleman from Louisiana, [Mr. BLACKBURN.] The testimony of a gentleman named Leon was taken in this city early in January by Mr. Jones, upon notice to both Mr. Hunt and Mr. Menard. They were present and cross-examined the witness. The testimony was presented here, referred to the Committee of Elections, and ordered to be printed. No objection has been made to any irregularities or informalities; no technical objection, so far as I am aware, has been interposed by either Mr. Hunt or Mr. Menard. The testimony is, then, with the assent of the parties interested on each side, legitimately and fairly before us, to be looked at without objection. Of course, where the parties interpose no objection on either side, the court will make no objection. I will read a few passages from the testimony of Mr. Leon. He says:

District of Columbia, County of Washington, ss:

Personally appeared before me, the subscriber, one of the justices of the peace in and for the District and county aforesaid, Frank Leon, and made oath according to law to the following statement: that he resides in New Orleans, Louisiana, in the second congressional district; was appointed deputy sheriff on the 16th day of April, A. D. 1868; gave orders on the 17th day of April, 1868, at seven a. m., to open the polls; was appointed one of the judges of election a few moments after he gave the above-named order; was in charge of the book of registration of the legal voters. The election lasted two days, being April 17 and 18, 1868. On the evening of the 17th the boxes were placed in the police station for safe-keeping; it took all night of the 18th and the whole day of the 19th to count the votes; did not sign the returns; refused to sign because persons entitled to vote were refused the privilege; did himself refuse the votes of six men, who had been in the penitentiary at Baton Rouge, as they were brought by Sam Bola, a man well known in the Democratic party; did visit the chief register's office, Captain Scott's; saw the vote as summed up by Captain Scott; also counted them; whole number of votes cast on the 17th and 18th of April, 1868, was 12,318. Jones received in the first district of New Orleans a majority of 644. Mann's majorities were—fourth district, 540, and in the second district was 33, making a total of 573.

Am personally acquainted with Colonel Mann. Colonel Mann's family never resided in the State of Louisiana permanently.

Cross-examination:

Does not know how many polls there were in the district, (second congressional) served at one only. After the voting stopped the returns were made; witness refused to sign them. The boxes, after the votes were counted, were sealed up and sent to Captain Scott's office; counted the votes for the whole congressional district at Captain Scott's office. Military law required that after the boxes were returned to the chairman of registration they should carefully count the votes. The counting was done by Messrs. Clark, Mader, and several others. Captain Scott asked witness to count the votes; explained that after the votes had been counted and placed in figures on paper the witness went over them so as to see if the memorandum was correct. After the investigation at Captain Scott's office the boxes were then sent to General Buchanan's headquarters, with his return made out that Mr. Jones had received 71 majority. Witness by profession is a civil engineer; expects an office; Mr. Jones has not promised anything; figures on card shown were obtained in Washington; those on the memorandum of witness were obtained in Captain Scott's office. (The witness apparently did not understand the question about counting the votes at Captain Scott's office.) On second question, did the committee count the ballots at Captain Scott's? No; simply compiled the returns from the several polls

and made up one general return to be forwarded to General Buchanan.

F. LEON.

Subscribed and sworn to before me, the subscriber, [L. S.] on the day and date herein stated.

JOSEPH T. K. PLANT, J. P.

JANUARY 28, A. D. 1869.

Then he introduced a memorandum. My time being limited to ten minutes compels me to be as brief as possible in presenting the facts in this case. That memorandum, made upon the spot recently after the transaction, shows that the number of votes cast was 12,318. I will ask the Clerk to read it so that it may be more fully brought to the attention of the House, for I take it this House means to do justice in this case.

The Clerk read as follows:

NEW ORLEANS, April 26, 1868.

Whole number of votes cast 12,318.

First district, comprising the first, second, and third wards, S. Jones received 644 majority.

Fourth district, comprising the tenth and eleventh wards, the tenth ward being in the second congressional district, gave to James Mann 540 majority.

The second district, comprising the fourth, fifth, and sixth wards, the fourth ward being in the second congressional district, gave to James Mann 33 majority.

F. LEON.

On this 11th day of January, A. D. 1869, personally appeared the above-named F. Leon, and made oath on the Holy Evangel of Almighty God that the above statement is true.

[L. S.]

JOS. T. K. PLANT, J. P.

Mr. MAYNARD. Now, it will be seen that these returns, made under these circumstances, sworn to in the presence of these parties, show that at the time of taking the votes the majority in favor of Mr. Jones was between 50 and 100 votes. None of us can be for a moment in doubt in what way, by what spell, these returns were medicined so as to show a different result from the time they left the polling places until they reached the headquarters of General Buchanan.

At this point the Committee of Elections say in their report:

"The *ex parte* and unauthorized testimony of Mr. F. Leon, taken before a justice of the peace in this District, January 11, 1869, since the death of Mr. Mann, is the only other evidence as to the votes cast at this election in this congressional district, and it is insisted by the counsel for the contestant that such sworn statement of this witness is better evidence than the return of General Buchanan, who, as contestant, claims 'had no jurisdiction over congressional elections,' and that 'the sworn proof therefore stands upon higher ground than the voluntary statements of General Buchanan about a matter not within his jurisdiction.'"

In the first place, I beg to say that this testimony is not *ex parte*. Mr. Hunt and Mr. Menard claimed to be the representatives of Mr. Mann, and the testimony was taken in their presence and after cross-examination. It is claimed it was unauthorized. No one objects on that ground except the committee. It is said it was taken before a justice of the peace in this District. There was no objection on that ground. It was taken under oath and on notice to both parties. It is said that it was taken since the death of Mr. Mann. That was not our fault, although it was Mr. Mann's misfortune to be called away by the hand of death.

The naked question presented to us is this: shall we give the highest credence to the certificate of General Buchanan certifying simply to what the returns show after they got into his office and what he could know nothing about, or the testimony under oath of one who was one of the officers of the election and swears to the memorandum he made on the spot while the transaction was taking place? For myself I have no hesitation in deciding that the latter is entitled to the highest credibility. I do not thereby seek to impugn General Buchanan. He may have acted honestly; I am disposed to assume that he did. The returns as they came into his office may have shown exactly what he certifies they did show, but the testimony taken here which was referred to by my friend from Louisiana [Mr. BLACKBURN] shows a condition of things there that would have very easily permitted a tamper-

ing with those returns very essentially from the time the votes were taken out of the ballot-boxes until the returns reached headquarters.

I fully sympathize with all that has been said of those men who have gone through fire and blood during these contests in the southern country. These men are not fighting their battles alone. It is less theirs than yours. These men have stood with their lives in their hands upon the onerous works of reconstruction, not always in safety, as appeared from the case of the late Mr. Hinds, who was assassinated in Arkansas.

Shall we turn aside upon the idea that it is just at the close of the session; that this is but a small matter, and we have no time to consider these matters; that it might cost a little trouble, and therefore we will throw it aside? Mr. Speaker, we cannot afford to do injustice.

Mr. COBURN. Does the gentleman say that Mr. Leon was cognizant of the entire returns?

Mr. MAYNARD. That is his testimony.

[Here the hammer fell.]

Mr. UPSON. I yield five minutes to the gentleman from Illinois.

Mr. COOK. I wish to say a word in reply to the gentleman from Tennessee. The truth is that in opposition to the returns of the commanding officer, which were required to be made by law and which appear to be made in pursuance of law, there is but the affidavit of Mr. Leon, taken in the city of Washington after the death of Mr. Mann, an *ex parte* affidavit so far as it appears before the committee. But the point I wish to make is this: Mr. Leon discloses the fact that he could not have had personal knowledge of the facts of which he affirms. He says that the election lasted two days, and that Mr. Mann's majority in the fourth district was 540 and in the second district 33, and that in the first district Mr. Jones's majority was 644. But on cross-examination he says he does not know how many polls there were in the district. He served at one only. He could not have had personal knowledge of what the majorities were at the different polls in the district, because among other things he did not know how many polls there were in the district. The manner in which he derives his information as to the majorities given he does not tell us. Clearly it could not have been by an inspection of the poll-books or of the returns thereon, except in one district, of which he was a judge. He could not have known personally, by personal observation, how many men voted in the other districts, because he was engaged in the precinct of New Orleans as judge and was not present at the other polling places. He could not have known by inspection of the poll-books because they were not submitted to his inspection. It is a general statement in reference to a matter about which he could not possibly know the facts. It would be strange indeed if testimony under such circumstances were allowed to override the returns made in pursuance of law and in accordance with the forms of law.

Mr. UPSON. I yield three minutes to the gentleman from Louisiana.

Mr. NEWSHAM. I wish merely to make a statement. The contestant in this case, Mr. Jones, is unquestionably elected by a majority of the votes cast. That there was a fair election held on the 17th and 18th of April in that district is very questionable. It is even denied. The record which I hold in my hand proves a majority for Mr. Jones of 71 votes. There are, however, in this case three contestants, Mr. Hunt, Mr. Menard, and Mr. Jones. A contest for this seat was made by Mr. Jones prior to the time when Colonel Mann took his seat in this House. After that contest was made a new division of the election districts in the State of Louisiana was made by the Legislature of that State, and from territory entirely different from that represented by Colonel Mann now come Mr. Hunt and Mr. Menard, claiming to represent a district which was vacated by Mr. Mann. But they did not receive

10 votes in that district. I merely wanted to make this statement. Mr. Jones is the only representative of the district, the only man who received any votes in the district made vacant by the death of Colonel Mann.

Mr. UPSON. The gentleman from the third district of Louisiana, who has just spoken, has evidently misapprehended the facts of the case. He is talking about the election to fill the vacancy, while this is a claim on the part of Mr. Jones for the seat which was occupied by Mr. Mann prior to the vacancy being made. The election to fill the vacancy took place six months afterward. That is to be considered in the case of *Hunt vs. Menard*. There is only one claimant here, and that is Mr. Jones, for the seat which Mr. Mann occupied here before his death. Now, I wish to say a word in relation to the statement of the gentleman from Tennessee, [Mr. MAYNARD.] The gentleman is also laboring under a mistake of fact in regard to the time. The contestant gave his notice on the 22d of May, 1868. The answer was received June 2. The taking of the testimony commenced on the 22d of June, and the sixty days' time allowed by law expired on the 10th of August. The taking of the whole testimony was concluded before Mr. Mann died, and after his death no further testimony could be taken either by law or in fact without some action on the part of the House, and there never has been anybody to represent Mr. Mann since the taking of the testimony was concluded by law and in fact. If the gentleman will look at the depositions he will see that the taking of the evidence was concluded by the 10th of August; so that the time during which the testimony could be taken expired during the lifetime of Mr. Mann. He did not die until the parties had had full time to take all the testimony and had taken all they desired. There never has been any extension of time.

Still further, the gentleman is mistaken when he says that no objection was made to the testimony to which he has referred. If he had been present, as he was not, when the counsel argued on the part of Mr. Mann he would have found that they did object to this testimony, and I have their written objection before me made in the argument of counsel in the hearing. They objected to the testimony, and it was a good and valid objection, for it was *ex parte* evidence, taken after the time had elapsed, without authority of law and before an officer not authorized to take it, and in addition to that it is absolutely good for nothing. This man Leon swears from recollection merely. He was only an officer in one election precinct. He swears that he afterward went to the office of the chief register, Captain Scott, where the returns were made; he swears to hearing a statement made at Captain Scott's office, and he swears to 1,000 votes less than the aggregate return. He swears to this more than six months after the man to whom the votes referred is dead and six months after the time for closing the testimony had passed.

Mr. MAYNARD. Allow me one moment on that point. The question suggested by the gentleman from Indiana [Mr. COBURN] shows that I had not made myself clear in my statement.

Mr. UPSON. I desire to complete what I have to say upon this point. I read from the cross-examination of the witness:

"Witness by profession is a civil engineer; expects an office; Mr. Jones has not promised anything; figures on card shown were obtained in Washington; those on the memorandum of witness were obtained in Captain Scott's office."

Mr. MAYNARD. Will the gentleman allow me to refer him to a portion of the direct testimony of this witness? He says:

"Saw the vote as summed up by Captain Scott; also counted them; whole number of votes cast on the 17th and 18th of April, 1868, was 12,318. Jones received in the first district of New Orleans a majority of 644. Mann's majorities were, fourth district, 540, and in the second district was 33, making a total of 573."

Mr. UPSON. I have read that myself. Here

is what is interlined in the cross-examination by the person taking the testimony:

("The witness apparently did not understand the question about counting the votes at Captain Scott's office.) On second question, did the committee count the ballots at Captain Scott's? No, simply compiled the returns from the several polls and made up one general return to be forwarded to General Buchanan."

There is all that he knew about it. He swears that he was present there when they compiled the returns and sent them to General Buchanan, and General Buchanan, with the returns before him, says that the vote was 1,000 more than this witness swears it was. The gentleman from Tennessee wants us to take the parol testimony of this man one year afterward to contradict the official return of the general commanding, who had the returns before him.

Mr. MAYNARD. I hope the gentleman will allow me to correct him. I know he does not want to do injustice in this case. It is only pride in sustaining the report of the committee.

Mr. UPSON. A large majority of the committee are in full sympathy with the gentleman claiming the seat, but on the testimony before them they could not report in his favor.

Mr. MAYNARD. The gentleman will understand that I am not impugning his honesty at all. But I want to call his attention to a matter in which I think he does himself injustice. The witness says that the figures on the card shown were obtained in Washington, while those on the memorandum of the witness were obtained in Captain Scott's office. That is the memorandum from which I read, and was made in New Orleans on the 26th of April, 1868, and it was that which he used to refresh his memory when he gave his evidence.

Mr. UPSON. He swears that there were 1,100 votes less than are shown by the returns made to General Buchanan.

This testimony was closed during the lifetime of Mr. Mann; the sixty days were over before Mr. Mann died; no order was made for the taking of other testimony or for an extension of the time for taking the testimony. No justice of the peace there was ever authorized to take testimony in this case. The whole of it is illegal and illegitimate; it is all vague and inconclusive, and in direct contradiction of the returns of the commanding officer who took them from the official record.

I now yield the remainder of my hour to the chairman of the Committee of Elections, [Mr. DAWES.]

The SPEAKER. There are two minutes of the hour left.

Mr. DAWES. I hope my colleague will allow me a little of his time after the previous question is called.

Mr. UPSON. Certainly.

Mr. DAWES. The only importance attached to this case in these last days of the session is in connection with the rule that shall be established by this House when they come to act upon it in the decision of other cases; and that is the only inducement to me to interfere in or take part in this debate which my friend, who has charge of this matter, [Mr. UPSON,] is amply able to take care of himself.

I desire to repeat with him that the sympathies of the Committee of Elections were entirely with the contestant, Mr. Jones, and they would have been glad to have found a way consistent with law and with fact by which they could report in favor of giving him a seat in this House. But I want to present one or two considerations to this House. If they are disposed to lay down a rule by which they desire themselves to be tried, and by that rule they decide to admit Mr. Jones to a seat in this House, then let no man hereafter complain if he shall find himself in a House with a majority against him if the rule comes back against him. Who of you desires to have set aside the official return of the votes cast in your district by the simple uncorroborated testimony of one man? Suppose it to be the testimony of an upright man, taken in the time prescribed and according to the forms of law with the oppos-

ing party present, is there any gentleman in this House who desires to lay down a rule by which he wishes himself to be tried, a rule that the official returns of his election shall be set aside simply upon the statement of one witness as to what he remembers to have been the state of things six months before?

[Here the hammer fell.]

The SPEAKER. The hour of the gentleman from Michigan [Mr. UPSON] has expired.

Mr. UPSON. I now call the previous question on the resolution reported by the committee, together with the substitute offered by the gentleman from Louisiana, [Mr. BLACKBURN.]

The previous question was seconded and the main question ordered.

Mr. UPSON. I now yield further time to the gentleman from Massachusetts, [Mr. DAWES.]

Mr. DAWES. If that were all that there is in this case I think I could submit it to the calm and candid judgment of the House. But that is not all. There is no such case as I have indicated in this House at this time. The actual case is this: in this testimony, taken in conformity to law during the lifetime of the sitting member and brought here to be heard before the committee, there was not one particle of testimony presented to the committee to invalidate the returns. It was after the case was closed, after death had closed the eyes and lips of the sitting member and after the case was brought here, that the contestant found in this city a man who was willing, he said, to make an affidavit that he had seen these returns six months before, and that then they were different from what had been represented in the evidence. He took his affidavit, and my friend from Tennessee [Mr. MAYNARD] says there was no objection to his doing so. Why, sir, who could object? The only man who had a right to object had been in his grave for months and the time for taking testimony had closed before he died.

Mr. MAYNARD. Does my friend from Massachusetts [Mr. DAWES] take the narrow, technical ground that there was no competitor, no opposing party, because Mr. Mann was dead?

Mr. DAWES. I am taking the ground—it may be narrow—that there is something in the manner of taking this testimony that weakens its credibility and the faith that we should attach to it; in the first place, that it was taken long after the case was closed, there being when the case closed not a suggestion on the record that there had been a mistake in the count; and secondly, that this affidavit was taken without the presence of any party properly interested. There was present a man who volunteered to go there, representing himself, but not representing Mr. Mann. More than that, the return which it is proposed to invalidate by the affidavit of this witness found in the city of Washington is precisely the same return (being on the same paper and signed by the same man) as the return on which my friend from Louisiana [Mr. BLACKBURN] and his colleague [Mr. NEWSHAM] were admitted to their seats. If there is any truth in the statement now made, then these two gentlemen have no business here on this floor to-day. The paper now objected to is the identical paper on which they have been admitted, and if there is any truth in the statement made in the affidavit of this man here in this city that this return is false and fraudulent then that fact turns out of the House these gentlemen who have been advocating the claim of Mr. Jones.

Mr. MAYNARD. The certificate of General Buchanan states merely the return made to his office. Does it follow that because in one district the returns were falsified the returns from the other districts were also falsified, or is there necessarily any imputation upon those other returns?

Mr. DAWES. Mr. Speaker, the testimony is not that the return in any particular district was falsified, but that this return made here to

the War Department is, so far as this district is concerned, false; and this is attempted to be established by the testimony of a single witness found here after the case had closed.

I do not desire to occupy longer the attention of the House. We are now establishing a rule, not simply for this case, but for others to come hereafter. The Committee of Elections did not feel at liberty to allow themselves to be governed by their sympathy for this man, for they apprehend that the rule that may be laid down here is the rule by which at some time or other we ourselves are to be tried. The desire of the committee, and they were unanimous in this desire, was to lay down a rule upon which they would be willing to be tried themselves. If the House should adopt the rule which my earnest and patriotic friend from Tennessee [Mr. MAYNARD] is so anxious to have established, then let him take care of himself when a hundred men can at any time be brought from Tennessee to swear against the legality of the official return under which he holds his seat.

Mr. MAYNARD. As I do not propose to reply to the gentleman he will allow me to say just here that there is no conflict whatever between the testimony of this man Leon and the return of General Buchanan. General Buchanan simply certifies to the state of the return in his office. That we do not controvert; we admit that such returns were found in his office. But we contend that between the time the returns left the place where the votes were counted and the time they reached General Buchanan's office they were tampered with and changed.

Mr. DAWES. Mr. Speaker, my friend from Tennessee did not hear the whole case as presented before the committee. If he had done so I have not the slightest doubt that he would have joined in our report. But he is not able to see the facts as the nine members of the Committee of Elections saw them. The very statement which he has just made shows that he does not understand this case. The witness testifies that he saw these figures counted up and took a memorandum of them, and that they are not now in the certificate as they were then. That is the story of this man who, by some unaccountable accident, appears in this city just after the case is closed. Who he is? What induced him to flee from Louisiana and alight down here just at that particular time, no one knows. No member of the committee, nobody but the magistrate who took the affidavit, and my respected friend, the contestant here, can testify anything about him.

Mr. MAYNARD. I wish to ask whether the committee had anything before them except what appears in the printed documents? The gentleman intimates that I do not understand the facts in this case; and I therefore desire to know whether all the facts appear in the record; for that I have examined very carefully.

Mr. DAWES. Mr. Speaker, I leave the question to the House. Let it establish in this case such a precedent as it may deem wise.

Mr. UPSON. In relation to this case, so far as this affidavit is concerned, I will simply say that in the case of BLAIR against Barrett affidavits taken under similar circumstances were rejected by the House and by the Committee of Elections acting in strict accordance with the precedents and the law of evidence. The committee have so treated this affidavit in this case; but even if it were admitted in evidence for what it is worth it is too indefinite, too vague, merely parole, and not sufficient to overthrow the official certificate of the commanding general to whom the legal returns were made and who has certified them to the House.

Mr. ROSS. Who has the certificate in this case? Who holds the regular certificate?

Mr. UPSON. That is the other case. There seems to be a great deal of misconception on this matter. The man who held the regular certificate is deceased.

Mr. ROSS. Who holds the certificate to fill the vacancy?

Mr. UPSON. That question is not now up. This is the case of Jones vs. Mann under the first election. When the case comes up under the resolution of the committee in the second case the gentleman will be answered. As it is a great deal of confusion has occurred by gentlemen commingling the two cases. My friend from the third congressional district of Louisiana [Mr. NEWSHAM] in his remarks labored under the same mistake, that this was the case of Hunt vs. Menard, and not Jones vs. Mann.

Mr. ROSS. I ask the gentleman from Michigan why Mr. Menard, who has received the regular certificate, has not been allowed to take his seat?

Mr. UPSON. Because the gentleman's political friends filed a protest and by order of the House the matter was referred to the Committee of Elections. But I will pass over all these proceedings for the present.

Mr. ROSS. Has his political friends so controlled this matter that this man holding the regular certificate has been kept out of his seat?

Mr. UPSON. His party do not wish to be guilty of any inconsistency or to do wrong for any partisan purpose.

Mr. ROSS. I understand that Mr. Menard, a colored man, holds the regular certificate, and that the other side who belong to his party are keeping him out of his seat. Do they say that he shall not have his rights like any other citizen because of his race or color? [Laughter.]

Mr. STOVER. I rise to a question of order, that this is not germane to the issue before the House.

The SPEAKER. The Chair is of the opinion that the case of Mr. Menard is involved in this controversy, either directly or indirectly.

Mr. UPSON. When I call up the report of the Committee of Elections in that case, which I shall do as soon as the pending one is disposed of, the gentleman from Illinois [Mr. ROSS] will have an opportunity, which he seems to desire, to cast his vote with the rest of his Democratic friends for Mr. Menard. [Laughter.]

Mr. ROSS. What I object to is that he shall be "snubbed" in this way by his Republican friends. Is it because of his race or color?

Mr. UPSON. You and your friends who voted against the constitutional amendment will have an opportunity to vote to give Mr. Menard a seat upon this floor.

The resolution of the Committee of Elections was:

Resolved, That Simon Jones, not having received a majority of the votes cast for Representative in this House from the second congressional district of Louisiana, is not entitled to a seat therein as such Representative.

The question first recurred on Mr. BLACKBURN'S amendment, in the nature of a substitute, as follows:

Resolved, That Simon Jones is entitled to a seat on this floor as a member of the Fortieth Congress from the second congressional district of the State of Louisiana, and that he be now sworn in.

Mr. MAYNARD demanded the yeas and nays.

The yeas and nays were not ordered.

The amendment was rejected.

The resolution of the committee was adopted.

Mr. UPSON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FRANKLIN OLIVER.

Mr. ECKLEY. I ask unanimous consent to report back from the Committee on the Public Lands House bill No. 1595, to perfect the title of Franklin Oliver, a soldier of the war of 1812, to certain lands which he claims to have covered by military warrants.

Mr. COOK. I object.

LOUISIANA CONTESTED-ELECTION CASE.

Mr. UPSON. I now call up the case of Menard and Hunt.

The Clerk read the resolution of the Committee of Elections, as follows:

Resolved, That neither J. Willis Menard nor Caleb S. Hunt is entitled to a seat in this House as a Representative from the second congressional district of Louisiana, to fill the vacancy caused by the death of James Mann.

Mr. MAYNARD. I rise to a question of order. This is the first moment it could be made. Inasmuch as one of the contestants for the seat from the second congressional district is present here, as I understand, with a certificate of election and a commission, he is entitled as matter of right to come to the bar and to be sworn in and take his seat until the House shall upon examination decide otherwise.

The SPEAKER. The Chair overrules the point of order. It is in the discretion of the House and not of the Speaker. If there is no objection the Speaker always swears in a member claiming a seat. If there is it is to be submitted to the House. If there is not unanimous consent of course no person can be sworn in.

Mr. MAYNARD. I make that motion.

Mr. CHANLER. Which contestant does the member refer to?

Mr. MAYNARD. Whichever has the certificate of election.

The SPEAKER. The motion is that J. Willis Menard shall now be sworn in as a Representative from the second district of Louisiana. Is there objection?

Mr. WOOD and Mr. KERR objected.

Mr. MAYNARD. I will move to suspend the rules for that purpose.

Mr. UPSON. I do not yield for that.

Mr. ROSS. Mr. Speaker, cannot the gentleman make that motion?

The SPEAKER. Not without the consent of the gentleman from Michigan, who has the floor.

Mr. CHANLER. I raise a point of order, in view of having the gentleman from Tennessee [Mr. MAYNARD] exhaust this case to the satisfaction of the country if he wishes to do it.

Mr. DAWES. I would like to inquire of my colleague on the committee [Mr. CHANLER] what objection he has to hearing the claimant on his own right to a seat?

Mr. CHANLER. I have no objection. Please to wait a moment until I present my point of order.

Mr. UPSON. If the gentleman will waive his point for a moment I will state to the House that the contestants in this case inform me that they only desire fifteen minutes each to be heard on their respective claims before the House. I therefore move that they be allowed to address the House for that space of time under the rules of the House.

The SPEAKER. Is there objection?

Mr. CHANLER. The point of order I wish now to make—

The SPEAKER. The gentleman will state his point of order, not argue it.

Mr. CHANLER. I am going to state it. The gentleman from Tennessee [Mr. MAYNARD] has a right to exhaust his point of order by moving to suspend the rules for the purpose of having the gentleman named in his motion sworn in.

The SPEAKER. The Chair overrules the point of order, on the ground that no member can be taken from the floor by a motion to suspend the rules even for the highest question of privilege. The gentleman from Michigan is entitled to the floor.

Mr. CHANLER. He certainly can yield for that purpose.

The SPEAKER. Certainly, if he desires to.

Mr. UPSON. I do not yield.

Mr. CHANLER. A colored man comes here and the gentleman debars him from taking his seat.

Mr. UPSON. I have no objection to that if the gentleman will vote in favor of giving him his seat. [Laughter.]

Mr. CHANLER. I am entirely against him; but I am striving to aid the Republican party in doing justice to a black man.

The SPEAKER. Is there objection to the motion to suspend the rules?

Several MEMBERS objected.

The question was taken; and the motion was agreed to; two thirds voting in the affirmative.

The SPEAKER. If there is no objection Mr. Menard will first address the House.

Mr. WOODWARD. I suggest that he speak from the Clerk's desk.

The SPEAKER. A contestant having no seat is usually allowed to speak from whatever place he can.

Mr. WOODWARD. We can hear him better from the desk.

Mr. VAN HORN, of New York. I object. Mr. MENARD, (the contestant.) Mr. Speaker, I appear here more to acknowledge this high privilege than to make an argument before this House. It was certainly not my intention at first to take any part in this case at all; but as I have been sent here by the votes of nearly nine thousand electors I would feel myself recreant to the duty imposed upon me if I did not defend their rights on this floor. I wish it to be well understood before I go any further that in the disposition of this case I do not expect nor do I ask that there shall be any favor shown me on account of my race or the former condition of that race. I wish the case to be decided on its own merits and nothing else. As I said before the Committee of Elections, Mr. Hunt who contests my seat is not properly a contestant before this House, for the reason that he has not complied with the law of Congress in serving notice upon me of his intention to contest my seat. The returns of the board of canvassers of the State of Louisiana were published officially on the 25th of November, and the gentleman had sufficient time to comply with the law of Congress if he had chosen to do so. When Congress convened on the 7th of December he presented to the Speaker of this House a protest against my taking my seat. I did not know the nature of that protest until about the middle of January, when the case was called up before the committee.

Upon this point of notice I desire to call the attention of the House to this fact: that General Sheldon, who ran on the same ticket that I did as a candidate for the Forty-First Congress, was declared to be elected upon the same grounds that I was, and he wrote to the chairman of the Committee of Elections to find out his opinion with regard to this question of notice. Mr. Hunt, it seems, failed to give him notice also; and I understood when I was last in New Orleans that it is the opinion of the chairman of the Committee of Elections that the case of Mr. Sheldon is a very clear one. I am very sorry that the chairman of the Committee of Elections did not give me the benefit of that opinion.

I am of opinion that when Congress enacted that law it certainly intended that every contestant should comply with its requirements, and I can see no reason why the law should be set aside in this case any more than in any other, and I think that if Mr. Hunt did not know the law of Congress he was a very poor subject to be sent to Congress. [Laughter.]

Now, sir, the Committee of Elections, in their report, have cited the New Hampshire case of Perkins vs. Morrison, but they take as a precedent the action of the minority of the committee in that case, which is very strange indeed, and they give us no benefit from the report of the majority of that committee. I ask the Clerk to read from that majority report the passage which I have marked.

The Clerk read as follows:

"By the Constitution of the United States the right to prescribe the times, places, and manner of holding elections for Representatives in each State is declared to be in the Legislature thereof, subject to the superior power of Congress to make or alter such regulations by law. That power, however, Congress has never exercised, unless it was partially exerted by the second section of the act of June 25, 1842, to which reference has already been made. Limited only, therefore, by the provisions of that section, the Legislature of New Hampshire had plenary power to prescribe by what districts the elections should be made, and to change the boundaries of those districts at its pleasure and at any time. No constitutional provision, no law of Congress restrains this right originally to form or subsequently to alter the limits of congressional districts; it is the discretion of the State Legislature. It is conceded that Congress could by law have exclusively determined the extent of each district and enacted that it should remain unchanged under the apportionment during the entire period of ten years. But this has not been done. The act of June 25, 1842, only enacted that the elections, alike general and special, should be by districts of contiguous territory; and under the law the limits of each district must be as they were before its passage—such as the Legislature of the State may from time to time prescribe. The act of Congress is merely commendatory. It was not possible to delegate to the State Legislature the legislative power vested by the Constitution in Congress. It follows, of course, that the districting acts are the untrammelled action of the Legislative Assembly of New Hampshire, and consequently that the power to change the boundaries of a district remains unlimited in the same Legislature. Your committee are not informed that this position has hitherto ever been seriously controverted. Such appears to have been the common understanding. The Legislatures of several of the States, after having formed congressional districts in conformity with the recommendation of the act of Congress of June 25, 1842, have subsequently restricted the States or made changes in the boundaries of the districts previously formed. North Carolina, Georgia, Ohio, and Pennsylvania are among the number. Representatives elected from the districts thus reorganized have been admitted to seats in the House without objection. More than twenty Representatives elected by these reorganized districts sit unchallenged in the present Congress. But it is urged on behalf of the contestant that if the power be conceded to the Legislature of New Hampshire to redistrict the State, the districting act of July 11, 1850, does not extend to an election to fill vacancies in the Thirty-First Congress. In terms, however, it unquestionably does. It took effect from its passage. It repealed so much of the former act as was inconsistent with its provisions. Immediately on its passage, therefore, there were no congressional districts in New Hampshire other than those limited by this later act. An election to fill the vacancy occasioned by the resignation of Mr. Wilson could, therefore, have been held in no other manner than that in which the sitting member was elected. The third district, by which Mr. Wilson was elected, was a creature of the act of July 2, 1846; it was sustained by it and ceased with it. When, therefore, an election was ordered to be held on the 8th of October, 1850, no political division, no congressional district, embracing exclusively the counties of Hillsborough and Cheshire, had any legal existence. It had given place to the third district as limited by the second districting act. The Governor of the State could issue his precept to none other than an existing district. Had the precept been sent to the counties of Hillsborough and Cheshire alone, it would have been sent to a political nonentity."

Mr. MENARD. Mr. Speaker, in the matter of redistricting the State of Louisiana the Governor had no authority of law whatever to send his precept for an election to fill this vacancy to any other district than the new one made by the Legislature on the 22d of August, 1868. He could not have ordered an election to fill this vacancy under a law which had been repealed.

There is another point to which I wish to call the attention of this House. The State was redistricted before Colonel Mann died. Therefore, at the time when he died his district was intact, and no change was made in it after his death. And the voters in that portion of the new district which were formerly within the districts that elected Mr. NEWSHAM and Mr. VIDAL to this House were no longer constituents of those gentlemen, but had become the constituents of Mr. Mann. So far as the law is concerned Mr. Mann represented the new district as it now stands. And when he died, and there was a vacancy in that new district, the Governor of the State had no power whatever to order an election in the old district to fill the vacancy, but the election had to be held by law within the territorial limits of the new district. The Legislature of Louisiana, according to the Constitution of the United States, had the power to change the districts. Therefore the Governor was by the new redistricting act to order an election to fill the vacancy within the new district.

Now, I would call attention to another point. If it be admitted that the election was legal, and that the Legislature had full power to create new districts, I ask a moment's attention while I compare the vote on the 3d of November with the vote cast in the preceding April election on the ratification of the constitution. In the first, second, third, tenth, and eleventh wards of the city of New Orleans, which are included in the new second congressional

district, the vote for the constitution in April was 7,373. In the same wards on the 3d of November there were only 125 votes, showing a falling off of 7,248 votes in the space of six months. In the parish of Jefferson, on the 17th and 18th days of April, 1868, the votes for the constitution were 3,133. On the 3d of November following the Republican votes in that parish were only 662; showing a falling off in six months of 2,470 votes. This is sufficient to show to any reasonable person that the loyal voters in this portion of the district were deprived of the right to go to the polls and cast their ballots. Now, this falling off was caused by the intimidations and threats made and the frauds practiced in those parishes. And I now ask Congress on behalf of the loyal people of my district to set aside the returns of votes from those parishes, so as to give the rebels there no more encouragement for their systematic plan of fraud and intimidation. And if the votes of those two parishes are thrown out I will then have, in the remainder of the district, a majority over Mr. Hunt, my contestant, of 3,341 votes. And as I hold the certificate of election from the Governor, I hold that I should be recognized and admitted to this body as the legal Representative of the district in which a vacancy was created by the death of my predecessor, Mr. Mann. There is no evidence whatever that there was any fraud in the election in the remaining five parishes of the district. Our vote in November compares favorably with the vote cast in April for the constitution. And I think that Congress should recognize the right of the voters of those parishes to be represented here. Had the same Republican vote been cast in November that was cast in April in the parishes of Orleans and Jefferson I would still have a majority over Mr. Hunt of several hundred votes.

It will be noticed that under the new registration for the election of November there were 20,314 voters registered in the five wards of the city of New Orleans comprised in the second congressional district of Louisiana. The total votes in those wards cast at the election, admitting all of them to have been legal, were 11,660, showing that over 8,500 legal voters were deprived of the right to vote in consequence of the condition of things then existing in Louisiana, and I have every reason to believe, judging from the election in April previous, that those 8,500 were Republican voters. I ask this House to give these men—most of whom were colored—some consideration, and not allow the rebel votes to be counted against them. If this is done, it is possible that at the next election loyal men will have a chance to express their will through the ballot-box. And according to the registration for the parish of Jefferson there were then 5,969 voters, while the total number of votes cast on the 3d of November was 2,886, showing that in that parish alone there were 3,083 loyal voters who were deprived of their right to vote in consequence of the intimidation and lawlessness there.

[Here the hammer fell.]

The SPEAKER. The fifteen minutes have expired. The other claimant, Mr. Hunt, is now entitled to the floor for fifteen minutes.

Mr. KERR. Mr. Hunt desires me to say that he does not wish to occupy any part of his fifteen minutes. He leaves the question to be discussed by other gentlemen.

Mr. MAYNARD. Mr. Speaker, would it be in order for me now to make the motion I indicated a few moments since?

The SPEAKER. It could only be presented in the form of an amendment to the pending resolution. The House is now considering the question of the claims of these respective contestants to the seat. That is a question of as high privilege as any that can be pending in the House at this time.

Mr. MAYNARD. The point, in the form in which I proposed to present it, was that whichever of these claimants holds the certificate is *prima facie* entitled to the seat, and should

be admitted the moment it appears to the House that there is a vacancy.

The SPEAKER. That is a question for the House to determine. The House is now engaged in considering the question which of these claimants is entitled to the seat. If the case had not been investigated the House might, upon the *prima facie* case presented by the certificate, decide to swear in a person; or it could so decide now if it saw fit.

Mr. MAYNARD. Then I make that motion.

The SPEAKER. The gentleman cannot make the motion unless the gentleman from Michigan [Mr. UPSON] yields for the purpose.

Mr. CHANLER. I appeal to the gentleman from Michigan to allow the motion to be made.

Mr. UPSON. I do not yield for that motion. This matter has been referred to the committee; they have reported upon it; and I want the House to determine the question upon that report. And I would say that this case follows the precedent established in previous cases—in the cases of the members from Kentucky as well as the case of the gentleman from Tennessee, [Mr. BUTLER.] Wherever a protest has been presented to the House before the admission of the person presenting himself as a member, and a *prima facie* case has been made against him, the House has uniformly referred the case to a committee, and has always acted upon the report of the committee. I know of no reason why we should in this case deviate from the customary course. And let me say that some of the gentlemen who are apparently so anxious to precipitate a decision by a departure from the ordinary proceeding, will, when we come to a vote upon the record, be found on the other side.

Mr. CHANLER. One word right here—

Mr. UPSON. I do not yield to the gentleman.

Mr. CHANLER. I only wish to say—

The SPEAKER. The gentleman from Michigan [Mr. UPSON] declines to yield, and is entitled to be protected against interruption.

Mr. CHANLER. Of course, protection is always extended on that side.

The SPEAKER. The remark of the gentleman from New York [Mr. CHANLER] is not just to the Chair; for the Chair has protected him from interruption when he has declined to yield.

Mr. CHANLER. When questions of veracity have been raised here I have appealed from the decision of the Chair when that side has been protected and this side punished.

The SPEAKER. The remarks of the gentleman from New York are not respectful to the Chair; nor are they true.

Mr. CHANLER. Very well; let it be decided by the record.

Mr. UPSON. I yield for a moment to the gentleman from New York, [Mr. WARD.]

RELICS OF GEORGE WASHINGTON.

Mr. WARD. I ask unanimous consent to submit the following resolution:

Whereas there appears in the Evening Express, a paper published in this city, under date of February 26, 1869, the following:

The Articles Taken from the Arlington House.—General Robert E. Lee made application a few days ago, through a gentleman residing in this city, to the Secretary of the Interior for a number of articles once the property of George Washington, which were taken from the Arlington House, General Lee's estate before the war, when that place fell into the possession of the Federal Army. The articles were pieces of household furniture, clothing, dishes, and papers which formerly belonged to General Washington. Secretary Browning has decided to grant the request, and an order has been given to turn the articles over to the person deputed by General Lee to receive them.

Resolved, That the Committee on Public Buildings and Grounds be directed to inquire into the subject, and ascertain whether the matter so published is true, and if true to ascertain by what right the Secretary of the Interior surrenders those articles so cherished as once the property of the Father of his Country to the rebel general-in-chief; and that said committee report fully upon the subject by bill or otherwise; and that they have power in pursuing said investigation to send for persons and papers, and leave to report at any time.

Mr. BROOKS. I object, and call for the regular order.

CONTESTED ELECTION—LOUISIANA.

Mr. UPSON. Mr. Speaker, the questions involved in this contest are peculiar. The case is one that is without a precedent in the records of Congress. I ask the attention of members that they may understand the grounds of the action of the committee. The report of the majority, if properly understood, will, I think, commend itself to the candid judgment of the House.

This case was presented early in this session by the presentation of the credentials of Mr. Menard, and also of a protest from Mr. Hunt, with a certificate from the Governor and secretary of State of the votes cast in that district. The credentials and the protest, together with an opinion of Mr. Randell Hunt on the legal questions involved, and a statement of the facts in regard to the organization of the new district, will be found in the report on pages 6 to 9.

For reasons best known to himself the Governor gave the certificate to Mr. Menard, although it appears from the certified statement which accompanies it that the whole number of votes cast at said election to fill such vacancy in said district was 27,019, of which votes so returned to the secretary of State, 19,078 were rejected by the committee of canvassers and the returns thrown out, being a large majority of the entire vote of the district as returned, and the certificate was given to Mr. Menard on the vote of but three of the seven parishes of the district, and casting in the aggregate only a vote of 7,941. The vote of the single parish of Orleans, one of those rejected, was 11,628, being nearly four ninths of the entire vote of the district, and 3,687 votes more than the entire vote on which the certificate was given to Mr. Menard. The reason given in the certified statement for the rejection of the vote of the parish of Orleans, namely, "that the returns were made by the boards of supervisors of registration," shows that in this respect the returns were made as required by law, and that the objection is invalid. By the provisions of section twenty-five, of act No. 164, laws of Louisiana, 1868, page 223, it is expressly made the duty of said supervisors of registration in each parish to make out and forward said returns to the secretary of State.

I will ask the Clerk to read that provision of the law of Louisiana.

The Clerk read as follows:

"Sec. 25. That it shall be the duty of said supervisors of registration in each parish to make out triplicate returns, to forward one of them immediately by mail to the secretary of State, and another to the secretary of State by the next most speedy mode of conveyance, and to deposit the third in the office of the clerk of the district court, and in the city of New Orleans in the office of the clerk of the first district court; and for their willful failure or neglect herein, such supervisors shall, upon conviction be, or any court of competent jurisdiction, be fined in a sum not exceeding \$500, at the discretion of the court."

Mr. UPSON. Notwithstanding this plainly expressed provision of the statute the Governor has wholly ignored it, and has rejected these returns because they were made by the very officers whom the law said should make them. It is unnecessary to notice further the objections stated to the returns from the other parishes rejected, (although those urged against Jefferson and Terrebonne would seem to be frivolous,) since, if any valid election was held there, the parish of Orleans being properly returned, should be counted, which would give Mr. Hunt a majority over Mr. Menard so great that it would not be overcome by the vote of all or any of the other parishes if they were counted, and in no event can Mr. Menard be shown by the returns to have received a majority vote in the district.

The most favorable construction of the evidence for the contestant that could be given would not identify and count up additional votes enough in his favor to equal one half of the majority returned for Mr. Mann, much less to give him the majority, even if all the votes assumed by witnesses to have been changed in the ballot-boxes or fraudulently put in were charged to the Democratic vote, deducted from Mr. Mann's majority, and counted for the con-

testant. The only remedy for or correction of the evils complained of under the state of the case as presented, would be to set aside the returns, declare a vacancy, and order a new election, as it is impossible from the evidence to purge the poll; but this the contestant does not desire or insist should be done, nor do the committee consider the evidence sufficient to justify such a course.

So far as the returns and the evidence show, therefore, the contestant has not received a majority of the votes cast in said district for Representative in Congress, but that majority was given to Mr. Mann.

It is objected by Mr. Hunt that the district from which Mr. Menard claims to have been elected is a different district in its territorial limits to that one which Mr. Mann was elected to represent, and that the vote on which Mr. Menard claims to have been elected is entirely from parishes which were never in the district represented by Mr. Mann, and which have been incorporated into the second district as now known by an act of the Legislature of Louisiana passed since Mr. Mann took his seat in this House, which statement as to the territorial organization and vote of the district as now known appears to be correct.

The second congressional district of Louisiana, as it existed at the time that Mr. Mann was elected therefrom and took his seat in this House, was created by act No. 54 (Laws Louisiana, 1864-65, p. 144,) approved April 4, 1865, dividing the State into five congressional districts, and comprised "that portion of the fourth representative district of the parish of Orleans which is included between St. Louis, Rampart, and Canal streets and the Mississippi river, third, second, and first representative districts of the parish of Orleans, and that portion of the tenth representative district of the parish of Orleans which is known by existing statutes as the tenth ward of the city of New Orleans."

By a subsequent act of the Legislature of Louisiana, approved August 22, 1868, making a new division of the State into five congressional districts, the second congressional district was changed so as to comprise "all that portion of the parish of Orleans on the left bank of the Mississippi river above and west of Canal street, in the city of New Orleans, comprising the first, second, third, and tenth representative districts of the parish of Orleans and the parishes of Jefferson, St. Charles, St. John the Baptist, St. James, Lafourche, and Terrebonne," and this election to fill the vacancy in the original second district caused by the death of Mr. Mann was held in the limits last above prescribed for the second district by said act of August 22, 1868, and not in the limits prescribed by the act of April 4, 1865; and both Mr. Menard and Mr. Mann claim to have been chosen by the electors of and to represent said new district so created by act of August 22, 1868. It will be seen that this new second district created by the act of 1868 not only does not embrace all of the same portion of the parish of Orleans as the one created by act of 1865, but also includes the parishes of Jefferson, St. Charles, St. James, Lafourche, and Terrebonne, none of which were in the district represented by Mr. Mann, but were all included in the third congressional district, and are now represented in this House by the member from said district, [Mr. NEWSHAM,] whom they participated in electing. That portion of the fourth representative district of the parish of Orleans which was included in the second congressional district of Mr. Mann by the act of 1865 has by the act of 1868 been cut off from it, and the portion of the tenth representative district of said parish of Orleans not before included in the old congressional district, and known as the eleventh ward of the city, has also been added to the new second district, and was by the act of 1865 a part of the third congressional district.

The largest portion of this new second congressional district, as created by the act of the Legislature of Louisiana of August 22, 1868,

and comprising a majority of the voters of said district, is made up of a part of one of the other old districts of the State now having a Representative in this House, to wit, the third congressional district, as created by the act of 1865, and the singular spectacle is presented of a vacancy in the second congressional district, claimed to have been filled by the voters of the third district, who already have a Representative chosen by them sitting in this House.

The new second district of Louisiana therefore, as constituted by the act of the 22d of August, 1868, might with more propriety have been termed the third district, because the greater portion of it is made up of the original third district, and the whole vote given to Mr. Menard comes from parishes embraced in the third district, now represented here. The point, therefore, was distinctly raised, and I call the attention of my colleague on the committee to the fact, that we find a statement laid on our desks on the part of Mr. Hunt claiming that the committee went outside of the record to find reasons for rejecting his claim, whereas in fact he himself placed on record, in the very first papers he filed, a protest against Mr. Menard's election on the ground that he was chosen from a district that did not compose a part of the second district. That will be found in this very protest, as I will now read:

"1. Mr. Menard and I were candidates for election to fill the unexpired term or vacancy caused by the death of said James Mann.

"2. But after his election as Representative to the Fortieth Congress, and before the election to fill the vacancy occasioned by his death, the Legislature of Louisiana reapportioned the State for congressional purposes, changing the districts in very material respects.

"3. And in what was Mann's district, that is, the second district, Mr. Menard received only 93 votes and I received 11,535 votes; but all the votes of this precinct or parish were rejected by the committee of canvassers on purely technical grounds of informality in their returns, in most manifest violation both of law and justice, so that the certificate was awarded Mr. Menard by the Governor upon a state of facts showing that Mr. Menard did not receive a single vote in Mr. Mann's late district."

That was the very objection raised by Mr. Hunt and upon which the committee were called upon to decide, and accordingly they acted upon it, as it was proper they should even had their attention not been called to the matter, because it was patent on the face of the papers.

Mr. SCHENCK. Will the gentleman yield for a question?

Mr. UPSON. Certainly.

Mr. SCHENCK. I have some difficulty in hearing the argument, and I do not know that I entirely understand the point of the case. I understand that Mr. Mann was admitted to a seat as having a *prima facie* right to it, and that his seat was contested by Mr. Jones, but in the mean time Mr. Mann died; that upon the death of Mr. Mann, Mr. Hunt and Mr. Menard became candidates to fill the vacancy; that Mr. Jones has to-day been decided not to have had good grounds for contesting the seat of Mr. Mann, and therefore the seat has been refused to him by the House. That, I understand, is the decision of the House—that the death of Mr. Mann, who was entitled to a seat, created a vacancy.

Mr. UPSON. Certainly.

Mr. SCHENCK. Now, is one of these contestants in possession of the evidence of a *prima facie* right to the seat; and if so, is it Mr. Menard? Has the House decided that there is a vacancy; and if so, did the committee find one of these contestants entitled by the production of the certificate of the Governor, or otherwise, to a *prima facie* right to the seat?

Mr. UPSON. That question was not referred to the committee.

Mr. SCHENCK. Will the gentleman tell me whether I am right?

Mr. UPSON. I will answer the gentleman. This case was presented, as I stated in my opening remarks, in the early part of the present session on the certificate of the Governor, given to Mr. Menard on the protest of Mr. Hunt, accompanied by a certified statement of the vote

of the district protesting against Mr. Menard's being sworn in and claiming the right to the certificate himself. That protest and the certified statement with the certificate of the Governor to Mr. Menard were presented by the Speaker to the House, were referred to the Committee of Elections to determine who was entitled to the seat, and on that reference the committee have acted and made their report.

But I was proceeding to remark in relation to the redistricting of the State. Objection was taken, as we have seen, by Mr. Hunt, and we find that the statement which he made was correct as a matter of fact; that this district had been newly created, and that the major part of the new district was made out of the old third district of Louisiana, although it is called the second district. The vacancy occurred in the second district, which Mr. Mann was elected to represent, and consisted only of a portion of the parish of Orleans. The whole of the return for Mr. Menard is based upon the vote of parishes which are included in the third congressional district, which is represented here by Hon. Mr. NEWSHAM.

The attention of the committee was called to the case of Perkins vs. Morrison, with which I presume the gentleman from Ohio is familiar, for if I mistake not he participated in the discussion of the legal questions presented in that case. It was a case from New Hampshire in which two claimants claimed the seat, one claiming to have been elected from what had formed the old district, and the other claiming the seat upon the votes which were returned from the new district as formed by the Legislature of New Hampshire. If the votes in the old district were counted, then Mr. Perkins, the contestant, would have been entitled to the seat, and if the votes in the new district were counted, then Mr. Morrison, the sitting member, was entitled to the seat. The Committee of Elections, divided according to party lines by a vote of five to four, decided in favor of the sitting member who was elected by the new district. But they themselves stated an objection that had been raised which they were compelled to admit, and I read from page 145 of Bartlett's Contested-Election Cases:

"In the discussion of this case before your committee, one other and only one other argument was submitted by the contestant. It was, that if the Legislature of New Hampshire could change the boundaries of the district, they might have so divided it as to render it impossible to determine to which district the Governor's precept should have been sent. This may be admitted, but it does not disprove the existence of the power. It is certainly illogical to argue that because a power may be abused therefore it does not exist."

Now, the very objection insisted upon there finds an exact illustration in this case. A man presents himself here with a certificate claiming to have been elected from a portion of territory that never was included in the district made vacant by the death of Mr. Mann, and from a district which might with more propriety have been termed the third district than the second district.

Mr. PAINE. I ask the gentleman if he will yield to me for five minutes?

Mr. UPSON. For what purpose?

Mr. PAINE. To make a statement to the House.

Mr. UPSON. I will yield for that purpose.

Mr. PAINE. I send to the Clerk's desk a resolution which I will ask the gentleman to allow me to present to the House for a vote of the House now.

The Clerk read as follows:

Resolved, That J. Willis Menard, having a *prima facie* right to a seat in this House as a Representative from the State of Louisiana, be admitted to the House pending the consideration of the present contested-election case.

Mr. UPSON. I must object to the reception of that resolution at this time, and I will give the gentleman my reasons why.

Mr. PAINE. Then allow me to state to the House that if the previous question shall not be sustained, so that I shall have an opportunity to offer that resolution before this case is disposed of, I will offer it. I would add, with the gentleman's permission, that this claimant

for the seat has a certificate from the Governor of his State such as gives us all our right to sit here in the first instance—gives us all a *prima facie* right to sit here.

Mr. UPSON. The gentleman will bear in mind that these credentials were presented in the early part of this session, when the House had just the same opportunity of knowing the facts from the face of the papers that they now have, for the credentials were presented here and this House directed them to be referred to the Committee of Elections. They did the same with the whole of the Kentucky cases. In every one of those cases the gentleman claiming a seat presented a certificate of election in due form, but they were all referred to the Committee of Elections. And so was the fact in the case of Mr. BUTLER, of Tennessee. He presented his credentials in due form, and they were referred to the Committee of Elections. So also with the credentials of the member from Georgia and from every other reconstructed State; and this House, as a matter of consistency, should abide by the rule they have established for themselves. And they should also abide by the statement that has been made in the hearing of the House by Mr. Menard himself that he wants no favor shown him on account of his race or color, and that you shall consider his case and decide it as you would the case of every other person. In that light the committee have endeavored to discharge their duty in the premises, and have shown to the House the reasons upon which they have predicated their action.

Mr. HIGBY. Will the gentleman yield to me for a question?

Mr. UPSON. Certainly.

Mr. HIGBY. I would ask the gentleman if there is any defect in the credentials submitted by Mr. Menard? What is the finding of the committee upon that?

Mr. UPSON. In form it is all regular, but it comes from one of those States where all the certificates are first referred to the Committee of Elections, and where the House have always refused to act until the Committee of Elections have reported upon them. They have now reported upon these credentials, and I ask the House to act upon that report and not make any deviation from the principle they have already established in other cases.

At the time the credentials of Mr. Menard were filed and referred to the committee there was also filed and referred a certificate under the seal of the State of Louisiana, and signed by officers of that State, with a protest from Mr. Mann, claiming the seat for himself. The certificate signed by the Governor of the State and by the secretary of the State, under the seal of the State, showed that Mr. Menard was not elected. More than that, it showed that Mr. Menard received but 93 votes in that portion of the new district which had been embraced in the old district represented by Mr. Mann. Now bear in mind that every one of the votes on which the certificate given to Mr. Mann was predicated is from portions of the district which at a previous election chose Mr. NEWSHAM, now holding a seat on this floor, and not from the district represented by Mr. Mann during his lifetime. They are the votes of those who never were authorized to vote for Mr. Mann at the time he was elected.

The position taken by the Committee of Elections in this case is the same that was taken by the minority of the Committee of Elections in the case of Perkins vs. Morrison, from the State of New Hampshire. The reasons will be found in the volume of Contested Elections, and they are copied in the report of the committee in this case. The language of the minority in that case is applicable also to this case. That minority report was signed of four of the nine members of the committee, and received a vote in the House of 90 to 98. The Committee of Elections are satisfied that the reasons presented in that minority report are correct; that is, that the vacancy caused by the death of Mr. Mann could only be filled by the voters of the district that formerly elected him;

that the redistricting of the State was only prospective, and that any election by voters of the third district to fill a vacancy that had arisen in the second district was illegal and void. That is the conclusion to which the committee have arrived. They apply the same rule to the case of Mr. Hunt, and they find by the same reasoning that he is not entitled to a seat here, although he claims that he was elected by voters in the new portions of the district.

Mr. GARFIELD. I desire to ask the gentleman a question. He is discussing, as I understand, the relations between the old and the new district and the vote in the respective districts. I wish to ask him whether the law which created the new district did not repeal the law creating the old district, and whether there could have been any legal election at all on the basis of the old districting law?

Mr. UPSON. The act redistricting the State repealed only so much of former acts as was inconsistent with it. It was only prospective in its operation, applying to elections of members to future Congresses.

Mr. GARFIELD. Does the law say so?

Mr. UPSON. The law provides for the repeal of everything "inconsistent with the provisions of this act." The same reasoning applicable in this case was adopted in the case of *Perkins vs. Morrison*. The language used in that case is as follows:

"It does not purport to provide for any method of filling vacancies that might occur in the future, and beyond all question it was understood as providing only for the election of members of future Congresses. Such are the terms of the act and such must also be its spirit. A vacancy in the House of Representatives is the occurrence of an event by which a portion of the people are left unrepresented, and the filling of that vacancy is directed by the Constitution in such explicit language as requires no aid from State enactments to perfect the right. The second section of the first article in the Constitution contains the following provision: 'When vacancies occur in the representation from any State the executive authority thereof shall issue writs of election to fill such vacancies.' This is the only provision of law on the subject of vacancies, and it is ample and sufficient. No act of the Legislature of New Hampshire purports to interfere in the matter, and the act of July ought not, in our belief, to be understood as requiring the vacancy occasioned by General Wilson's resignation to be filled by any other person than those whose Representative he was."

Mr. GARFIELD. One further question. Has the gentleman's attention been called to the case of two members now on this floor—the gentlemen from Indiana [Mr. WASHBURN] and his colleague [Mr. HUNTER]—who are at the present moment members from the same district and have been for more than a year, the old law by which their districts were created having been repealed. The appointment of registers in bankruptcy as well as everything official that has been done in regard to the congressional districts since that time has proceeded on the basis of the new districts. I ask the gentleman whether this case which I now cite is not precisely parallel to the case he is discussing?

Mr. UPSON. There is no parallel between the two cases. The two gentlemen from Indiana to whom the gentleman has referred were both elected from their respective districts at the same time, and no vacancy has since occurred in either district, nor has any special election since been held there. In the present case there has been a special election to fill a vacancy in the Congress to which Mr. Mann was elected; and it is absurd to say that an election in that district for a member of Congress is for only half a term, provided the Representative chosen in the first instance dies, and that the election of his successor for the residue of the term must be held in a district which is substantially different from that in which the first election was held.

Mr. GARFIELD. Suppose a vacancy should occur in one of the two districts represented by the two gentlemen from Indiana already referred to, would the gentleman's line of reasoning lead him to declare that in such a case there must be an election on the basis of the old district rather than on the basis of the new district which has been recognized by law for a year and a half?

Mr. UPSON. I certainly do maintain that to fill the vacancy the election would have to be held on the basis of the old district; otherwise it would happen that a portion of the people embraced within the new district would for the residue of the term have two Representatives in Congress, while a portion of the people in the old district would have no Representative.

Mr. GARFIELD. One further question before the gentleman leaves this point. Does not Mr. Menard seek to represent, and, if elected at all, was he not elected to represent the second congressional district of Louisiana? And did not Mr. Mann, the deceased member, represent the second district? Is there not as regards this district a mere change of boundaries rather than a change of identity?

Mr. UPSON. There is an absolute change of identity; for a majority of the voters in the second district as organized under the recent law are residents of the district now represented by the gentleman from Louisiana, [Mr. NEWSHAM.]

Mr. GARFIELD. That I understand; but is it an absolute change?

Mr. UPSON. The district could with more propriety be called the third than the second, because it contains more of the voters of the third than the second.

Mr. GARFIELD. The law calls it the second district.

Mr. UPSON. But that does not change the reality. The repealing clause of the law of Louisiana, to which the gentleman has called my attention, provides that—

"All laws and parts of laws in conflict with this act be, and the same are hereby, repealed."

Mr. GARFIELD. Is it not in conflict with that act for the old districts to remain after the new districts have been created?

Mr. UPSON. No, sir; because that is beyond their power. That gun has gone off. The election had taken place for members of this Congress, and that legislation could not change it. It could make no change except for members of the next Congress. Does the gentleman say they can make a law for half of a Congress, and then say for the next half of the Congress the election should be held in another district?

I call attention of the House to the reasoning in the case to which I have referred:

"It would not be a preservation of the purity of the elective franchise, nor would it be a just guardianship of the republican principle that all shall have a right to be represented, to admit the power of a State Legislature to provide that a portion of the people should have two Representatives in Congress while another portion should have none or not be represented by the man of their choice."

"It is, besides, in disregard of the law of Congress of June, 1842, which declares that no one district shall be entitled to two Representatives. If the people who choose a Representative are not entitled to fill the vacancy happening by his resignation it is impossible to tell what portion of the population may most properly exercise this privilege. It seems to be assumed in this case that the new district made by the act of July 11, 1850, and numbered three, has the right to send a Representative in place of General Wilson because the number corresponds with that which General Wilson represented. But the order of numbering is an unimportant circumstance, and the first or the fourth district might have been as properly called the third as any other; yet it would be a strange assertion that on this account such district would be authorized to have two Representatives during the remainder of the Thirty-First Congress."

Mr. GARFIELD. Let me ask my friend a question in this connection. I desire to obtain information on the subject. Was not an election held at the same time for members of the next Congress, and I ask him whether upon the same ticket members for the present and for the next Congress were not voted for?

Mr. UPSON. It was so all over the State.

Mr. GARFIELD. I wish to ask the gentleman whether the principle here involved may not arise in the next Congress?

Mr. UPSON. It can never happen again, unless a vacancy should arise under the same circumstances.

Mr. GARFIELD. Would a decision in this case one way or the other in any way affect the case of General Sheldon in the next Congress?

Mr. UPSON. Not in the least. The election was held properly, so far as his case is concerned. It does not affect an election for a future Congress, but only an election for an unexpired term of this Congress.

Now, Mr. Speaker, I will say that so far as Mr. Menard is concerned it is unimportant whether the election was held in the new district or in the old district, for on the returns he is in the minority, and a greater minority in the old district than in the new.

Mr. GARFIELD. Do I understand the gentleman to say that this certificate did not show that Mr. Menard had received a majority of the votes?

Mr. UPSON. The certificate says nothing about that.

Mr. GARFIELD. What does the certificate say?

Mr. UPSON. It is in the ordinary form from the Governor of Louisiana, certifying to his election; but accompanying that certificate and filed with the Speaker at the same time was a certified statement of the Governor and secretary of State of Louisiana, giving the whole vote of the district and the reasons which induced them to throw out certain votes. The reasons they give for throwing out those votes are the very reasons why they should have been counted. The *prima facie* case then changed. The whole matter was referred to the Committee of Elections for their determination. They were asked to decide which of these two, Menard or Hunt, was entitled to the seat, and they have decided that neither of them was entitled to it.

Mr. GARFIELD. Do I understand the gentleman to say the Governor gave a certificate of election to both of these parties, Menard and Hunt?

Mr. UPSON. No; he gave the certificate of election to Menard, but the certified statement which accompanied it showed that Menard had received a minority of the votes.

Mr. GARFIELD. He gave a certificate to one and a certified statement showing the vote to the other?

Mr. UPSON. He gave a certificate accompanied by a statement showing what votes had been counted and what votes had been rejected.

Mr. GARFIELD. Then, the *prima facie* right to the seat is in Mr. Menard?

Mr. UPSON. No; the *prima facie* wrong is in Mr. Menard.

Mr. GARFIELD. The *prima facie* wrong?

Mr. UPSON. Yes, sir.

Mr. GARFIELD. Is it *prima facie* wrong when he comes with a certificate of election?

Mr. UPSON. I take both the papers referred to together. I say, so far as the return is concerned in that second district of Louisiana, Mr. Menard is returned as having received only 93 votes.

Mr. ROSS. By what authority can a Governor give a certificate except to a man who is elected?

Mr. UPSON. The question here is not as to what authority he had, but what he did.

Mr. ROSS. It has no force or validity if given to the wrong man.

Mr. UPSON. The reasons are given, and I have shown wherein they are invalid.

Mr. PAINE. I desire to ask my friend whether the certificate given by the Governor to Mr. Menard is not such as would give him a *prima facie* right to a seat in this House just exactly as good as that of any member here to-day.

Mr. UPSON. It is; but I will tell the gentleman so it was in regard to the certificates from every one of the southern States that have also been referred to the committee. And so it was in regard to the case of the members from Kentucky and that of Mr. BUTLER, of Tennessee. In referring this case to the committee all the papers were sent to them, and now on the face of these papers it is shown that Mr. Menard was not entitled to the seat. The gentleman cannot by any cyphering or by any principle of law make out a *prima facie* case for Mr. Menard.

Mr. PAINE. Another question. Is it not true that the reason and the sole reason why we referred these papers as between Mr. Menard and his contestant to the Committee of Elections was that we did not yet know whether there was or was not a vacancy in this district of Louisiana?

Mr. UPSON. No such reason have I heard alleged. I think they were referred without argument.

Mr. PAINE. I understood that to be the only reason we ever referred the case to the committee. It was the only reason why I ever voted for it, I know.

Mr. UPSON. Whatever reasons they were they were satisfactory to the House at the time, and now the case comes before the House on the facts; and when the gentleman has the facts before him why does he ask about a *prima facie* case? What is a *prima facie* case good for when you show it good for nothing?

Mr. PRUYN. That is it.

Mr. PAINE. What I want is, so far as this case is concerned, to decide whether there was or was not a vacancy. After that we have a right to give the seat to any man who has the certificate of the Governor, and then hear the contestant as to his claim.

Mr. UPSON. I ask the gentleman why it was this House refused to swear in the members from Kentucky until an investigation had when they had regular certificates?

Mr. COOK. Did not the House refer all those cases to the Committee of Elections with instructions to inquire whether there was a vacancy, and also whether either of these men was duly elected?

Mr. UPSON. This whole case was referred to the committee, and the argument as to the *prima facie* case is now too late for consideration, because the merits of the case are before the House, and the moment the papers are examined by the gentleman he will recognize it if he is a lawyer. The certified statement of the returns of the votes is good legal evidence anywhere so far as regards showing the votes cast at this election. It is under the seal of the State and is signed by the Governor and secretary.

Mr. GARFIELD. I do not desire to protract the colloquy, but I have been trying to get the gentleman to say distinctly in answer to my question whether the *prima facie* case is in favor of Menard or not.

Mr. UPSON. There is no *prima facie* case here. The *prima facie* case was when it was presented to the House.

Mr. GARFIELD. Do I understand the gentleman to say that we have the very singular example of an election case in which there is no *prima facie* case about it?

Mr. UPSON. Yes, sir; we have got beyond that.

Mr. GARFIELD. This is the first time I ever heard there could be such a thing.

Mr. UPSON. Perhaps the gentleman is not familiar with a *prima facie* case. Let me give him a definition as given by an old gentleman in Vermont. "It is a case," the old man said, "that was good on its face but bad in the rear." [Laughter.]

Mr. GARFIELD. Do I understand the gentleman to say that this is a good case *prima facie*, but bad on its merits?

Mr. UPSON. No, sir.

Mr. GARFIELD. Or does he say it is bad on its face and good on its merits?

Mr. UPSON. I say it is bad all round, on both sides. I say that he has not a *prima facie* case, and if the gentleman will permit me I will endeavor to show it before I get through.

Mr. GARFIELD. If the gentleman will allow me, I desire to ask him if what we call a *prima facie* case is not known everywhere to be this: that the man who brings a regular certificate of election from the Governor of his State has a *prima facie* case?

Mr. UPSON. I will answer the gentleman; and I tell him that this House has decided over and over again that there is no such *prima facie* case from the reconstructed States, and

there never has been. Every case from those States has been referred to the Committee of Elections, and a report has been had from that committee before determining the question of the admissibility of members; and that is what was done in this case. I tell the gentleman further that this case was not referred to the committee on one paper. It was referred on two papers. They were both presented together and referred together to the committee, and the papers thus presented show no *prima facie* case in favor of Mr. Menard.

Mr. GARFIELD. I desire to say to my friend from Michigan that I quite recognize the truth of what he says in regard to the reconstructed States. We have followed the rule which he states when we first admitted Representatives from those States; but the State of Louisiana has been represented here, and this is not a case of first intention. It is a case of filling a vacancy.

Mr. UPSON. Will the gentleman tell me whether the cases from Kentucky were cases of first intention, and whether the case of Mr. Butler, of Tennessee, was a case of first intention?

Mr. GARFIELD. Certainly; Mr. Butler's district had not been represented.

Mr. UPSON. His State had been represented.

Mr. GARFIELD. But his district had not.

Mr. UPSON. The State of Kentucky had been represented ever since it was admitted into the Union, and yet the cases from that State were not acted upon by the House until they had been referred to the Committee of Elections and reported upon.

Mr. GARFIELD. Does not my friend recognize this difference, that in the Kentucky cases and in the case of Mr. Butler the question of the personal loyalty of the Representatives was raised? That was the reason we referred them to the committee. They never came up on the certificates to be tried on the merits.

Mr. UPSON. I tell the gentleman that the question of the election was raised in this case on the face of the papers, for the papers presented to the House showed that Mr. Menard was declared elected illegally and ought not to have been so declared.

Before I proceed further, let me say, as my friend from Ohio has referred to the cases from Kentucky and has stated that in every one of those cases there was a charge of personal disloyalty, that the gentleman from the Lexington district [Mr. Beck] has called my attention to his own case, where there was no such charge, and so far as the face of the papers showed his election was regular and his loyalty unchallenged.

Mr. BECK. Let me say that on the 3d of July, 1867, when my case was referred to the Committee of Elections, there was not an objection made by any human being upon the floor, except that General Logan stated that I had been the law partner of John C. Breckinridge. Affidavits were sent here afterward, but there was no objection at the time.

Mr. JONES, of Kentucky. The same is true of five out of the eight cases from Kentucky, and yet the gentleman from Ohio [Mr. Garfield] voted to refer them to the Committee of Elections.

Mr. UPSON. It was because Mr. Menard did not receive a majority of the votes, so far as appeared from the testimony, either in the old second district or in the new second district, that the committee felt compelled to report against him. But the same objection they find is also fatal to Mr. Hunt's claim to the seat. He is not shown by the evidence to have received a majority of the votes in the old second district, left vacant by the death of Mr. Mann. The returns are made from the parishes constituting the new second district, and the portion of the parish of Orleans in the new district is different from what it was in the old—one half or more of the fourth ward of the city of New Orleans is not included in the new district, and no election to fill the vacancy was held therein nor returns made therefrom. The

eleventh ward has been added to the new district, and was not in the old, but the vote of this ward is included in the returns. What the vote would have been in the part of the fourth ward left out, or what the vote is in the eleventh ward added, it is impossible to determine from the returns as made, and hence Mr. Hunt fails to show that he has received a majority in the whole of the district left vacant by the death of Mr. Mann. It is also apparent that in a portion of the district left vacant by the death of Mr. Mann no election was held to fill the vacancy.

I would also call the attention of the House to another matter of importance, because the contestant, Mr. Hunt, has insisted that the committee went out of their way to find objections against him. I will state a few of the general facts and call the attention of the House to some things in connection with those facts. In the first place the aggregate vote of the State for Congress in April, 1868, at the time Mr. Mann was elected, was 107,156, as shown by the papers. The aggregate Republican majority of the congressional vote at that time was 16,985. In the second district Mr. Mann received 6,784 votes, and Mr. Jones 5,634, leaving a majority for Mr. Mann of 1,150 votes. There was also 849 Republican votes scattering, making the total vote in the district 12,467.

Now, the vote for Mr. Hunt in the parish of Orleans six months afterward was 11,535, while the vote for Mr. Menard was only 93. And I will show by the same certified statement that Mr. Sheldon received only 125 votes in the same district.

I wish to call the attention of the House to another fact. There was no evidence brought before the committee of the number of registered voters of the entire new district. But I find attached to the report of the minority a statement, certified to by officers of Louisiana, of the registered voters of that district. By that it appears that the registry of voters in November, 1868, was 35,772, while the vote cast was only 11,628, showing that in this parish of Orleans there were, at the time of this last election, 28,144 registered voters who, from some cause or other, did not vote. So also in the parish of Jefferson, which is embraced in this new district, the number of registered voters is given at 5,969 in the minority report, while the returns of the votes cast are 2,866, showing that over 3,100 voters did not vote there at that election.

Now the same principle applies here as in the case of Blakey vs. Golladay. A vast majority of the people of this district were virtually disfranchised at this election, and there was such a state of things existing in this congressional district that no loyal man claiming to be a Republican could vote with personal safety.

These facts are a matter of public history. We all know, as a matter of public history, that lawlessness and riot reigned throughout Louisiana; that the Governor was unable to maintain civil order; that the Legislature of the State applied to the Executive of the United States for troops to maintain order in the State, and that the Executive neglected to respond to the call; that the Governor of Louisiana had applied to the commanding general, stating that he himself was unable to maintain order there, and that the mob reigned in the city of New Orleans. A letter from the Governor, setting forth these facts specifically, was laid upon the tables of members early in this session.

There are certain things of which the House may take notice judicially, public matters affecting the Government and matters of public history affecting the whole people. Those matters this House can take cognizance of. And I know of no case where it would be more proper for them to do so than in this case where riot and lawlessness prevailed at this election in Louisiana. The return of the votes is practical evidence of that fact. In this election the portion of the city of New Orleans embraced in

this district cast only 93 votes for the Republican candidate, while but six months before the same ticket received some 5,000 votes in the same portions of the city.

Mr. WHITEMORE. I would inquire if the 28,000 votes which it is claimed were registered in this district, but not cast for some reason or other in this election, were not cast in the April election for Mr. NEWSHAM, who now represents here the third district of Louisiana?

Mr. UPSON. They were; that is all of them except those embraced in the parish of Orleans.

Mr. ROSS. What was the vote in the new district?

Mr. UPSON. It was about 11,600 in the parish of Orleans. The whole of the new district gave the aggregate vote of about 27,000. Over 11,000 votes in the parish of Orleans were cast for the Democratic candidate and only 93 for the Republican candidate. This is well explained by the statement of the Governor to one of the Senators from that State, which statement was laid on our desks during the early part of this session, and also by the communication from General Buchanan and that from the Governor, which are appended to this report. I do not desire to consume time by referring to these documents in detail. With the statement which I have already made I leave the question to the decision of the House.

Mr. KERR obtained the floor, and yielded ten minutes to Mr. CARY.

Mr. CARY. Mr. Speaker, my own convictions are clear that Mr. Hunt is entitled to the seat made vacant by the death of Mr. Mann. I can scarcely hope in the few moments allowed me for the presentation of the facts to bring the minds of members to the same opinion which governs my own mind. It appears that in November last an election was held in the second district of Louisiana, the candidates being Mr. Menard and Mr. Hunt, to fill the vacancy occasioned by the death of Mr. Mann. After Mr. Mann had been elected and about the time of his death the boundaries of the district were changed. Mr. Menard comes here with a certificate of election. At the same time a certificate is presented from the Governor and secretary of State that some 15,000 votes were thrown out for informality. The records show—and this, as I understand, is the unanimous opinion of the committee—that these votes were improperly thrown out. I think there can be no question upon that point. They were votes returned according to law by the only persons authorized to return them. So that according to the *prima facie* case it is clear beyond question that Mr. Menard has no right to the seat, whether the new or the old district is the one in which the election should properly have been held. Hence I think the claims of Mr. Menard must be dismissed from this case entirely.

The question then presents itself, is Mr. Hunt entitled to the seat? If the votes of the old district only should be counted, Mr. Hunt is elected by over 10,000 majority in Mr. Mann's old district? If the votes of the new district only are to be considered, Mr. Hunt is elected by 9,600 majority.

Mr. UPSON. Will the gentleman tell me how he ascertains what were the votes in the old district? He does not find them in the evidence taken before the committee.

Mr. CARY. There can be no question in regard to that point when we look at the votes for Mr. Mann in the former election.

Now, sir, in any event it appears to me Mr. Hunt must be declared entitled to this seat, unless, as the committee attempt to show, there was such intimidation and threats that voters were prevented from coming to the polls. But suppose it to be true that persons were kept away from the polls by intimidation. Numerous cases have been reported to this House in which it has been held that that is not a sufficient ground of contest. In one case from Tennessee, the gentleman from Massachusetts, [Mr. DAWES,] the chairman of the Committee

of Elections, presented the report, stating that voters had been intimidated by rebel bayonets, and thus kept away from the polls, but that this was not a sufficient ground for the rejection of the person presenting the certificate of election. But, sir, where is the evidence of intimidation in this case? That is the evidence, that persons were kept away from the polls. There is not a particle of evidence going to show that there was a more quiet and peaceable election in any district of the United States than transpired in the second congressional district of Louisiana on the 3d day of November. There is not an affidavit on file. There are bold statements in some newspaper reports that persons were kept away from the polls. There can be no doubt that the friends of Mr. Menard understood from the number of votes registered that they were defeated. They then tried to get the Republicans from voting at all, in order that they might build on that fact some sort of representation that they could not go to the polls to vote.

Mr. Speaker, I have here a little paper which I wish to read. It was circulated in all the negro churches in the district and in every colored school. It was prepared beforehand in New Orleans, and it was circulated with the ostensible view of having it charged upon the Democratic party. The type is that of the Republican paper in New Orleans. It was got up for the purpose of having it appear that the Democrats had attempted to keep away the Republican voters from the polls. The paper to which I refer is as follows:

A White Man's Government or no Government!—The hand of the oppressor bears heavily upon us! Let the Caucasian arise in his strength! Too long have we lain supine! Assert at once and in unmistakable accents your supremacy! This is a Government of white men, for white men, and by white men. Let white men vote solidly for their rights and allow nothing to prevent the triumph of their principles! We have to the means, and let us use them effectively! It is full time that our strength was felt! None but the blue-blooded should vote! See to it, you whose very existence is at stake, that none others do. In order to carry out the designs of the party the council orders that the independent club station a company at and about each polling place for the accomplishment of our purpose. Officers in charge will hold themselves in readiness at all times during the day and evening to act promptly upon all orders from the council.

By order of the COUNCIL OF SEVEN.

Now, sir, in addition to that the speakers and leaders of the Republican party, as well as the Republican newspapers circulated in the district, advised the Republicans not to go to the polls and vote. Why did they not go to the polls and vote? Was there any threat of disorder? Was there any violence?

Mr. HARDING. Will the gentleman let me ask him a question?

Mr. CARY. I cannot yield to the gentleman, as I have not the time.

Why did they not go to the polls and vote? It was certainly not on account of any intimidation. The ninety-three voters who voted for Mr. Menard did go to the polls, and they were not disturbed. There was no disorder at any poll in the district. They stayed away from the polls because the leaders of the Republican party advised them to stay away. As I have said ninety-three did vote for Mr. Menard; but the whole vote of the county was thrown out, and the certificate of election was given to Mr. Menard. Accompanying that certificate, however, is a certified statement from the Governor and secretary of State showing that the votes thrown out were illegally thrown out and that Mr. Hunt was legally elected.

It is perhaps unfortunate that the committee had before them at the same time the case of Jones against Mann and the case of Menard against Hunt, and gentlemen perhaps have had them mixed up in their minds. I now propose to refer for a moment or two to a passage in the report of the committee. It is as follows:

"Both candidates for the vacancy claiming to have been elected and entitled to the seat, neither has sought or desired to prove the election itself invalid or to urge any such objection to it, but on the contrary it is necessary for each to insist upon its validity in support of his claim to the vacant seat."

"This may in some degree account for the very slight showing that has been made by either party on

the hearing of facts in relation to this election. There are some facts which appear in the evidence bearing upon this November election in the State of Louisiana to which your committee would now call attention. When Mr. Mann was elected the second district, as then constituted by the act of April 4, 1865, was wholly within the parish of Orleans, though not comprising the whole of said parish, and his aggregate vote was in April, 1868, 6,874, and the vote for Mr. Jones as returned was 5,634, besides 349 scattering votes given for other Republican candidates, making the aggregate vote opposed to Mr. Mann 5,983. At the late election in November, only a little over six months after, when under the act of August 22, 1868, other parishes were included in this district and a portion of the parish of Orleans, this portion of the parish of Orleans now in the district returns 11,535 votes for Mr. Hunt for both the Fortieth and Forty-first Congress, and but 93 votes for Mr. Menard for the Fortieth Congress, and 125 for Mr. Sheldon for the Forty-first Congress. The smallness and wonderful decrease of the Republican vote, the vastness and wonderful increase of the Democratic vote and its exact coincidence for both Congresses are all somewhat strange and not easily susceptible of satisfactory explanation on the theory of a fair and honest election."

The majority of the committee here admit there was but a slight showing made before the committee in relation to the election itself. It does not, however, appear in the evidence before the committee in this case of Hunt vs. Menard that anything was shown respecting the election beyond showing that it was duly held according to law, and therefore, in the absence of any objection to it, it is *prima facie* a valid election.

But as there were before the committee two contested cases for the same seat, arising out of two elections held at different times, the majority of the committee have, by comparison of votes cast at said elections at different times, attempted to get up some showing to the prejudice of the election contested between Hunt and Menard. An argument might be effectively sustained against the right of a committee, sitting for the hearing and adjudication of conflicting claims of contestants, to consider or act upon any question not in controversy between the parties nor presented to the notice of the committee by them; but it is hardly necessary to argue that point when by a few figures the immense deductions of the majority of the committee will dwindle down to common and ordinary results. The majority of the committee say that at the election of April, 1868, in the then second congressional district, the Democratic candidate, Mr. Mann, received 6,874 votes, and the Republican candidate received 5,983; and at the election here in question, held November 3, 1868, the Democratic candidate, Mr. Hunt, received 11,535, and the Republican candidate, Mr. Menard, received only 93 votes; and that the smallness and wonderful decrease of the Republican vote and the vastness and wonderful increase of the Democratic vote are somewhat strange and not easily susceptible of satisfactory explanation on the theory of a fair and honest election. If the majority of the committee had stated the premises right they would have had less reason for their wonderful surprise.

The district which gives Mr. Hunt the vote of 11,535 contains the eleventh ward in addition to the district which gave Mr. Mann his 6,874 votes. If the vote of that ward be taken off Mr. Hunt received a little over 9,000 votes against Mr. Mann's 6,874—a very small increase considering the different state of things at the two elections. At the election in April for the adoption of the constitution and the reorganizing of the State under the reconstruction laws it was well understood at the time that the Democratic party took but little interest in the election, and the vote cast at that election did not by any means show its strength; but at the election in November following, after the question of reconstruction became a foregone conclusion, the Democratic party, thoroughly organized and competing for the negro vote, very naturally and legitimately increased its vote. On the other hand the Republican party, with a full swing of opportunity and circumstances, not only went into the election in April with its entire white, but also virtually the entire negro vote.

But the vote cast in Mr. Mann's district in

April, excepting the one precinct of the fourth ward, was larger than the vote cast in the same district at the November election, it being at the former election 12,522 and at the latter 10,041. The vote cast at the April election was seventy-eight per cent. of the registry, while the vote cast at the November election was but fifty-seven per cent. of the registry. These variations of the two elections are not the result of any fraud on the part of the Democratic party, as the majority of the committee intimate, but arise solely from the conduct of the Republican party, which at the November election, for reasons well understood, resolved to stay away from the polls and thus escape a direct defeat on the merits, to which the leaders foresaw the party was destined when they knew the result of the registry. Of course the opportunity which this stay-away policy afforded also to allege as the reason therefor that Republicans were threatened with violence and intimidated was availed of by the leaders to a degree not very creditable to their honor. I hold in my hand and read a circular concocted by the Republican managers and printed in the Republican newspaper office and sent to the houses of the negroes and read in their churches with the double purpose of frightening them into staying away from the polls and inducing the world to believe that such a necessity was forced upon them by the Democratic party, upon whom the circular was dishonestly charged.

Besides this circular, the Republican leaders publicly advised the Republicans not to go to the polls, which advice seems to have been generally followed, and then after the election we hear the untruthful reason for the small vote cast for their candidate that they were intimidated. Of course a voter has a right to stay away from the polls for any reason he pleases, truthful or untruthful, but the majority of the committee have no right to propose the invalidation of an election because voters did not choose to attend.

But further on the subject of intimidation, the majority of the committee should first have ascertained whether all the votes that might have been cast under the registry, but were not cast, would have been given for Mr. Menard, and second, if so cast for him whether he would thereby have received a majority in the district. These very essential questions appear not to have occurred to the majority of the committee, or else were not considered because the answers would not prove satisfactory.

It is demonstrated by the figures of the election that if every registered elector in Mr. Mann's old district, namely, the first, second, third, and one precinct of the fourth and tenth wards, who did not go to the polls and vote by reason of actual or imaginary intimidation and violence had gone to the polls and voted, as he could have done, for Mr. Menard, the majority in the district would still have been largely in favor of Mr. Hunt. In the face of such a result where is the justice or propriety of invalidating an election which would have had the same result whether influenced by intimidation or not?

But further, with what consistency can the House be expected to coincide with the proposition of the majority of the committee to hold the election of November 3 to have been no valid election, after the expression of the House by a vote of more than two to one to the contrary of such proposition. The election for electors of President, Vice President, and for Representatives in the Forty-First Congress, and for the filling of Mann's vacancy, was held under the same call, conducted under the same laws by the same officers, and the names of all the candidates combined upon one ticket; and yet, although the House has so pointedly and fully rejected the proposition of no valid election in the case of presidential electors, the majority of the Committee of Elections now propose that the House shall stultify itself by accepting and indorsing the proposition of no valid election in the case of another part of the same ticket.

But finally, it has been heretofore decided by Committees of Election and indorsed by the House that inquiring into questions of intimidation and other reasons for loss of votes at an election constitutes no proper or legitimate duty of the Committee of Elections in cases of contested elections. (See case No. 54, vol. 1, Contested Elections. Biddle & Richards vs. Wing.) And again, it has been held judicially, and also by the Committee of Elections, that violence of riot or otherwise, though intimidation of voters be thereby effected and they induced to forego voting, does not constitute ground for invalidating an election. (See Baltimore cases.)

Mr. KERR. Mr. Speaker, in this case my own convictions as to the duty of the House are very clear, and I am glad to be able to say that they have been arrived at without any reference to "distinctions of race or color." [Laughter.] It is assumed by the majority of the committee as one of the grounds upon which they have arrived at their conclusions that there existed in this election district in Louisiana such a condition of public confusion, disorder, intimidation, lawlessness, and crime as that this House is called upon to take judicial notice of the existence of these facts without their being placed in this record in any legal way by any of the parties to this contest. Now, I submit with great confidence that if honorable gentlemen will look into the evidence here, and will inquire even as to that public rumor about disorder, they will not consider this position tenable in any respect. It is a most dangerous position to assume in connection with any case of this kind.

A legislative body sitting in a judicial capacity—and we are now sitting in that capacity—should never assume facts to exist unless those facts come to the knowledge of that judicial body in some record form, in some lawful way. When my colleague on the committee who has charge of this case [Mr. UPSON] was disposing of the case of Jones vs. Mann, he very justly assumed that these charges of intimidation and fraud ought never to be lightly entertained—never upon mere assumption, mere newspaper allegations, or letters of correspondents, or anything of the kind, but that they should be placed in the records of the case in the form of legal testimony. But when my friend comes to dispose of this branch of the case he entirely forgets his own law and the precedents of this House. The precedents of this House, even in cases which have arisen in the course of our late unfortunate war, wholly fail to justify the position assumed by my colleague who manages this case. Those precedents, on the contrary, show that it has been the uniform practice of the House, where there have been allegations of general disturbances, to require proof of those allegations to be regularly incorporated into the record made up in the case by the parties.

That was done in the case from Tennessee; that was done in the case from Virginia; and in every instance the House has always required that proof of those things, if they do exist, shall be put on record. Why should not that be done? Are not such facts as susceptible of legal proof by witnesses or by record as any other facts that may tend to determine what shall be done in a case like this? There is nothing in the circumstances of this case, there is nothing in the conduct of the community that composes this second district of Louisiana, there is nothing in the history of the times, there is nothing anywhere to show or that tends to show that any one of these parties could not by legal testimony have put upon the record here such facts as would precisely indicate the degree of intimidation or violence or lawlessness or fear or anything else that tended to make this anything but an ordinary election. Nothing of this kind was done. But now we are called upon to assume that it has all been done, and upon that assumption and without any evidence to act. I hope, Mr. Speaker, that this House will tolerate no such precedent as that, will set no such example as this

for its own future guidance or for the guidance of parties in future contests.

One of the main positions assumed by the majority in their report, upon which they hope to deny the seat in this case to both of these parties, is that the election was not held within the proper territorial limits; that the election should have been held in the old second district and not in the new one; and that because it was held in the new and not in the old district therefore this House should declare that no election was ever held there, and that the seat is still vacant, and send the whole subject back to the people of that district. This position is held mainly on the assumption that if we allow the new district to elect a member to this House a part at least of his constituency may be then represented in this House by two or more members of Congress. Now, I submit that in that reasoning there is no strength, that it is entirely without foundation; and a few reflections, it appears to me, will make abundantly clear my position that this election could have been legally held nowhere but in the new second district of the State of Louisiana. When the State of Louisiana, having the constitutional power to do so, and being the only possessor of that power except the Congress, undertook to change these congressional districts in the State of Louisiana, and did make that change by a valid law of the State, then I submit to every gentleman upon this floor the old districts in fact and in law ceased to exist, and none of them exist to-day.

Sir, the same thing was done in my own State. My own district, since I was elected to this Congress, by a competent and constitutional law of the State of Indiana, has been changed, most materially changed in its territorial limits. But does it follow that I am not the Representative of the new district here? Certainly it does not. I represent, not the eight counties which constituted my old district, but I represent to-day the ten counties which constitute my new district, because now there is no other second district in my State. So it is with every gentleman here, the territorial limits of whose district have been changed. It is competent for the Legislature of a State at any time to change the congressional districts, and when they are changed the preceding law is repealed, the preceding territorial divisions cease to exist, and the men who were before elected stand then as the Representatives respectively of the new districts, and so it is with the gentlemen from the State of Louisiana.

But it is said that if we allow this proposition to be held as good law it follows, then, that some men in this district might be allowed to vote more than once for a member of Congress. That is often the case. There is on the floor of this House to-day a Representative from the State of Illinois who was elected by the votes of the constituents of every other member on this floor from that State. He has no separate constituency of his own. And it would be competent for all the States of this Union, if Congress had not assumed jurisdiction over the subject to that extent, to declare that each one of their Representatives in Congress should be elected by the voters of the entire State, and not simply by the voters of a single district. It is also true that if this law had never been changed, and the vacancy left by the death of Colonel Mann had been left to be filled by the voters of his old district, even then all of those legal electors in the State of Louisiana who, after his election and before his death, or before the election to fill his vacancy, had removed into that district, having theretofore voted in other districts, would still be exercising the second time their right to vote for members of Congress. I submit, therefore, that this election could not have been legally held anywhere except in the second district as constituted under the new law. That new law by its very terms expressly repeals the preëxisting law. The election, therefore, could have been legally held under no other law than the new law. Such was the decision of this House

in the old case of Perkins vs. Morrison, (2 Contested-Election Cases, p. 145,) from New Hampshire, in the Thirty-First Congress, and there has been no contrary precedent in our history. And there was not needed any previous declaration by this House that there existed a vacancy in that district. The people of that district and the Governor of the State of Louisiana were required in that case to take notice that their previous Representative had died. An election in the new congressional district was called under the forms of law, and the election was held according to law. And at that election Caleb S. Hunt received an overwhelming majority of all the votes cast for member of Congress to supply that vacancy. As to the number of votes received by Mr. Hunt, I shall devote but very little time to the consideration of that matter, because the gentleman from Ohio [Mr. CARY] has already very fully and yet very forcibly and succinctly referred to that part of the case, and in my judgment has triumphantly disposed of it against the report of the majority of the committee. The palpable and most important fact, then, remains that without any reference whatever to the change in the territorial limits of the old second congressional district Caleb S. Hunt has received an immense majority of the votes whether you take into consideration the old district or the new one. Consider the matter in any light in which you can consider it in view of the facts in this case, and he is elected by a very large majority over the other candidate.

It is true that even if you go back and take the original registry, either in the old district or in the new district, and determine the merits of this contest on that registration alone, and assume that every man who was registered did in fact vote, and that every man who is not returned as having voted for Caleb S. Hunt did in fact vote for J. W. Menard, even then Caleb S. Hunt is elected; because of the whole number registered he received a clear majority. On what grounds of justice or of law, then, can this House say that he shall not now be permitted to take his seat here? He is elected; Mr. Menard is not elected. Mr. Hunt has received the indorsement of the people of the district.

Admit, if you please, that there were violence and fraud and intimidation, and give to Mr. Menard the full benefit of all those assumptions, still Mr. Hunt is elected, still he has a majority of all the votes cast, still the people of the second district of Louisiana say that they want him and not Mr. Menard for their Representative. Consider for a moment the facts and figures: when Mr. Mann was elected, the second congressional district was entirely within the parish of Orleans, and comprised the whole of the first, second, third, one precinct of the fourth, and the whole of the tenth wards of the city of New Orleans. At the election November 3, to fill the vacancy, the portion of the second district within the parish of Orleans comprised the first, second, third, tenth, and eleventh wards of the city of New Orleans, the precinct of the fourth ward having been, by the change of the district, taken from and the eleventh ward added to the district. The votes returned from the parish of Orleans at the recent election to fill the vacancy were, therefore, cast by the electors of the original second congressional district, except those cast in the eleventh ward, which had been added to the district since the election of Mr. Mann; and the whole number of votes so cast and returned from the parish of Orleans was 11,628—for Caleb S. Hunt, 11,535; for J. W. Menard, 93. If from these figures be taken, as should be, the number cast for each candidate by electors of the eleventh ward, the result would show exactly the vote of the original second district, excepting the single precinct of the fourth ward which did not vote. It is not known precisely from any testimony before the committee what number of votes were cast for the candidates, respectively, in the eleventh ward; but from an authentic copy of the registry record the

number of electors registered in the eleventh ward was 2,785. As the votes cast might have equaled but could not have exceeded the registry it may be assumed that the number of votes cast in the eleventh ward was 2,785; and if that number be deducted wholly from the 11,535 shown to have been cast for Mr. Hunt, he will then have received from the electors of Mann's original district 8,748, and a majority of 8,655 over Mr. Menard. In the single precinct of the fourth ward, originally belonging to Mann's district, no vote to fill the vacancy was taken, in consequence of the precinct having been taken from the second district; but if a vote had been taken in that precinct the general result would have been affected but little either way, because, as shown by the late election, the entire vote of that precinct did not exceed 600; and if it be all taken from the vote given to Mr. Hunt it only slightly reduces his majority.

It has been shown the law of Louisiana required that the returns of the votes cast at the election in question in each parish should be made by the supervisors of registration of the parish to the secretary of State.

It has been shown, by admission of the board of State canvassers, that the returns of the votes cast in that part of the parish of Orleans comprised within the second congressional district were made by the supervisors of registration thereof, appointed under an act, No. 92, approved September 19, 1868, providing for additional supervisors of registration, whose duty and authority that board of State canvassers consider limited to registration, and extended to making returns of election.

It has been shown that by a subsequent act, No. 164, approved October 19, 1868, it is expressly made the duty of the supervisors of registration to make returns of election.

It has been shown that the votes so returned by the supervisors of registration in the parish of Orleans, as cast at that election to fill that vacancy, were for Caleb S. Hunt 11,535, and for J. W. Menard 93.

Therefore, from what has thus been shown, in my judgment the returns made of the votes cast in the parish of Orleans are in law and fact competent returns, and were improperly rejected from computation by the State canvassers, and that the votes should be computed with the votes of the three parishes, namely, Lafourche, St. Charles, and St. James, which were computed as I have stated.

If that be done, then the aggregate number of votes returned and computed from those parishes, namely, Lafourche, St. Charles, St. James, and Orleans, will be for Caleb S. Hunt 14,368, and for J. W. Menard 5,201—a majority for Hunt of 9,167 votes.

In view of such result I deem it unnecessary to consider the objections made by the State canvassers in respect to the returns from the three remaining parishes, namely, Jefferson, St. John the Baptist, and Terrebonne; for if the votes from those parishes be computed the final result from the whole district would be but very slightly changed, and a large majority would still remain in favor of Mr. Hunt.

But it has been suggested by Mr. Menard himself, not I believe by my colleague on the committee, that he should be allowed to take his seat at least primarily until further investigation, because Mr. Hunt never served upon him a legal, proper, formal notice of contest. I will therefore beg the attention of gentlemen to that subject for a minute or two. In the outset, I concede for the purposes of the argument that no such notice was served in this case by Mr. Hunt upon Mr. Menard. But what was done, and done with all the publicity and notoriety and formality that can accompany such an act, is upon the record and is exhibited in the reports of the majority and minority of the committee. It consists in the presentation to this House of the certificate of the Governor of Louisiana setting forth all the facts connected with that election, making a specific return of all votes cast, which certi-

cate, together with the facts and returns, shows that the certificate issued by the Governor to Mr. Menard was unlawfully issued; that it ought never to have been issued; that it was issued upon illegal and false assumptions; that it was issued without authority of law; that it was issued in violation of the express and conceded will of the people of that district, and to accomplish a partisan end to keep out of this Hall Mr. Hunt, whom the people desired to represent them here.

Now, let gentlemen look at these returns. Let them look at Mr. Menard's certificate, and then at Mr. Hunt's certificate, which is full and complete, setting forth all the facts material to a fair and just judgment on the part of the House in this case. Let it also be remembered, Mr. Speaker, that we need in this case no facts that are not placed upon our record to enable us to decide this question upon its merits, its broad, clear, unquestionable merits. We do not need any outside testimony; we do not need to listen to the statements of witnesses; we do not need to look into the records which are deposited in the offices in the parish of Orleans; we do not need to examine the vote in any other parishes. All those things may be dismissed from consideration, because in this certificate of the Governor of Louisiana are set forth all the material facts which it is necessary for us to understand in order to decide this case properly and legally.

It also appears when we compare this second certificate given to Mr. Hunt by the Governor with the law of Louisiana, of which we may take judicial notice; of which we must, and in such cases always do, take judicial notice, we find that the votes which were rejected in the parish of Orleans by the board of canvassers were unlawfully rejected. The majority of the committee so find; the minority so find. It is conceded on all hands that the rejection of the votes in the parish of Orleans was irregular and unlawful, and ought never to have been made. Now, give Mr. Hunt the benefit of those rejected votes so far as they were cast for him; give Mr. Menard the benefit of them so far as they were cast for him, and still Mr. Hunt is triumphantly elected.

But I submit further that every precinct that was rejected by the board of canvassers was rejected without authority of law; contrary to law; contrary to all the precedents that have governed cases of this kind in the past history of Congress. It is an established principle of law in cases of contested elections, not only in Congress, but in the States of this Union, that wherever there has been a neglect on the part of the returning officers or the canvassing officers to comply literally with the merely directory provisions of the statute such neglect shall not work injury to anybody; that the votes shall be received and counted; that the parties shall have the benefit of them for whomsoever they are cast. In every case of contested elections the one great question to be determined, the one point of supreme importance to be ascertained by the House, sitting as judges, is, who has received the majority of votes of the legal electors of the district; whom do the people want to represent them; for whom have the majority of voters legally cast their votes? The fact that some officers may have made an artificial or somewhat informal return should not affect the substantial interests of the parties to that election.

In uniform harmony with these views there is a long and unbroken course of decisions both by this House and in all the courts of last resort in our country.

Since the passage of the act of 1851 regarding contested elections the rulings and decisions of the Committee of Elections, sustained by the House, in respect to the construction and application of its provisions and the practice thereunder, have been most liberal in regard to the personal rights of contestants and the constitutional rights of constituencies and the rights and powers of the House as involved more or less in every case of con-

tested election. (See case of Wright vs. Fuller, Contested Elections, vol. 2, p. 154.) The committee say:

"The intention of the law requiring this notice to be given was to prevent any surprise being practiced, and to put the sitting member upon a proper defense."

Also, case of Daily vs. Estabrook, (vol. 2, p. 304,) the committee say:

"All the act of 1851 contemplates it is fair notice of the subject-matter of contest within the time specified by the act itself; as the sitting member has had such notice, in the opinion of the committee, he has no ground for complaint."

Also, case of Williamson vs. Sickles, (vol. 2, p. 290,) the committee say:

"The committee do not consider the law of 1851 as of absolute binding force upon this House, for by the Constitution 'each House shall be the judge of the election, returns, and qualifications of its own members,' and no previous House and Senate can judge for them."

Again, same case, page 291:

"But the constituency has a greater interest than all others in this question. The rights of the electors of the third congressional district of New York are involved in this controversy, and should not be compromised by any laches, if any exist, for which they are not responsible. It is of more consequence that their voice should have expression here through their lawfully-elected representative, whoever he may be, than that this or that man should enjoy the emoluments or honors of the office."

Also, case of Vallandigham vs. Campbell, (vol. 2, p. 230,) the committee say:

"Neither the committee nor the House is bound by the usual rules and principles of evidence, but should proceed upon more liberal principles in the investigation of truth. They regard a contested election not as a mere private litigation, but a great public inquiry, where the real parties are not so much the returned member and the contestant as the voters of the district."

Also, case of Chapman vs. Ferguson, (vol. 2, p. 268,) the committee say:

"The question to solve is not what these parties have done or omitted to do, but what was the expressed wish of the people of Nebraska as between these candidates at their late election."

It is not Mr. Hunt alone, it is not Mr. Hunt chiefly who is interested in this question. His interest here, in a personal sense I mean, is very much narrowed down. Indeed I may say it amounts to nothing in comparison with the great right of representation which belongs to and inheres in the people of this country. In this instance it belongs to and is the property of the people of this second district of Louisiana. They, and not Mr. Hunt, appear at the bar of this House and demand at our hands righteous judgment in favor of the supremacy of the majority and the maintenance of the right in this great matter of representation. I submit, therefore, Mr. Speaker, that it is a point entirely immaterial to the right decision of this case whether the notice served by Mr. Hunt on Mr. Menard was informal or was not complete. The great fact remains—and gentlemen ought to remember that the great and conclusive fact remains—that Mr. Menard and Mr. Hunt both acted under that notice, both regarding it as legal and proper. They appeared before the Committee of Elections and presented their case and left it with the committee for their adjudication. Are we to be told that on account of a little omission on the part of Mr. Hunt to give Mr. Menard a formal notice of contest, which could have elicited no new testimony or brought forward no new fact, that the House is to insist upon deciding this question on immaterial points? Shall we therefore ignore the manifest justice of the case, ourselves do a great wrong, because another has omitted a mere formal duty, and render a judgment which no testimony in existence or procurable by these parties can justify? I hope not. Such conduct cannot promote the public welfare and would justly subject this House to severe criticism.

I now yield to the gentleman from Vermont.

Mr. POLAND. I desire to offer a substitute for the resolutions of the majority of the committee.

The Clerk read as follows:

Resolved, That the reported resolutions of the Committee of Elections upon the contested election in the second congressional district of Louisiana be

submitted to said committee, with directions to take testimony in reference to the validity of the election in said district, held on the 3d day of November, 1868, and especially as to any improper or any unlawful means used to prevent a fair and free election.

Mr. POLAND. It may be said with truth that the proposition to have this case recommitted to the committee for the purpose of having an inquiry and testimony taken in relation to the validity of the election in this case comes at a very late period of the session; that we are so near the close of the session it will be impracticable for the committee to take testimony on that subject and report their conclusions for this Congress to act on. I admit that is entirely true, that it cannot be done; but I move this resolution for the purpose of disposing of this case without deciding upon the questions which the committee have themselves endeavored to decide in their report, and upon which they ask this House to decide in the resolution they have reported. By the report and the resolution the committee have reported they do not propose to give a seat to anybody, they do not propose to take away a seat from anybody, but to say there has been no valid election and no one elected to fill the vacancy occasioned by the death of Mr. Mann, who was legally elected to represent the second district of Louisiana. Therefore the result of a recommitment of the case will be practically the same as if we passed the resolution reported by the committee, and at the same time it will save the House from falling into the dilemma of making what I consider an unsafe and unsound precedent if we take the action which they ask us to take in this case.

If Mr. Menard came here with a certificate from the Governor in due form I should agree with the gentleman from Ohio that gave him a *prima facie* right to a seat. If the House had said he was entitled to take his seat on that certificate until the contest was determined I should have said they did entirely right, but it would have been contrary to the precedents established in this Congress from the first day down to the present. Almost the very first thing that happened in this Congress was a contest in relation to the seat of a Delegate from Colorado, and this House solemnly decided in that case that the man who had a certificate from the Governor, (who is the person entitled by law to give it,) and that certificate being conceded to be in due form of law, was not *prima facie* entitled to a seat.

Mr. PAINE. Will the gentleman yield to me?

Mr. POLAND. I have only fifteen minutes.

Mr. PAINE. I do not ask more than half a minute.

Mr. POLAND. I cannot yield at all. So that I say in this case we have followed the precedent that we have established during the whole of this session of Congress.

Now, what are the facts in this case as reported by the committee? Although Mr. Menard came here with the certificate from the Governor, the committee say that counting all the votes in that district that were given, the other man who claims the seat, Mr. Hunt, was elected by nearly 10,000 majority. These votes were rejected by the Governor and secretary of State who counted them upon the ground that they were not returns by the proper officers. Both the majority and minority of the committee agree that the Governor made an entire mistake and blunder when he threw out these votes upon the grounds he did—that they were not properly returned. The committee, both the majority and minority, say that the certificate of election should have been given by the Governor to Mr. Hunt; so that he should have been here with the *prima facie* paper in his pocket, and should have been admitted to take his seat, leaving the other man to be the contestant. But notwithstanding this the committee say, and ask the House to say, that neither of these men was entitled to the seat. Why? Upon the ground that there was no valid election of anybody. In the first place they say that the district which

voted for these two men was no district that had a right to fill a vacancy. Why? Upon the ground that its territorial limits had been changed since the election of the original member, Mr. Mann.

Now, I know of no other precedent upon this subject than the one that has been cited from the State of New Hampshire, and the decision in that case was directly the other way. The authority that my friend from Michigan, [Mr. UPSON,] the organ of the committee in this case, cited from that case was the minority report. I remember once getting pretty severely rebuked in a court for having cited the opinion of the minority as being good law. In this case the majority of the committee rely for their authority upon this question upon the minority of a committee of this House, which was not supported by the decision of the House, that made the report in the case from New Hampshire. I agree that in a case like this, where the limits were very considerably changed, where a considerable portion of the present district at the time of the original election belonged to another, there seems to be some incongruity.

But suppose there is a single township set from one district to another, does it prevent either of these districts from filling a vacancy if one occurs during the period for which the man was elected? It seems to me to be entirely clear, as was suggested by the gentleman from Ohio, that unless the Legislature make provision by law that the old district shall continue and that the new districting shall not take effect until some future day, that the old district cannot fill the vacancy; and if a new district cannot do it, it cannot be filled at all. I consider it clear that an election to Congress, whether an original election or to fill a vacancy, must be by an existing congressional district and cannot be done by a district which has ceased to exist, and cannot be participated in by any part of its territory which has ceased to be a part of it. At any rate, however this may be, whichever side may have the weight of argument upon this question, it does not seem to me wise for this House to retrace its steps and reverse its former decision upon any such consideration as we are able to give to the subject now. And it is for the very purpose of preventing the establishment of what I deem to be an unsound precedent upon this subject that I shall ask the House to adopt my substitute, which will achieve all that the committee ask practically in this case without subjecting ourselves to the danger and dilemma of establishing a very bad precedent on this subject.

Mr. Speaker, there is another ground upon which the majority of the committee recommend the adoption of their resolution that neither of these claimants is entitled to the seat. They say that if there was a legal district to make an election to fill this vacancy there was no legal election held in it. Why? They say there was such fraud and violence and intimidation in the district that there was not a free and fair election. Now, there are two objections to that. In the first place, there was no allegation of that kind before the committee by anybody. Nobody alleged it and nobody proved it. Not only was there no allegation on the subject, but there was no proof on the subject. The law in relation to contested elections in Congress puts them upon an analogy with private suits. The law requires that there shall be pleadings. It provides carefully how these pleadings are to be made up to make an issue, and then it provides carefully how and in what time proof shall be taken upon the respective sides to support the affirmative and negative of that issue. It is just as true in relation to a contested election as it is to a suit at law that it is to be determined *secundum allegata et probata*.

Here we have no issue of that kind before the committee or before the House. We have no proof upon this question before the committee or before the House. Now, what is the

proof that the committee have appended to their report? Why, there are two letters from Governor Warmoth to Senator KELLOGG, and one letter from General Buchanan—mere private letters, not even equal to an *ex parte* affidavit. They are private letters, and they are not official communications either. To be sure, the gentleman who wrote two of them is said to be a Governor, and the one who wrote the other was a general, and they all, I believe, purport to have been written to a Senator. But they are not in any legal sense official communications at all. They are mere private letters. They are of no more authority than if I were to write a private letter making a statement about an election to my friend from Pennsylvania, [Mr. WILLIAMS.] The writers of these letters may be very respectable and worthy gentlemen and entitled to credit, but I do not know that their word is to be taken in a court or in any proceeding where the law requires the proof to be under oath any more than if they were mere private persons; and in these latter days it would not go so far toward helping a witness in court to be a Governor or a Senator as it would at some time, I think, in the history of the Republic. [Laughter.] I quite agree that there is enough in these communications upon which to start an inquiry. There is enough in them to justify this House in directing the committee to inquire into this and to take testimony upon the subject. But I say that these letters, these communications, are not of themselves anything upon which the committee had any right to act as testimony or upon which we have any right to act as testimony. We may send them to the committee and order them to make inquiry and to report in reference to it.

But there is another ground upon which I object to this. These letters say that at the election in Louisiana there was violence, disturbance, intimidation, and that the people could not vote freely and fairly as they desired to. But that did not apply to this district any more than to the rest of the State. It will be borne in mind that this election was upon the very same day, a part of the very same election at which electors were voted for in that State, and the question was raised before this House, and this House solemnly decided by a large majority that it was a legal and valid election and that the electoral votes of that State should be counted, and they were counted. And we had then before us this public history; we had then the same documents; we had possession of all the facts when we voted in reference to the presidential election and its validity that we have before us now in reference to this election. If, now, this House is to stand by this resolution that has been reported by the majority of the committee and say there was no legal and valid election in this district in consequence of intimidation and violence, we are thrown directly back upon our vote which we gave in reference to the electoral vote of that State, and the two decisions will stand in direct conflict with each other.

And therefore the object of asking to have this recommitted to the committee is to get us out of that dilemma. Besides, I would not establish a bad precedent in relation to this change of district. I would not have this House go back upon its record in relation to the validity of the election that was held in the second district of Louisiana on the 3d day of November last. Hence I say, Mr. Speaker, as the action which the majority of the committee propose to the House will give a seat to nobody, will take away a seat from nobody, it is just as safe for the House and will accomplish practically the same result to recommit this subject to the committee as if we should adopt the resolution reported by the majority.

[Here the hammer fell.]

Mr. PAINE. I move to amend the substitute of the gentleman from Vermont by adding the following:

Provided, That J. Willis Menard, holding the certificate from the Governor of the State of Louisiana that he was duly elected as a Representative from

the second district of that State, be admitted to a seat in this House pending the consideration of the case.

Mr. Speaker, upon the resolution of the committee and the pending amendments I call the previous question.

Mr. COOK. I would like to offer a substitute for the resolution of the committee.

The SPEAKER. Does the gentleman from Wisconsin yield for that purpose?

Mr. PAINE. I cannot yield.

Mr. UPSON. I rise to a point of order, that the amendment of the gentleman from Wisconsin [Mr. PAINE] is not germane to the resolution.

The SPEAKER. The Chair overrules the point of order. The opening sentence of the report in this case reads as follows:

"The Committee of Elections, to whom were referred the petition and papers on behalf of Simon Jones, claiming to have been elected a Representative in the present Congress from the second congressional district of Louisiana, and contesting the right of James Mann to his seat in this House as such Representative from said district; and also the credentials of J. Willis Menard, and the protest and papers of Caleb S. Hunt, each claiming to have been elected a Representative in Congress from said district to fill the vacancy claimed to have been caused by the death of said James Mann, submit the following report."

It thus appears that this branch of the report is based upon the papers presented by J. Willis Menard and Caleb S. Hunt, and therefore, in the opinion of the Chair, anything relating to the right of either of these gentlemen to a seat is in order.

The previous question was seconded and the main question ordered.

The SPEAKER. The gentleman from Michigan [Mr. UPSON] is now entitled to an hour to close the debate.

Mr. UPSON. Mr. Speaker, the gentleman from Ohio [Mr. SHELLABARGER] desires to be heard in this case. I yield to him ten minutes.

Mr. SHELLABARGER. Mr. Speaker, I would not have sought to say anything about this case did I not apprehend that on account of the novelty of some of the circumstances by which we are surrounded there is danger of our making in this case a precedent that will some time come back to greatly plague us. It is the first time in the history of the Republic when that race which has been for centuries trodden upon by that greatest wrong of modern civilization, slavery, comes here in the person of one of its members and asks that he be admitted to take his place among the law-makers of that Republic which has so long been his oppressor. It is with the most profound regret, I assure you, that I here, in the last hours of my relations with this Congress, am compelled by a sense of duty to refrain from casting my vote, as it would have been my extreme pleasure to cast it, in favor of giving a seat among the law-makers to one of this class of my fellow-countrymen. This inclination of mine thus to vote is I know shared by a large proportion of my fellow-members; and I repeat the expression of my regret that it so happens that in this first instance, and because the first one, one which is to be historical, in which is presented the claim of this race to take its place among those who as part of the people are in part to control the destinies of the country, I am constrained to the belief that it is not wise for us to grant to this claimant the seat.

I shall not go into the discussion of the merits of the case, because I cannot and ought not, as they have been so carefully stated and so well already; but there are just two considerations which seem to me to be absolutely conclusive. One is a consideration which points directly to the proposition submitted by my friend from Wisconsin, [Mr. PAINE.] He would have Mr. Menard sworn in on a *prima facie* title during the time his contest is to be pending. I should like even to do that if it were right and safe to do so.

Why is not it safe and wise to do so? Mr. Speaker, the answer is just this. There is in the law which controls the primary organization of each House no *prima facie* case,

except that one which controls the Clerk in making up of the roll of the House of Representatives. What is that? In making up the roll of the House of Representatives for the purpose of starting into operation the machinery and powers of each successive Congress, that is a *prima facie* case, and entitles a claimant to a seat which comes up to the requirements of the act of Congress. This I read, as follows:

"By the act of the second session, Thirty-Ninth Congress, (Session Laws, p. 28,) it is provided:

"That before the first meeting of the next Congress, and of every subsequent Congress, the Clerk of the next preceding House of Representatives shall make a roll of the Representatives-elect, and place thereon the names of all persons claiming seats as Representatives-elect from States which were represented in the next preceding Congress, and of such persons only, and whose credentials show that they were regularly elected in accordance with the laws of their States respectively or the laws of the United States."

Now, Mr. Speaker, the claimant had once that sort of a title to a seat in this House. I state it distinctly and expressly that for the purpose of making up the roll of this House, in the absence of any other evidence than his certificate, he ought to be permitted to participate in the organization of the House and to take his seat here to-day. That I distinctly admit. That being admitted, why do I not favor the proposition of the gentleman from Wisconsin and insist upon Mr. Menard now being sworn in? Mr. Speaker, it is that very same reason upon which you and I and every Republican in this House have again and again acted in refusing to recognize just such *prima facie* titles, namely, that there are such facts brought to our knowledge in regard to certain of the reconstructed States, and touching the elections therein, that we are demanded by the public safety to take notice of them as historic facts, and to decline to accept such certificates as is usually done. It is upon his knowledge of these historic events that the Clerk of the House of Representatives acts in refusing to enroll certain claimants of seats, and because of these events he ought not, as I trust he will not, place upon the rolls of the Forty-First Congress the name of any man claiming to hold a *prima facie* title to a seat from the State of Louisiana. Why do I make that remark? Because in that election there were occurrences of which we have not only the right, but which by every principle of congressional as well as common law we are bound to take notice of, and which being noticed destroy that *prima facie* title. Why they must be noticed is just because they are historical and affect the very being and existence of the Government. Such events need never to be pleaded or proved, and are ever taken notice of by the Parliament. Those facts being taken notice of, then the question comes to us was that a legal election in Louisiana, or was it one which should bind the House of Representatives or its Clerk in making up the rolls for the next Congress to treat each certificate which that election brought into existence as *prima facie* good? If the proposition of my excellent friend from Wisconsin should prevail and we are to deal with that election—monstrous, cruel, infamous as it was—as a thing having significance and validity enough to make its creations a *prima facie* title to membership in this House, then we might so treat, in the absence of all other evidence, the certificate of Mr. Menard, which he derives from that election. But, sir, if not, if that election in Louisiana was so monstrous in its wrongs as against the free suffrages of the people as to authorize and require that the Republican Clerk of this House shall not enter upon the rolls of the Forty-First Congress our political opponents who hold certificates just like and as good as this of Mr. Menard's, and this because the election was not an election but a farce or a massacre, then how shall we treat it as a good election for Menard and as giving him a *prima facie* title?

The SPEAKER. The gentleman's time has expired.

Mr. UPSON. I will yield to the gentleman until he concludes his remarks.

Mr. SHELLABARGER. We cannot, if we mean to be as we will be consistent to principle, consistent in that fair play which principle always vindicates and demands, we cannot accord *prima facie* title to the gentleman claiming a seat from Louisiana, as being conferred by such an election as that, and yet withhold that *prima facie* title held in the certificates of other gentlemen coming from Louisiana, and say that theirs shall not entitle them equally with him. Thus much with regard to Louisiana. But, sir, you have again and again, actuated by this same principle to which I have appealed, said that we may rightly take notice of historical events in the disposing of this *prima facie* application for seats in the House. We have, I say, in assertion of that principle again and again required the certificates showing, equally with this certificate, a *prima facie* title to be referred to the Committee of Elections, and have had their report upon the known historic facts before they took their seats. It is because of that, sir, that it is now wise, I submit to my friend, to dispose of this case upon the principle to which this House has so properly again and again appealed; and upon which it has rested the disposition of this very important question.

Mr. PAINE. I ask my friend to give me the floor for a single question.

Mr. SHELLABARGER. Certainly.

Mr. PAINE. The gentleman has referred to the law regulating the entry of the names of members on the roll in the organization of the House. He stated that that was the only law applicable to a case like this. Now, that law was passed, as he and I well remember, at the second session of the Thirty-Ninth Congress. Now, the question I want to ask him is this: has it not always been the recognized law of this House that the certificate of the Governor of a State gives to the person claiming to be elected a *prima facie* right to a seat here?

Mr. SHELLABARGER. Most certainly. I not only admit it but I stated it and insisted upon it.

Mr. PAINE. My friend misunderstands me. The question is whether this certificate of the Governor of the State has been regarded as constituting a *prima facie* right which would entitle the Clerk to enter the name of the member, or the person claiming to be such, on the roll upon the opening of the first session of Congress; and whether it has not been the established rule of the House from the commencement of the Government down to the enactment of that law, and since, that the credentials thus furnished by the Governor to a member constitute his *prima facie* right to a seat on this floor—not merely to have his name placed on the roll, but to take his seat on the floor?

Mr. SHELLABARGER. I will answer my friend so far as my information goes, and if I am wrong I may be corrected by my friend, the chairman of the Committee of Elections. The party holding a certificate which the law of his State made the evidence of his election, whatever that may be, whether a certificate from a Governor or something else, is entitled not only to be enrolled by the Clerk, but to be sworn in in the absence of objections. I believe that is an answer. And all that I have said hitherto before the question was put to me was directed to this single proposition, which I did desire to remind gentlemen of, that in dealing with the case of Louisiana, and every other case where there were such historical facts brought to the notice of the Government itself and of its Congress, experience has shown it to be unsafe to adhere to the practice to which the gentleman appeals, and have adopted the practice, and have referred in such cases such *prima facie* titles to the Committee of Elections. That is my answer. I now yield to the gentleman from Massachusetts for a question if he desires it.

Mr. DAWES. The gentleman has answered the question I wished to propound. I will add, however, that in the memory of the gentleman from Wisconsin [Mr. PAINE] this present Con-

gress has referred, time and again, the *prima facie* evidence of which he speaks to the Committee of Elections, pending the examination upon the merits without admitting the gentleman to his seat. Five gentlemen, bringing *prima facie* evidence to this Congress from the Governor of Kentucky, were not permitted to take their seats until the Committee of Elections reported upon their cases.

A MEMBER. What is the rule about a member taking a seat upon a *prima facie* certificate when objection is made?

Mr. DAWES. The rule seems to be this: when objection is made to a man's being sworn in upon the presentation of his certificate the House will look at the character of that objection, and if in the opinion of the House it is frivolous they will admit him to his seat and proceed to the examination of the case. If in the opinion of the House it is a serious charge, made in good faith, then it has always been the precedent to refer the *prima facie* case to the committee. But this single point my friend from Wisconsin [Mr. PAINE] seems to overlook, that in this case we have referred not only the *prima facie* case but the merits altogether to the Committee of Elections, and the Committee of Elections having passed upon the merits the *prima facie* case passes out of sight. There is no longer any *prima facie* case before the House. The case is now before the House upon its merits. Mr. Menard presented his credentials here at the commencement of the session, and if my friend had moved then that he be sworn in as having the *prima facie* right to the seat it might have been proper; but instead of that the House directed the committee to take all the papers and examine into the merits. The merits are now before the House and the *prima facie* case has passed out of sight. How can you pass on the *prima facie* case when the merits are before the House?

Mr. PAINE. With the permission of the gentleman from Ohio [Mr. SHELLABARGER] I will read from the Journal on the very point referred to by the gentleman from Massachusetts to show him that he is mistaken and that I am right on this point. I read from the Journal of December 18, 1868:

"Mr. SYPHER presented the credentials of J. Willis Menard as a member of this House from the State of Louisiana, to fill the vacancy occasioned by the death of James Mann; which were referred to the Committee of Elections."

And that is the whole of it. Now, he could not have been sworn in then because it was not yet decided whether there was a vacancy or whether Mr. Jones was entitled to the seat, and never until this very hour has there been an opportunity, as my friend from Massachusetts must well know, for this claimant to avail himself of his right to sit here under the *prima facie* letter given him by the Governor's certificate.

Mr. SHELLABARGER. Mr. Speaker, the gentleman from Massachusetts, the chairman of the Committee of Elections, has stated the balance of my speech in the remarks which he has made. I am about now to surrender the floor with this additional statement, and it is a reply to the suggestion made by the gentleman from Wisconsin. It is insisted by the gentleman from Wisconsin that we shall now, at this moment, swear in upon the *prima facie* case, as he calls it, a man who is shown by a report made in obedience to the order of the House not to be entitled to be sworn in at all. Just keep that in mind, and it does seem to me that all question as to what is proper must disappear.

Mr. NORRIS. I would ask the gentleman if his argument would not have led to the rejection of the electoral vote of Louisiana?

Mr. SHELLABARGER. I answer my friend from Alabama no. I cannot go further, because I am holding the floor by the courtesy of another, and I must surrender it. Besides, his question has no very apparent logical connection with what I am now talking about except such connection as I will explain and answer as I proceed, if I have time. I say this in all kindness to my friend.

I was saying that you are asked now to vote to admit Mr. Menard to his seat upon the *prima facie* title when you have before you the report of the committee whom you have instructed to examine the question of his real title, and that committee has made its report under your order and that report is that he has not a *prima facie* title. At the very instant when you are swearing in upon a pretended *prima facie* title this House knows, by a report made on its own order and by unquestioned documentary evidence, that there is no longer either a *prima facie* or a real title. Both have been swept away. Sir, that will not do. That is the trouble with all this confusion about the *prima facie* title. We have passed the stage where *prima facie* titles have play or can be considered. The House cannot ignore the fact that the real and *prima facie* titles in this case are defeated by the facts now before the House.

Mr. DEWEES. Will the gentleman yield to me for a question?

Mr. SHELLABARGER. Not just now, for I will not be able to say anything that has any sense in it unless I am permitted to finish the connection in which I am making these statements. Now, I have said that you have before you what shows that Mr. Menard has neither a *prima facie* nor a real title to a seat here. Let me state one single fact which disposes of the real as well as *prima facie* title to a seat, at least in my own mind. The paper which you referred to your Committee of Elections, and which the committee have reported back, shows that Mr. Menard was overwhelmingly defeated in that portion of the parish of New Orleans that was in the second district—defeated overwhelmingly—defeated by perhaps eight or ten thousand majority. The very documents that you referred to the committee, and which they have brought back to you, show that the votes of that parish were rejected because the returns were made by certain enrolling officers, and for no other reason. The Governor says that he rejected these returns because those officers had no power under the law to make these returns, and that that was the only reason why he rejected those returns. But he admits that an overwhelming majority of the votes cast at that election were for Mr. Hunt and not with Mr. Menard, if these officers could under the law have made these returns properly. But he says there was no law for them to do it. Now, Governor Warmoth had simply overlooked the fact that a little before that election took place a law of the State Legislature was passed expressly authorizing these officers to make these returns. Those returns, then, were legally made. They show Hunt overwhelmingly elected in the new district and in the old district—elected by every possible view of this case and in every aspect of it, provided that was a good election at all or for anybody.

There was therefore absolutely and technically a literal compliance with the law in making those returns. Not only was the law substantially complied with, but the returns were made by the enrolling officers in literal compliance with the law. So that, according to the papers you have referred to us of the Committee of Elections, Mr. Menard was defeated. You sent us those papers for us to examine, as we supposed, for doubtless you sent them to us for some purpose. We examined them and found by that examination that Mr. Menard was defeated. We bring those papers back to you with that statement of what in our opinion those papers proved. And now you say to us that although you referred those papers to us and told us to examine them and give you their full import and effect, and although we have done so and report to you that we have found that Mr. Menard was defeated and that Governor Warmoth simply omitted to read a certain law—when we say to you that there is no doubt that Mr. Menard was overwhelmingly defeated; that there is no room for doubt or hesitation or construction, yet you are called upon here to vote upon a mere *prima facie* title that the man who was overwhelmingly defeated shall be sworn in as elected, and this

after all these facts are fully before and considered by the House.

I care little comparatively about the consequence of this case confined to itself, and I would not on that account have said a word upon it. But, gentlemen, I call upon you to call to mind the consequences of such a proposition as this. In the face of conclusive evidence, not disputed by anybody, that this man is not elected, will you still swear him in to take part in the legislation of the country during all the time which may be occupied in this contest? Carry out such a precedent to its results and I tell you that it may be fatal to the Government itself.

In all these questions which relate to the organization of the House of Representatives and who shall sit here to make our laws, when we toy or trifle with them we are indeed playing with live thunder. It becomes us here to be cautious indeed. Let it be understood by the vote of the House of Representatives to-day that one who is shown by documentary evidence not elected shall still, in the face of such evidence, be sworn in and permitted to take part in making these laws, when confessedly by the very letter of the evidence he has no right here, you have trifled with and stricken down here in this the very sanctuary of the people's power the majesty of that power.

Mr. Speaker, it is not safe to do it, and I hope it will not be done. One word more, and I shall have concluded. I said that this gentleman is not elected. Let me say in conclusion that the evidence including these historical events, which, as I say, we have a right to look at, shows that he would have been elected but for the most infamous wrongs which were on the day of that election witnessed. He ought to be to-day the chosen Representative of that constituency in that district. But, sir, the fact that these outrages defeated his election does not elect him. That is the concluding point to which I beg to bring the remembrance of the House. However infamous this election, or rather this proceeding that defeated all election may have been, while it makes a reason which vindicates the committee in reporting that Mr. Hunt is not elected, so also it makes a reason why Mr. Menard is not; while he has been deprived by murder, assassination, intimidation, and outrage of an election that he ought to have had, yet that fact does not elect him. So we have to dispose of the case; so this committee viewed it, and so we submit it to the far higher wisdom and far better judgment and sense of right of the entire House of Representatives.

Mr. ARNELL. I find myself painfully situated in casting my vote upon this question. My sympathies are all on one side, and my judgment on the other. The gentleman from Ohio [Mr. SHELLABARGER] has presented the law with the utmost clearness. The facts are beyond doubt, and are these:

First, Mr. Menard was not elected.

Secondly, a free and fair election was not held in this district on the 3d of November. Intimidation and murder kept the colored men from the polls; therefore nothing remains for the House of Representatives but to set the whole election aside.

I regret profoundly that on this occasion, the first in the history of the country where a colored man has presented himself in this Hall and claimed a seat, that I cannot vote for his admission. All my sympathies are with him and his race. I want to help bury out of sight and forever that caste and race hatred that to-day is a stain upon American civilization. Yet, I cannot violate my sense of justice by declaring that Mr. Menard is entitled to a seat in this body when the facts show the contrary to be true.

Thirdly, I cannot recognize as an election a fraud and an unmitigated outrage whereby this claimant was defeated of his seat. To do this would be to fasten calamity upon the colored people of Louisiana whom we wish to aid. Truth is always higher than expediency. God's

justice is what we want for these people, full and ample.

And I take this occasion to declare my unaltered and, I trust, my unalterable devotion to the cause of liberty as represented by these poor, suffering, persecuted colored people of the South—many of them my constituents and my friends. When I turn my back or my sympathy upon them, or their cause, may God mercifully forgive me, for they are the truest of the true, unterrified and unshaken in their love and support of the Government, even in the midst of wrong, outrage, and murder.

Mr. KERR. With the permission of the gentleman from Michigan [Mr. URSON] I will now offer the following resolution, which is appended to the report of the minority:

Resolved, That Caleb S. Hunt is entitled to a seat in this House as Representative of the second congressional district of Louisiana, in place of James Mann, deceased.

The SPEAKER. This resolution will be regarded as pending if there be no objection.

There was no objection.

Mr. UPSON. I will now yield to the gentleman from Kentucky [Mr. McKEE] for two minutes, and after that to his colleague [Mr. BECK] for the same length of time, after which I will call the previous question.

Mr. McKEE. Mr. Speaker, I wish to make only a single remark in reference to the practice of the House in referring cases of this character to the Committee of Elections. I think an examination of the precedents for a period of at least twenty years back will show that in every case where a claimant has come to this House with a certificate properly authenticated he has been admitted and sworn in upon that certificate, unless there has been a specific charge made against him.

As reference has been made to the cases from my own State in the present Congress I desire to read from the proceedings of this House on the 3d of July, 1857, when a question was raised as to the admission of a portion of those who presented themselves as the members-elect from the State of Kentucky. The gentleman from Illinois, [Mr. LOGAN,] when that question was raised, submitted the following resolution:

"Whereas there is good reason to believe that in the election recently held in the State of Kentucky for Representatives to the Fortieth Congress the legal and loyal voters in the several districts in said State have been overawed and prevented from a true expression of their will and choice at the polls by those who have sympathized with or actually participated in the late rebellion, and that such elections were carried by the votes of such disloyal and returned rebels; Therefore,

Be it resolved, That the credentials of all the members elected from the State of Kentucky shall be referred to the Committee of Elections, to report at as early a day as practicable, and pending the report of said committee none of said members shall be allowed to take the oath of office and admitted to seats as such."

Afterward, as the debate progressed, charges and specifications were filed, as the Globe shows, against all those claiming seats from the State of Kentucky except one, and that was the gentleman from the eighth district, [Mr. ADAMS.] The gentleman from Illinois subsequently modified his resolution so as to make the preamble read as follows:

"Whereas there is good reason to believe that in the election recently held in the State of Kentucky for Representatives to the Fortieth Congress the legal and loyal voters in the several districts in said State have been overawed and prevented from a true expression of their will and choice at the polls by those who have sympathized with or actually participated in the late rebellion, and that such elections were carried by the votes of such disloyal and returned rebels; and whereas it is alleged that several of the Representatives-elect from that State are disloyal."

It was upon that charge of disloyalty alone that the credentials of those applicants for seats in this House were referred to the Committee of Elections.

[Here the hammer fell.]

Mr. BECK. This is a controversy in which I take very little interest, considering that the person holds the certificate generally entitling to a seat on this floor, pending a contest; but when the gentleman from Ohio [Mr. GARFIELD]

was asserting in his argument to the gentleman from Michigan [Mr. URSON] that it had always been the custom in this House to allow the person holding a certificate to take his seat I call attention to the facts in the Kentucky cases, especially my own, not referring especially to those of my colleagues, Messrs. GROVER and JONES, which were substantially similar, as contradicting the position taken by the gentleman from Ohio. It will be found by reference to the Globe of July 3, 1857, that I was not allowed to take my seat, but my credentials were referred to the Committee of Elections, although I held the certificate of the Governor of Kentucky, in proper form, showing a majority of over 8,000 over my principal competitor, and the only objection made was in the statement of General LOGAN, which presented no objection to me, and which read as follows:

"I have no objection to accepting that amendment as a modification of my resolution, inasmuch as I believe that there are no charges against that gentleman. I, however, introduced my resolution for a different purpose from that of attacking any individual. My purpose was to test an important question in this House. There seems, however, to be some nervousness on this subject, and I will therefore accept the amendment and modify my resolution so as to include all the persons claiming seats as Representatives from the State of Kentucky, except the gentleman named in the amendment. I believe there have been charges made against all the others, except one, and he was the partner of John C. Breckinridge in the practice of law. [Laughter.]"

On that statement I and my colleagues were not admitted to our seats, but our credentials were referred to the Committee of Elections by a vote of 67 to 50. Several days afterward objections were filed, but at the time the resolution of reference passed there was no objection of any character against my right except the statement of General LOGAN above referred to. The Globe will verify what I say. For that reason I call the attention of the gentleman from Michigan to it as an answer to the statements of the gentleman from Ohio.

Mr. GARFIELD. The gentleman's name was in the resolution that was passed, and that makes my point good.

Mr. BECK. But there was no charge against me, and my *prima facie* case was unquestioned; and that fact shows that the gentleman's point was not a good one.

Mr. PAINE. I wish the House to go back to the 18th day of last December, and to recall the facts as they then existed in this House in order that we may clear away the mystery which has been thrown around them by gentlemen who have discussed this case. On that day this claimant appeared in this House and asked for his seat. He presented his credentials and laid his case before this House. There was then pending the case of Jones vs. Mann. Mann had been elected and Jones had brought his contest before the House. That contest was then pending. When Menard came with his credentials why did we not swear him in, asks the gentleman from Ohio. We did not know then that there was a vacancy in that district, and that case of Jones vs. Mann was never decided until this very day. What did we do with Menard's credentials? What could we have done? We might have thrown them under the table, or we might have handed them back to him, but none of these things would have been proper, because we had a committee which was the custodian of all such papers. We took that certificate and handed it over to the Committee of Elections, instructing them to inquire into the facts of the case, as appears by the entry in the Journal which I have just read; and while I find no fault with that committee for making this report here to-day I say we have never been concluded by our action from admitting him under this *prima facie* case. How stands it? It is true the majority report neither is entitled to a seat, but one of the members of the committee [Mr. POLAND] has offered a resolution—for what purpose? For the purpose of inquiring into these facts. I have moved a substitute for his substitute.

Mr. UPSON. He is not a member of the committee, and has not been since the beginning of the session.

Mr. PAINE. I did not know he had left the committee; I knew that he had served on the committee.

The first question occurred on the following resolution, made by **Mr. KERR**:

Resolved, That Caleb S. Hunt is entitled to a seat in this House as Representative of the second congressional district of Louisiana, in place of James Mann, deceased.

Mr. KERR demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 41, nays 137, not voting 44; as follows:

YEAS—Messrs. Archer, Baker, Barnes, Barnum, Beck, Boyer, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Johnson, Thomas L. Jones, Kerr, Knott, Marshall, McCormick, McCullough, Mungen, Niblack, Nicholson, Phelps, Pruyn, Randall, Ross, Stone, Taber, Van Auker, Van Trump, Wood, Woodward, and Young—41.

NAYS—Messrs. Allison, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Beatty, Benton, Bingham, Blackburn, Blair, Boles, Boutwell, Boyden, Bromwell, Broomall, Buckland, Buckley, Benjamin F. Butler, Roderick R. Butler, Calkins, Churchill, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Cornell, Coyode, Cullom, Dawes, Deweese, Dickey, Dixon, Dockery, Dodge, Donnelly, Eckley, Eggleston, Ela, Thomas D. Eliot, James T. Elliott, Farnsworth, Ferriss, Ferry, Fields, French, Garfield, Goss, Gove, Gravely, Hamilton, Harding, Haughey, Hawkins, Heaton, Higby, Hill, Hopkins, Hulburd, Hunter, Ingersoll, Jenckes, Alexander H. Jones, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Lash, George V. Lawrence, William Lawrence, Lincoln, Logan, Mallory, Marvin, Maynard, McCarthy, McKee, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Norris, O'Neill, Paine, Perham, Peters, Pierce, Pike, Plants, Pomeroy, Price, Prince, Raum, Robertson, Rooks, Sawyer, Schenck, Scofield, Selye, Shanks, Shellabarger, Smith, Spalding, Starkweather, Stevens, Stokes, Stover, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, John T. Wilson, and Windom—137.

NOT VOTING—Messrs. Adams, Ames, Axtell, Benjamin, Blaine, Bowen, Brooks, Reader W. Clarke, Delano, Driggs, Edwards, Griswold, Halsey, Hooper, Hotchkiss, Chester D. Hubbard, Kellogg, Laffin, Loan, Loughbridge, Lynch, Morrissey, Newsham, Nunn, Orth, Pettis, Pile, Poland, Polsley, Robinson, Sitgreaves, Stewart, Sypher, Taffe, Tift, Lawrence S. Trimble, Van Aernam, Van Wyck, Vidal, Elihu B. Washburne, Henry D. Washburn, James F. Wilson, Stephen F. Wilson, and Woodbridge—44.

So the resolution was disagreed to.

The question occurred on the amendment offered by **Mr. PAINE** to the amendment offered by **Mr. POLAND**.

The amendment of **Mr. POLAND** was read, as follows:

Resolved, That the report and resolutions of the Committee of Elections upon the contested election in the second congressional district in Louisiana be recommitted to said committee, with directions to take testimony in reference to the validity of the election in said district held on the 3d day of November, 1868, and especially as to any improper or unlawful means used to prevent a fair and free election.

The question was on agreeing to the amendment of **Mr. PAINE** to the foregoing, as follows:

Provided, That J. Willis Menard, holding a certificate from the Governor of the State of Louisiana that he was duly elected as a Representative from the second district of that State, be admitted to a seat in this House pending the consideration of the case.

Mr. PAINE. I demand the yeas and nays on the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 130, not voting 35; as follows:

YEAS—Messrs. Allison, Anderson, James M. Ashley, Baldwin, Beatty, Benton, Broomall, Buckley, Benjamin F. Butler, Calkins, Sidney Clarke, Clift, Cobb, Corley, Cullom, Dickey, Dodge, Donnelly, Driggs, Eggleston, Ela, Thomas D. Eliot, French, Garfield, Gravely, Hamilton, Harding, Haughey, Higby, Ingersoll, Julian, Kelley, Kellogg, Kelsey, Maynard, McCarthy, McKee, Mullins, Newcomb, Norris, Nunn, Orth, Paine, Peters, Pierce, Pike, Pile, Pomeroy, Price, Schenck, Shanks, Stokes, Robert T. Van Horn, Welker, Whittemore, Thomas Williams, and Windom—57.

NAYS—Messrs. Archer, Arnell, Delos R. Ashley, Bailey, Baker, Banks, Barnes, Barnum, Beaman, Beck, Benjamin, Bingham, Blackburn, Blair, Boles, Boutwell, Boyer, Bromwell, Brooks, Buckland, Burr, Roderick R. Butler, Calkins, Cary, Chanler, Churchill, Coburn, Cook, Cornell, Coyode, Dawes, Deweese, Dixon, Dockery, Eckley, Eldridge, James T. Elliott, Farnsworth, Ferriss, Ferry, Fields, Fox, Getz, Glossbrenner, Golladay, Goss, Griswold, Grover, Haight,

Hawkins, Hill, Holman, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Jenckes, Johnson, Alexander H. Jones, Thomas L. Jones, Judd, Kerr, Ketcham, Kitchen, Knott, Koontz, George V. Lawrence, William Lawrence, Lincoln, Logan, Lynch, Mallory, Marshall, Marvin, McCormick, McCullough, Mercer, Miller, Moore, Moorhead, Morrell, Mungen, Myers, Niblack, Nicholson, O'Neill, Perham, Phelps, Plants, Poland, Prince, Pruyn, Randall, Raum, Robertson, Robinson, Ross, Sawyer, Scofield, Shellabarger, Smith, Spalding, Starkweather, Stevens, Stewart, Stone, Stover, Taber, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Van Auker, Burt Van Horn, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, William Williams, James F. Wilson, Wood, Woodward, and Young—130.

NOT VOTING—Messrs. Adams, Ames, Axtell, Blaine, Bowen, Boyden, Reader W. Clarke, Delano, Edwards, Gove, Halsey, Heaton, Asahel W. Hubbard, Lash, Loan, Loughbridge, Morrissey, Newsham, Pettis, Polsley, Rooks, Selye, Sitgreaves, Sypher, Taffe, Tift, Lawrence S. Trimble, Van Wyck, Vidal, Ward, Elihu B. Washburne, John T. Wilson, Stephen F. Wilson, and Woodbridge—35.

So the amendment was disagreed to.

Mr. DAWES. I move to lay the whole subject on the table.

The motion was agreed to.

Mr. DAWES moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Leave of absence was granted to **Mr. STOKES** for to-night on account of sickness; and to **Mr. KELLEY** on account of sickness in his family.

MESSAGE FROM THE SENATE.

A message from the Senate, by **Mr. GORHAM**, its Secretary, informed the House that that body had passed severally with amendments, in which the concurrence of the House was requested, bills and a joint resolution of the House of the following titles:

An act (H. R. No. 1973) in reference to certifying checks by national banks;

An act (H. R. No. 1881) regulating the reports of national banking associations;

An act (H. R. No. 1276) for the sale of the Hot Springs reservation in Arkansas; and

A joint resolution (H. R. No. 211) for the relief of Henry J. Gibbons, late postmaster at St. Johns, Michigan.

The message further announced that the Senate had passed without amendment an act (H. R. No. 1204) to confirm certain private land claims in the State of Missouri.

Also, that the Senate had passed a bill and a joint resolution of the following titles, in which the concurrence of the House was requested:

An act (S. No. 953) for the relief of Blanton Duncan; and

Joint resolution (S. No. 165) authorizing the Commissioner of Indian Affairs to appoint guardians or trustees for minor Indian children who may be entitled to pensions or bounties under the existing laws.

PAY OF CONTESTANTS.

Mr. DAWES. I offer the following resolution:

Resolved, That the Clerk be, and is hereby, directed to pay, under the sanction of the Committee on Accounts, the sum of \$2,500 each to Simon Jones and J. Willis Menard, in full for time spent and expenses incurred in contesting the right to a seat in this House as a Representative from Louisiana.

Mr. KERR. Will the gentleman allow it to be amended by inserting the name of Caleb B. Hunt?

Mr. DAWES. The gentleman may offer that as an amendment.

Mr. KERR. I move as an amendment to insert that name.

Mr. DAWES. The gentleman from New York [**Mr. CHANLER**] desires to make a personal explanation, and I yield to him.

PERSONAL EXPLANATION.

Mr. CHANLER. With the permission of the House, my object in rising at this moment is to refer to what took place at the beginning of the debate on the election case which the House has just disposed of. There was a dif-

ference of opinion between the Chair and myself in regard to a certain record, and that difference of opinion has given rise to an assertion on the part of the Chair which I think requires some notice from myself. That there may be no mistake I shall read what I have to say, having drawn it up during the debate on this question. If any errors have occurred, they have not arisen from any improper motive on my part. But what I am about to say is for the purpose of preventing difficulties among gentlemen on this floor which must arise unless this question of veracity between members is settled and the manner of ruling is fixed by the House itself.

The following statement of facts, copied from the Congressional Globe report of the debates of Congress, refers to the difference which has arisen between the Speaker and myself in regard to his ruling as Speaker of the House of Representatives on May 1, 1868, and February 4, 1869.

Mr. Speaker, meaning no disrespect to yourself personally, but as I understand my rights as a member of the House of Representatives, believing that I have in common with all other Representatives on this floor a right to question the ruling of its Presiding Officer by reference to his acts as chosen officer for maintenance of order and for the protection of the rights of its individual members, I did, on this 27th February, in the assertion made by the Chair that the member from Michigan [**Mr. UPSON**] "should be protected by the Chair," or words to that effect declare, "that I had no doubt that the Speaker would do so as the gentleman belonged to the majority party here," as the Speaker had on a previous occasion ruled to protect a member on that side of the House from a charge against that member's veracity made by members of the minority side. But when a member of the majority made a similar charge against one of the members of the minority the Speaker ruled directly opposite, ruling the following words of the member were in order, namely: "That is not true, and he knows it." The words of the Speaker on that occasion—May 1, 1868—were as follows:

"The Chair thinks that those words are not unparliamentary. If the gentleman from Illinois [**Mr. LOGAN**] had made use of opprobrious words sometimes used, but which the Chair will not repeat, he would have been out of order. But any gentleman has a right to say a proposition is not true, and possibly that the one making it knew it was not true. The Chair thinks the words used may be severe, but they are not offensive in that sense in which it is forbidden to members to use offensive language toward their fellow-members, and did not seem to be uttered in an offensive tone."

By this ruling it is clear that a certain large license of offensive language is permitted by which one member can charge a fellow-member with uttering an untruth with a knowledge of the untruth, and go on without check or rebuke from the Chair. On a subsequent occasion, in a debate upon an appropriation bill then before the House, a Delegate from one of the Territories was ruled out of order by the Speaker for using similar language in debate. The words having been reduced to writing, were read by the Clerk as follows:

"And after the gentleman having charge of this bill saw fit to silence Delegates here by raising points of order, and making assertions which he knew at the time he made them to be unqualifiedly false—

"**THE SPEAKER.** The Chair rules that these words are out of order both as being unparliamentary and as being indecorous.

"Where a member states that what another member has said is not true that is not unparliamentary, because it is possible that the member may have been mistaken. But when a gentleman states that a member on this floor has declared that which he knew to be unqualifiedly false, that is the most insulting language that can be uttered in a parliamentary body."

Mr. Speaker, at this time I refrain from criticising the casuistry which distinguishes the ruling in the first case from the ruling in the second. I claim the right as a member of this body to say that the ruling of the Speaker in these two cases is contradictory and unfounded on any parliamentary practice in this country. Further, I demand the right to point out to the presiding officer of this House, so long as I remain a member here, any error of judgment

or ruling, *pro* and *contra*, affecting the debate or public business here.

Mr. DICKEY. I rise to a point of order.

Mr. WOOD. My colleague has unanimous consent to proceed.

The SPEAKER. The Chair would ask the gentleman from Pennsylvania, as a personal favor to himself, not to interrupt the gentleman upon the floor in the personal explanation for which he obtained the consent of the House.

Mr. DICKEY. I do not wish to interrupt him in any personal explanation, but I raise the question of order whether it is in order for him to go back to the entire history of the Speaker of this House and to what occurred here before many of us came here?

Mr. WOOD. He had unanimous consent to make a personal explanation.

The SPEAKER. The Chair hopes the gentleman from Pennsylvania will not insist on the point of order.

Mr. DICKEY. At the request of the Speaker I withdraw it.

Mr. CHANLER, (resuming.) The Chair seems to think that such exercise of the right of a member to protest against and criticize its action is disrespectful to himself personally, and calls for the use of language by him which, although in his opinion parliamentary, is in my opinion both unparliamentary and indecorous. From the Speaker's expressed opinion of the latitude allowed in debate and between members here, I am debarred from supposing that he meant any offense in charging that what I said was untrue, as I am informed by a fellow-member he directly did on the occasion referred to, and as the Globe report will show. Among men outside of this House, quite as capable as any one here of fixing the limits and proprieties of language in this House or elsewhere, such language would have been and will always be considered unparliamentary and indecorous without some qualification, and if uttered outside of this House would be answered by a blow.

I will now read, in justification of what I have said, the report of what occurred this morning, which has been furnished me by the reporters for the Globe. What I have said I have said in defense of the privileges of a Representative on this floor, and I now declare to the Speaker, as I did at the commencement of my remarks, that I have no motive whatever to utter anything discourteous to himself or which could impute any wrong motive to him, but simply to discuss with him briefly what he knows I had discussed with him privately at his desk. The effort may have been ill-timed, but the motive was not to give offense to him. I read from the notes of the reporters for the Globe:

"Mr. CHANLER. On word right here—

"Mr. UPSON. I do not yield to the gentleman.

"Mr. CHANLER. I only wish to say—

"The SPEAKER. The gentleman from Michigan [Mr. UPSON] declines to yield, and is entitled to be protected against interruption.

"Mr. CHANLER. Of course; protection is always extended on that side.

"The SPEAKER. The remark of the gentleman from New York is not just to the Chair, for the Chair has protected him from interruption when he has declined to yield.

"Mr. CHANLER. When questions of veracity have been raised here I have appealed from the decision of the Chair when that side has been protected and this side punished."

A Democrat, a Delegate upon this side of the House, was brought to the bar of the House and rebuked.

"The SPEAKER. The remarks of the gentleman from New York are not respectful to the Chair; nor are they true.

"Mr. CHANLER. Very well; let it be decided by the record.

With that I leave the subject.

The SPEAKER. The House has heard the "personal explanation" of the gentleman from New York, for which he obtained unanimous consent. As they have seen, it was, instead of a personal explanation, an attack upon the Chair. He asks an opportunity for five minutes to reply. Is there objection?

No objection was made.

The SPEAKER. The report which has been read by the gentleman from New York just before he took his seat, of the occurrences of this morning, shows that that gentleman, when the Chair was endeavoring to protect the gentleman from Michigan [Mr. UPSON] against his interruptions contrary to the rules of the House, while he was persisting in the interruptions, he made a remark to the Chair which the Chair replied was not just in regard to the rulings of the Chair previously. His language in reply, as it fell upon the ear of the Speaker, was: "Upon questions of veracity with the Chair I would appeal to the decision of the House." That was the language of the member, as it fell upon the ear of the Speaker, who regarded it as a reflection upon his veracity, and as intended to be a reflection upon his veracity as the previous remark had obviously been intended to be a reflection upon his impartiality. The Speaker replied: "The language is not respectful to the Chair, nor is it true."

As regards the threat contained in the remarks of the gentleman from New York, or what would seem to be the threat implied in them, if he made the remarks which the Chair understood him to make, the Chair is compelled to say that he made the only response which it became a gentleman to make to such remarks.

The gentleman now cites the decisions of the Chair on two previous occasions. Without referring to the record of those decisions, the Chair is so satisfied that the members of this House will bear testimony to the correctness of his decisions in both of those cases that he is willing to submit the question even to the political associates of the member who now arraigns him.

When the gentleman from Illinois [Mr. LOGAN] was on the floor some time since engaged in discussing a subject then before the House, in the rapidity which always characterizes his remarks he said, in speaking of some gentleman—not showing any acerbity of feeling at all, or any intention to be personally offensive to him—"The remark is not true, and he knows it." For that remark he was called to order by the gentleman from Wisconsin, [Mr. ELDRIDGE.] The very moment he was called to order he said—and the report as published in the Globe will show such to have been the fact—"I intended to say it is not true, and he ought to know it." He qualified his remark on the instant, showing that it was not an intentional reflection upon the veracity of the person to whom he was alluding. He was speaking rapidly at the time, and without any bitterness in tone or manner; and the gentleman from Wisconsin will bear testimony, although the Chair has never spoken to him on the subject, that the statement of the Chair is correct; because the record of the debate shows that when the gentleman from Wisconsin called upon the Chair to rule upon the words used, the gentleman from Illinois twice stated, once immediately upon being called to order, and again after a colloquy between the gentleman from Wisconsin and the Chair, that what he intended to say was that "he ought to know it was not true."

The Chair then ruled as quoted by the gentleman from New York, that the language used by the gentleman from Illinois did not seem to the Chair to be offensive; that the offensive tone has a great deal to do in giving character to the language used, and the prompt explanation of the gentleman from Illinois—this was not said by the Chair at the time he ruled upon his language, but he had it in mind—the prompt explanation of the gentleman from Illinois, saying that he did not mean to say that the person to whom he alluded knew the statement was not true, but that he ought to know it was not true, thus relieving the language of all appearance of offensiveness, induced the Chair to say that the language of the gentleman from Illinois was not to be regarded as offensive. And no appeal was taking from that ruling of the Chair.

In the other case quoted, that of the Delegate from Idaho, he was speaking in the time of the gentleman from Massachusetts, [Mr. BUTLER,] and he had just before used the precise words for which, when used the second time, he was called to order by the Chair. The Delegate said that the gentleman from Massachusetts had sought to silence the Delegates by points of order, and had made statements which he, the gentleman from Massachusetts, knew at the time he made them to be unqualifiedly false. The Chair suffered the remark of the Delegate to pass in the first instance, because he could not catch his precise language. But within one minute afterward he repeated it again, and refused to retract it, saying that he stood by it. The Chair now leaves it, not to his political associates, not to those who have placed him in this position, but he leaves it fearlessly to the political associates of the member who arraigns him, to decide whether there is not the widest possible contrast between the two cases which the gentleman from New York has cited and collocated, for the purpose of attacking for the second time upon the same day the Presiding Officer of the House of which he is a member.

PAY OF CONTESTANTS—AGAIN.

The SPEAKER. The House now resumes the consideration of the resolution of the gentleman from Massachusetts [Mr. DAWES] relative to the pay of the applicants for the seat as Representative from the second congressional district of Louisiana. The question is now upon the amendment of the gentleman from Indiana [Mr. KERR] to that resolution.

Mr. DAWES. I accept the amendment as a modification of the resolution.

The question being on agreeing to the resolution as modified,

Mr. HOLMAN. I call for a division on that question.

The SPEAKER. Is there objection to postponing the time for taking the recess till this question is disposed of?

Mr. WOOD. I object.

The SPEAKER. The hour for the recess having arrived, this question will go over till Monday next after the morning hour. The House now takes a recess till half past seven o'clock p. m.

EVENING SESSION.

The House resumed its session at half past seven o'clock p. m.

PURCHASE OF ALASKA.

Mr. HULBURD. I present a report from the Committee on Public Expenditures in regard to the alleged corruption in the passage of the bill for the purchase of Alaska. The committee was authorized to report on this subject at any time. I am instructed by the committee to submit the evidence, together with two reports, the members of the committee not being agreed with reference to details.

The SPEAKER. Which gentleman of the committee makes the report of the minority?

Mr. HULBURD. It is not exactly a minority report. The members of the committee concur in the report as prepared by the chairman; but four of them wish to submit something additional, and have signed a minute to that effect.

The SPEAKER. The two reports will be laid on the table and printed.

ENROLLED BILLS SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found duly enrolled a bill (H. R. No. 1204) to confirm certain private land claims in the State of Missouri; when the Speaker signed the same.

DISBURSEMENTS FOR STATIONERY.

Mr. BROOMALL, by unanimous consent, submitted from the Committee on Accounts a report, in pursuance of the resolution directing the committee to inquire into the disbursements of the contingent fund for stationery;

which was ordered to be printed and recommended.

WELLS, FARGO AND COMPANY.

Mr. BROOMALL, from the Committee on Public Expenditures, submitted a report relative to the contract of Wells, Fargo & Co.; which was ordered to be printed.

Mr. BROOMALL. I will move, if there be no objection, that the committee be discharged from the further consideration of the subject.

Mr. COBURN. As one member of the committee I desire to say that the committee are not unanimous on this subject, two or three members dissenting from some of the conclusions of the majority. Though the minority present at this time no minority report, perhaps we may desire to be heard before the committee is discharged. I therefore prefer that the motion of the chairman of the committee should not be acted on at this time.

TEXAS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a report of the commander of the fifth military district in regard to the adjournment of the constitutional convention of Texas; which was referred to the Committee on Reconstruction, and ordered to be printed.

RONDOUT HARBOR.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting, in compliance with House resolution of the 28th ultimo, the report of the chief engineer on the improvement of Rondout harbor; which was referred to the Committee on Commerce, and ordered to be printed.

TYRRELL'S PATENT HORSE-SHOE.

Mr. VAN HORN, of New York. I ask unanimous consent to submit the following resolution:

Resolved, That the Secretary of War be requested to furnish this House, with as little delay as possible, any and all information he may have or can obtain from the quartermaster general's department in relation to the introduction, use, and benefits of Tyrrell's patent hoof-expanding horse-shoe by his department, how long it has been used if at all, to what extent, and with what success; and whether in his judgment said shoe has merits to entitle it to favorable consideration by the Government.

Mr. SCOFIELD. I object.

SMITHSONIAN REPORT.

Mr. LAFLIN reported from the Committee on Printing the following resolution:

Resolved, That there be printed five thousand extra copies of the report of the Smithsonian Institution, three thousand for the use of the House and two thousand for the Institution, the same to be stereotyped at the expense heretofore provided for.

Mr. HOLMAN. Is this the usual number that has heretofore been ordered to be printed?

Mr. LAFLIN. It is.

The resolution was adopted.

ADVERSE REPORTS.

Mr. CHURCHILL, by unanimous consent, from the Committee on the Judiciary, reported adversely on the following cases; and the same were laid upon the table:

A bill (H. R. No. 697) regulating the terms of the United States district court for the western district of Missouri;

A bill (H. R. No. 20) to amend an act entitled "An act to divide the State of Missouri into two judicial districts, and giving jurisdiction to the district court of the western district of Missouri";

A bill (H. R. No. 279) to provide for the appointment of a judge for the district court of West Tennessee;

A bill (H. R. No. 233) to provide for recording deeds in the clerk's office in the district and circuit courts of the United States;

A bill (H. R. No. 509) to create the southwestern judicial district of Maryland;

A bill (H. R. No. 933) to repeal an act entitled "An act to create the third judicial district of the State of New York," approved April 26, 1865, and to make provision for the trial of causes pending in said court; and

The petition of the members of the bar of Memphis, Tennessee, for the appointment of a judge of the district court of West Tennessee.

KANSAS PACIFIC RAILWAY COMPANY.

Mr. CLARKE, of Kansas. I ask unanimous consent to introduce a joint resolution (H. R. No. 468) authorizing the Union Pacific Railroad Company, eastern division, to change its name to the Kansas Pacific Railway Company. It is merely local in its character.

There was no objection, and the joint resolution was received, read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CLARKE, of Kansas, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NATIONAL LINCOLN MONUMENT ASSOCIATION.

Mr. CULLOM. I ask unanimous consent of the House to take up and pass House bill No. 1831, to authorize the Secretary of War to place at the disposal of the National Lincoln Monument Association at Springfield, Illinois, damaged and captured ordnance. The Committee on Military Affairs have acted on this bill and are in favor of it. These bronze and brass captured and damaged ordnance are such as may be required for casting the principal figures to be incorporated in the monument at Springfield.

Mr. HOLMAN. Has not such a bill already passed?

Mr. CULLOM. That was for the McPherson monument, and not for the Lincoln monument.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CULLOM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TITLE TO LAND WARRANTS.

Mr. LAWRENCE, of Pennsylvania. I move to take from the Speaker's table Senate amendments to House bill No. 558, explanatory of the act entitled "An act declaring the title to land warrants in certain cases."

Mr. HOLMAN. There are quite a number of bills upon the Speaker's table, and I suggest to the gentleman to move that we proceed to the consideration of the business upon the Speaker's table.

Mr. LAWRENCE, of Pennsylvania. There can be no objection to this one.

Mr. HOLMAN. I think all the bills upon the Speaker's table should stand upon the same footing and that none should be given the advantage over others.

Mr. LAWRENCE, of Pennsylvania. I hope the gentleman will withdraw his objection, as I have not troubled the House often.

Mr. HOLMAN. I withdraw the objection in this instance.

There was no objection; and the amendments of the Senate were taken from the Speaker's table and read, as follows:

Insert "whose claims were filed prior to their decease," and strike out "claim" and insert "same;" so it will then read:

That the act entitled "An act declaring the title to land warrants in certain cases," approved June 3, 1853, be so construed and applied as to authorize the legal representatives of deceased claimants whose claims were filed prior to their decease to file the proof necessary to perfect the same.

The amendments of the Senate were concurred in.

Mr. LAWRENCE, of Pennsylvania, moved to reconsider the vote by which the Senate amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INDIAN APPROPRIATION BILL.

Mr. BUTLER, of Massachusetts, moved that

the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of considering the amendments of the Senate to the Indian appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and proceeded to the consideration of the amendments of the Senate to the bill (H. R. No. 1738) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1870.

The Clerk read the first amendment of the Senate, namely, to strike out "eleven" and insert "twelve;" so that the clause will read "for pay of twelve superintendents."

Mr. BUTLER, of Massachusetts. Mr. Chairman, I propose to discuss these amendments of the Senate at some length. I would not do so were it not that I think a great deal of time will be saved by the committee and by the House in so doing.

This bill is a very important one. As it passed this House it appropriated \$2,312,240 12 upon estimates which called for \$2,977,982 70. It went to the Senate, and the Committee on Finance of that body added to it \$540,963, and the Senate Committee on Indian Affairs also added amendments which called for \$3,800,939 99. So that now the bill calls for \$6,654,158 11. It will be seen, therefore, that the bill is a very important one in its amount; but it is still more important in the amount which must be called for hereafter if the policy which this bill inaugurates is sanctioned by the House.

I will therefore explain the amendments which make the substantial difference between the present Indian policy which was carried out by the bill of the House and the new policy which is proposed to be set on foot by this peace commission, the expenditures for which are provided for in this bill. Although this bill by its amendments calls for only \$4,000,000 extra for this year, yet if these treaties which are thus provided for are sanctioned by this House, and necessary appropriations are made to carry them out, the fiscal year ending July 1, 1871, must have about seven million five hundred thousand dollars, and the next year about ten million dollars, and thus the expenditures will keep on for the next twenty years, averaging from ten to twelve million dollars a year. So that gentlemen will see this is a matter which, if they have any concern for the future of the country, will call for the exercise of very considerable care and judgment in its determination. Indeed, the matter is so important and difficult that the Committee on Appropriations have not been able to come to any conclusion that is satisfactory to themselves, and have instructed me to state the facts to the House and ask for its judgment on the matter. I intend, therefore, to put before the House the facts upon which we have based our action which have come to our knowledge, and then ask the House to determine with great care and deliberation what shall be done, because these amendments in all substantial matters are brought out by the change of the Indian system to which I have alluded.

As you are aware, there were certain Indian treaties in existence up to the year 1865 or 1866. Those treaties were satisfied by about two million dollars. In 1867 the House and Senate established an Indian commission. That commission went on the plains to treat with the wild or roaming Indians who had heretofore led nomadic lives. They made treaties with them which called for the amounts which I have named. I suppose that the best way to examine the subject will be to take a single treaty, a treaty with the Crow Indians for example, which I hold in my hand, and scan its provisions and purport. It was concluded on the 7th of May, 1868, ratified on the 5th of July, 1868, and proclaimed on the 12th of August, 1868. This and kindred treaties were

not considered by the Committee on Appropriations when they reported this bill, because the treaties were not sent to them for consideration in time.

Now, this treaty provides in the first place that those Crow Indians, who amount to about three thousand souls, taking the estimated census of 1867, shall have erected for them \$23,000 worth of buildings and mills at their agency. Then each head of a family is to have three hundred and sixty acres of land, and each person over the age of eighteen years, whether male or female, who chooses to cultivate land is to have eighty acres. Then there shall be a teacher provided for every thirty children at an expense of, say, \$15,000 a year for salary alone. Then every Indian who is the head of a family is to have for the first year seeds and agricultural implements to the amount of \$100, and for twenty years thereafter seeds to the amount of twenty five dollars each year. Then, each Indian who cultivates the soil is to have twenty dollars a year and every "roaming Indian," as they are called, those who roam and will not cultivate the soil, is to have ten dollars a year. Then every one of these Indians over four years of age, male and female, is to have a pound of meat and a pound of flour per day at a cost of twenty-five cents per day each, say seventy-five dollars a year. Then, each head of a family is to have a yoke of well-broken oxen, costing in that country about two hundred and fifty dollars each, and a good cow—an "American cow" as contradistinguished from Texas or Mexican cattle—costing from sixty-five to seventy-five dollars. In addition to that, every male person over fourteen years of age is to have a suit of good, substantial woolen clothing, consisting of coat, hat, pantaloons, flannel shirt, and a pair of woolen socks; and each female over twelve years of age is to have a flannel skirt or the goods necessary to make it, a pair of woolen hose, twelve yards of calico, and twelve yards of cotton domestics; and boys and girls under the ages named are to have such cotton and flannel goods as may be needed to make each a suit, together with a pair of woolen hose for each. All this is to continue for thirty years unless it is found best to put this provision into some other shape. In addition, the Indians are to have a blacksmith, with iron and steel, shop and tools, for every one hundred men; a carpenter, an engineer, a physician, a farmer, and a miller to grind their corn, take care of their mills, and help them to build their houses, and mills to saw the lumber.

This is one of, I think, eleven treaties, and those eleven treaties cover perhaps not far from forty-five thousand Indians. When all the Indians are brought in under these treaties it will cost about six or seven million dollars a year to feed them and furnish these supplies. I therefore call the attention of the House to the fact that the question before us is a matter of great gravity. The Indian peace commission have thought that these provisions are necessary in order to have the Indians fed and kept on their reservations and taught agriculture so as to keep them at peace, with the hope in time to render them self-sustaining. It is a policy of peace. It is said by those who claim to be cognizant of this matter and in behalf of the peace commission that this policy, if carried out, will prevent Indian wars.

Mr. WINDOM. I would ask the gentleman to what document he referred in stating the provisions of these treaties?

Mr. BUTLER, of Massachusetts. I have been reading from the treaty with the Crow Indians.

Mr. WINDOM. Where is that to be found? In the document-room?

Mr. BUTLER, of Massachusetts. No, sir; a copy of the treaty was furnished me, but these treaties have not yet been published in book form. The treaties made by the commission are all substantially alike, and I will send the gentleman one.

Now, then, there are those in this House

who know more about the Indians than I do and can tell us whether this experiment will likely be a success. I had supposed that an Indian warrior thought it disgraceful to work, and that a man's only occupation was hunting or war, and that the squaws did all the work, yet we have here an experiment to civilize the Indians and set them to work.

In pursuance of this attempt at civilization the Indians have been put by the peace commission upon several reservations, and the commission have selected for those reservations tracts of lands, as a whole, least desirable for cultivation and settlement, in order that the cupidity of white men may not lead them to attempt to follow these Indians upon their reservations and drive them off, as they have been driven from their reservations heretofore. I believe, however, that the peace commission have given the Indians in every instance arable land enough along the streams on their reservations to support all the population that is ever likely to be upon the reservations, because it is a fact not to be disguised that the Indian in civilized life has never shown any capacity of increase of population. I have thus stated the substantial facts and provisions upon which the theory and action of the peace commission rest. It is also said by them and their friends that if we do not feed these Indians and carry out these treaties and keep them on their reservations in this way they will be sure to commit depredations that will lead to war, and that the cost of the Army if we have to fight them will be a great deal more than the cost of feeding them and supplying them with all with which by treaty they are to receive. If there is no other alternative but to fight them—and of that I do not at the present moment give an opinion, but must leave every gentleman to judge for himself—then I agree that war will be very much more expensive. The war which is now being carried on against a few Indians costs a great deal more than all these expenditures, vast as they may seem. But on the other hand a war would terminate some time, but these expenditures must last for a generation and go on increasing as the Indians adopt these or like treaties and come in greater numbers to be fed and supplied with clothing, farms, oxen, cows, and tools.

Before I pass from this subject it is but just that I should call the attention of the House to the fact that each one of these Indians, according to these treaties, is to be provided with means of starting in the world greater than the majority of farmers either in the East or in the West.

Mr. ALLISON. Will the gentleman yield to me for a question or two?

Mr. BUTLER, of Massachusetts. Certainly.

Mr. ALLISON. I desire to ask the gentleman, in reference to this subject, whether or not those treaties have been made with hostile bands of Indians? If so, whether or not they are more favorable than are existing treaties with peaceable bands of Indians? And whether or not the effect of these treaties, if carried out, will not be to make the Indians that are now peaceable dissatisfied and hostile unless we give the same benefits to the Indians that have hitherto been friendly towards our people?

Mr. BUTLER, of Massachusetts. I can answer the first two branches of the inquiry of the gentleman, but I cannot now answer the last because that is a matter of judgment and of future experience. As to the first inquiry I will say that these treaties have been made with hostile bands. In regard to the second inquiry I reply that the terms of these treaties are more favorable, if we are to use that term in regard to a treaty where we are attempting to establish a portion of our Indian population in fixed homes as we would in speaking of the terms of a treaty between two nations, these treaties are more favorable than the treaties heretofore made with other Indians. And the proposition is, as I understand it, that all the Indians, except those that have property of their own and who are now substantially brought into the habits of civilization, shall

have like treaties made with them and shall receive like treatment from us. We are now considering a part of a system of bringing all the Indians of the United States under the influences of civilization substantially according to the same plan. The plan is to be carried out still further hereafter in relation to all the roving bands of Indians.

But allow me to say that there are some treaties that have been made with friendly Indians, particularly with the Ute Indians and the Navajo Indians, who have always been friendly. In the case of the Navajo Indians, and the action of the Government under the treaty with them, I am bound to report to the House that it has been a most complete success. But they have had no such considerable benefits as those other treaties propose, because they had means of subsisting themselves as soon as they were carried to their old homes, and had lands on which they had worked for many years, and had very considerable manufactures among themselves.

Mr. CLARKE, of Kansas. Will the gentleman yield to me for a question?

Mr. BUTLER, of Massachusetts. Certainly.

Mr. CLARKE, of Kansas. I would inquire whether or not these Indians with whom these treaties have been made are not still hostile to the people of the United States?

Mr. BUTLER, of Massachusetts. Some of the Indians with whom these treaties have been made are still hostile to the United States, but the appropriations called for by the treaties with those Indians are not to be paid so long as the Indians remain hostile.

Mr. WINDOM. Let me ask the gentleman another question right at this point.

Mr. BUTLER, of Massachusetts. Very well.

Mr. WINDOM. Are not the Indians with whom treaties have been made and who are now hostile the Indians in regard to whom we have not complied with our treaty stipulations?

Mr. BUTLER, of Massachusetts. That is undoubtedly so to some considerable extent.

I want to make a still further statement. This is proposed as a system which shall ultimately embrace all the Indians to the number, I suppose, of two hundred and fifty thousand on our western frontiers. I know the number has been estimated at three hundred thousand but I believe the number is always overestimated, and if all come in it is easy to see what the annual expense will be to feed them only, say at twenty-five cents per day, or \$18,750,000.

Now the differences between the House bill and the Senate bill, except in some comparatively unimportant particulars and in regard to some claims that have been tacked on to it in the Senate, comes from the source we have been discussing. And the first question to be settled by us is this: whether the House by appropriations to carry out the provisions of these treaties will sanction this method of dealing with the Indians? If these treaties are to be sanctioned and appropriated for gentlemen will see that it takes from the House the power substantially of legislating on Indian affairs. The Indian agents make treaties, the Commissioner of Indian Affairs makes treaties, the Senate ratify them, and from that hour, if they are to be regarded as the supreme law of the land, and especially if we sanction them, we are bound to make appropriations to carry them out to the letter in a fair and just spirit.

Now, if the House is ever going to adopt a policy on this subject of making treaties with the Indians it ought to be done here and now, whatever that policy may be. To give gentlemen a specimen of the operation of this system I will take the case of General Harney; and if any gentleman wants to follow that case with more careful investigation he will find all the information in a report made by the Committee on Appropriations, House report No. 29, in which the operations of General Harney are stated at length.

Now, General Harney, acting under the peace commission, was sent to the Sioux Indians on the upper Missouri river on the 10th of August last, if I remember aright, with

\$200,000, and with orders to bring the various bands of the Sioux upon their reservation and supply them temporarily under the provisions of a treaty which had been made with those bands but was not then ratified or published. He proceeded to do so with the \$200,000. Having begun the work he spent not only the \$200,000 allowed him, but \$485,000 more; and before the 1st day of July next will require \$205,000 more. He now calls for about seventeen hundred thousand dollars in addition to carry these Sioux through the next year. Of course General Harney had no authority of law to make this great expenditure. There was no appropriation, nor at the time a treaty ratified calling for it; but it was thought by him and his associates best to be done in order to keep the Indians at peace. He has called together on the reservation some nine thousand Sioux Indians. There are twenty-two thousand in all; and as it has cost \$2,000,000 to take care of nine thousand Sioux, any one can easily calculate how much it will cost to take care of twenty-two thousand. It can readily be seen, therefore, to what an amount this expenditure must swell in future years. When I state that in my opinion the system will involve an expenditure of eight or ten millions annually I do not overstate the facts. It is appropriations of this class that compose the great bulk of the Senate amendments to this bill.

In order that I may not be misunderstood let me say that I believe General Harney has in his action toward the Sioux attempted to carry out the provisions of the treaties. He has done that which he thought best for the community with perfect good faith and the utmost honesty. I should not have made all the contracts he has made and in the manner in which he has made them. I might perhaps have made worse ones. I do not think they were always economically made or as well made as a man more acquainted with business might have made them. But I want to bear testimony here to the utmost good faith and honesty on the part of General Harney. I doubt whether upon the whole we could have got the thing much better done by any other man. Hence I am justified in saying that General Harney's action, as spread out in the report to which I have called attention, shows us what at the best we may expect from this system in the future.

Mr. BENJAMIN. Before the gentleman sits down I would like him to explain, if he can, amendment No. 117 on page 76.

Mr. BUTLER, of Massachusetts. I will come to that in a moment.

The Committee on Appropriations were unable to come fully to a conclusion as to what they ought to recommend to the House on this subject of carrying out this policy. I have stated the facts that the House may understand the matter and judge for itself. The question that first arises is, will the House sanction this method of dealing with the Indians? Shall we go on with the system here presented or shall we stop? The next question is, shall we be as liberal in our appropriations as the treaties contemplate? Shall we exercise any supervision whatever over this matter? The third question is, what is to be done if we do not sanction this expenditure? That the House might decide these questions the Committee on Appropriations have recommended non-concurrence in all the Senate amendments of this class and submit them to the House. Before we come to vote on the first considerable appropriation to carry out one of these treaties I desire that these questions shall be quite fully discussed, and let the decision upon that be taken as a test question. Having settled what action we shall take on that class of amendments it will be very easy to dispose of this bill. Until the general question has been settled it will be almost impossible to settle these various items by discussing each one of them. They form parts of a system and must be considered as such. There is another class of items to which I wish to call attention. A large number

of claims of various sorts have been attached to this bill. There is one to which the gentleman from Missouri [Mr. BENJAMIN] just called attention—an old claim which is provided for by treaty. Then there is a class of claims which ought to have gone, in the judgment of the Committee on Appropriations, to the Court of Claims. Then there are certain deficiencies which must be met; and I want to say to the House that most of these can only be settled by a committee of conference, who shall examine them and report such as are just and proper to be provided for.

Mr. Chairman, I want to call the attention of the House to one fact especially. The Committee on Appropriations reported exactly what was appropriated last year for the same kind of expenditures. At that time we then prepared the appropriation bill with great care. It went to the Senate, was there again examined and amended, and again considered here, and afterward went to a committee of conference; and then we consumed the whole of one day and a part each of two others in deciding with particularity how each item should stand. The report of the committee of conference was agreed to by both Houses. When we came to the class of items this year the Committee on Appropriations reported appropriations upon the basis which was so carefully agreed to last year. Let me illustrate for a moment. A great many of the old treaties provided that the United States should provide physicians, blacksmiths, farmers, and the like for the Indians. In some treaties the amount of the salary was fixed in the treaty, and in others it was left discretionary. Wherever the amount was fixed it was always found that the United States could procure a physician, farmer, or mechanic for that sum; but where it was left discretionary we found that the United States had to pay much more. It was the same in the case of the farmer, the blacksmith, the tanner, the millwright, and every other. Wherever the treaty said a farmer at \$600 the services of a farmer were secured for that amount; but where it said nothing about it the farmer would cost almost double that sum. So we settled with great care those matters of detail as we thought most economical and best. Then there was another class of expenditures. A large number of expenditures under these treaties are at the pleasure of the President, others are at the pleasure of Congress. Wherever the expenditures were to be at the pleasure of the President or of Congress we examined into them and if we discovered that the need of them had passed entirely away we did not appropriate for them. Some of these treaties go back to the last century. We said that we had no pleasure in some of these provisions and they were cut off.

Now, as I have said, the Committee on Appropriations appropriated this year according to the scale adopted last year, so far as the old treaties were concerned. We did not have most of the new treaties before us. The Senate, I believe, have in almost every instance added on what we have cut off. It has been done with perfect unanimity upon a level plane of amendments. They have brought everything up to the old standard. While they have done that, yet they have paid the Committee on Appropriations the highest compliment any Committee on Appropriations ever before received, for with the exception of clerical errors they have not in the whole one hundred and eighty-seven amendments stricken down as extravagant a single provision which we sent to them. I am quite accurate when I say that they have not stricken out a single dollar which the House appropriated.

Now, if any gentleman of the committee should desire any further explanation I shall be happy to give it if I can.

Mr. WINDOM. Will the gentleman state the amount appropriated to carry out new treaties? I did not catch his former statement.

Mr. BUTLER, of Massachusetts. I will state it again, and especially as a number of members have since come into the House. The

bill as it went from the House appropriated \$2,312,260. The Senate Committee on Appropriations added \$540,963, and the Senate Committee on Indian Affairs \$3,800,734 99.

Mr. BENJAMIN. The committee have not heard the gentleman's statement in regard to the amendment. In this particular case are we to pay the Indians for stealing our stock? That is the point.

Mr. BUTLER, of Massachusetts. It is Senate amendment No. 117, to pay the claim of the Sacs and Foxes against the United States for stealing of stock, per fifteenth article treaty February 18, 1867, \$16,400. What is intended is to provide for a case where citizens of the United States are supposed to have stolen the stock of the Sacs and Foxes. You must not ask me to defend the syntax or grammar of the Senate amendment when I have so much else to do.

Mr. BENJAMIN. Has the gentleman any information whether this is to pay for stock we have stolen or stock they have stolen?

Mr. BUTLER, of Massachusetts. I believe the treaty sets forth the facts with a great deal of accuracy. I will read the article of the treaty:

"Article fifteen of the treaty ratified October 14, 1858.—The claims of the Sacs and Foxes against the United States for stealing stock which have heretofore been adjusted, amounting to \$16,400, shall be paid by the United States, and the amount disbursed and expended for the benefit of the tribe in such objects for their improvement and comfort upon the new reservation as the chiefs through their agents desire. And whereas the Indians claim that one full payment due under the previous treaty has never been made to them, it is agreed that a careful examination of the books of the Commissioner of Indian Affairs shall be made, and if any sum is found still due to anybody the same shall be paid to them *per capita* in the same manner as their annuities are paid."

Mr. GARFIELD. Please enlighten us on this point: if the Indians stole the stock do we pay them?

Mr. BUTLER, of Massachusetts. No, sir.

Mr. GARFIELD. Did we steal it from them, or are we now paying our debts?

Mr. BUTLER, of Massachusetts. Our citizens and our soldiers are claimed to have stolen a large amount of cattle from the Sac and Fox Indians, and that claim has heretofore been adjusted in the Indian Bureau, but now there is a treaty stipulation here to carry out that adjustment by paying the amount.

Mr. LOGAN. The truth is the rebels stole their stock, I suppose, did they not?

Several members here propounded questions attacking the wording of the amendment.

Mr. BUTLER, of Massachusetts. I really cannot answer these questions, and I hope gentlemen upon a matter of so much gravity as this, and with the press of business at this time, will see that it is important that we proceed to the consideration of these very grave matters.

Mr. SHELLABARGER. Will the gentleman yield to me?

Mr. BUTLER, of Massachusetts. I will yield to the gentleman one at a time.

Mr. SHELLABARGER. I desire the gentleman before he closes to answer two questions. Perhaps he has already sufficiently answered them, and perhaps not. I am not certain about that. I understand him to state that the main difference between the bill as it comes from the Senate and the bill as it passed the House is in the fact that it makes large appropriations for carrying out about eleven treaties made with different tribes of Indians.

Mr. BUTLER, of Massachusetts. I think that is the number.

Mr. SHELLABARGER. The first question I want to ask is whether the right of the House or the propriety of the House declining to concur in the Senate amendments depends solely upon the right of the House to make appropriations for a treaty which the House thinks the Senate and the Executive ought not to have made? Whether in considering these amendments there is any other discretion or right which the House has in the matter except it be the right to look into the propriety of making a treaty and of providing for its execution by making the requisite appropriations?

Mr. BUTLER, of Massachusetts. I will give the gentleman all that has occurred to my mind on the subject in our discussions in the committee-room. It was said that all treaties that called for appropriations of money to carry them out are always within the control of the House. For example, suppose we should make a treaty with Russia to purchase Alaska and, as we have a perfect right to do so, suppose we should not appropriate the money to carry out that treaty. That is one of the few privileges which yet are supposed to belong to the House. We have a right at any and all times to say we will or will not appropriate money to carry out a treaty or for any other purpose. That power was exercised by the House of Commons of England many years ago in regard to a treaty between Great Britain and Spain, I believe. The House refusing to appropriate the necessary money and to pass the necessary laws to carry it out, it being a treaty of commerce in regard to revenue; and that treaty remains unexecuted, so far as England is concerned, to-day.

Mr. SHELLABARGER. I agree fully with the statement just made by the gentleman, and by my question I did not mean to indicate that the House was bound to carry out any treaty which required the appropriation of money unless it should deem it wise to do so; but I meant to bring the mind of the committee to the position in which we are at this time and to inquire whether we have any other thing to consider than the question whether it is a treaty fit to be made and carried out? If it is not the gentleman has answered that. I understand that these eleven treaties have been made and proclaimed and that everything has been done as to them that the Senate and the Executive can do, and the only remedy now is for the House to stop right here.

The other question that I wish to ask is what there is, if anything, which has been yielded up by these Indian tribes as consideration for these large stipulations in their favor, except the matter which has been alluded to, namely, that we are to have peace in return for these appropriations and expenditures? Is there anything in the way of relinquishment of reservations of land or anything of that kind that would commend these treaties to our favor?

Mr. BUTLER, of Massachusetts. In the treaties made by the peace commission there has been no cession of land, because these Indians were roaming Indians who did not seem to have any fixed habitations or lands they could claim as their own except *possessio pedis*. In the treaty made with the Ute Indians and in one or two treaties made by Governor Hunt and Kit Carson there has been land ceded, but the general theory upon which the treaties have proceeded is that the Indians shall be got together upon reservations and fed there and kept there and made self-sustaining, if possible, and the consideration they give is peace.

Let me read from one of these treaties the consideration:

"ARTICLE I.

"From this day forward peace between the parties to this treaty shall forever continue. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they hereby pledge their honor to maintain it. If bad men among the whites or among other people subject to the authority of the United States shall commit any wrong upon the person or property of the Indians the United States will, upon proof made to the agent and forwarded to the Commissioner of Indian Affairs at Washington city, proceed at once to cause the offender to be arrested and punished according to the laws of the United States, and also reimburse the injured person for the loss sustained.

"If bad men among the Indians shall commit a wrong or depredation upon the person or property of any one, white, black, or Indian, subject to the authority of the United States and at peace therewith, the Indians herein named solemnly agree that they will, on proof made to their agent and notice by him, deliver up the wrongdoer to the United States, to be tried and punished according to its laws; and in case they refuse wilfully so to do the person injured shall be reimbursed for his loss from the annuities or other moneys due or to become due to them under this or other treaties made with the United States. And the President, on advising with the Commissioner of Indian Affairs, shall prescribe

such rules and regulations for ascertaining damages under the provisions of this article as in his judgment may be proper. But no such damages shall be adjusted and paid until thoroughly examined and passed upon by the Commissioner of Indian Affairs, and no one sustaining loss while violating or because of his violating the provisions of this treaty or the laws of the United States shall be reimbursed therefor."

That is the theory of all these treaties. The whole matter resolves itself into this: are we in future to deal with these Indians by treaties and carry out this policy or are we to deal with them in a different manner? I want to impress upon the House once more that this is a very difficult and important question. Many western men tell the committee that if these treaties are not carried out there will be war all along the western border and we shall lose many hundreds of lives, and that one month of war would be destructive to more property than the amount now involved.

Mr. MUNGEN. I desire to ask the gentleman a question in good faith.

Mr. BUTLER, of Massachusetts. I will hear it.

Mr. MUNGEN. I wish to ask whether in any of these amendments the Senate have granted any more than the treaties to which he refers bind us to give the Indians?

Mr. BUTLER, of Massachusetts. I do not think they have, except perhaps that there has been a little lavishness of appropriation. I will give the gentleman an instance of what I mean. Where a physician is provided for they give him fifteen hundred or two thousand dollars a year when perhaps we might provide one for less.

Mr. MUNGEN. That is a matter outside the treaties. I was speaking of the regular annuities.

Mr. BUTLER, of Massachusetts. No, sir; they give nothing but what the treaties require.

Mr. MUNGEN. Under the Constitution of the United States these treaties when adopted are something like the laws of the Medes and Persians. Notwithstanding the statement of the gentleman about what has been done by the House of Commons in regard to a treaty between Great Britain and Spain I believe that when a treaty is made by the authorized power of the Government—by the Executive, be he who he may, and ratified by the Senate—that treaty is binding in all of its stipulations upon this House, and that we are under obligations as members of this House to carry it out; and if the gentleman admits that the Senate have asked for nothing more in the shape of annuities for the Indians than the treaties between us and the Indians call for then we are bound to carry out those treaties. I believe that to be so and I intend so to vote.

Mr. BUTLER, of Massachusetts. I want to say right here that there should be no prejudice against any of these treaties because they have been signed by the present President of the United States. He has had nothing to do with them except to do what seemed to be his duty to carry out the wishes of the peace commission sent out to those Indians.

Mr. MUNGEN. Very few of them have been signed by the President.

Mr. ALLISON. Will the gentleman allow me to ask him a question?

Mr. BUTLER, of Massachusetts. Certainly.

Mr. ALLISON. I desire to know of the gentleman whether these appropriations apply to treaties which have recently been made, and whether we are now called upon for the first time to make appropriations under these treaties?

Mr. BUTLER, of Massachusetts. The treaties made by this peace commission, substantially, yes.

Mr. ALLISON. I understand that these treaties run for a long period of time, for many years, and if we enter upon these appropriations now we therefore substantially give the sanction and recognition of the law-making power of the Government to the faithful carrying out of these treaties in the future.

Mr. BUTLER, of Massachusetts. Yes, sir.

Mr. ALLISON. And we would be regarded

as having violated these treaties if we fail at any time in the future to make the appropriations called for by them.

Mr. BUTLER, of Massachusetts. Undoubtedly.

Mr. ALLISON. I presume the Committee on Appropriations have made careful examination of this whole subject. I would be glad, therefore, to have the gentleman now in charge of this bill to say to the House what his best judgment is in reference to what should be our action on this whole subject.

Mr. BUTLER, of Massachusetts. I have but three or four minutes left. I want to say exactly this: the subject was so vast in its consequences and of such great moment, involving so many difficulties and such great controversies, that I did not desire, and I do not now desire, to take that very great responsibility. I am only responsible, and so far as I know have relieved myself of it, for the faithful detail of the facts to members of the House. I have stated those facts to them, and now submit it to their decision.

Mr. LOGAN. May I interrupt the gentleman a moment right here?

Mr. BUTLER, of Massachusetts. Certainly.

Mr. LOGAN. I have listened with a great deal of interest to the remarks of the gentleman. But I have been unable yet to ascertain whether the Committee on Appropriations desire us to vote for these appropriations or not. I want to know whether the Committee on Appropriations desire us to concur or non-concur in the amendments of the Senate to this bill.

Mr. BUTLER, of Massachusetts. We have reported in favor of non-concurring in all these amendments, for the purpose of bringing the subject before the House. I have stated that in regard to class appropriations, this great question of a policy with the Indians, the Committee on Appropriations felt a delicacy in making any positive recommendation, and in regard to some other of the amendments we have very decided opinions.

Mr. SCOFIELD. Will the gentleman allow me to make a remark at this point?

Mr. BUTLER, of Massachusetts. Certainly.

Mr. SCOFIELD. Then I would say in reply to the inquiry of the gentleman from Illinois [Mr. LOGAN] that I have the honor to be a member of the Committee on Appropriations, and I understand that every member of that committee is most decidedly hostile to the amendments of the Senate, believing that they involve the deepest villainy of anything that has been before this House for a great many years.

[Here the hammer fell.]

The CHAIRMAN. The hour of the gentleman from Massachusetts [Mr. BUTLER] has expired.

Mr. BURLEIGH. I desire to make a few remarks upon this subject.

Mr. LOGAN. Will the gentleman allow me to say a few words?

Mr. BURLEIGH. If I can yield to the gentleman from Illinois [Mr. LOGAN] without surrendering the floor I will do so.

The CHAIRMAN. The gentleman can yield and then resume the floor when he chooses to do so.

Mr. BURLEIGH. Then I yield to the gentleman from Illinois.

Mr. LOGAN. I want to say in response to the gentleman from Pennsylvania [Mr. SCOFIELD] that I have understood all the time that the Committee on Appropriations have investigated this case and believed that there were frauds covered up in this proposition, and my object was to get that statement before the House. If there are frauds, or if the committee believe there are frauds covered up in this proposition, which I myself believe, I want them to say so to the House and let a committee of conference be appointed to investigate them.

Mr. BURLEIGH. I have listened with a great deal of interest to the remarks of the honorable gentleman from Massachusetts [Mr.

BUTLER] in his discussion of the bill now under consideration. But I do not distinctly understand what the Committee on Appropriations desire the House to do, what action they desire it to take in this matter. Many of the honorable gentleman's remarks appear reasonable, and unmistakably indicate that in this as in every other financial measure with which he has anything to do he has probed it as near to the bottom as his information would admit. That this bill as it came back from the Senate has some imperfections I am free to admit. That some of the amendments made to it in that body appropriate more money than is absolutely necessary for an economical administration of our Indian affairs I do not doubt. But some of the gentleman's statements, I regret to say, do not square with the facts as I know them to exist. I know this is not intentional, for I am free to say that from a close scrutiny of his course as a member of the Committee on Appropriations I have been forced to the conclusion that the public good alone rules his actions here.

But, sir, I do not believe the amount added to the bill by the Senate for the purpose of carrying out the provisions of the treaties made by the peace commissioners, and especially that made with the Sioux nation, is one dollar in excess of the amount absolutely demanded for that purpose. We have been informed that the amount appropriated for carrying into effect this treaty with the Sioux will give to every member of that tribe an outfit better than a majority of white men have when they start out in the world for themselves. Let us bear in mind, sir, that the Sioux nation numbers thirty thousand souls; that they have been the occupants of the country from the British lines to the Republican, from the Mississippi to the base of the Rocky mountains; that their chief subsistence has been upon the buffalo, now fast disappearing before the advance of civilization. They are to-day the most powerful of all the Indian tribes. The Government invaded their country and took possession of their choicest hunting grounds without first treating with them. This it did for the purpose of establishing military posts, building railways and wagon-roads. Thousands and tens of thousands of miners are located in the mountain districts. The result of this contact has been unnumbered outrages upon the persons and property of the Indians; the consequence of these outrages has been our Indian wars.

Now, sir, let us bear in mind that the commissioners of the Government found these Indians in this demoralized condition, naked and suffering from the result of our national faithlessness toward them. They saw that it was not possible to restore and maintain peaceful relations between them and the white population of the West, so long as the two races remained in contact, each contending for the exclusive right to occupy the Indians' country, where they had roamed and enjoyed undisputed possession from time immemorial. Their only remedy was to gather them together, treat with them for their lands, remove and locate them upon reservations where they might live unmolested by white men, and place them in a situation where they can live and learn the habits of civilized life. I ask if there is anything wrong in this? Does not common humanity demand that this mighty nation should do this much for the remaining representatives of the once powerful tribes that formerly possessed every acre of our broad national domain? Would justice to these people be satisfied with anything less than this?

The Indian is a man and a brother; weakened it is true, by our tyrannical power, impoverished by our rapacity, brutalized by our practices, but still one of God's children and entitled to justice at the hands of this Christian nation. The only practical question now worth considering is, shall this Congress extend it to them, or shall this remnant of the race be left to linger and die by our cruelty and neglect?

Gentlemen on the opposite side of this question from myself speak scornfully of the views

expressed by the peace commissioners, who were sent to the Indian country by an act of this Congress to ascertain the cause of our past and present troubles with the hostile tribes. They treat with contempt the valuable information which these commissioners obtained there, as well as their subsequent action in negotiating these important treaties of peace and friendship with those people, by which war has ceased and peace is restored between our citizens and every hostile tribe, with which we have kept the faith and fairly carried out our pledges to them.

Let it be remembered, sir, that we have driven these people to the verge of despair and forced them to the very gates of death. By the wise and humane policy adopted by our peace commission—the creature of this Congress, acting under authority of the law which you made for this express purpose—the initiatory steps have been taken which, if carried out in good faith by the Government, will put a stop to our cruel, murderous, brutal Indian wars forever and relieve the national Treasury of a drain of hundreds of millions of dollars. Peace, lasting, permanent peace, will again return to our western Territories, and prosperity will once more smile upon our people.

Now, sir, since so much has been said about the extravagance of these treaties and the lack of wisdom in making them, perhaps it would be well to let the House and the country know who the commissioners were to whom you intrusted this important duty. I say you, for I wish to be understood what I mean when I state that this Congress passed a law creating this commission, and out of the seven commissioners you selected four of its number from civil life and left the President to select the other three from the officers of the Army, and that you appropriated \$450,000 to enable these commissioners to make these identical treaties, which have now been ratified by the Senate and proclaimed by the President of the United States and are to-night the supreme law of this land, and Congress is bound to appropriate the necessary money to carry them into effect or admit our national faithlessness and declare the Treasury bankrupt.

The gentlemen selected by Congress for the purpose of negotiating these treaties were Senator HENDERSON, Hon. N. G. Taylor, Commissioner of Indian Affairs, General Sanborne, and Colonel Tappan. Those selected by the President were Lieutenant General Sherman, Major General Harney, and Major General Terry.

These are the persons who were selected to go into the Indian country, ascertain the cause of our Indian difficulties, and to inaugurate and carry into practical operation some plan for their settlement. They are the men of all others who enjoyed your confidence and the confidence of the executive department of the Government, and were selected on account of their integrity, patriotism, and large experience to discharge the duties assigned them. They are all gentlemen of spotless character and large experience in Indian affairs, while several of them have by devotion to their country been awarded a bright place on the page of our country's history which time alone can efface.

These treaties were not negotiated, as some gentlemen suppose, merely to purchase peace with the warlike tribes, but for the right of way through the country occupied by them and for the acquisition of large and extensive territory both on the western prairies and in the rich mining districts of the mountains.

But, sir, we have not kept these treaties; the Indians waited for weeks and months after their stipulations should have been fulfilled; Congress delayed to make the necessary appropriations to carry them into effect, and but for the just and humane course pursued by General Harney in incurring the responsibility of supplying the necessary means of support which had been agreed upon in their treaty the Sioux nation would now be engaged with

the southwestern tribes in their war against our people. It is a humiliating confession to make, but I am confident that in no one instance has our Government ever carried out in good faith a treaty made with an Indian tribe, from the time that we treated with the Delawares at Fort Pitt, on the 17th day of September, 1778, to our treaty with the Sioux, in 1868.

Look through the seventh volume of your Statutes-at-Large, and in that volume of our national faithlessness every page is a living record of plighted faith to these people that never has been kept by the Government.

It has been stated that this bill went from this House to the Senate appropriating between two and three million dollars; that it comes back here with amendments by which it is increased to between four and five million dollars, and without any cause for this great increase. But it must be remembered that when this bill was sent from here to the Senate, the Sioux treaty had not been ratified, and it contained no appropriation for carrying its provisions into effect. While the bill was in the hands of the committee that treaty was ratified and proclaimed by the President, and the Senate placed in the bill the \$1,700,000 necessary to carry it into effect, and also the \$480,000 deficiency, which money is now being used for the Indians who made the treaty, to subsist them until the opening of navigation on the Missouri river.

Again, we are told that notwithstanding these treaties have been concluded by the commissioners, ratified by the Senate, and proclaimed by the President, that the House of Representatives is to be consulted before it will consent to appropriate the necessary means to carry them into effect. The case of Alaska is cited as one in point. There is a wide difference in the two treaties. Alaska was foreign territory, treated for and acquired by the Executive without a word of consultation with Congress, while these treaties were negotiated by a commission which was created by Congress for this express purpose by authority of a positive law, and the necessary amount of money was at the time appropriated to enable the commissioners to discharge the duties assigned them.

These treaties are now before you; they are the supreme law of the land, made by your positive direction, confirmed by the Senate, and proclaimed by the President of the United States. And I ask if there is a lawyer or a statesman here, who in view of these facts will get up here or elsewhere and refuse to appropriate the necessary money to carry out these treaties in good faith?

General Harney, who had been a party to these negotiations, was selected to go up the Missouri and take charge of the Sioux tribes. It was late in the season when he undertook this difficult duty. The Missouri river was so low, the navigation so difficult, that the rates of transportation were more than doubled. All of his machinery, agricultural, and mechanical implements, and provisions, except beef, had to be transported hundreds of miles up the Missouri river in steamers. The prairies had burnt off for several hundred miles; in fact every imaginable obstacle opposed his progress. General Auger had already started Spotted Tail and his bands from the Platte to their new home on the Missouri. The hostile Yanktonais, Blackfeet, Sioux, Brulés, Two Kettles, Oncompas, Minneconjoux, Sans Arcs, Ogallallas, and Cut Head bands had been invited in. Workhouses had to be built, mills erected, and supplies enough got into that remote country to subsist fifteen thousand Indians for six months. A failure to accomplish this would have been a violation of the treaty on the part of the Government and rekindled the Indian war on the Missouri. No man knew this better than General Harney. He realized that the issue of peace and war were in his hands; he took the responsibility and prevented that war.

The flour and beef alone for the support of these Indians for six months would amount to three times the amount placed in his hands.

He had no alternative but to go forward and carry out the plan inaugurated by the peace commissioners or abandon the undertaking altogether. By his determined, persistent efforts in carrying out this great work of pacification, I am confident that has prevented a north-western Indian war that would have cost the Government more than thirty million dollars.

This, sir, has been the result of sending to that country a man of experience and integrity, whose life in the Army, where he has seen more than fifty years of honorable service, much of which has been on our western frontiers, has forced upon the minds of all who knew him, the Indian as well as the white man, that justice and honesty are ingrained into every principle of his nature.

We are told that the peace commissioners were too extravagant, that they promised the Indians too much; but when you come to examine it the amount is really very small indeed. For the first year the amount will not exceed sixty dollars per year to each Indian over four years old, after which time it will not be more than one third of this amount for each member of the tribe.

But what is this insignificant sum when compared with our past policy of fighting them. In 1863 and 1864 the Government expended more than thirty million dollars in carrying on a war with these same Sioux Indians, during the whole of which time our troops did not kill twenty of their warriors, although I believe they slaughtered some seventy peaceable Indians, most of whom were women and helpless children. Whatever opinions others may entertain I know that no such plan of wisdom and economy has ever before been adopted by the Government as this one of feeding and clothing instead of fighting the Indians.

The comparatively small sum called for to carry into effect these treaties for the purposes designed by the commissioners will be better invested and yield larger returns to the Treasury than it would if invested at five hundred per cent. interest. Let this Congress at once appropriate the money asked for to keep our plighted faith with these people and thereby prevent the renewal of hostilities in that country by our faithlessness; let us do justice to these people for once and thereby prevent another Sioux war, which would be so expensive to the Government, so ruinous to our people.

In the Southwest our present war policy is costing the Government more than a thousand dollars per head annually for every Indian, regardless of age or sex; while our peace policy is costing about sixty dollars per head annually for those over four years of age.

Mr. TAFTE. I should like to ask the gentleman whether those thirty thousand Indians under General Harney are upon the old or the new reservation?

Mr. BURLLEIGH. I did not say they were on the one or the other, but I will state for the gentleman's information that nearly all of them are on their new reservation. Let us bear in mind that the hostile Sioux did not ask for this treaty; they have been too successful in the wars which our Government has waged against them to feel that they were either conquered or subdued. It was the United States, through its commissioners, that sued for peace, and not the Indians. In the years 1866 and 1867 alone they captured from our frontier posts and drove off from our settlers more than five million dollars' worth of stock and killed fifty white men for every Indian warrior captured or killed by our troops. It was the United States, by your direction, that surrendered, and not the Sioux. They held their ground and you abandoned your forts and surrendered the Powder river country to them; not that you desired to, but because you could not hold it without incurring an expenditure of life and treasure too great to be thought of.

We should bear in mind that a great deal of the money asked for in this bill for the Sioux is for the purpose of establishing their agencies, erecting permanent buildings, break-

ing up their fields, and for purchasing farming implements and cattle. These expenditures will not be required after this year.

Full one half of the whole Indian population of the country is now located on reservations, their permanent improvements are completed, while the annual cost of supporting them does not exceed \$2,000,000 a year. It is remarked by a gentleman that not one dollar in fifty of the money appropriated ever reaches the Indians. Well, sir, if this be his opinion I would suggest that we employ some honest member of Congress to go out into the Indian country and inspect matters there. [Laughter.] Let some honest man be sent out there to see that the Indians receive what Congress appropriates for them, and if we cannot find such a man anywhere on this broad earth, let us appeal to the Almighty to send such a one down from the bright regions above to perform this duty for us. [Laughter.]

Fraud, corruption, and robbery of the Indians by their agents have been the curse of the white man ever since I first heard of an Indian agent. Demoralization, licentiousness, debauchery, and murder by our soldiers have been the undying curse of the Indian from the first day that I visited the Indian country to the present; and I assert here that the more honest, upright, and conscientious the Indian agent in the remote West who has charge of a tribe of Indians, especially if he undertakes to prevent drunkenness, debauchery, and vice among them by excluding unprincipled white men, the more will he be slandered and the greater villain will he be regarded.

Mr. Speaker, I have detained the House longer than I intended; and let me say in conclusion that but two ways are left open to us: we have either to feed and clothe or fight these people. Feed and clothe them, keep our treaty obligations, and we shall have uninterrupted peace; fail to do so, and we shall have war, a long, cruel, and interminable war that will only cease by the utter extermination of the entire Indian race. And I ask you, sir, I ask this House and the country, if judging by the lights of past history we are in a condition for this gigantic undertaking? This is not my opinion alone, but the opinion of General Terry, who commands the department of the Northwest; it is the opinion of General Harney, who has had more experience in Indian warfare and in the management of the Indians of the West than any other officer in the Army; and it is the settled belief of more than ninety per cent. of the intelligent men of the West who are most familiar with this subject.

I yield the remainder of my time to the gentleman from Minnesota, [Mr. WINDOM.]

Mr. WINDOM. Mr. Chairman, this is one of the most important questions that has been presented to this Congress. I am not now going to discuss those provisions of the bill referred to by the gentleman from Massachusetts [Mr. BUTLER] which make appropriations for certain claims, nor that other provision which seemed to excite the mirth of certain gentlemen about paying the Indians for stealing, but shall confine my remarks to the great question, namely, shall we comply with our treaty stipulations with these Indians or not? Gentlemen stand here on this floor and discuss the question whether the Constitution obliged us to carry out those treaties or not. I apprehend, sir, that the Sioux Indians and the other wild Indians on the plains are not very good constitutional lawyers, and that however we may decide this question of constitutional law it will not obviate the results of a breach of faith on our part. The gentleman from Pennsylvania [Mr. SCOFIELD] says that these treaties are most unmitigated frauds, or at least that the appropriation made by the Senate of the United States in compliance with them is an unmitigated fraud. Now, Mr. Chairman, I desire to call the attention of the committee for a moment to the circumstances under which these treaties were made, and under which the gentlemen who made the treaties were sent to the Indian country. In July, 1867, an In-

dian war was being waged upon the plains which according to General Grant's statement, cost \$1,000,000 per week, or at the rate of \$50,000,000 per annum. With that fact staring us in the face Congress decided that something must be done. The Senate passed a bill naming a certain commission to go to the Indian country and ascertain how, if possible, the causes of the war could be removed and wars obviated in the future. They sent that bill to the House of Representatives and it received our sanction. Now, I desire to inform the House who constituted that commission which the gentleman from Pennsylvania says has been guilty of perpetrating the most shameful frauds upon the country.

Mr. SCOFIELD. I have not said any such thing.

Mr. WINDOM. The gentleman stated in the hearing of the House within the last fifteen minutes that the appropriation made by the Senate to comply with these treaties was a shameful fraud, or words to that effect.

Mr. SCOFIELD. Not at all. I said the Senate amendments. A portion of them are to comply with treaties, but a large portion, and some of the most rascally of them, were put in not even under the authority of treaties.

Mr. WINDOM. Then the gentleman did not apply his remarks to the appropriations to carry out the treaties made by the peace commission?

Mr. SCOFIELD. I applied them to the Senate amendments generally.

Mr. WINDOM. Did he apply them to the Senate amendments to carry out the treaties made by the peace commission?

Mr. SCOFIELD. In part.

Mr. WINDOM. Then the gentleman had as well not have taken my time to contradict me, for he now admits that he did say the appropriations made by the Senate to carry out treaties made by the peace commission are frauds. Why are they frauds? The gentleman from Massachusetts [Mr. BUTLER] does not insist that there is anything in these amendments which is not necessary to carry out these treaties, and yet the gentleman from Pennsylvania says that this is a fraud. I am therefore corroborated rather than contradicted by the gentleman from Pennsylvania.

Now, Mr. Chairman, who perpetrated this enormous fraud upon the country? Bear in mind the circumstances under which this peace commission went out. An expenditure at the rate of \$50,000,000 a year was depleting the Treasury and something must be done to prevent it. The Senate and House of Representatives united in selecting the best men that could be found in the nation to go out into the Indian country and ascertain what could be done to save us this vast expenditure, and the united wisdom of these two bodies selected the following gentlemen: N. G. Taylor, Commissioner of Indian Affairs; J. B. HENDERSON, Senator of the United States; W. T. Sherman, Lieutenant General of the Army of the United States; William S. Harney, brevet major general, a gentleman who has seen more Indian service than any man on this continent or in the world; John B. Sanborn, another gentleman who has had long experience in the Army and in the Indian country; Alfred H. Terry, brevet major general; S. F. Tappan, and C. C. Augur, brevet major general.

Mr. Chairman, I apprehend that when that commission was appointed there was not a man in this whole land who believed that more honest, more honorable, or a more intelligent commission could possibly be found within the boundaries of the United States. When this commission went out to the Indian country several of them believed in the war policy which has prevailed in this House. They spent a year or more in that country and came back completely converted from that theory to the more sensible one which they recommend in their report. These gentlemen having this matter in special charge, devoting more than a year to its investigation on the ground and among the Indians, after considering the

whole question came to the conclusion that the only way to save to the country this great loss of life and treasure is the mode which they have adopted, as expressed in the treaties under consideration.

Mr. DODGE. I desire to ask the gentleman one question. Does the gentleman assert that the members of the commission to which he refers favor to-day the same policy that they supported when those treaties were made? Are they all in favor now of carrying out these treaties and making these appropriations?

Mr. WINDOM. Yes, sir; they are all in favor of it.

Mr. DODGE. Has not General Sherman said that the Indians having gone to war we must whip them before we feed them?

Mr. WINDOM. General Sherman may have made use of such remarks in regard to the Indians in the southern part of the country, with whom we are at war.

Mr. DODGE. Does not this treaty provide for two tribes of the South, the Arapahoes and Cheyennes? Is not a part of this appropriation designed for them?

Mr. WINDOM. It is true, I believe, that with regard to the Indians referred to by the gentleman from Iowa [Mr. DODGE] General Sherman has made such a declaration. The gentleman from Kansas [Mr. CLARKE] called the attention of the gentleman from Massachusetts [Mr. BUTLER] to the fact that there were certain Indians with whom treaties were made who were to-day at war with us. That is also true. Last summer we were informed that unless money should be appropriated to carry out our treaty stipulations with those very Cheyennes and Arapahoes we should have war with them. We did not make that appropriation and war has followed, as it was then predicted by myself and others that war would follow. And General Sherman has said that he has exhausted the peace policy with those tribes and that we must now fight them. But if we had kept our agreements with them we would, in my opinion, have no war to-day. And I know from personal consultation with General Sherman that he agreed with me in this opinion. However, I was simply calling the attention of the House to the question as to who it was that committed these unmitigated frauds upon the country. I have referred to the character of the men who made the treaties and who are responsible for the frauds, if frauds they be, and to their means of knowing what was best to be done under the circumstances. Now, sir, let me say that the question as to what shall be our Indian policy now meets us face to face. The gentleman from Massachusetts [Mr. BUTLER] has very fairly stated the issue before the country to-day. We are called upon to-night and in this Chamber to settle this most important and difficult question. We cannot dodge it. The Senate has tendered to us the issue. Our settlements have pressed the Indian back until he can go no further. One of our railroads already extends across the continent, and others we hope will soon do so. The miner has penetrated every mountain, and on almost every prairie our pioneers and farmers are staking out their homes for settlement and cultivation. The question cannot be longer shirked. We have driven those Indians from the Atlantic sea-board to the mountains and plains of the West. They can go no further. The returning tide of emigration already meets them from the Pacific coast. The march of civilization cannot be and should not be checked. We must provide for the wants of the Indian or fight him, and we must act at once. Our action on this bill will decide that question. It has been asked here to-night whether the Indians have given up any lands? Look over this whole broad country, from the Atlantic to the Rocky mountains, and you behold the lands that those Indians have given up. They are not mere pensioners upon your bounty. You have thus far robbed them of everything. You have made treaties with them and you have violated them. You have made treaties with them ever since the organization of the Government, and I believe the gentleman from

Dakota [Mr. BURLEIGH] is not far wrong when he says that you have never kept one of those treaties from that day down to the present time. We have taken from them all they had. A short time ago they had hunting-grounds in the West, but now the iron-horse is heard among them and the buffalo is disappearing. Either those Indians must starve or fight or we must feed them. The issue, then, is fairly and squarely presented to this House and we must meet it. What shall we do?

Now, recurring again to this commission, let me say that we authorized those men to go out to that country and make treaties. They did make those treaties. To illustrate my position, let me refer to the Sioux Indians. The commissioners agreed that those tribes should be brought upon three reservations. They were brought upon them. Less than one year has elapsed since that treaty was made. Those Indians came upon the reservation in obedience to our call. They came there trusting the faith of this great nation. They came there under not merely an implied but an absolute and perfect pledge of faith on the part of the United States—a pledge made not merely by the Senate of the United States and the President, but the positive pledge of this House as well as of the Senate. This House joined in sending the commission to that country. We expressly authorized that commission to make those treaties in order to secure peace. The commission did make those treaties. The Indians, in pursuance of the treaties, came upon the reservations. That was only one year ago. And now the monstrous proposition is entertained by this House to violate our national faith thus solemnly pledged.

We are asked what will be the result. I will tell you what it will be. It will be precisely the same that it has ever been heretofore. Whenever we have violated faith by refusing to pay a dollar justly due we have paid from ten to a thousand dollars as a penalty for such national dishonor.

I know, Mr. Chairman, that the amounts summed up by the gentleman from Massachusetts are startling. I wish we could maintain peace by paying less. I wish we could maintain our faith by paying less. But, sir, these figures are not half so startling as the war accounts brought in to be audited and settled for Indian wars. We are reminded to-night by the gentleman from Massachusetts of the policy pursued by General Harney in feeding the Indians on the Missouri river. We are told that it will cost the Government \$650,000 to feed them for a year. Mr. Chairman, there are of those Indians from ten to twelve thousand. We have thus far kept our treaty obligations with them and they have kept their treaty obligations with us, and for a year our expenditures for twelve thousand Indians are about six hundred and fifty thousand dollars. Take the other case in the South; and I am glad that when this issue meets us as it does to-night there stand out so prominently these illustrations of the two policies between which we must choose. The policy pursued in the North under General Harney is the policy I advocate; that pursued in the South with reference to the Arapahoe and Cheyenne Indians is the policy which gentlemen on the other side of this question urge. It is a fortunate thing for us that now when we are called upon to settle this question these illustrations are presented so forcibly. We are asked to-night in this Indian bill to vote about five hundred thousand dollars to carry out the policy pursued by General Harney. We were called upon within the same week to vote as the result of the other policy a deficiency bill amounting to \$19,000,000, and I think that at least \$15,000,000 of that deficiency was for the Indian war.

Thus in one case we kept our treaty obligations, and it cost us \$650,000 all told to take care of twelve thousand Indians. In the other case we violated our word, stood out before the world as faithless to our treaty obligations, and it cost us at least \$15,000,000 to take care

of not more than six thousand Indians. Honesty is the best policy for nations as well as for individuals, and I beg gentlemen to try the experiment for once with the Indian tribes. Is it not worth while to try it if only for the novelty of the sensation?

Mr. Chairman, these Indians with whom we have been at war are upon the most accessible parts of the country; they are upon the southern plains. If we had done as it is now proposed to do; if we had violated our treaty faith with the Sioux Indians and put them upon the war-path, they would have fled to the mountains of the North, when it would have been impossible for forty thousand men to conquer them. The peace commissioners give us some information as to the success of our Indian wars heretofore. I wish I had more time to read what they say; but I will give a specimen. After speaking of a war that was wholly inexcusable on our part, produced by our breach of faith, they use this language:

"Many will be astonished that a war ensued which cost the Government \$30,000,000 and carried conflagration and death to the border settlements. During the spring and summer of 1865 no less than eight thousand troops were withdrawn from the effective forces engaged in suppressing the rebellion to meet this Indian war. The result of the year's campaign satisfied all sensible men that war with Indians was both useless and expensive."

This is in the report which is signed by General Sherman, General Terry, General Sanborn, General Augur, and General Harney. A million dollars for each Indian killed! Yet, sir, we pause to consider the question whether we shall so act as to stir up an Indian war throughout the States and Territories of the West. We are told by the gentleman from Massachusetts [Mr. BUTLER] that if we adopt the policy of the Senate amendments it will cost us hereafter at the rate of \$12,000,000 per annum. I read recently a carefully prepared statement of what Indian wars heretofore have cost us, and it was there shown that the expense to the Government was more than twenty million dollars a year for the last forty years. I will put it, for the sake of the argument, at only one half of that sum, and say that for the last forty years the Government has expended \$10,000,000 a year for Indian wars. Nearly all of those wars might have been avoided if the policy of peace and good faith which is now proposed had been adopted and pursued by the Government. Look, if you please, at the comparative expense of this enormous estimate made by the gentleman from Massachusetts and the expense of carrying on an Indian war. I think the gentleman estimates it one hundred per cent. too high. Six millions will, I am quite sure, much more than cover it. But admit for the present that he is correct. General Sherman stated before the Military Committee, and I think the members of that committee will bear me out in what I am going to state, that to support a regiment of infantry on the plains costs \$1,000,000 a year, and to support a regiment of cavalry at least \$2,000,000 a year. That being the case it would take but a short Indian war to amount to many times more than would be necessary to carry out these treaty stipulations. What is proposed, therefore, is a matter of the wisest economy, to say nothing about the public faith and the public honor. To carry out these treaty stipulations, therefore, is alike due to the public faith which has been pledged and to the spirit of humanity which ought to actuate the dealings of a powerful republican Government.

The gentleman from Massachusetts [Mr. BUTLER] says if we refuse to make these appropriations, what then? The answer stands out on every page of American history. The "what then" will be a troublesome and expensive Indian war. While I am not a defender of the Indian, still I believe there is not a civilized nation on the face of the earth which would treat the Indians as we have treated them. If any of those nations had made a treaty with us, and that nation had not kept its faith or carried out its obligations under their treaty, neither the gentleman from Massachusetts nor any one now acting with him would

hesitate for a moment to say in that event that we should go to war. How, then, can we expect more of savages, who know nothing about international laws? They only know that you have pledged yourself by treaty to give them these provisions for which these appropriations are made, and if you do not give them they know of no other means of obtaining redress except by going to war. And, sir, fight they will if we do not carry out the treaties made with them in 1868; and if they do we will have upon our hands an Indian war which will cost us hundreds of millions of dollars and thousands of lives. I have not had the opportunity to examine any of these treaties until to-night, but I say that it will cost us at least \$50,000,000 a year if we shall fail to carry them out. And as I shall not have after this another opportunity to be heard on the Indian question I wish to put upon record this prophecy: that if we shall fail to carry out these treaties such breach of faith will cost us from forty to fifty million dollars a year.

I yield the remainder of my time to the gentleman from California.

Mr. HIGBY. Mr. Chairman, I did not hear all of the remarks which were made by the member from Massachusetts, [Mr. BUTLER,] but I heard part of them, and I heard the question of the gentleman from Ohio, [Mr. SHELLABARGER.] I have also heard other gentlemen who, whether they addressed the Chair or the committee, have certainly spoken loudly enough to be heard by a large portion of the members of the House. They have told us that the President and Senate had exercised a power in making these treaties which they did not possess under the Constitution. It is the same question which was raised under the treaty with Russia by which we acquired Alaska.

I beg leave to call the attention of the committee to something that we have on the statute-book which goes further to control this House than any arguments that have been made or any question that has been raised with reference to the treaty for the purchase of Alaska. My friend from Minnesota [Mr. WINDOM] has indicated what that is. He has referred to the report made by the commissioners authorized by Congress to go and make the investigation. These commissioners were authorized by act of Congress to do just what they did do. Now, what were they authorized to do? The report begins as follows:

"The undersigned commissioners appointed under the act of Congress approved July 20, 1867, to establish peace with certain hostile Indian tribes were authorized by said act to call together the chiefs and head men of such bands of Indians," &c.

The report goes on to specify what the powers of the commissioners were as conferred by act of Congress, and among other things they were authorized to make treaties with the Indian tribes—not to refer to Congress—that is not the language of the act; but "to make such treaty stipulations, subject to the action of the Senate, as may remove all just causes of complaint on their part." Those are the words of the act. But that it may be better understood I will send the act itself to the Clerk's desk and ask him to read the first section, so that the members of this committee may see where the foundation lies for the action that was taken by the commissioners and by the Senate of the United States.

The Clerk read as follows:

"Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to appoint a commission to consist of three officers of the Army not below the rank of brigadier general, who, together with N. G. Taylor, Commissioner of Indian Affairs; John B. Henderson, chairman of the Committee of Indian Affairs of the Senate; S. S. Tappan, and John B. Sanborn, shall have power and authority to call together the chiefs and head men of such bands or tribes of Indians as are waging war against the United States or committing depredations upon the people thereof, to ascertain the alleged reasons for their acts of hostility, and in their discretion, under the direction of the President, to make and conclude with said bands or tribes such treaty stipulations, subject to the action of the Senate, as may remove all just causes of complaint on their part and at the same time establish security for person and property along the lines of railroad now being constructed to the Pacific and other thoroughfares of

travel to the western Territories, and such as will most likely insure civilization for the Indians and peace and safety for the whites."

Mr. HIGBY. Read also the seventh section.

The Clerk read as follows:

"SEC. 7. And be it further enacted, That said commissioners report their doings under this act to the President of the United States, including any such treaties and all correspondence as well as evidence by them taken."

Mr. HIGBY. Thus it appears that all the treaties that were made with these Indians by this commission were made under a law of Congress which this House united with the Senate in enacting, authorizing the treaties to be made by the commissioners and to be submitted to the Senate of the United States—not to the Congress of the United States—for ratification. So that instead of this being done by the treaty-making power that is exercised under the Constitution, in the right to exercise which this House was divided in its expression of opinion one year ago, it is made under a law of Congress approved July 20, 1867, and the action of the Senate with reference to the matter is based upon this law of Congress and not upon the power that body claims to exercise under the Constitution.

Furthermore, the last section which was read by the Clerk shows that the commissioners were not to refer the evidence that they took to Congress at all, but were to submit it, together with the treaties, to the President of the United States, and the whole subject was to be entirely under the control of the President and the Senate of the United States, as regards completing the treaties with the Indian tribes.

If, therefore, I am correct in basing all this proceeding upon this law of Congress, what becomes of the position taken by the member from Massachusetts, [Mr. BUTLER,] and I think I may infer of every member of the Committee on Appropriations, from the remark made by the gentleman from Pennsylvania, [Mr. SCOFIELD,] as well as the position taken by the gentleman from Ohio [Mr. SHELLABARGER] in raising the question which he did? This House, together with the Senate, having passed this law and vested this authority to make these treaties where it has, it is too late for this body to undertake to raise the question whether the treaties were properly made.

Now, sir, I do not distinctly understand the insinuation of the gentleman from Pennsylvania, [Mr. SCOFIELD,] I, however, gathered from the language which he used that some great wrong has been committed in the making of these treaties with the Indians by the Senate and the President of the United States, and that some at least of the amendments made to this bill by the Senate are based upon those treaties. Then, Mr. Chairman, the whole action of the Committee on Appropriations in rejecting all these amendments of the Senate, if a portion of them are for the purpose of carrying out these treaty stipulations, must be entirely erroneous if I am correct as to that law of July 20, 1867; for this House cannot undo that which has been accomplished by the joint action of the Senate and House of Representatives with the approval of the Executive.

Mr. Chairman, there has been a great deal of debate here upon this Indian question, and as upon the 4th of March I cease to be a servant of the people and become one of the sovereigns, and my voice cannot thereafter be raised here, it may be well enough for me to take this, probably the last opportunity I may have, to state that there was a special commission appointed at the close of the Thirty-Eighth Congress, consisting of four members of the House and three of the Senate, to make an investigation into the condition of our Indian affairs. The four members of the House who were upon that commission are still here, but upon the 4th of March next all four of them will cease to be members of Congress. Allow me to state the history of the proceedings of that commission or joint committee of the two Houses. The committee, seven in number—and the last of the three Senators goes out on

the 4th of March—after making as thorough an investigation as they could make during the recess, dividing the Indian territory among them and making a personal inspection as far as possible, were unanimous in reporting a bill to Congress. It passed the Senate by a large majority and came to this House. Here it was taken in charge by the Committee on Military Affairs, and without any debate whatever in this House they struck out all after the enacting clause and put in its place a provision transferring the Indian Bureau to the War Department. That was the first movement in the face of the action of the joint committee and of their united judgment as reported to Congress after thorough investigation.

Sir, we have had another demonstration here within the last six weeks in the same direction. It is an effort on the part of this House to transfer the Indian Bureau to the War Department, and that no appropriations for the Indian service shall be made by Congress until the Senate succumbs to the wishes of this House upon the subject, instead of the Senate attempting to force anything upon this House. The Senate had taken the initiative upon this question and sent over here a bill which the joint committee by its unanimous judgment recommended as the best step to be taken in reference to our Indian affairs. I felt it due to that committee that this information should be communicated to the House. It is a fact that they ought to know and understand that the Senate passed that bill and that it came to this House. That bill provided for the appointment of inspectors. It proposed to divide the Indian territory into five districts and appoint three inspectors for each district, to make annual inspections of their districts and report to Congress in reference to their proceedings. That was the united judgment of the committee, but no one member of that committee was allowed to say one word upon the subject at the time and they have had little or no opportunity since. Had that bill passed the House and become a law by receiving the President's signature or being passed over his veto, and had these inspectors been appointed and made their inspection and furnished the information to Congress which they might have furnished, I have not the least doubt that this war which has cost the country millions upon millions might have been avoided. But no; our mouths were shut; no voice could be heard here in favor of that measure; there was but one sentiment prevailing here, and that was in favor of transferring the whole Indian Bureau to the War Department; and we who were upon that committee therefore feel ourselves relieved of all responsibility in regard to this matter.

The War Department is the most costly Department to which our Indian affairs could have been transferred. There is not a particle of doubt upon that point. And such will be the conclusion of members the more they investigate this matter. Those men who have spoken upon this floor, who know more practically about this subject than any others can know, all come to one and the same conclusion in reference to this matter. Do not tell me that it costs less to fight Indians than it does to feed them. One million dollars—what is it the report says? \$1,000,000 I think it is—for each Indian who has been captured by the military. And do not know how many hundreds of thousands and even millions of dollars, besides the lives of our soldiers, it will cost us to hunt these Indians over the wide, wild West.

Mr. WINDOM. I desire to call attention to a fact suggested by my colleague on the Committee on Indian Affairs [Mr. HIGBY] in connection with a fact which I stated a few moments since. I referred you to this peace commission, composed of gentlemen of the highest standing and character in this nation. I stated to you that they are unanimously in favor of this policy which I advocate here to-night. On that point I defy contradiction.

But in 1865 there was another Indian commission, referred to by the gentleman from

California. [Mr. HENRY.] consisting of four members of the House of Representatives and three members of the Senate of the United States. They divided up the Indian country and traveled nearly all over it. They took testimony of Indians in every part of that country; they thoroughly investigated this question, for they were sent out by the House and Senate for the express purpose of investigating it; and when they came back they made the report referred to by the gentleman from California. And in addition to that let me say that there is not one of that commission who is not to-night in favor of the policy advocated by the gentleman from California and myself. Of the members of the two commissions, the one sent out in 1865 and the one sent out in 1868, there is not a dissenting voice on that proposition. And yet in the face of all this testimony, in the face of this high military authority, we are called upon to violate our treaty faith.

[Here the hammer fell.]

The CHAIRMAN. The hour of the gentleman from Dakota [Mr. BURLEIGH] has expired.

Mr. WINDOM. Well, I hope we will now hear from the transfer of the Indian Bureau.

Mr. GARFIELD. I desire to call the attention of this Committee of the Whole to some of the startling facts developed in the bill now under consideration. I have aggregated the figures as furnished by the Committee on Appropriations and I call special attention to them.

At the commencement of this session the Secretary of the Interior, with all the Indian treaties then in existence before him, sent in estimates for appropriations for Indian purposes. The total amount of appropriations asked for in his estimates was \$2,977,982, or \$2,018 less than \$3,000,000.

The Committee of Appropriations and the House of Representatives went over the whole subject and cut down the amount of the estimates about six hundred and fifty thousand dollars, so that the bill as it passed the House granted \$2,312,000 for Indian purposes. Now what has happened? The Senate sends the bill back to us with an addition of \$1,341,897. In other words, the total appropriations for Indian purposes as the Senate have returned the bill to us are \$6,654,000; whereas less than \$3,000,000 was asked for by the Secretary of the Interior for all Indian purposes, and less than \$2,313,000 was granted by the House in the bill which we sent to the Senate.

Mr. WINDOM. Will the gentleman allow me to ask a question?

Mr. GARFIELD. I prefer not to be interrupted until I have finished my statement, then I will yield for explanations or questions.

Now, I call the attention of members to this startling fact, that the bill before us proposes to appropriate more than twice as much money as the Secretary of the Interior ever asked us to give him for Indian purposes and nearly three times as much as we granted. And on what grounds? Why, we are told that treaties have been made with the Indians. When? A bundle of these treaties are lying before us and I have not yet found one that bears date later than August, 1868. There may be later ones, but I have not seen them. All the provisions of these treaties were known to the Secretary of the Interior long before the commencement of this session of Congress. Now, has anything new transpired since we debated this bill in the House a few weeks ago? Have any new necessities arisen? "The treaties," it is said. But I am told these treaties are old, and since then events have occurred in the Indian country which have made them a stench in the nostrils of the American people. What are they? I have been examining them hastily and I am authorized by that examination to say that nearly one half of all the Indians whom the Senate proposes now to feed and clothe under these sacred treaties of which gentlemen talk have made war upon us since the treaties were made, and have thus

broken the last thread of binding authority that the treaties possess. I have here a long list of the names of tribes with whom we have been fighting. It is now proposed, without peace made, without reconciliation, to pay the treasure of the United States into the hands of these warriors who fight us in summer and ask us to feed them in winter.

Mr. WINDOM. Before the gentleman leaves the point to which he has just referred I wish to ask him whether he asks this House to believe that all the Indians with whom treaties have been made are at war with us?

Mr. GARFIELD. I said nearly one half.

Mr. WINDOM. Will the gentleman inform the House what tribes with which we have made treaties are now at war with us?

Mr. GARFIELD. I will name some of them. The southern band of Cheyennes and Arapahoes, the bands of the Ogallalla and Brulé Sioux, led by chiefs whose names are beyond the range of my vocabulary—

Mr. WINDOM. Mr. Chairman—

Mr. GARFIELD. I cannot yield further. I must finish my statement.

I hold in my hand one of these treaties as a specimen of the lot. It is a treaty with the northern Cheyennes and northern Arapahoes, both of which tribes we have been fighting, because they began war upon us; and they are fighting to-day, I believe.

Mr. WINDOM. Will the gentleman yield at this point for a question?

Mr. GARFIELD. Not now. I want to call attention to the provisions of this treaty. According to the sixth article we are bound for the next thirty years to hunt up every male Indian at the age of fourteen and from that time forward for thirty years, and in September of each year we must deliver to that roaming, wild male Indian, what will be a mysterious outfit to many of them, a coat, a hat, a pair of pantaloons, a flannel shirt, and a pair of woolen socks. [Laughter.] If we are fortunate enough to catch this wild man of the desert and can get these unmentionable articles upon him, we shall then have performed that part of our treaty stipulations. But at any rate the articles are all to be purchased and sent out there; and the estimates of their cost, &c., must be made up by the Commissioner of Indian Affairs.

But more than that: we are not to satisfy ourselves with hunting Indian boys; a chase must also be after the fairer sex of that dusky race. Whenever an Indian girl reaches the age of twelve years, the paternal Government, through this Indian Bureau, is to seek her out and deliver over for her sole use and benefit the following named articles: a flannel skirt or the goods necessary to make it, a pair of woolen hose, twelve yards of calico, and twelve yards of cotton domestic. And then for the boys and girls under the ages named, we are to furnish such flannel and cotton goods as may be needed to make each a suit as aforesaid, together with a pair of woolen socks for each:

"And in order that the Commissioner of Indian Affairs may be able to estimate properly for the articles herein named, it shall be the duty of the agent each year to forward him a full and exact census of the Indians, on which the estimates from year to year can be made."

Mr. BUTLER, of Massachusetts. With the gentleman's permission I would state a single fact. There is no evidence of any census having yet been taken on which these appropriations are made except of one tribe.

Mr. GARFIELD. We think ourselves happy if the white men of this country can have a census taken once in ten years, but under these treaties we are compelled to take a census of these Indian tribes every year as the basis upon which these appropriations are to be made. Now, in the letter which I presented a few weeks ago in reference to this very matter of taking a census of the Indian tribes it was stated by an officer of high standing that there had been a band of Indians in the Washita country estimated for and paid by the Government as numbering from six to eight thousand, when from his own knowledge they had never

reached in any one year a higher number than twenty-five hundred. That is the way the Indian census is likely to be taken. A gentleman near me states that but one census of but one tribe of Indians has ever yet been properly taken.

But this is not all. When you have caught these Indians and imposed trousers upon them and given them each twelve yards of domestic and made all the other comfortable arrangements contemplated in the treaties you have not yet completed your work. The sixth article goes on to declare that in addition to the clothing herein named the sum of ten dollars shall be appropriated annually for any Indian who may be "roaming." If these gay savages of the western plains shall see fit to go "roaming" they are to have ten dollars each in addition to the articles before mentioned. If you can catch him he is still to have ten dollars for "roaming." If any of them shall conclude "no longer to roam," but to settle down somewhere and devote himself to Georgics and Bucolics, they shall have twenty dollars each for thirty years to come.

These are the hospitable arrangements which have been made for the convenience of savages who have massacred in cold blood the defenseless women and children of our white emigrant parties. This is to be the reward of those who danced around the mangled bodies of Forsyth's heroic little band. The murderer of Lieutenant Beecher will be permitted by this bill to take out of the United States Treasury his portion of the money which we are now asked to appropriate to keep a treaty made with him before he went to war.

Mr. WINDOM. Not one dollar is to go to that tribe of Indians.

Mr. GARFIELD. Why, say these gentlemen, treaties are sacred, and must be respected!

Mr. WINDOM. I am sure the gentleman does not mean to misrepresent the facts; and he will let me say that not one dollar will go to the tribe of Indians to which he has referred.

Mr. GARFIELD. I do not yield. A large number of gentlemen were unwilling to recognize the Alaska treaty after it had been solemnly ratified by the Senate. They did not hold themselves bound by the treaty. Some of us, on the contrary, felt a moral obligation in view of the fact that we had treated with a great and friendly Power to pay the money, although we did it with much reluctance. Many of the same men who were vehement in their denunciation of the Alaska treaty, and who stood by the Treasury with heroic virtue, now shudder with horror at the idea of breaking faith with these Indians. If there is anything in our policy more absurd than the rest it is the getting up these solemn farces of entering into treaty stipulations with these roving bands of savage Indians and treating them as nations, the majesty of this Republic stooping to send out ambassadors to sit in council with painted savages, our wards, and make solemn treaties as though we were treating with sovereign nations! That is the feast to which we are invited. This new batch of treaties is brought in and we are asked to bind ourselves to make heavy appropriations for thirty years to come. Then we have thrown in appropriations for old State claims as if for the purpose of catching votes. Here is a provision for the payment of a little claim to the State of Iowa:

To supply deficiency of appropriation to pay for depredations committed by Indians in northwestern Iowa in the year 1857, \$10,906 34.

But this does not say to whom it is to be paid. It appears to be a little sop thrown to Iowa, and of course it is expected that the delegation from Iowa will defend the claims of their State. I have no fear that they will be caught by this device—

Mr. PRICE. The gentleman ought to know from reading that that it does not go to Indians, but to white men whose families have been destroyed and whose property has been taken.

Mr. GARFIELD. I find on the next page a nice little sop to the State of Minnesota. In addition to the \$117,000 paid to that State the

provisions of the deficiency bill of 1863 are to be extended to cover \$12,000 more to be paid out under an act entitled "An act to amend an act," &c., to appropriate something passed six or seven years ago. If anybody understands what all that means from the reading of it let him explain it. It evidently is designed to cover something under its verbiage, such is the nice little intimation to the patriotic members from Minnesota that they must stand by their State.

How many other sops like this can be found scattered through the bill I do not know. We are invited to do a patriotic work in the hundred and seventy-fourth amendment, where we are called upon for the payment of \$5,000 for the distribution of medals bearing the portrait of General Grant.

Mr. WINDOM. That comes from the Military Committee I suppose. [Laughter.]

Mr. GARFIELD. I suppose it is intended to touch the hearts of the military members of the House. How exceeding grateful they should be for this opportunity to perpetuate in bronze the face of the President of the United States.

Mr. PRICE. I desire to ask the gentleman if this hundred and seventy-fourth amendment in reference to the medals is not approved by the Committee on Appropriations?

Mr. GARFIELD. That I do not know.

Mr. PRICE. I think you will find it is.

Mr. GARFIELD. *Quien sabe?* On the seventy-fourth page is this item:

Three thousand seven hundred dollars being a balance of interest at five per cent. per month on \$39,950 held by the United States July, 1857, invested in Kansas bonds in December, 1861.

My friend from Kansas [Mr. CLARKE] may perhaps become a convert to this modest interest account—

A MEMBER. Do I understand the gentleman to say five per cent. per month?

Mr. GARFIELD. Yes, sir; that is the rate of interest stuck in here in this Indian appropriation bill, sixty per cent. per annum, calling upon the shy State of Kansas for her vote in carrying this bill through the House. I congratulate myself on one thing. When this bill passed the House I reluctantly came to the conclusion that it was my duty to vote against it even in the modest form it then assumed; and I then declared I would not vote to send another dollar of public money through the channels of the Indian Bureau. I am glad I took the ground I did; I am confirmed in the wisdom of that determination by the exhibition we have seen to-night of the character of the amendments to this bill, and unless gentlemen can show us how it is that we are to pay \$3,000,000 more than we were asked to pay by the officers in charge of this department I shall vote to lay the whole bill and amendments on the table. I now yield to the gentleman from Illinois.

Mr. LOGAN. Mr. Chairman, this discussion has gone on at some length, and I shall therefore detain the House but a short time. I desire to draw the attention of the House to one point, and it is this: the Committee on Appropriations reported to this House a certain bill called the Indian appropriation bill. They refused to recognize those treaties in their appropriations. In fact there was no estimate made for them from the Indian Bureau. They refused also to recognize certain claims that were presented to the committee. The bill went to the Senate, and there these claims were put into it.

Now there has been very little said in the argument here on either side in reference to the claims that have been made here outside of those arising under the treaty stipulations. I do not understand these claims. I do not know anything about them. I want the Committee on Appropriations, or somebody else, to explain them so that we may vote for or against them understandingly.

A word now in reference to these "treaties," as they are called. My theory has always been, and I maintain it now, that the idea of this

Government making treaties with bands of wild and roving Indians is simply preposterous and ridiculous. It is not good judgment or statesmanship; it is mere child's play, nothing more and nothing less. The gentleman from Minnesota [Mr. WINDOM] has called the attention of the House to the names of the men who made these treaties. Sir, that makes no difference. If they made the treaties by direction of others they had nothing else to do. I do not know about that. But it is quite immaterial what generals or what commission made these treaties or where they are from or what their names are. Whoever they were they made a most ridiculous treaty, and one that was not worthy of gentlemen who consider themselves statesmen in this present age.

Now, in my opinion we have a right to refuse to make these appropriations. The gentleman from California [Mr. HIGBY] says that we have no right to refuse to make the appropriations necessary to carry out these treaties, because the treaties were made in pursuance of a law on the statute-book. True, they were made in pursuance of a statute, but does not the gentleman from California know that in a treaty, as in all other contracts, there are two parties required to act in order that the bargain may be made binding? Does he not know that since these treaties have been made a portion of the men with whom they were made have forfeited not only their rights under the treaties but all right to protection from the Government of the United States by making savage war upon the citizens of this Government? Will any lawyer get up here and say that this House must appropriate money to fulfill the stipulations of a treaty where that treaty has been made with a band of Indians, and that band of Indians, after the treaty has been made, have made war upon the citizens of the Government?

Mr. HIGBY. That is affirmed on the one side and denied on the other.

Mr. LOGAN. Well, if there is any doubt whether these Indians are at war with the Government or not we ought to pause before we appropriate the money; we ought to know whether they are or are not. I call the attention of gentlemen to the war that was going on a short time ago under General Sheridan down in Kansas and what is known as the Indian country. Was not that war with a portion of the Indians of the Sioux tribe with whom one of these treaties was made?

Mr. WINDOM. Will the gentleman allow me to answer his question?

Mr. LOGAN. The gentleman has had his hour. I am making a statement now.

Mr. WINDOM. Will the gentleman permit an answer to his own question?

Mr. LOGAN. I will answer the question myself for him. I think I can answer it better than he can. I appeal to the intelligence of the House to take the report of General Sheridan, or the report of General Sherman, or the report of General Custer, or the report of any officer who has made an official report to the War Department, and what do you find? You find that we are at war to-day with the very tribes of Indians with whom these pretended treaties were made and for whom you desire us to appropriate millions of money to-day.

Mr. WINDOM. The gentleman does not want any information upon that subject, I apprehend.

Mr. LOGAN. Mr. Chairman, I am always somewhat amused rather than edified when any question in reference to the Indians is up in this House. It is the most sensitive thing in the world. Why, I do not know and cannot tell. The gentleman from Dakota [Mr. BURLEIGH] jumps up and the gentleman from Minnesota [Mr. WINDOM] jumps up and the gentleman from California [Mr. HIGBY] jumps up, and the members and Delegates from all the extreme western States get excited. Some of them have perhaps been Indian agents. I do not know how that is; I cannot tell.

Mr. HIGBY. If the gentleman does not know then he should not insinuate.

Mr. LOGAN. I say perhaps they have.

Mr. HIGBY. You say you do not know.

Mr. LOGAN. No, I do not know. One gentleman says that he was. I ask the gentleman from Nebraska [Mr. TAFPE] if he ever was an Indian agent?

Mr. TAFPE. I was.

Mr. LOGAN. I said perhaps it was so, and now the gentleman says it is true. But I do not impute dishonesty to him because he was an Indian agent.

Now I say to members here, especially to the gentleman from Dakota, [Mr. BURLEIGH], the gentleman from California, [Mr. HIGBY], and the gentleman from Minnesota, [Mr. WINDOM], if we appropriate this money to carry out these treaties I want the gentlemen who advocate it to be appointed agents to carry out its provisions. I believe the gentlemen I have referred to are all to go out of Congress at the end of this session. I want General Grant to appoint them to carry out these treaties.

Then I want to see Mr. Mix on a high horse, booted and spurred, with a big cocked hat on, with a bucktail in it, chasing the fourteen year old buck Indians across the plains for the purpose of catching them and putting blue breeches on them, [laughter;] and I want to see all these gentlemen engaged in this same business. And as the occupation will last for thirty years under these treaties, they would have ample time to become thoroughly proficient in it. What a grand sight it would be to see them in full operation upon the western plains! [Laughter.] You see the dust rising in a great cloud in the distance, and ask what it all means? What is the cause of all that excitement and turmoil? The answer comes, it is the gentleman from Minnesota, dressed up as an Indian agent, on a high horse, with a big red feather in his cap, and the gentleman from California is with him in the same costume, each with a lasso in his hand. What is the lasso for? To lasso Indian boys in order that they may put blue breeches on them. [Great laughter.] That would be carrying out these treaties, and it would be a beautiful sight. I will not say anything about the gentlemen chasing down the other Indians who are not to wear blue breeches. [Shouts of laughter.] And another thing would be most highly interesting. I would like to see the gentlemen from Dakota and California and Minnesota delivering this yoke of oxen to one of the wild Comanches and showing him how to use them, teaching him all the mysteries of geeing and hawing, how to hitch them to the plow or the cart, and all that kind of thing. The Comanche would no doubt be hugely delighted, and would not fail to appreciate the kindness thus shown to him.

It reminds me of a story I once heard of a southern planter. He concluded that he could save a great deal of expense if he could get monkeys to pick his cotton, as they were very imitative and do not require much in the way of clothing. [Laughter.] So he went off to a monkey country, obtained a large number of them, brought them home with him, and turned them loose in his cotton fields. They picked cotton elegantly; they did it much more rapidly than his slaves had done. But then came the difficulty. After they had picked the cotton he could not get them to bring it to the gin-house, but they scattered it all around again by all sorts of mischievous pranks. He soon found that his monkeys were more trouble and expense than his slaves, for it required two men to watch one monkey and keep him properly at work. And so it would be with these Indians and the oxen you propose to give them. You would have to employ at least two Indian agents to teach one Indian how to manage and work his oxen and to keep him at it. Talk about these Comanches and Apaches and other Indians working oxen! It is sheer nonsense.

Many years ago when I was a boy I was in the Indian country myself, but I did not learn

near as much about the Indians as these gentlemen seem to know. I was out there performing a very small part in an Indian war—not an Indian war either, because there was no war; but we were out on the frontiers, and once in a while we had a fight with the Indians; sometimes we whipped them, sometimes they whipped us. But in all my service in that country I never saw a Comanche who I would trust with a yoke of oxen, expecting him to work them.

Mr. BURLEIGH. Did you ever find one who would trust you with a yoke of oxen? [Laughter.]

Mr. LOGAN. Of course not, and I would not have them do so. Now let me tell Mr. BURLEIGH exactly what would happen in this case. He will go out there for the purpose of delivering these oxen. He is a very honest man no doubt, but he is also a very wealthy man. Having gone out there at a time when land could be very easily got, he owns about ninety thousand acres of land in that country; perhaps more, not less. Being a very wealthy man he of course does not want to make anything off of the Indians. But I will tell you who will make off of them. One of the gentlemen perhaps that will furnish to the Indian agents a great many yoke of oxen, a great many cows, a great many pairs of pantaloons, a great many coats, a great many stove-pipe hats. Now, what a beautiful sight it would be to see an Indian walking about wearing a stove-pipe hat before he has got on his breeches, [laughter] the stove-pipe hat having been furnished to him by this gentleman from the Territory of Dakota. The next day another gentleman—no kin of course to the Indian agent—comes along and offers the fellow a tin cup for his hat. The Indian will of course prefer to have the tin cup, for he knows what use to make of that, but a hat he never wore in his life and he has no use for it. He sells his hat for a tin cup worth about five cents. From another boy this gentleman buys his yoke of oxen for a little pony worth about ten dollars, and from another he buys his breeches for a bow and arrow.

Mr. BURLEIGH. How would a white man get a bow and arrow?

Mr. LOGAN. Why, a man who has lived so long among the Indians as the gentleman from Dakota [Mr. BURLEIGH] has ought to be able to make a bow and arrow. If not, he has learned but little by being there. [Laughter.]

Now, it does strike me that these Indian treaties are most ridiculous things to be advocated by sensible men. Yet we are asked to appropriate money to buy for these Indians stove-pipe hats, woolen stockings, red flannel shirts, &c. Red flannel shirts are a good thing for the Indians to have. I think they would like them. I once saw a red flannel shirt presented to an Indian down in the mountainous region close to where the gentleman from California resides. What did the Indian do with it? He went home, of course, and put it on. He came back with the shirt on. And how had he it on? He had torn it all into little strips about three quarters of an inch wide; he had tied a part of them around his legs just above the knees; another part he had tied to the tuft of hair on his head; he had tied three or four around each arm, and the remainder were flowing down behind like great long feathers. [Laughter.] That was the way he preferred to wear a shirt. He undoubtedly looked very handsome; he was magnificently decorated, resembling in appearance one of these Friesland chickens, though not having quite so many feathers.

In that way will be expended the money we are now asked to appropriate. I do not think we ought to be asked to make any such appropriation. At least I am not willing to vote for it. If gentlemen will show that the appropriation is for the purpose of sustaining Indians who are partially civilized, who are at least so far civilized that they can eat corn bread, flour, pork, beef, or anything of the kind, and will

stay upon the reservations and do it, I will make no objection.

Mr. BURLEIGH. I want to enlighten you.

Mr. LOGAN. I need no enlightenment, but I propose to enlighten you. [Laughter.]

Mr. WINDOM. I hope the gentleman will yield to me for a question.

Mr. BURLEIGH. I do not think the gentleman can enlighten me.

Mr. LOGAN. Perhaps that is impossible.

Mr. WINDOM. If we go out on the plains to scare Indians will the gentleman go along as a clown? [Laughter.]

Mr. LOGAN. No, sir; I will not, and I will tell you why. Clowns are cheap now, as the gentleman knows, and I am not a cheap one. The gentleman can be employed as he is so soon to be out of service here, and I do not suppose it will cost much to get his services. But I will tell you what I will do and what kind of employment the gentleman can have. If he will get himself into a suit of soldier's clothes I will go with him and teach him how to kill these marauding Indians.

Mr. WINDOM. Will you charge \$1,000,000 for each one you kill?

Mr. LOGAN. I will not charge one cent. I never charged anything and I never killed any one, and I am certain that the gentleman never will. [Laughter.] I do not know why the gentleman should think that he could employ me as a clown.

Mr. WINDOM. Because you have the capacity.

Mr. LOGAN. I never saw a circus in my life without a clown.

Mr. WINDOM. You would be necessary.

Mr. LOGAN. I am necessary in this House, and they cannot spare me for one moment; but the people have spared the gentleman. [Laughter.] It is all well enough for the gentleman to attempt to draw us away from the subject now before us; but I do not intend to be drawn away from it.

Mr. BURLEIGH rose.

Mr. LOGAN. I cannot yield any further. These gentlemen have been so long out among the Indians that they have forgotten how to behave themselves. There is not a woman in the Sioux camp but has better manners than the gentleman from Dakota. [Laughter.]

Now, let us get back to these treaties. The gentlemen say that if we make these treaties with the Indians and keep them we can do away with the Army which is now costing us so much money. There was an attempt made to reduce the Army, not long ago; but I did not see any earnest effort on the part of the House to effect any such salutary reform. The Army has not been reduced. Where, then, are we to keep it if the argument of gentlemen be a good one? Is it to be kept around Washington city?

Mr. BURLEIGH. Not in the Indian country.

Mr. LOGAN. So that the Indian agents out there should not be disturbed, so that they should remain unmolested to make war and then settle it by a new batch of treaties like the ones we now have before us? Shall we leave them to go out and catch a Comanche chief with a few ragged followers, put a stove-pipe hat on his head and a pair of leather moccasins on his feet, and then bring him here to Washington to make a treaty at the Indian Bureau under which millions of dollars are to be paid out of the Treasury? The gentleman says he never saw Comanche Indians. I do not doubt it, and I do not think he ever will. He has been among the Indians, however, and he knows how these things are done.

Whenever they get a little hungry, as they call it, whenever they have a desire to get up another treaty, they divide themselves into bands and separate and go off roving and marauding under different names. Soon what is called an Indian war springs up, and they get a new treaty and new gifts, so that frequently the same tribe is drawing money out of the Treasury under more than one treaty. If we sus-

tain the policy proposed in the treaties before us we will only be pursuing the same ridiculous and wasteful expenditure of money. For one I am not willing to vote money for any such purpose. I am in favor of doing justice, but I am not in favor of any absurd extravagance; and I shall therefore cast my vote to non-concur in the amendments of the Senate. [Here the hammer fell.]

Mr. CLARKE, of Kansas, obtained the floor, but yielded to

Mr. SCOTFIELD, who moved that the committee arise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the amendments of the Senate to House bill No. 1738, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1870, and had come to no resolution thereon.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 568) explanatory of the act entitled "An act declaring the title to land warrants in certain cases;" when the Speaker signed the same.

INAUGURATION CEREMONIES.

Mr. PAINE. I ask unanimous consent to offer for adoption the following resolution:

Resolved, That the Secretary of War be requested to deliver to the mayor of the city of Washington, for the use of such volunteer military organizations as shall take part in the inauguration ceremonies on the 4th of March next, four thousand muskets with equipments and accoutrements, six brass field-pieces with caissons, equipments, and accoutrements, and a suitable number of infantry, cavalry, and artillery flags, taking such security as he may deem proper for the careful preservation and prompt return of said property.

Mr. RANDALL. I suggest that this will have to be made a joint resolution, as there is a law preventing the Secretary of War from loaning flags or anything else.

Mr. PAINE. Then I will withdraw so much of it as relates to flags, as there will not be time to get a joint resolution passed.

Mr. ROSS. What object is there in having muskets at the inauguration?

Mr. PAINE. I will explain in a word. There are many military organizations in this District and to my knowledge that have no muskets. They will parade on that day if they have the arms.

Mr. ROSS. Cannot they parade without the muskets?

Mr. PAINE. I will make it a joint resolution.

The joint resolution (H. R. No. 469) granting the use of arms, &c., for the military organizations which shall take part in the inauguration ceremonies on the 4th of March, 1869, was read a first, second, and third time, and passed.

Mr. PAINE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONTRACTS FOR STATIONERY.

Mr. BROOMALL entered a motion to reconsider the vote by which the report on the subject of contracts for stationery was ordered to be recommitted.

ADVERSE REPORTS.

Mr. MILLER, from the Committee on Invalid Pensions, reported adversely on the following cases; and they were laid on the table:

The petition of D. W. Sims, for relief;

The petition of Thaddens Wetmore, of St. Louis, for increase of pension;

The petition of Mary I. Clark for a pension, [the same having been allowed by the Com-

missioner of Pensions, the papers in the case were withdrawn:]

A bill (H. R. No. 1694) granting a pension to Christina Arnell;

The petition of Eliza Ann Upright; and
The petition of Ernest Betbury.

PAY OF A DECEASED MEMBER.

Mr. ARNELL. I ask unanimous consent to offer for adoption the following resolution reported from the Committee on Accounts:

Resolved, That the Clerk of the House of Representatives be, and is hereby, authorized to pay out of the contingent fund of the House to Mrs. James Hinds, widow of Hon. James Hinds, member of this Congress from the second district of Arkansas, assassinated on the 22d of October, 1868, his salary from the aforesaid day until the close of this session of Congress.

Mr. ROSS and Mr. BECK objected.

Mr. HOLMAN moved that the House adjourn.

The motion was agreed to; and thereupon (at ten o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Thomas Allan, of Atlanta, Georgia, to be relieved from political disabilities incurred by participation in the rebellion.

By Mr. BEATTY: The memorial of J. F. Harcourt and 237 others, citizens of Ohio, praying such an alteration in the Constitution of the United States as shall acknowledge Almighty God as the source of all authority and power in civil government, the Lord Jesus Christ as the Ruler among the nations, and His revealed will as of supreme authority.

By Mr. CALLIS: A memorial signed by Hon. Thomas M. Peters and 78 others, asking for an increase of representation in the Congress of the United States from the State of Alabama in consequence of the extension of the elective franchise to the recently emancipated slaves of said State whereby the basis of representation has been greatly enlarged in said State, which State has not at this time the just representation to which it is entitled by virtue of its voting population.

By Mr. ELIOT, of Massachusetts: The petition of Chester Snow and others, citizens of Massachusetts, praying for the removal of obstructions at Hell Gate.

By Mr. GOSS: The petition of L. Miles Gentry, a citizen of South Carolina, for the removal of political disabilities.

Also, the petition of R. C. Pool, a citizen of South Carolina, for the removal of political disabilities.

Also, the petition of J. M. Elford, a citizen of South Carolina, for the removal of political disabilities.

By Mr. TWICHELL: Eight petitions from Norfolk county, Massachusetts, for the right of suffrage for women.

By Mr. WILSON, of Iowa: The petition of Mary S. Stewart and over 2,000 others, residents of Washington county, Iowa, praying for an amendment of the Constitution of the United States, acknowledging Almighty God as the source of all authority and power in civil government, &c.

IN SENATE.

MONDAY, March 1, 1869.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. TRUMBULL, and by unanimous consent, the reading of the Journal of Saturday last was dispensed with.

CREDENTIALS.

Mr. BAYARD presented the credentials of Hon. Thomas F. Bayard, elected by the Legislature of Delaware a Senator from that State for the term commencing March 4, 1869; which were read, and ordered to be filed.

Mr. VAN WINKLE presented the credentials of Hon. Arthur I. Boreman, elected by

the Legislature of West Virginia a Senator from that State for the term commencing on March 4, 1869; which were read, and ordered to be filed.

Mr. MORTON presented the credentials of Hon. William G. Brownlow, elected by the Legislature of Tennessee a Senator from that State for the term commencing March 4, 1869; which were read, and ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. MORGAN presented a petition of citizens of New York and citizens of New Jersey, praying for such an amendment to the Constitution of the United States as will recognize the obligations of the Christian religion; which was referred to the Committee on the Judiciary.

Mr. CONNESS. I present the memorial of a committee of the Workmen's Assembly of the District of Columbia, respectfully submitting to the Senate and House of Representatives that they have been deprived of the proper benefit of the law passed at the last session of Congress known as the eight-hour law, and asking that the laws in that regard may be corrected by additional legislation. It is signed by a committee, E. MacMurray, George O. Cook, and D. McCathran. I move that the memorial be laid on the table, while the bill is in the same position.

The motion was agreed to.

Mr. KELLOGG presented resolutions of the Chamber of Commerce of New Orleans, Louisiana, protesting against any further extension of that section of the bankrupt act known as the fifty per cent. provision; which were referred to the Committee on the Judiciary.

IMPRISONMENT WITH HARD LABOR.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of Senate bill No. 726. It is a short bill.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the bill now. Is there any objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 726) to authorize imprisonment with hard labor as a punishment in certain cases. It provides that in all cases where any court of the United States is authorized, upon conviction, to impose sentence of imprisonment, but where the law does not provide for imprisonment at hard labor, it shall be discretionary with the court to impose sentence of imprisonment either with or without hard labor. This act is to take effect upon its passage, but nothing contained in it is to be held to apply to offenses already committed.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RIGHTS OF MARRIED WOMEN.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of Senate bill No. 177.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 177) regulating the rights of property of married women in the District of Columbia.

Mr. TRUMBULL. I suppose it is only necessary to read the amendment of the committee, as it is a substitute for the original bill.

The PRESIDENT *pro tempore*. The reading of the original bill will be omitted unless it is called for by some Senator.

The Secretary read the amendment reported by the Committee on the Judiciary, which was to strike out all after the enacting clause of the original bill and to insert:

That in the District of Columbia the right of any married woman to any property, personal or real, belonging to her at the time of marriage or acquired during marriage in any other way than by gift or conveyance from her husband to the prejudice of his creditors shall be as absolute as if she were *feme sole*, and shall not be subject to the disposal of her husband nor be liable for his debts, but such married woman may convey, devise, and bequeath the same, or any interest therein, in the same manner and with like effect as if she were unmarried.

Sec. 2 And be it further enacted, That any married woman may contract and sue and be sued in her own

name in all matters having relation to her sole and separate property in the same manner as if she were unmarried, but neither her husband nor his property shall be bound by any such contract nor liable for any recovery against her in any such suit, but judgment may be enforced by execution against her sole and separate estate in the same manner as if she were sole.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

CHARLES C. COOK.

Mr. SPRAGUE. I move that the Senate take up for consideration House bill No. 1877. It is a bill which was accidentally omitted the other day when bills from the Military Committee were under consideration.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1877) for the relief of the heirs and legal representatives of Charles C. Cook, deceased. It directs the Paymaster General to pay to the heirs or legal representatives of Charles C. Cook, deceased, formerly of company C, seventy-seventh regiment Pennsylvania volunteers, the full pay and allowances of a second lieutenant of infantry from the 1st of November, 1861, until the 6th of November, 1864, when he died from wounds received in battle, deducting therefrom, however, such sums as may have been already paid to him for his military services during that period.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SCOUTS IN ALABAMA.

Mr. SPRAGUE. I have another bill from the same committee which I should like to have passed now. I move that the Senate take up House bill No. 1879.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1879) for the relief of certain companies of scouts and guides organized in Alabama. The bill provides that Captain H. J. Springfield's company of scouts and guides, numbering forty-two officers and men, and Captain John B. Kennamer's company of scouts and guides, numbering thirty-three officers and men, organized in northern Alabama, under orders of Brigadier General Gordon Granger, commanding the district of northern Alabama, approved by Major General George H. Thomas, commanding the department of the Cumberland, shall be entitled to receive pay for their services from the date when they respectively joined such companies to the date when they were relieved from duty respectively, at the price fixed by order of General Thomas, to wit: captains, three dollars; lieutenants, two dollars; sergeants, one dollar and fifty cents; and privates, one dollar per day; the value of the clothing received by each of the scouts and guides to be deducted from the amount due them respectively. And if either of the scouts or guides is dead, or shall die before receiving the amount due him, his heirs or other legal representatives are to be entitled to receive it. In auditing and paying the foregoing accounts the rolls of the companies now on file in the office of the Adjutant General of the Army are to be the data to guide the accounting officers; and the claims when audited are to be paid by the Paymaster General out of any money heretofore appropriated or that may hereafter be appropriated for the pay of the Army.

The Committee on Military Affairs reported the bill with amendments. The first amendment was in line seven to strike out "Gordon" before "Granger" and to insert "R. S.;" so that it will read "R. S. Granger."

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

And be it further enacted, That all other companies or parts of companies of scouts and guides organized and employed by General E. S. Granger under authority of or by the approval of Major General George H. Thomas, commanding department of the

Cumberland, be entitled to the same relief as provided for the companies named in the first section of this act. *Provided, however,* That before such payment satisfactory evidence of service shall be furnished by claimants and approved by the Secretary of War.

The amendment was agreed to.

Mr. GRIMES. When were these scouts employed?

Mr. SPRAGUE. During the war.

Mr. GRIMES. What time during the war?

Mr. SPRAGUE. In the latter part, toward the close.

Mr. GRIMES. I should like to know when these scouts were employed and mustered into the service. Were they ever mustered into the service?

Mr. SPRAGUE. The reports from the Department indicate that they were employed regularly. The reports from the Department are here before the Senate showing that they were regularly employed and ought to be paid.

The bill was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed and the bill read a third time. The bill was read the third time, and passed.

ORDER OF BUSINESS.

Mr. STEWART. I move that the Senate proceed to the consideration of House bill No. 1880, to relieve certain persons therein named from the legal and political disabilities imposed by the fourteenth amendment of the Constitution of the United States, and for other purposes.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the bill at this time.

Mr. DRAKE. I object.

The PRESIDENT *pro tempore*. Objection being made, it goes over.

Mr. RAMSEY. If that bill is to go over, I move that the Senate proceed to the consideration of Senate bill No. 956.

Mr. TRUMBULL. Will not a vote of the Senate take up the bill indicated by the Senator from Nevada?

The PRESIDENT *pro tempore*. Not in the morning hour. The morning business is not yet gone through with.

Mr. TRUMBULL. But the Senator from Minnesota is asking to take up another bill.

The PRESIDENT *pro tempore*. It is for the Senate to determine whether it shall be taken up or not.

Mr. TRUMBULL. If there is no objection of course it can be taken up.

The PRESIDENT *pro tempore*. One objection carries it over.

Mr. RAMSEY. Then I move that the Senate proceed to the consideration of Senate bill No. 956.

Mr. STEWART. I hope the bill to which I have referred will be taken up.

The PRESIDENT *pro tempore*. There is an objection to it, which carries it over for the morning hour.

Mr. RAMSEY. Then I press my motion.

The PRESIDENT *pro tempore*. The Senator from Minnesota asks unanimous consent to take up Senate bill No. 956, to establish and declare the railroad and bridges of the New Orleans, Mobile, and Chattanooga Railroad Company, as hereafter constructed westward from the city of New Orleans, a post road, and for other purposes.

Mr. TRUMBULL. Then an objection carries the bill of the Senator from Nevada over?

The PRESIDENT *pro tempore*. Of course it does; or any other bill.

Mr. GRIMES. Does the rule exclude the taking up of bills on motion after the morning business, the presentation of petitions, reports of committees, and bills, is concluded?

The PRESIDENT *pro tempore*. The Chair thinks not.

Mr. STEWART. If there are any petitions or memorials or bills to introduce I will give way.

The PRESIDENT *pro tempore*. Senators immediately on the assembling of the Senate

began to call up bills. A few petitions were offered. Reports are in order if there be no further petitions.

Mr. WILLIAMS. I desire to make some reports.

The PRESIDENT *pro tempore*. The Chair will receive them.

REPORTS OF COMMITTEES.

Mr. WILLIAMS, from the Committee on Private Land Claims, to whom was referred the bill (H. R. No. 1206) to restore to certain parties their rights under the laws and treaties of the United States, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred the following memorial, petitions, and resolution, asked to be discharged from their further consideration; which was agreed to:

The petition of Jessie Benton Frémont, praying for the restitution of property in San Francisco belonging to her, illegally held since October, 1863, by the United States Government;

The petition of Meta Nimity, praying to be allowed to redeem her property sold for taxes;

A resolution of the Legislature of Oregon, in favor of granting and confirming to that State a certain piece of land known as the southeast quarter of section seventeen, township nine south, range forty east of Willamette meridian, with full power in the State to convey the land to Royal Augustus Pearce, resident on the land;

A petition of citizens of Washington county, Missouri, praying that the land known as the Spanish claim of Moses Austin may be disposed of to actual settlers under the homestead law;

The petition of the trustees of the town of Potosi, Missouri, praying for the confirmation of the title to the land on which that town is situated; and

The memorial of Jonathan Crews, as attorney and agent for the heirs and Francis Renault, alias Urno, and Antoine Renault, deceased, praying the passage of an act authorizing the heirs to locate four hundred acres of land each on any land not appropriated or located in the old donation tract in the Vincennes land district.

He also, from the same committee, to whom was referred the bill (S. No. 485) providing for the examination of the claim of J. Mariano Bonilla to the rancho "La Cuesta," in the State of California, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 513) concerning land claims in the State of Arkansas, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 244) relative to the La Junta land grant in New Mexico, asked to be discharged from its further consideration; which was agreed to.

Mr. WILLIAMS, from the Committee on Finance, to whom was referred the bill (S. No. 824) relative to the refining of gold and silver bullion at the Mint of the United States and branches, asked to be discharged from its further consideration; which was agreed to.

Mr. SHERMAN. I am directed by the Committee on Finance, to whom was referred the bill (H. R. No. 968) for the coinage of nickel-copper pieces of five cents and under, to state that the committee are equally divided on the subject, and therefore I report back the bill to the Senate.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 1672) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1870, reported it with amendments.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the peti-

tion of Jonathan Elliot, late commercial agent of the United States at San Domingo and Porto Plata, praying compensation for services rendered and reimbursement for money expended in negotiating a treaty with the Dominican republic in the year 1856, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom were referred the following bills and resolutions, asked to be discharged from their further consideration; which was agreed to:

A joint resolution (H. R. No. 454) concerning the payment of claims made by foreign Governments against the United States for property destroyed by the armies of the United States;

A bill (S. No. 578) to regulate trade between the United States and the British North American Provinces, and for other purposes;

A joint resolution (H. R. No. 46) respecting the proposed confederation of provinces on the northern frontier of the United States;

A joint resolution (H. R. No. 254) for the protection of American interests in the Gulf of St. Lawrence;

A joint resolution (H. R. No. 138) requesting the President to intercede with her Majesty the Queen of Great Britain to secure the speedy release of Robert Lynch, now imprisoned in the province of Canada;

A joint resolution (H. R. No. 189) requesting the President to intercede for the release of American citizens imprisoned in Great Britain and Ireland on insufficient grounds; and

A bill (H. R. No. 763) for the relief of American citizens abroad.

He also, from the same committee, to whom were referred the following message, petitions, memorials, and resolutions, asked to be discharged from their further consideration; which was agreed to:

A message of the President of the United States, communicating correspondence relative to an alleged practice of the Danish authorities to banish convicts to this country;

A message of the President of the United States, communicating, in compliance with a resolution of the Senate, information in respect to the action of the mixed commission for the adjustment of claims by citizens of the United States against the Government of Venezuela;

A memorial of claimants against the Government of Venezuela, praying that the Government of the United States pay them the amount allowed them by the commission;

A resolution directing the committee to inquire into the expediency of negotiating a treaty with Great Britain, regulating our trade, &c., with Canada;

A message of the President of the United States, communicating, in compliance with a resolution of the Senate of the 5th of February last, correspondence upon the subject of the murder by the inhabitants of the Island of Formosa of the ship's company of the American bark Rover;

A message from the President of the United States, communicating, in compliance with a resolution of the Senate of the 21st of February last, information in relation to the abduction of one Allan McDonald from the township of Moore, in Canada;

The petition of John P. Brown, praying an increase of compensation as secretary and dragoman to the legation at Constantinople;

The petition of John Warren, a citizen of the United States, now a convict in an English prison under sentence as a Fenian, asking the interposition of the Government in his behalf;

A petition of merchants of Philadelphia, in favor of the renewal of reciprocity treaty with Canada;

Two petitions of citizens of Boston, one petition of citizens of New York, one petition of members of the New York Produce Exchange, and two petitions of citizens of the United States, praying that a reciprocity treaty may be made with the Dominion of Canada and the British provinces;

Resolutions of the Board of Trade of Charles-

ton, South Carolina, in favor of the protection of private property at sea during war;

Three memorials of merchants and ship-owners of Boston, Massachusetts, praying such action as will declare and establish as a principle governing the relations of the United States with other nations at peace with this country, but which as between themselves may have been at war, that when hostilities shall have ceased for a period of time so as to raise the presumption that they will not be renewed the state of war shall be deemed at an end, so far as the citizens of the United States are concerned;

A resolution of the Maine Legislature, requesting their Senators and Representatives in Congress to bring before that body the necessity of obtaining aid for the railroads and for an examination of the harbors of that State, so as to provide efficient means for its defense;

Resolutions of the Maine Legislature, sympathizing with the Cretons in their struggle for independence; and

Resolutions of the Board of Trade of Providence, Rhode Island, on the subject of the immunity of private property at sea in time of war.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (H. R. No. 2006) to establish certain post roads, reported it with amendments.

He also, from the same committee, reported a joint resolution (S. R. No. 244) for the relief of John Wightman, of Meadville, Pennsylvania; which was read, and passed to a second reading.

Mr. ANTHONY. The Committee on Printing, to whom was referred a bill (H. R. No. 1601) to provide stationery for Congress and the several Departments, and for other purposes, have instructed me to report it back without amendment and recommend its passage. If the Senate was not so thin I should ask to take up the bill now. I give notice that I shall do so in the course of the day.

Mr. CONNESS. Let it be taken up now.

Mr. ANTHONY. I should like to have it taken up; but I do not wish to have it acted upon in the absence of so many Senators. It makes considerable changes in the mode of providing stationery, and I think it makes a very great saving to the Government; I know it does.

Mr. CONNESS. Now is the time to pass it.

The PRESIDENT *pro tempore*. Reports from committees are still in order. If there be no reports, then the introduction of bills is in order.

Mr. CONNESS. I hope we shall give immediate consideration to the bill just reported by the Senator from Rhode Island if there is no objection.

Mr. MORTON. I object.

SMITHSONIAN REPORT.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred a resolution to print additional copies of the report of the Smithsonian Institution for the year 1868, to report it back without amendment, and I ask for its present consideration. It is the usual resolution that is passed every year.

The resolution was considered by unanimous consent, and agreed to, as follows:

Resolved, That five thousand copies of the report of the Smithsonian Institution for the year 1868 be printed, three thousand for the use of the Senate and two thousand for the institution, and that said report be stereotyped: *Provided*, That the aggregate number of pages of said report shall not exceed four hundred and fifty without illustrations, except those furnished by the institution.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. ANTHONY and Mr. FERRY submitted amendments intended to be proposed to the bill (H. R. No. 1672) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1870; which were referred to the Committee on Appropriations.

MISSISSIPPI VALLEY.

Mr. RAMSEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to communicate to Congress the report of Brigadier General B. S. Roberts to the Secretary of War on the subject of using the surplus waters of the upper lakes to make the upper Mississippi, Illinois, and Ohio rivers more navigable, and his plan for reclaiming the waste lands of the Mississippi basin.

REMOVAL OF DISABILITIES.

Mr. STEWART. I move that the bill (H. R. No. 1880) to relieve certain persons therein named from their legal and political disabilities imposed by the fourteenth amendment of the Constitution of the United States, and for other purposes, be taken up and disposed of, in order that it may go back to the House with our amendments.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The Committee on the Judiciary reported the bill with amendments. The first amendment was in line seventeen to strike out the word "and," and in line eighteen to insert the words "and John R. Tompkins, of Mobile."

The amendment was agreed to.

The next amendment was in line twenty-three to insert the names of S. L. Griffith and P. O. Hooper, of Pulaski county, Arkansas.

Mr. TRUMBULL. Unless there be some objection, I hope the vote will be taken on all the amendments reported by the committee at once.

Mr. CONNESS. There is an amendment on the fourth page that I wish to amend before it is voted upon.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the committee.

Mr. CONNESS. That is subject to amendment.

The PRESIDENT *pro tempore*. It is.

Mr. CONNESS. I move to amend the amendment by striking out the name of "Asa Rogers," in line seventy on page 4.

Mr. TRUMBULL. I hope that will not be done.

Mr. STEWART. There has been a great contest over that name on both sides, and I have received a great many protests on the subject. I shall not object to striking it out. I leave it entirely to the Senate. He is one of the judges of Virginia. On the one hand he is represented as being a very estimable and necessary man in his office; and on the other hand he is represented as being entirely opposed to reconstruction. These different assertions are made by every credible persons on both sides. The committee put the name in; and I am here neither to advocate its staying in or its striking out or taking any decided ground about it. It is a matter of very great doubt in my mind.

Mr. CONNESS. I have information upon which I implicitly rely as to the unfitness of this man for this favor, and there can be no doubt in regard to the source of my information. I hope he will be left out.

Mr. TRUMBULL. I hope that name will not be stricken out. I have seen several gentlemen in regard to this person. The papers are in the hands of the Senator from Nevada, who had charge of the subject.

Mr. STEWART. I have not the papers here in regard to this case. They are very voluminous.

Mr. TRUMBULL. Some persons came to see me in reference to this case, but there are so many of these cases that I am unable to state all the facts in any particular case without referring to the papers. I know I have seen some papers from Virginia in reference to this particular case, and if the Senator from Nevada will refer to the papers I think it will appear that the Senators from West Virginia indorse him. I did not hear what the Senator from California said, what the point was that was made upon this person.

Mr. CONNESS. The point is that he is an arrant rebel, that he is unfit again to be trusted, certainly at this time, with the privileges of citizenship, that he should remain under his disabilities. He holds an office in the State of Virginia. His case, as stated by the member of the Judiciary Committee, the Senator from Nevada, who has this subject in charge, is one of doubt as presented to the committee, statements being made on both sides; of course this is a class of cases which will always have two sides.

Mr. HOWARD. If the Senator from California will allow me to say a word in regard to Mr. Rogers, I understand he is the second auditor of the State of Virginia.

Mr. CONNESS. He is.

Mr. HOWARD. And I am informed by a very credible source that he says all he wishes his disabilities to be relieved for is to enable him to hold the office which he has now got; that he is not a Union man, and does not profess to be a Union man, and never did. I think if that is the motive which induces him to apply for relief from disabilities he ought to be accommodated, over the left.

Mr. CONNESS. Of course I can have no motive as against this man at all any more than any other person named in this bill; but there is no doubt in my mind, from my source of information—I know the source well—with regard to the unfitness of this man for the privilege proposed to be extended to him. I have no doubt that the statement made by the honorable Senator from Michigan with regard to him is entirely correct.

Mr. TRUMBULL. There must be a mistake about that, because we require a statement in writing from these parties themselves. The papers in this case are in the hands of the Senator from Nevada, and there are so many of them that I am unable to distinguish between them. I recollect something about this case. But I will say to the Senator from Michigan that there is a written application by this party himself. We have not put the name of anybody into the bill who does not state that he asks to be relieved from his political disabilities and promise to sustain the Government and to recognize the condition of things as they exist as binding upon him; and that is wholly inconsistent with the statement that he merely asked to be relieved in order to be able to hold the office. We have not put any man in the bill who simply asked to be relieved for the purpose of holding office. This matter was investigated in the committee; and I think it would be well to have the application read. I think this is one of the cases about which the Senators from West Virginia made a statement. I am not sure about that. I am told it is not. I ask the Senators from West Virginia if they do not know about this case?

Mr. WILEY. I know the general reputation of Mr. Rogers very well before the war as a man of high character and standing and influential position in Virginia. About his connection with the war or his status during the war I have no knowledge whatever and know nothing about the facts. The papers in regard to his case have never been in my hands, nor have I had occasion to make a personal examination of them; but as to his general character and reputation and standing and propriety of conduct before the war I do not know of any man who stood higher or maintained a higher social position. I have heard of rumors in regard to his status during the war, of which I know nothing personally. Nor have I had it within my power to make an examination into the facts alluded to. That is all I can state in regard to the case.

Mr. FERRY. I hope that the name of this gentleman will not be stricken out of this bill. It is of course evident that he must have been implicated in the rebellion from the very fact that he asks to be relieved of the disabilities which were produced by such implication. We have the testimony of the Senator from West Virginia that he is a gentleman of high character and standing, and of the chairman of the

Judiciary Committee that he has filed with the committee his petition acquiescing in the existing state of things as binding and as final. Now, the fact is just this, as I have observed with regard to a great many of these applications for the removal of disabilities, if the applicant is a person holding a civil office there are in the community in which he resides other persons who want the office that he holds, and just so soon as it is ascertained that a person holding a civil office has made an application to Congress for the removal of his disabilities those that desire his office come or send here and prefer charges of the most outrageous character against every such individual. I have known cases myself where gentlemen of high standing, whose only implication in the rebellion was the act of voting for an ordinance of secession, who were between sixty and seventy years of age, whom I personally know acquiesce in the existing condition of things and desire the restoration of harmony to the country upon the existing basis, upon applying here to have their disabilities removed, they holding an office at the time, statements such as are preferred against Mr. Rogers have been preferred by interested persons for the very purpose of keeping them under disabilities, causing them to be removed from office, and thereby procuring a vacancy into which some of those persons may be placed. I suspect remonstrances of the kind which are presented in this case.

Mr. HOWARD. I take the liberty of sending to the Chair a letter dated "Rooms Grant and Colfax Association, Richmond, February 27, 1869," and ask to have it read. It is very short.

The Chief Clerk read as follows:

ROOMS GRANT AND COLFAX ASSOCIATION,
RICHMOND, VIRGINIA, February 27, 1869.

SIR: At a meeting of this association, held this evening, the following resolutions were unanimously adopted:

Resolved, That this association earnestly protest against the removal of disabilities from office-holders who have, in violation of the constitutional amendment, held and used their positions against a proper reconstruction of this State; and especially would this association protest against such removal from Judge John A. Meredith, William A. Charters, Asa Rogers, and William F. Taylor, being convinced that they are not fit subjects for such clemency, but that it would be dangerous and tend to encourage disloyalty.

Resolved, That a copy of the above resolution be forwarded to prominent Republican Senators and Representatives in Congress and to the Reconstruction Committee.

Very respectfully,

GEORGE RYE,
President.
G. L. RICHARDS,
Secretary.

Hon. Z. CHANDLER.

Mr. CONNESS. The Senator from Connecticut undertakes to render the testimony presented in regard to the disloyalty of this man inapplicable to the case by throwing a suspicion upon it because this party holds a civil office. Now, sir, I take it there are men in those States whose testimony we should accept without aspersing it and them by attributing motives of that kind. If the honorable Senator knows a case where a man is governed by motives of that character it is well to state it. I might as well say that the honorable Senator's opposition to this amendment comes from his known position, he being in favor of relieving all rebels from all disability whatever. But I did not bring that into the argument of this case. There is positive testimony that this is an unfit man to whom to extend again at this time the privileges of citizenship which he once possessed and threw off, making himself an enemy of the country and of society. As I before observed there can be no motive on the part of Senators here opposing the removal of disabilities from any particular person. I hold in my hand a letter touching this man. I do not see fit to occupy the time by reading it, but I know the writer and I believe his statement. I know him well. I believe him to be a man without guile, of good character, a patriot; and I think we can afford to let Mr. Rogers remain in his present position for some little time to come.

Mr. TRUMBULL. I am exceedingly glad

that the Senator from Michigan has sent this paper to the desk to be read. It shows, and I wish Senators to see, the position that the Senate of the United States and the Congress of the United States are to be placed in according to the theory of my friend from Michigan. If the Congress of the United States is to be made the mere registrar of a Grant and Colfax club in the city of Richmond I think Congress had best adjourn. I will read this paper and I will show upon what the objection is made to the removal of the disabilities of this individual. It is simply a political club in the city of Richmond, and they state not one fact against the person whose disabilities they modestly ask Congress not to remove because the Grant and Colfax club of the city of Richmond advise that it should not be done. Now, let us see what they say:

"ROOMS GRANT AND COLFAX ASSOCIATION,
RICHMOND, VIRGINIA, February 27, 1869.

"At a meeting of this association, held this evening, the following resolutions were unanimously adopted."

This is signed by George Rye, president, and G. L. Richards, secretary. Who was at the meeting whom they represented, how extensive the meeting was we have no information whatever. What was their resolution?

Resolved, That this association earnestly protest against the removal of disabilities from office-holders."

I suppose they want the offices themselves. Mr. TIPTON. They have a right to have them.

Mr. TRUMBULL. Suppose the people do not think proper to elect them; suppose the people of Virginia think proper to elect somebody else; has the Grant and Colfax Club a right to have them? Does the Senator from Nebraska mean to say that they have a right to have them in defiance of the people?

Mr. HOWARD. They have undoubtedly.

Mr. TRUMBULL. They have undoubtedly the Senator from Michigan thinks. If the people think proper to elect a man who does not belong to the Grant and Colfax Club in the State of Nebraska, does the Senator from Nebraska rise here and say they shall not be permitted to do it? Is that the doctrine?

Mr. TIPTON. Will the gentleman allow me to answer that now?

Mr. TRUMBULL. Certainly.

Mr. TIPTON. I will say that if the people of the State of Nebraska should elect a man who is so far yet steeped in rebellion as that he is distasteful to a minority of the people of the State of Nebraska—a very small and insignificant minority—and if he cannot hold that office until he is qualified by the Republican representatives of the United States, I as one of them will never permit that majority of the people of Nebraska to be heard in his favor while I can control it in favor of a minority of the loyal people in the Senate of the United States.

Mr. TRUMBULL. The Senator would override a majority of the people in his State and deny to them the right to elect, a person to office whom they think proper to elect, and he would remove no political disabilities at all, as I understand him. He puts it upon the ground that he will not relieve the political disabilities of a person whom the people want to serve them where they know him, are acquainted with him, and have thought he was the most proper man.

Mr. TIPTON. I say that where the opinion of the minority of the loyal people of that State and the opinion of the Representatives of the loyal people in Congress have to be united for his exclusion he is excluded by the will of the majority of the people of this country.

Mr. TRUMBULL. Then a minority of the people of the locality that have a right to elect have a right to dictate who the officers shall be, and the people of the other States are to come in from a distance and control that majority. What becomes of your local organizations? What becomes of your organization in the State of Nebraska when a majority of the people of the United States think you ought to have a different government in Nebraska? Then you

will unite with the minority of the people of Nebraska and a majority out of Nebraska to put into Nebraska such a government as a minority of the people there and a majority outside of it say they shall have. I will do no such thing for my State.

Mr. WILSON. That is not the question.

Mr. TRUMBULL. Let us see what the question is. An objection is made to the removal of the disabilities of Mr. Rogers on this paper. I will read it to the Senator from Massachusetts and let us see what it is:

Resolved, That this association earnestly protest against the removal of disabilities from officeholders who have in violation of the constitutional amendment held and used their positions against a proper reconstruction of this State."

They decide what a proper reconstruction is—and especially would this association protest against such removal from Judge John A. Meredith, William A. Charters, Asa Rogers, and William F. Taylor, being convinced that they are not fit subjects for such clemency, but that it would be dangerous and tend to encourage disloyalty.

Resolved, That a copy of the above resolution be forwarded to prominent Republican Senators and Representatives in Congress and to the Reconstruction Committee."

Do they state any facts? Not one. They say that these parties have been against a proper reconstruction. What is a proper reconstruction? Are they to decide that question for the Senate of the United States? They say they are convinced "that they are not fit subjects for such clemency." The Senate of the United States has not anything to do with it, I suppose, as the Grant and Colfax Association at Richmond is convinced that they are not proper subjects for clemency. Does that satisfy my friend from Michigan? Is my friend from Michigan, in all seriousness, satisfied with that because they say they are not satisfied? Is that any reason why the political disabilities should not be removed? If this Grant and Colfax Association had stated some facts, something that these parties had done—

Mr. CHANDLER. They are rebels; that is all.

Mr. TRUMBULL. Of course they were rebels. My friend from Michigan understands that. We do not remove disabilities from anybody else. Of course the Senator understands perfectly well that nobody is to have his disabilities removed unless he has been a rebel.

Mr. CHANDLER. They are unrepentant rebels.

Mr. TRUMBULL. They do not say that. It is not stated that Mr. Rogers is a rebel yet. They say that he is an unfit person in their opinion. If we are to take the opinion of that association as to who is fit that is the end of the case. Undoubtedly these parties were rebels; and the constitutional amendment is intended to apply to that class of persons and to authorize the removal of disabilities from that class of persons.

The reason that I have said what I have is, that I was called upon personally by some gentlemen in whom I have the utmost confidence, who represented to me that this was a proper person whose disabilities should be removed. The fact that he holds an office may be a reason in the opinion of the Grant and Colfax Association why his disabilities should not be removed, for doubtless they have in their association persons who would like to take his office.

Mr. WILLIAMS. What office is that?

Mr. TRUMBULL. It was stated that he was the second auditor of the State of Virginia.

Mr. PERRY. He was elected before the political disabilities supervened by virtue of the act, and has just continued along.

Mr. TRUMBULL. He was elected by the registered voters, I suppose, in Virginia.

Mr. CONNESS. By Andrew Johnson's voters.

Mr. TRUMBULL. They were registered under our laws, I take it.

Mr. CONNESS. Not at all.

Mr. TRUMBULL. Was he not elected under the Peirpoint constitution?

Mr. HOWARD. Under the constitution of May 29, 1865.

Mr. CONNESS. Under the Johnson programme.

Mr. TRUMBULL. I do not know how he was elected; but the constitutional government which has prevailed in Virginia is the one first adopted in West Virginia.

Mr. FERRY. When he was elected and assumed office he was under no disability whatever. He merely held right along since this disability supervened, and it is desirable for the interests of the community and the State that this disability should be removed from a gentleman whom the Senator from West Virginia declares to be a gentleman of high standing and character, and who has presented an application here announcing his willingness to acquiesce in and support the existing order of things.

Mr. TRUMBULL. I will not take up time about it; but I think the Senate should have something more than a statement such as this to induce them to strike a name out of the bill.

Mr. TIPTON. I desire to say in regard to this question that I, too, have been approached by gentlemen in whose honor and integrity I confide, and they have brought me to the conclusion that this party is not entitled to this gratuity at the hands of the Congress or the Government of the United States. The honorable Senator from Illinois seems to predicate much of his argument on the fact that written applications come here from the parties themselves. Now, Mr. President, if parties should come here without written applications of their own, but indorsed and presented because in their profession they have shown a repentant spirit, I would in that case, perhaps, vote for the removal of their disabilities. But for a man who raised his hand against the Government of the United States to present an application in his own writing at this early day for the removal of his disabilities, it is a crime in him until his probation has satisfied his loyal neighbors to ask any such privilege at the hands of the Government of the United States. His loyal neighbors may sneer at him, but his loyal neighbors shall not be sneered at with impunity in the Senate of the United States.

To whom shall I go but to the Grant and Colfax clubs of Virginia and of the whole country for information in regard to the removal of the disabilities of men who have been in the rebellion? We went to the Grant and Colfax men—I mean the loyal men of those States—for aid and comfort during the rebellion and it is natural that we should go to them now. I do go to the Grant and Colfax men, not because that is the name of their organization, but because they represent the loyal element of the country from which they write. I say again that where a man is a repentant rebel he will not ask so early any participation in the active labors of supporting Government in the United States. Find me a rebel who has repented and he says himself, "My crimes have been of such a magnitude that it is not right and proper that I should force myself upon the men who have had to spend their money and their blood to subjugate me, and therefore I will as an honest man show by my works and by submission to the Constitution and by submission to the law that I have repented." I say when a man writes his own petition and presents it here, with me it is *prima facie* evidence that he is yet a rebel and a scoundrel, and has no claim to the clemency of my Government, that Government that poured out the blood of its loyal people to sustain our institutions. There may be possibly one honest man out of a hundred among them. Let him bide his time. Let him wait, as his fathers waited and showed their patriotism. Let him wait as his neighbors have waited and shown their devotion to the country before he comes here and himself comes to the conclusion that he *par excellence* is worthy to receive the clemency of the men who gave their brothers and their sons and their fathers to subjugate him in the days of his infamous treachery. His own petition, forsooth! That is the greatest

crime of all. Let him stand until his neighbors bring him here and until they forgive him, and then I will forgive him, and not before.

Mr. HOWARD. I do not wish to protract this debate; but I really feel it my duty to say one word in behalf of the Grant and Colfax Club of Richmond, Virginia. I understood the letter which was read on this occasion not as conclusive and absolutely infallible evidence, as the Senator from Illinois seems to have treated it, but as some evidence to show the impropriety of removing disabilities from this Mr. Rogers. I take it that the honorable Senator from Illinois will not deny that even the Grant and Colfax Club of Richmond, Virginia, possess the right of making representations and presenting petitions and memorials even to the Senate of the United States, although what they say may be deserving of very little regard on the part of the honorable Senator. I presented their representation with this view as evidence, so far as it shall go, to satisfy the Senate of the impropriety of removing disabilities from Mr. Rogers.

But I do not by any means confine myself to the statement of the Grant and Colfax Club as to the character of Mr. Rogers. I have information from other sources in regard to that gentleman—sources from which I learn that he is an unfit person to receive this favor which he now asks at our hands. He has been all along, I have been informed, a bitter rebel in act and in heart, and that the sole motive which now prompts him to ask to have his disability removed is his desire to hold the office of which he is in possession.

Mr. CONNESS. And wrongfully in possession.

Mr. HOWARD. And wrongfully and unconstitutionally in possession, as the Senator from Illinois very well knows, because the Senator cannot have forgotten that long since the people of the United States ratified the fourteenth amendment of the Constitution, which excludes from the right of holding office just such men as this Asa Rogers appears to be. Of course he is under the disability created by that amendment; otherwise his name would not be in this bill. That is conceded.

Now, sir, if that is his sole motive, as appears to be the case, if he merely wishes to continue in the possession of the office which he thus illegally holds, I think it exhibits on his part some want of modesty, not to say of patriotism and fidelity to the country; and I cannot vote for any man who is actuated by any such motive as seems to actuate Mr. Rogers.

There are other names in this bill to which I shall object, and I hope my objection will be sustained by my honorable friend from Illinois. I shall object to the removal of the disabilities of Matthew Harrison and Andrew Jackson Bradford, of Loudoun county, Virginia; W. R. Millan, of Fairfax; and John J. Chew, of Spottsylvania county, and various others contained in the amendment of the committee; and at the proper time I shall move to expunge their names from the record for the same reason.

Mr. CONKLING. I desire to say a word about this matter, and I feel bound to say it because I am in some sort responsible for the presence of this name which it is proposed to strike out. The objections which I hear assigned, particularly by the honorable Senator from Michigan, seem to me rather applicable to bills of this sort and to the generality of names which they have contained and to the mode of proceeding in regard to them than to the particular name at which they are aimed. I have never been in committee or in the Senate one of those filled with the most alacrity on this subject. On the contrary I have thought there ought to be some established mode of investigating applications of this sort; that there should be restrictions provided and some mode of sifting all applications, to the end that it need not be so hap-hazard as it must be in spite of all personal effort to investigate it. Therefore I have a good deal of sympathy with the suggestion which I hear made now as applicable to Mr. Rogers.

I differ, however, with the Senator from Nebraska in supposing that the application by the man himself, with a frank statement on paper of his wish to have his disabilities removed and his willingness to stand to and abide by the terms which Congress have seen fit to impose, warrants his being characterized as a scoundrel, as I understood the Senator to suggest.

Mr. WILSON. That is the best evidence we can have of his integrity.

Mr. CONKLING. As the honorable Senator from Massachusetts suggests to me and as I have always thought it is one of the best evidences we can have of his fitness to be relieved and of his willingness to abide by the terms we have required, and especially as in the case of this man when the application comes from a man high in tone and high in character as I understand Mr. Rogers to be. If the person in question were, aside from his application, a scoundrel; if he were known to the Senate to be a man whose veracity was entitled to no respect then very likely such an application as this ought to be treated as of no weight. This man, however, for reasons which actuated me in proposing his name, is not I think of that character. I have taken some pains to investigate the case of Mr. Rogers. I hear, as has been stated by the Senator from West Virginia, that he is a man of high character, a man of probity and respectability, aside from his political opinions; and I hear further from informants respected, I think if I should mention them by the entire Senate, that Mr. Rogers is, especially by comparison with many others who have been relieved, a man fit to be the recipient of this clemency.

Now, Mr. President, if we are to retreat from our position, if we are to cease to remove disabilities altogether in the manner which has heretofore been observed, so be it; but if not, and if the other names included in the pending bill are to pass with or without objection, I insist upon it, upon the facts as I understand them, that it would be an arbitrary and unwise discrimination, one to be regretted, if we should strike out Asa Rogers. We are told he took office. I understand he took it when there was no disability in his way in that regard, and I understand that on his part there is in rather a remarkable degree an absence of those things which in other cases have constituted an objection. Therefore I hope that his name will not be stricken out unless on the adoption of a policy which is to go to the root of the whole matter and say that nobody shall be relieved hereafter until we have established particular modes of proceeding to ascertain the propriety of that action.

Mr. SAWYER. Mr. President, I trust that this name will not be stricken out, not because I know anything specially about Mr. Rogers except so far as has been stated on the floor of the Senate, but because of the general principle. I believe in all cases of doubt we should be in favor of that man who personally applies to have his disabilities removed. It seems to be assumed by certain Senators that the only proper parties from whom disabilities should be removed are those whom the Republicans in their neighborhood indicate as proper for such relief. I do not hold this opinion. On the other hand I believe it to be radically wrong and greatly impolitic. I believe that this idea that we shall hold the disabilities which are imposed by the fourteenth amendment over the respectable men of the South for an indefinite period to be a wrong idea, one calculated to do us mischief there, one which has done us mischief in the past; and that wherever any man of hitherto good character who is under disability comes forward and asks the Congress of the United States to relieve him from his disabilities the Government is stronger for doing it instead of weaker. Where any man has been complicated with rebellion to the Government since its reestablishment in 1865, where he has been privy or accessory to the acts of violence and outrage which have taken place in those States, I will be as slow as any other person to relieve his disabilities; but where he shows

himself ready to accept the governments that have been established there, where he recognizes the existing state of things as the state of things which is to last and under which he is to live, I hold it to be an unwise policy, a narrow policy, a short-sighted policy to keep him under disability; but that, on the other hand, wise forecast requires that we should do all we can to conciliate that class of moderate men, men of conservative views—I speak of the word “conservative” in a good sense and not a bad one—men of conservative views with regard to the Government of the United States as exercised in those States. I trust, therefore, that as this is clearly a case where there are two opinions, and some of the most respectable opinions are in favor of the relief of this gentleman, the name will not be stricken out.

Mr. NYE. It is well known to the Senate that I have not been among the most anxious to relieve these men from disabilities; and yet there is a thing of public notoriety, and therefore I have a right to speak of it in this case, that it seems to me that it is due to the Senate should be made known. The Governor of the State of Virginia and the secretary of State or treasurer, I forget which, but it can be ascertained by reference to the Virginia statute, and the auditor represents the interest of the State of Virginia, which amounts to three fifths, in her great lines of railroads constructed in that State. It is charged that the Governor of that State has entered into an arrangement to sell the interest of the State in these railroads to outside individuals. This man Rogers, a native Virginian, desirous to protect the interests of the State in these roads, amounting to many million dollars, will not consent; and therefore they desire to keep him under the ban so that he will be removed, for the purpose of bringing about, if what is charged is true, one of the most nefarious things that have been concocted in this country. He stands there in defense of the rights of Virginia against men who, as is claimed, are desirous to dispose of the interests of that State, and for that reason they desire to get rid of him. If that is the case I protest against the Senate of the United States becoming a party to any such thing.

Mr. WILSON. Have you reason to believe that is so?

Mr. NYE. I have information that leads me to believe it is so; I have seen affidavits in relation to it, and there are persons here in this city now representing to the incoming President, the present commander of the Armies of the United States, that it should not be done. I hope therefore we shall not be swift here to declare that this man shall not have his disabilities removed if he is standing up there with the laudable purpose of defending the substantial and material interests of his own State. Of this fact I have been informed this morning, and I have seen some papers that will be made public to-day, I have no doubt. I hope, therefore, the Senate will not reject this application, but leave it at least to be considered hereafter.

Now, sir, I have one word more to say. I do not comprehend the Christian logic of the honorable member from Nebraska, [Mr. Tipton.] I cannot comprehend how it is sinful for a man to ask God or man to pardon his sins, and I do not see any good reason why he should not ask for himself. I think that the honorable Senator from Nebraska when he comes to review that logic will find that it is unsound. We are directed in the Bible to ask and we shall receive, to knock and it shall be opened unto us, but there is no promise that it shall be opened to anybody else who knocks for us or that we shall be forgiven if anybody else asks for us. We ask these things for ourselves, and I call the honorable Senator from Nebraska's attention to the fact that he had better review his Christian logic; it will not do for an enlightened Senator. Now, sir, I have said all I desired to say.

Mr. FRELINGHUYSEN. Mr. President, if any case has been sustained before the com-

mittee this case of Mr. Rogers has been. His petition states, in speaking of the consequences of the rebellion, “I accepted the result, received pardon from the President, took the oath of allegiance anew, and am now as loyal to the Constitution and Government of the United States as any man.”

The Senator from West Virginia [Mr. WILLEX] certifies over his signature, “My information and belief are that this gentleman is worthy of the exemption he asks.” The Secretary of War, General Schofield, says, “From personal acquaintance with Mr. Rogers I have no hesitation in recommending the removal of his political disabilities and selection in office.” General Stoneman writes to the General of the Army, “recommending the removal of political disabilities in this case,” and also in the case of William C. Wickham. Then, we have a letter from the district attorney, who was nominated to and who was confirmed by the Senate, recommending the same thing; and then a petition from a number of the loyal citizens of Virginia to the same effect. If, when we have the renewed oath of allegiance of the applicant, the recommendation of the Secretary of War, of leading members of the political party in Virginia, of the Senator from West Virginia, all this is not evidence sufficient when there is no evidence to the contrary to remove political disabilities, you can hardly ever expect to have a case presented to the Senate.

Mr. CONNESS. Mr. President, I accept the statement as made by the honorable Senator from New Jersey. I think it makes out a case; and if such statement had been made by the honorable Senator from Illinois in lieu of the aspersions cast on loyal men in that State I should have been glad to accept it from him.

Mr. TRUMBULL. I stated that we had the papers, but I had them not in my possession, and I sent for them.

Mr. CONNESS. I am speaking not of what the Senator did not state, but of what he did state, and I say he cast aspersions on loyal men.

Mr. TRUMBULL. I am not quite willing that the Senator from California shall charge me with making aspersions on loyal men. I have done no such thing. I said that—

Mr. CONNESS. I have the floor.

The PRESIDENT *pro tempore*. The Senator from California is entitled to the floor.

Mr. TRUMBULL. Go on, sir.

Mr. CONNESS. I shall not give way to a lecture. I will give way if the honorable Senator wishes to make an explanation.

Mr. TRUMBULL. I can take my time to reply.

Mr. CONNESS. Very well, sir. What I meant by aspersions was the sneers of the honorable Senator at the Grant and Colfax Club. Does the Senator deny that he sneered at them? The tones of his voice were eloquent in that direction. I am not quick to do anything at the instance of political or other clubs. I did not go upon the testimony of that club in what I said; but I do think, with great deference and respect to my friend from Illinois, that those men have a right to make requests here without being held up to public scorn for doing it, and that upon a subject of this kind they have a right to be heard and treated with consideration. My purpose in rising, upon the statement made by the Senator from New Jersey, which seems to comprehend the facts of this case, was to withdraw the amendment which I had moved.

Mr. TRUMBULL. I shall say but a word after what the Senator from California has said, and would not say one word except that his remarks, whether intentional or not, would have a tendency to place me in a false position. The statement that I made was not a sneering statement at loyal men. What I stated was that the committee had this application before it, and had recommendations, but I had not the papers before me, that there were many cases, and I was unable to state the particular facts, but that I had assurances from reliable men that this was a proper case for relief. In

the mean time, I sent for the papers and handed them over to the Senator from New Jersey, who has presented them, and they are satisfactory, I am glad to say, to the Senator from California. And this only shows how the Senator from California is misled by just such a proceeding as this of a Grant and Colfax club. I did not sneer at the loyal men. The position I took was that the Senate should not be prejudiced in its action on removing political disabilities by the opinions of a political organization. If they state facts for our government, of course they are entitled to consideration, not because they are a Grant and Colfax club, but because they present facts which should govern us in the decision we are to make.

But I do not wish to take up time about it. I only wish to disavow any design or intent (and I do not think my language warrants it) of reflecting upon men because they belong to a Grant and Colfax organization. I am very glad they do belong to it, but I do not wish to be governed by their opinions merely.

The PRESIDENT *pro tempore*. The time fixed for the special order has arrived.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House of Representatives had signed an enrolled bill (H. R. No. 568) explanatory of the act entitled “An act declaring the title to land warrants in certain cases;” and an enrolled joint resolution (H. R. No. 469) granting the use of military equipments for the inauguration ceremonies; and they were thereupon signed by the President *pro tempore*.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had on this day signed and approved the following enrolled bills:

A bill (S. No. 467) to confirm an entry of land by Moses F. Shiun; and

A bill (S. No. 968) to authorize certain banks named therein to change their names.

MISSION AT MADRID.

Mr. CONKLING submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested, if in his opinion compatible with the public interest, to transmit to the Senate copies of all correspondence on file in the State Department between the minister of the United States at Madrid and the secretary of the legation at the same place within the last two years.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution suspending the sixteenth and seventeenth joint resolutions of the two Houses during the remaining term of this Congress, in which it requested the concurrence of the Senate.

The Senate subsequently concurred in the resolution.

The message further announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 2014) in relation to bridges over the Ohio river; and

A joint resolution (H. R. No. 470) in reference to the proper completion of the Pacific railroads and branches.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 466) donating condemned cannon and muskets for the McPherson monument; and it was thereupon signed by the President *pro tempore*.

PAY OF COMMITTEE CLERKS.

Mr. CONNESS submitted the following resolution for consideration:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized to pay to the committee

clerks their *per diem* salary from September 22 to November 11, 1868.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, returning, in compliance with a resolution of the Senate of the 27th ultimo, the resolution of the Senate of the 28th ultimo calling for a statement of internal revenue stamps issued by the Government since July 1, 1862; which was ordered to lie on the table.

He also presented a message from the President of the United States, communicating correspondence concerning a decree made by the United States chargé d'affaires in China on 1st of June last, prohibiting steamers sailing under the flag of the United States from using or passing through the Straw Shoe channel on the Yangtze river; which was ordered to lie on the table and be printed.

He also laid before the Senate a letter from the Secretary of the Interior, recommending an appropriation of \$929 50 to enable him to pay for the rent of rooms used for the executive work of the Pension Office outside of the Interior Department; which was referred to the Committee on Appropriations.

HOUSE BILLS REFERRED.

The bill (H. R. No. 2014) in relation to bridges over the Ohio river was read twice by its title, and referred to the Committee on Commerce.

The joint resolution (H. R. No. 470) in reference to the proper completion of the Pacific railroads and branches was read twice by its title, and referred to the Committee on the Pacific Railroads.

ARMY APPROPRIATION BILL.

The PRESIDENT *pro tempore*. The hour fixed for the special order of the day—half past twelve o'clock—having arrived, the bill (H. R. No. 1803) making appropriations for the support of the Army for the year ending June 30, 1870, is before the Senate as in Committee of the Whole; and the pending question is on an amendment offered by the Senator from Rhode Island, [Mr. SPRAGUE,] to add to the bill a new section, which will be read.

The proposed section was read, as follows:

And be it further enacted, That the public domain within the jurisdiction of the United States other than that guaranteed by treaty to Indian tribes or otherwise heretofore granted by law be, and it is hereby, declared the sole property of the United States, and all occupants thereof are hereby declared subject to the laws of the United States.

Mr. MORRILL, of Maine. I do not see on a slight examination of that amendment that it really changes the principle of law applicable to the public domain. It simply declares our sole right to the public domain. I believe the general policy of law is that the Government of the United States is supreme over all its territories. At the same time we have recognized a qualified possessory right in the Indian tribes. I do not understand that this declaration presented by the Senator from Rhode Island changes the general principle of American law; but there is one other point where perhaps it makes a change in our policy, and that is it subjects all the occupants of the public domain—having reference chiefly I suppose to the Indian tribes—to the jurisdiction of the United States. In that single particular perhaps I think it does change the principles of our law, or at any rate our policy heretofore. I suppose that may be the object of the Senator. I do not know, if any declaration so general in its character is proper to be put upon an appropriation bill, that this is particularly objectionable. Certainly in my view of it that it runs exactly in harmony with the law to a certain extent, I should not object to that part of it; nor do I know exactly that it is objectionable to subject all the occupants of the public domain to the civil and political jurisdiction of the Government of the United States.

Mr. WILLIAMS. I should like to hear an explanation of the amendment. I am not quite able to understand its meaning and effect,

and I should be glad to hear the Senator who offers it explain it.

Mr. SPRAGUE. Examining the bill under consideration by the Senate, I notice \$8,000,000 and \$15,000,000 devoted to the transportation of troops and incidental expenses connected with the movements of the Army, or Army occupation and operations, and I have noticed from time to time constant negotiations with Indian tribes by which public lands said to belong to the United States go into the possession of railroad companies or into the possession it may be of the United States. The object of this amendment is simply to declare that all property not now under treaty stipulation and not heretofore granted to Indian tribes, or having heretofore been obtained from Indian tribes and granted to railroad companies and others, shall belong and be understood to be the property of the United States with this in view: that hereafter there shall be no treaties with Indian tribes for lands except those tribes with whom we now have treaty arrangements. If we can get lands from those we have heretofore made treaties with by which we have guaranteed full possession of the lands to them, that may be a legitimate practice and it may be a legitimate object of negotiation; but I desire that hereafter the Commissioner of Indian Affairs or the Secretary of the Interior shall not buy from Indians land throughout this western continent. I do not wish our officers to go to hunting out wild Indian tribes or their chiefs or head men and negotiating and paying the money of the people of the United States to them for lands when we have, as in this bill, paid for them through the operations of the Army. It is intended to do away with these treaties, and in my judgment it is a wise provision. It interferes with nobody's rights and privileges, and will prevent the injurious influences that flow out of our Indian operations.

Mr. GRIMES. The effect of this amendment as described by the Senator who offered it is much more extensive in its scope than I supposed it was from a casual reading of it. It is neither more nor less, according to his statement, than an attempt to change the whole policy of the Government on the subject of Indian affairs and its future transactions with the Indians by a simple amendment on an Army appropriation bill—an amendment not proceeding from the Indian Committee or from any committee, so far as I know. It may be wise to do this; but I suggest that it is hardly wise for us to do it on a bill of this kind and at this time; the inevitable result of it will be to lose the bill entirely.

Mr. WILLIAMS. I think the amendment is objectionable in its present form because it proposes to extend the laws of the United States over all the Indian tribes in the country and make the individual Indians belonging to tribes subject to the laws of the United States.

Mr. SPRAGUE. Only the wild Indians; it does not apply to lands now occupied by Indian tribes with whom the United States are in treaty relations.

Mr. WILLIAMS. I understand that the effect of this amendment would be to extend the laws of the United States to the Indians upon all the public lands of the United States, and it seems to me that the effect will be to interfere with the tribal organizations of these Indians. Heretofore where there is a tribe of Indians organized, wild Indians upon the public lands, the settlement of all questions and difficulties that arise among that tribe is left to the authorities of the tribe, and the United States does not attempt to interfere in the settlement or adjustment of those difficulties. Suppose, to illustrate, that one Indian kills another where there is a tribe of Indians organized according to their usages and practices upon some part of the public domain. Will not this amendment make it necessary that the United States shall prosecute the Indian who has killed the other in the courts of the country, and so undertake to interfere with the gov-

ernment of these respective tribes, and will it not devolve upon the Government of the United States a very great amount of trouble and expense which the Government would not otherwise incur? I do not know that I have any particular objection to the amendment as far as the words "property of the United States" are concerned, and I move to amend the amendment by striking out "and all occupants thereon are hereby declared subject to the laws of the United States;" so that if amended in that way it will read:

That the public domain within the jurisdiction of the United States, other than that guaranteed by treaty to Indian tribes or otherwise heretofore granted by law, be, and it is hereby, declared the sole property of the United States.

I should be apprehensive that unless this amendment that I propose is adopted it would lead the Government into inextricable difficulty with the different tribes that are found in various parts of the country.

Mr. SPRAGUE. I have no objection to that amendment prevailing. The words which the Senator from Oregon moves to strike out were put on at the suggestion of a prominent member of the Indian Committee of the Senate. I do not think they are necessary, and I agree to the modification.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The amendment of the Senator from Rhode Island will be reported, as modified.

The Chief Clerk read the amendment, as modified, as follows:

And be it further enacted, That the public domain within the jurisdiction of the United States other than that granted by treaty to Indian tribes otherwise heretofore granted by law be, and it is hereby declared, the sole property of the United States.

Mr. HOWARD. I suppose that to be the case already. The public domain of the United States is the public domain of the United States; and I should really like to understand from some gentleman familiar with that very recondite principle of law what the meaning of this amendment is. I should like to understand from the chairman of the Committee on Indian Affairs what it means. I do not see the necessity of incorporating such a truism as that into a statute.

Mr. CORBETT. I do not understand that this amendment originates with the Committee on Indian Affairs; it comes from the Senator from Rhode Island, who is not a member of that committee.

Mr. HOWARD. I beg pardon of the committee, then.

Mr. SPRAGUE. It is not in the mere words of the amendment that I desire to impress my conviction of its importance upon the Senate, but it is to assert that the public lands of the United States belong not to two or three hundred thousand wild Indians, who are now recognized as holding this property, and with whom the time of the Senate is occupied night after night and day after day in considering treaties for their lands. What is the nature of a treaty with an Indian tribe except it is to obtain from them lands? A large portion of this appropriation bill is devoted to appropriations for the movement of your armies, by which and through which these treaties are made for these lands. When an individual expends money he expects something in return; and so it should be with the nation. But, sir, I have very little hope of succeeding with any provision calculated to protect the public property of the United States and prevent its going into the possession of companies and corporations, and then those concerns being consolidated into great powers, as seems to be the course of things now in this country. There is a great tendency to monopolies, commencing, it may be, with the lands of the United States, and going through every known occupation and operation of the people. I have very little hope that it can be stopped by law, but it is my design by this amendment to assert that this land, which we have heretofore been engaged in purchasing after conquering, shall, by the provisions of

these appropriations, become the property of the United States, without further treaty, without further expenditure of money, and that those who are on them—the wild Indians, uncontrolled and governed by no law—may be controlled and governed by the law that is put in operation by the movements of the Army as determined by those appropriations.

Mr. HOWARD. I do not know, sir, that this amendment is of much importance one way or the other, but it strikes me as introducing into our legal code a principle which has not hitherto been recognized by the United States, a principle which is, in my view, an anomaly not founded exactly in justice, according to my imperfect vision. There are still vast tracts of country within the jurisdictional limits of the United States occupied by wild Indians who exist in the shape of tribes with whom we are in the habit of almost daily diplomatic intercourse—tribes which we recognize as possessing certain national powers. Even the Constitution itself recognizes the Indian tribes as nations or communities capable of entering into treaties with the United States. That has always been the practice of the Government up to this day. Whatever injury or injustice may have been done to the Indians heretofore in our past history—and those injuries have doubtless upon occasion been great and flagrant, as I admit—still we have recognized the Indian tribes as political bodies possessing certain elements of national independence. If they had not been so regarded by the framers of the Constitution they would not have been careful to insert a clause in the Constitution authorizing us to enter into treaties with Indian tribes, as is done in express terms.

Now, sir, the law which has prevailed in relation to Indians from the time of the discovery of the continent down to the present time is, in general terms, this: the Indian tribes are recognized as possessing the right of occupancy of the soil where they subsist, and all the right acquired by the Government of the United States or of any European nation over them was the right of preemption to their lands. It is not, perhaps, strictly true to say that the nations of Europe and the United States have recognized in the Indian tribes the fee-simple title of their lands, but all our history shows that we have regarded them as entitled to the right of occupancy until they had parted with that right by a formal treaty of cession. This amendment, however, declares that all territory lying within the United States which has not been ceded by the Indian tribes to the United States, which lies wild and unoccupied by white men, shall be the absolute property of the United States. I think that is the language of the amendment. If I am wrong I would thank the Chair to correct me. Is not the expression "absolute property?"

Mr. MORRILL, of Maine. Not "absolute." Let the amendment be read.

The PRESIDING OFFICER. The amendment will be read.

The Chief Clerk read the amendment, as follows:

And be it further enacted, That the public domain within the jurisdiction of the United States, other than that acquired by treaty to Indian tribes or otherwise heretofore granted by law, be, and it is hereby, declared the sole property of the United States.

Mr. HOWARD. "Sole property." There is not much difference. I am not sure that there is any appreciable difference between the two expressions, "absolute property," which is the phrase I used, and "sole property" which is the language of the amendment. Now, sir, I can never give my consent to such a proposition as that. I think that under the laws of nations and under the Constitution land which has not been ceded by the Indians to the United States and which lies in its original wilderness of nature is not the sole property of the United States, and we cannot make it so by an act of Congress without a gross usurpation of the rights of the Indians recognized by our

own Constitution as well as by the principles of humanity upon which this Government has ever endeavored to act toward the Indian tribes. I object therefore to the enactment of the clause which seems to usurp a title, a jurisdiction, and a property, so to speak, which has never been recognized in the United States.

Mr. HARLAN. I am inclined to think that it is doubtful whether the amendment ought to be adopted. I do not know how it might affect the right of preemptors to go on to Indian reservations, nor do I know how it might affect railroad grants or the rights of railroad companies that have grants to take up lands now within the possessory limits of Indian tribes—lands for which they have no paper title whatever. I see no good that could grow out of it, but possibly considerable danger to the rights of Indian tribes who may be holding lands without any paper title whatever. I think it is too important to come in in this way without examination by some committee of the Senate.

Mr. HOWARD. I think so.

Mr. SPRAGUE. One object that I had in proposing the amendment was for the benefit of the Indian tribes themselves, for it has become a public scandal that of the money appropriated to carry into effect the Indian treaties little or none of it reaches the tribes themselves. The United States Government is satisfied when it has paid the money, and from that time thereafter the Indians may starve or be destroyed; the Government cares not. I do not intend by this amendment to take away one dollar of money that it is proper to expend in the care and in the protection of the Indian tribes; but it is my object that at first these lands, under cover of a dodge, shall not be stolen, and that after that the money which is appropriated for that stealing shall go to the tribes themselves for their protection, security, and benefit. This amendment may not have all the elements necessary to carry that object into effect; but it is pertinent. Every child who can read a newspaper knows that our Indians in the West are first recognized as nation: and then are destroyed by citizens of the United States, whose doings are connived at by the operations of the Government of the United States. I have occupied a seat here and witnessed that kind of operation with disgust. I see here in your appropriation bills large appropriations for the movements of your armies in the West toward occupying the lands in the interior of this country and in the center of this continent, and we are soon to take possession of Alaska. There hundreds of millions of the people's money are to be appropriated in treaties for the repurchase of that territory, to be received by whom? By the Indians? No, sir; by those who go to Alaska and make the treaties with the Indians—the lobbyists who are concerned in such operations. These are the men who are to receive the people's money for lands that we assume to purchase from the Indians.

Mr. HARLAN. I have no doubt that the Senator's purpose was patriotic and in every sense honorable to his head and heart; but I can think of cases where this amendment might operate directly to the reverse of what the Senator intends. The amendment declares, if I have understood its reading correctly, that all public lands not ceded to Indians by treaty, or declared to be theirs by law, shall become public domain. Now, there are Indian tribes who are settled on lands set apart by the President of the United States by a simple executive order; and I am not sure but that there are others located on what are called reserves by orders from the Interior Department who are not supported directly by any law or any treaty stipulation.

Mr. MORRILL, of Maine. Will the Senator yield to me for a moment?

Mr. HARLAN. Certainly.

Mr. MORRILL, of Maine. I appeal to my friend from Rhode Island, as this is a declaration of a principle of law which does not seem to be entirely germane to this bill to withdraw

it. I should take it as a favor if he would withdraw it now and offer it at some other time on some other bill.

Mr. SPRAGUE. My object has been attained, and I withdraw the amendment.

Mr. WILSON. I move to amend the bill by inserting the following additional section:

And be it further enacted, That officers of the Army when retired on account of wounds or other disability received in the volunteer service shall be retired under the same conditions as though they had been serving in the regular Army at the time such wounds or disability were received.

Mr. GRIMES. What is the effect of that?

Mr. WILSON. The effect is to put the men who have served in the volunteer service, and have been wounded or broken down in the service on the same footing that they would be if they had been serving in the regular Army. We have some such officers. In fact very many regular Army officers were wounded in the volunteer service, and we have some such officers who have been appointed in the Veteran Reserve corps, whose wounds after healing up have reopened so that they are in a condition where it is proper that they should be retired. This puts them on the same footing with other officers.

Mr. GRIMES. What is that? Full pay?

Mr. WILSON. The same as to other officers who are retired. There should not be any discrimination made against them, because they received their wounds or disabilities in the service of the country.

Mr. GRIMES. How much additional pay will it give?

Mr. WILSON. Take the case of an officer in the Army who two years ago, when we increased the regular Army, was appointed from the volunteer service. He was wounded badly, perhaps, and put in the Veteran Reserve corps. Now he can be mustered out of service without having any pay. That has been the construction. I want to put him on the same footing as though his wounds were received in the regular line of the Army. I think it is right and proper.

Mr. CORBETT. I ask the Senator from Massachusetts if this affects any other officers than those appointed in the Veteran Reserve corps?

Mr. WILSON. I do not know that it affects any other officers than those in the Veteran Reserve corps; but if there are any volunteer officers who have received wounds who have been appointed into the regular Army from the volunteers, and their wounds should break out afresh, or they should in consequence of them become unfit for service, so that they ought to be retired, they should be retired on the same footing with officers who were wounded in the regular service.

Mr. CORBETT. It leaves out the officers who may be wounded and may now be unable to do any service who have not been appointed in the Veteran Reserve corps. It does not give them any pay.

Mr. GRIMES. No; and that is the inequitable thing about it. To-day out of all the officers in the volunteer service of the United States during the war who were wounded there have been selected enough to officer four regiments of the Veteran Reserve corps. They were generally wounded men, but they were selected not merely because they were wounded and disabled officers, but because they were friends of men who had influence. They would ordinarily go on to the retired list when they became entirely disabled and get half pay. Now, it is proposed that they shall all be retired with full pay. That is the meaning of it; but there is no proposition to pay the man who was in the volunteer service but who was not a favorite so as to be promoted into the Veteran Reserve corps anything additional to the pittance of a pension he is drawing under your pension laws.

Mr. MORRILL, of Maine. I wish to ask a question of the Senator from Massachusetts as to the effect of this amendment. Suppose an officer to hold the rank of captain in the regular Army and the rank of major general in the

volunteer forces, if he is retired under this section may he not take his choice and be retired as a major general with the pay of major general instead of that of captain?

Mr. GRIMES. Certainly.

Mr. WILSON. Oh, no.

Mr. MORRILL, of Maine. I understand the Senator from Massachusetts not to give his assent to that proposition, but it seems to me the amendment is susceptible of that construction.

Mr. GRIMES. By reference to the one hundred and fiftieth page of the Army Register it will be seen exactly what this proposes to do. Here is a list of "officers retired upon the full pay and rank of the command held by them when wounded, in conformity with sections sixteen and seventeen of the act of August 3, 1861, and section thirty-two of the act of July 13, 1866." A man who held the rank of brigadier general in the volunteer forces up to the close of the war and then was appointed to a captaincy in the Veteran Reserve corps, would be retired under this amendment according to the rank he held at the time he was wounded.

Mr. CORBETT. He would receive half pay according to that rank, so that if he was a brigadier he would receive half a brigadier's pay, while if he served as a brigadier and did not get into the Veteran Reserve corps he would receive only a pension of thirty dollars a month. One gets \$360 a year, while the other who is able to secure a position in the Veteran Reserve corps gets perhaps \$2,000 a year. It seems to me that is unjust. There ought to be some uniformity in this matter, and the provision we make ought to apply as well to those who have not been assigned to the Veteran Reserve corps as to those who have.

Mr. WILSON. I withdraw the amendment for the present.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER, (Mr. POMEROY.) The question is on concurring in the amendments made as in Committee of the Whole; and the question will be taken on all the amendments collectively unless some Senator desires a separate vote.

Mr. MORTON. I move to strike out so much of the amendment offered by the Senator from Massachusetts from the Military Committee as refers to brigadier generals.

The PRESIDING OFFICER. The Senator then desires a separate vote on that particular amendment?

Mr. MORTON. Yes, sir.

The PRESIDING OFFICER. That amendment will be excepted from the general vote of concurrence.

The other amendments were concurred in.

The PRESIDING OFFICER. The amendment reserved at the suggestion of the Senator from Indiana will now be read.

The amendment was read, being to add to the bill:

SEC. 4. *And be it further enacted*, That the President is hereby authorized and directed to reduce the Army of the United States as rapidly as the interests of the public service will permit, in the manner and to the extent hereinafter specified. The number of infantry regiments shall be reduced to thirty by consolidation, and no more enlistments shall be made into the infantry or artillery until the number of enlisted men in each regiment falls below the minimum number prescribed by law, and thereafter the number of enlisted men shall not exceed the minimum; and no appointment of brigadier general shall be made until the number be reduced to less than eight, and thereafter there shall be but eight brigadier generals in the Army.

Mr. MORTON. I move to amend the amendment by striking out the words "and no appointments of brigadier generals shall be made until the number be reduced to less than eight, and thereafter there shall be but eight brigadier generals in the Army."

By the section the reduction of the Army is left entirely to the discretion of the President, and it is proper also to leave to the President the discretion of filling these vacancies or not. The chairman of the Committee on Military Affairs will make no objection to my amendment.

Mr. CONNESS. The effect of the propo-

sition I understand to be to leave the number of brigadier generals as at present authorized by law.

Mr. MORTON. Yes, sir; and to leave it in the discretion of the President whether he will fill up any vacancies.

Mr. CONKLING. The Senator from Indiana may or may not remember that on a recent day the Senate by a very large vote adopted a provision not only in harmony with this clause as it stands, but going somewhat further—a provision recalling, I might say withdrawing altogether the power to fill up the two existing vacancies in the grade of brigadier general until the further direction of Congress. It was then the clear judgment of this body that the action I speak of should be taken. I do not remember whether the Senator from Indiana was in his seat or not. The provision which it is proposed to strike out, although it does not go so far, is in harmony with that action; and now the Senator proposes to obliterate this so as entirely to dispense so far with all idea of reduction of the Army. I hope it will not be stricken out.

Mr. MORTON. That bill has not become a law.

Mr. CONKLING. I think it has become a law.

Mr. MORTON. There are reasons why I think this provision ought to be stricken out and the matter left to the discretion of the President to determine whether he will fill these vacancies or not. The reduction of the Army is left in his discretion. He may have occasion to reduce it in the next year or two or he may not. It has therefore been wisely concluded to leave with him the solution of that question, and it should be left with him to determine the question whether these vacancies be filled or not. He may find it important to fill these vacancies, and I think it very likely he will. It is for that reason I move to strike out that clause so as to leave it with the President as the rest is left with the President.

Mr. CONKLING. Consistency throughout would be perhaps too much to exact even from a body so eminent as this; but I submit to the Senator from Indiana and the Senate that it would look very strange, it would be a curious specimen of legislation if on the statute-book, divided in date by only a few days, should be found two enactments, one providing absolutely that the grade of brigadier general should not be filled until Congress should hereafter so direct, and the other a few days later, not only obliterating that provision, but standing against, as far as it indicates at all, all reduction by Congress of the Army in that regard. It would be a very broad intimation, I submit, to the President, not that he was to exercise his discretion, but that Congress reversing its judgment, although within a few days, had come to the conclusion that the time had arrived when these vacancies ought to be filled up. I am sure the honorable Senator from Indiana does not mean that; and unless we have lights on that subject which we had not the other day when the action to which I refer took place, we ought not to reverse it.

Since this suggestion was made a Senator asks me in conversation whether the action I speak of was anything more than a direction in reference to the particular persons then nominated. I will say that I refer to no action in executive session, but to a provision incorporated in a bill reported from the Committee on Military Affairs which declared as a proviso, in so many words, that no nomination whatever, no appointment at all, should be made to fill existing vacancies in the grade of brigadier general until Congress should in future so provide.

Mr. MORTON. If the Senator is right about that I ask him what is the use of reenacting it? If that has already been declared by law why reenact it in this section? What I propose simply leaves silence on the subject. If that which he refers to has become a law it does not affect it one way or the other. It is wholly unnecessary to reenact what he says has already

been effected; but I think the Senator is mistaken on that point. I hope the section will be stricken out. I do not know what law the Senator refers to. I was not present when it was enacted and have no knowledge of it; but if he is right about it, then it is unnecessary to reenact it, and striking this clause out will simply leave the amendment offered by the Senator from Massachusetts silent on the subject and will not affect the other provision at all; it certainly will not repeal it.

Mr. FERRY. I hope that this clause will not be stricken out of the bill. It seems to me that any one conversant with the present and prospective condition of the Army must be fully aware that it is and will be unnecessary to fill the two vacancies existing in the office of brigadier general. All of us know that in the demand now so prevalent in the country for retrenchment, perhaps the strongest element is a demand for retrenchment in the expenditures of the Army, and the proposition to strike out this clause is substantially a proposition to create two more insecure life offices. I shall be unwilling that this clause shall be stricken out without a division upon the yeas and nays.

Mr. MORTON. If it has been already enacted, as the Senator from New York says it has, it would be a rather remarkable operation that striking out this clause and leaving the section silent would repeal the other act. I confess I cannot understand that. It simply leaves this section silent on this point. The Senator from Connecticut says it is well understood that these vacancies need not be filled. I submit to my friend that the General of the Army and the President of the United States who will soon be inaugurated, will understand that necessity quite as well as he or I, and if he should think it necessary to fill these vacancies he should have the power to do it. If he thinks it unnecessary he will not do it. We have left the question of reducing the Army from forty thousand down to about twenty-five thousand with him; we have left it to his decision, and why not leave to him this question just as well? If he is competent to decide the one he is just as competent to decide the other.

Mr. FERRY. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WILLIAMS. Before the vote is taken on this amendment I should like to be informed as to whether or not there has been a bill passed at this session declaring that there shall not be any more than eight brigadier generals in the Army. I think we ought to know that fact so that we can act understandingly on this amendment. If such a law has been passed, there is certainly no objection to the amendment proposed by the Senator from Indiana. If there is no such law, then it may be a question as to whether it is not advisable to enact such a law so as to restrict the number of brigadier generals to eight. But there seems to be a controversy about that, and the whole question turns upon that fact. I wish to be advised, if anybody can inform me, as to the exact condition of this question now at this time before the vote is taken on this amendment. I would ask the Senator from New York what information he can give on that subject as to whether or not any bill has passed restricting the number of brigadier generals to eight.

Mr. CONKLING. I drew the amendment myself—and that is the reason I have my mind upon it—at the suggestion of the chairman of the Committee on Military Affairs. The amendment, as well as I can remember the words—I will not be sure of them, but I can repeat the substance—was to this effect: "And provided further, that no appointment shall be made to fill the existing vacancies in the grade of brigadier general of the Army until Congress shall otherwise direct," or "until this provision shall be repealed"—the precise phraseology I am not sure of.

Mr. MORTON. What bill did it go into?

Mr. CONKLING. Into an Army bill reported from the Committee on Military Affairs of this body.

Mr. WILLIAMS. But it has not yet been acted on by the other House.

Mr. CONKLING. That I cannot be sure of.

Mr. FERRY. It is not yet a law.

The question being taken by yeas and nays, resulted—yeas 12, nays 30; as follows:

YEAS—Messrs. Abbott, Cole, Kellogg, McDonald, Morrill of Maine, Morton, Osborn, Pomeroy, Robertson, Ross, Van Winkle, and Warner—12.

NAYS—Messrs. Cameron, Cattell, Conkling, Conness, Corbett, Cragin, Davis, Dixon, Ferry, Fessenden, Frelinghuysen, Grimes, Harlan, Harris, Hendricks, Howard, McCreery, Morgan, Morrill of Vermont, Norton, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Rice, Sherman, Sprague, Sumner, Vickers, Willey, and Williams—30.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Chandler, Doolittle, Drake, Edmunds, Fowler, Henderson, Howe, Nye, Pool, Saulsbury, Sawyer, Spencer, Stewart, Thayer, Tipton, Trumbull, Wade, Welch, Whyte, Wilson, and Yates—24.

So the amendment to the amendment was rejected.

Mr. NORTON. I move to amend the amendment by striking out after the word "hereby," in line two, down to the word "permit," in line four, and to insert the words "directed and required to reduce the Army of the United States;" so as to make it read:

That the President is hereby directed and required to reduce the Army of the United States in the manner and to the extent hereafter specified, &c.

The amendment as it stands leaves the reduction of the Army discretionary with the President. He may reduce it or not as he pleases. The country very evidently and Congress desire the reduction of the Army. All there is in the Constitution of the United States on the subject, with the exception of the single fact that the President shall be Commander-in-Chief, is left with Congress. Congress has the power to raise armies, the power to declare war, the power to provide and maintain a Navy, and to make rules for the government and regulation of the land and naval forces, and all there is in the power of the General Government with reference to an Army is with Congress, except, as I said before, the fact that the President is Commander-in-Chief. No one can question but that the country expects, desires, and needs a large and an actual reduction of the Army. With the view, then, to bring that about, and not leave it to the discretion of any man whether this reduction shall take place or not, I move this amendment, and upon it I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 9, nays 37; as follows:

YEAS—Messrs. Davis, Dixon, Doolittle, Hendricks, McCreery, Norton, Patterson of Tennessee, Sumner, and Vickers—9.

NAYS—Messrs. Anthony, Cameron, Cole, Conkling, Conness, Corbett, Drake, Ferry, Fessenden, Frelinghuysen, Grimes, Harlan, Harris, Howard, Howe, Kellogg, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Osborn, Patterson of New Hampshire, Pomeroy, Ramsey, Robertson, Ross, Sawyer, Sprague, Stewart, Thayer, Trumbull, Van Winkle, Warner, Welch, Willey, Williams, and Wilson—37.

ABSENT—Messrs. Abbott, Bayard, Buckalew, Cattell, Chandler, Cragin, Edmunds, Fowler, Henderson, McDonald, Nye, Pool, Rice, Saulsbury, Sherman, Spencer, Tipton, Wade, Whyte, and Yates—20.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole.

The amendment was concurred in.

Mr. RAMSEY. I offer an amendment to insert a new item to be added to the first section:

For the purpose of cutting out a road from Duluth, in the Bois  Fort Indian reservation, in Minnesota, there is hereby appropriated the sum of \$10,000, to be expended under the direction of the Secretary of War.

I explained this proposition to the Senate some time ago on another bill. I hope they will recollect what I then said. This is a body of Indians, six or seven hundred in number, located on the Bois  Fort reservation, in the northeastern part of Minnesota, back from the lake or from any water communication or from any road some one hundred miles. Their annuities are extremely small, but still, for the lack of roads and the lack of water communi-

cation the agent is compelled to bring them down to the towns on the lake to pay their annuities, and as a consequence everything is there squandered. A little contribution from the national Treasury of this kind would relieve the Indians in their little means as well as in their morals.

Mr. MORRILL, of Maine. What committee does it come from?

Mr. RAMSEY. It is recommended by the Committee on Military Affairs.

The amendment was agreed to.

Mr. SUMNER. I now renew the motion I made in committee. It is on the desk of the Secretary.

The PRESIDING OFFICER. The amendment will be read.

The CHIEF CLERK. The amendment is to add the following as an additional section:

And be it further enacted, That the Secretary of the Treasury be authorized and required to audit and fix the interest accounts of Maine and Massachusetts for advances made by Massachusetts, then including Maine, for the United States during the war of 1812-15 with Great Britain, upon the basis that the claim for these advances belonged after the separation of the two States one third to Maine and two thirds to Massachusetts, and reckoning interest at six per cent. per annum, and that he is hereby authorized and directed to pay to Maine and Massachusetts out of any money in the Treasury not otherwise appropriated such sums as he shall ascertain to be due to these States as herein directed to be audited and fixed: *Provided*, That in lieu of payment in money the Secretary of the Treasury may at his discretion issue to these States bonds of the United States, payable in thirty years, bearing interest at the rate of six per centum per annum, payable semi-annually the principal and interest—

Mr. CONKLING. I raise a question of order, and I object to the reading of this amendment. I inquire of the Chair if this is not the amendment which the Senate by a vote determined to be out of order on this bill. If it is, until that action is reversed, I object to its being read or entertained.

The PRESIDING OFFICER. The Chair understands it is the same amendment.

Mr. CONKLING. Then I ask the Chair to decide whether, it having been determined by the Senate and announced by the Presiding Officer to be out of order, it is in order to offer it?

Mr. SUMNER. At the second stage of the bill? Yes.

Mr. CONKLING. At the second stage of the bill! I wonder if the Senator from Massachusetts is serious in that.

Mr. SUMNER. Certainly.

Mr. CONKLING. Suppose it had not been left to the Senate, and the Chair alone had decided that a certain amendment, because, if you please, it was not germane, or for any other reason, was not in order upon a certain bill, would it be any more in order at one stage than at another? If the objection was that that was not the stage some other stage might make it in order; but when the objection is that the rule of the Senate prevents its being offered at all as an amendment to this bill what difference does it make what the stage is at which it is offered, first or last?

The PRESIDING OFFICER. The Senate has not decided the question; but the Senate as in Committee of the Whole decided the question.

Mr. SHERMAN. A question of order is never referred to a committee. The Senate, as the Senate of the United States, decided the question that this was not admissible. It was not referred to a committee at all; the bill was in committee; but the Senate have decided deliberately; and now the question is whether the Chair will carry out the vote of the Senate and enforce the order of the Senate. This, it seems to me, is the question.

The PRESIDING OFFICER. Does the Senator from Ohio make the point of order on the question whether it is proper to consider in the Senate what was considered as in Committee of the Whole?

Mr. SHERMAN. That point of order was made the other day, and was decided by the Senate. As a matter of course, it is the duty of the Chair to execute that decision of the Senate. It so strikes me.

Mr. SUMNER. But I would ask whether the Senate may not five minutes after it has ruled one way rule the other way? It may reconsider its action. It may in a fuller light say that it has ruled wrongly, and rule differently.

Mr. SHERMAN. The Senator can undoubtedly move to reconsider; but until that is done I appeal to the Senator from Massachusetts on this question of order, until the Senate does reconsider its action is not the Chair bound to enforce the order of the Senate that this is a private claim without putting a Senator again to the necessity of making the point of order?

Mr. SUMNER. I beg pardon of the Senator. The Chair may do now as the Chair did formerly, refer it to the Senate. The question raised is in order to defeat the proposition. It has been voted on once in Committee of the Whole; but it may be raised in the Senate and voted upon again; and how often does it occur that an objection made in the committee is not continued in the Senate? Again and again propositions that fail in the committee are carried in the Senate; and I think that this may be in the end no exception to that rule which occurs so often. I see no reason why the Senate should not act directly upon this now that it is moved again as it acted directly before. The question now is a new one. Because the Senate has decided a rule of order one way yesterday that is no reason why a proposition should be excluded in conformity with that decision. The whole question is open again to another vote.

Mr. FESSENDEN. I believe the rule is, as a rule of practice in the Senate, that a proposition moved once upon a bill and rejected cannot be offered again until that decision has been reversed; but that does not apply to the same proposition when offered in Committee of the Whole and again offered in the Senate. If this had been offered in the Senate once and objected to and ruled out, taking the substance of it, it could not be offered again until that decision was reconsidered. There is the distinction between the Senate and the committee. Nothing done in committee is binding upon the Senate. We act upon bills in committee for that very reason, that it shall not be considered binding until we get into the Senate. The same proposition, *in totidem verbis*, is offered over again without objection simply because the action of the Committee of the Whole is, just like the action of a committee, out of this body instead of in it.

Mr. MORTON. I ask the Senator if the decision of a point of order in committee is ever binding in the Senate?

Mr. FESSENDEN. That is what I was coming to. How you can make a distinction between a point of order and a proposition acted upon severally in the committee and in the House I cannot understand. The idea of our acting in committee is that nothing done there is binding conclusively upon a bill, because we must get into the Senate before the action is conclusive. It is not a Senate when we are acting upon a bill the first time, and it is so considered. That rule has precisely the same application to a point of order raised as it has to a proposition made, and it is for the purpose that I have spoken of and to accomplish the object I have referred to. Therefore the point taken by the Senator from New York, enforced by the Senator from Ohio is an entirely new point of order. I never have heard it raised before. You must come to the question of the capacity in which we were acting and not the proposition. The capacity in which we were acting at the time was as a committee of the Senate; now we are acting as a Senate, and that makes the difference.

Mr. CONKLING. The point suggested by the honorable Senator from Maine is a point which at least we can appreciate. It is very hard to appreciate the suggestion which was made before. This question of order was acted upon once under the rule of the Senate. It was the right of any member of the body within the period prescribed to move to reconsider. That no member of the body did, and the time

has elapsed. Now, when the honorable Senator from Massachusetts says the question having been passed upon one way may be determined at another time in another way, he makes a remark applicable perhaps to almost everything but a question of order; not applicable to a question of order unless disorder and chaos is to be the aim of the body. The Presiding Officer had the right, and chose to exercise the right, of submitting this question to the Senate. There I agree with the Senator from Ohio, because the rule which enabled him to do this provides:

"The Presiding Officer may call for the sense of the Senate on any question of order."

That was the "sense" in fact and the "sense" expressed as I understand it, albeit at the moment the bill as to which the question arose resided in Committee of the Whole. Now what is the meaning of this rule, and what was the object of the Presiding Officer in submitting the question? In order that the Chair might be advised upon a question either doubtful or enlisting so much interest in the body that he preferred not himself alone to determine it, he submitted the question to the body.

No matter now whether the point be well taken or not by the Senator from Maine, that you can distinguish between the Senate and the Committee of the Whole, to the same body in fact and in substance the Presiding Officer submitted the question for what? In order that he might determine the judgment, the collected judgment of that body upon the question of order. Now, sir, suppose he had the right—physically of course he would have the right, but suppose he would have the right beyond that—to submit it over again, ought he to do it? Would it be anything less than frivolous for him to do it? This question of order was discussed at length the other day and determined by the same body, no matter under which name, in which the proposition is presented again. It was determined in that way; and I ask without any disrespect to Senators is it not frivolous that a Presiding Officer should refuse to execute the order and judgment of the Senate and should fall back upon the rule, and say "I will submit this again, twenty times in a day or in a session if it is renewed so often?"

I submit that the whole mission of the rule is to enable the Chair to advise himself of the construction which the Senate will put on the rule. Of that opportunity the Chair availed himself, and it cost a good deal of the time of this body. The question was answered upon the yeas and nays. It is presented again, not only the same question technically, but literally the same question. Now, while it may be that the Chair can say, "I choose again, although I have been once advised, to betake myself to the Senate and to commit this question to the decision of the Senate," I humbly submit that no discreet and firm Presiding Officer would do any such thing, because he would know that the rule had been once satisfied; that he had been once emphatically informed of the judgment of the Senate in reference to the application of that rule to the case in hand, and so he would stand to and abide by that judgment. Therefore I submit the point, and I ask the present occupant of the Chair to execute the determination of the Senate.

Mr. MORTON. It is rather a remarkable doctrine that a decision of a point of order last Friday is to be binding on the Senate for all time. The Senate had a right to reverse that decision an hour afterward or the next day or at any time. If that vote had established a new general rule which was to be incorporated in our collection of rules that would be a different thing; but it was simply a decision of a point of order for the time being, which the Senate might reverse in the next ten minutes if it thought better of it. Now, the idea is that the vote on last Friday is to be binding on the Senate for all time; for

if it is binding upon us to-day it is binding upon us at the next session and the following session.

Mr. CONKLING. I ask the honorable Senator to allow me to correct him. I have heard no such suggestion. My point is that it is the duty of the Chair, I submit now, to hold the Senate to its ruling. If the Senator chooses to appeal from that ruling and the Senate chooses to reverse it so be it. My point is that in the first instance it is the discreet and fair duty of the Chair to enforce the determination of the Senate.

Mr. MORTON. I understood the Senator to make the argument that the decision was by the same body in committee as in the Senate, and that it was binding; but as his argument now simply goes to the instruction of the Chair as to what the Chair ought to do in the premises I do not wish to enter into the controversy between the Chair and the Senator from New York, and therefore shall say no more upon it.

Mr. SUMNER. Had the President of the Senate himself expressed an opinion on this question of order I can imagine he might feel personally and officially bound by it; but he did no such thing. He submitted the question to the Senate, and it was then passed upon by the yeas and nays. It is within the recollection of the Senate that there was not a large attendance; at least many Senators interested in this question were, within my knowledge, absent from their places. Now, what is more common in the business of the Senate, I would say almost every day, when a measure has been hastily acted upon and Senators are out of their places, than to present it again at a later stage of the discussion in order to have the advantage of another decision? That is all that it is now proposed to do.

But I understand the Senator from New York to suggest or to insist that a law was adopted like that of the Medes and Persians the other day, irrevocable. It might have been reconsidered, according to the Senator, had a motion to reconsider been properly made within the time in which such motions may be made; but according to his argument the question cannot be submitted at the next stage of the bill. To that I have to reply that the rule of the Senate is general and universal. When a bill reaches the second stage it is open to amendment precisely as it was in committee, nor can any proposition which was in order in committee be otherwise than in order before the Senate. No vote of the Senate in committee can tie the hands of the Senate afterward, when the bill is at the next stage. But the argument of the Senator from New York assumes the contrary. He would tie up the Senate forevermore. He would limit the powers of the Senate at the second stage of the bill by the ruling that he would have always. Sir, I insist that the powers of the Senate at the second stage are universal. Let the motion be made, and it is open to every question, to every privilege, and to every acceptance that it could enjoy at the first stage; and that, I insist, is the case now.

The PRESIDING OFFICER. (Mr. POMEROY.) This debate is considered as being proceeded with by unanimous consent.

Mr. FRELINGHUYSEN. I cannot entirely agree with the Senator from New York that it is not competent and in order now to make the proposition which has been made; but when the proposition is made as a matter of course the Chair will decide it out of order, because the Chair has taken the sense of the Senate, not as the Senator from Indiana suggests, that that vote of the Senate made a new rule of order; but it was an adjudication that the existing general rules of order did govern this particular case, and that under the general rules the proposition is out of order. Then, if the friends of the measure desire to do so, they can appeal from the decision of the Chair, and the question will be put to the Senate whether the decision of the Chair shall stand as the sense

of the Senate. The point of order being now raised, as it has been by the Senator from Ohio, I respectfully submit that it is the duty of the Chair, in view of what has transpired and in accordance with the expressed sense of the Senate, to declare it out of order. Then let an appeal be taken if it is desired, and the question can be decided.

The PRESIDING OFFICER. The Chair understands the question of order to be the one submitted by the Senator from New York. The Chair did not understand the Senator from Ohio to submit a question of order. The question of order submitted by the Senator from New York is not whether this amendment is germane to the appropriation bill or not, but it is precisely this: whether the decision of the Senate on a question of order while considering a bill as in Committee of the Whole is binding upon the Senate when that bill is being considered in the Senate?

Mr. CONKLING. I beg pardon of the Chair; that was not the point.

The PRESIDING OFFICER. Will the Senator state his point? That is the way the Chair understood it.

Mr. CONKLING. I raise the point of order that under the thirtieth rule this amendment is not in order; and I remind the Chair that that has been the construction of the rule by the Senate in this very case; or, if there be a distinction, then by the Committee of the Whole in this very case. But my point is upon the rule, and that this amendment is not in order.

Mr. HENDRICKS. Mr. President—

The PRESIDING OFFICER. The Chair will state the question. The Chair understood the Senator's point of order to be that the amendment is not in order to the appropriation bill—the same point of order that was made when we were in Committee of the Whole. This debate, it is understood, is proceeded with by the unanimous consent of the Senate.

Mr. HENDRICKS. I do not desire to debate it, but simply to add that the Senate decided that this amendment was not in order under the rules of the Senate to a bill of this sort, it being a private claim proposed upon a general appropriation bill. Now, the argument of the Senator from New York is, that the Senate having decided it, the question being now made to the Chair, the Chair is bound by the ruling of the Senate.

Mr. CONKLING. Until the Senate reverses it.

Mr. HENDRICKS. Until the Senate reverses it; and it is not a question of judgment for the Chair except to carry out the ruling of the Senate. The point made in Committee of the Whole was that this proposition was not in order to the bill, not the question whether it was in order in committee, but whether it was in order under the rules of the Senate to the bill. That being decided, of course it is conclusive upon the Chair.

The PRESIDING OFFICER. The Chair thinks that under the practice of the Senate all propositions that are submitted to the Senate as in Committee of the Whole, if they are rejected in Committee of the Whole, may be renewed in the Senate. At any rate the Senate was about equally divided upon this question, and the present occupant of the Chair being here but for the moment, does not think it his duty to decide any question upon mere technicalities. He will therefore take the sense of the Senate upon the question whether it is in order to move the amendment suggested by the Senator from Massachusetts.

Mr. SUMNER. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SUMNER. Before the vote is taken I desire to call attention to two additional precedents bearing on this case. One will be found in the Congressional Globe, third session, Thirty-Fourth Congress, page 1046. It was where an amendment was moved to pay the State of Arkansas for expenses incurred in

1849. It was on the Army appropriation bill. Mr. Hunter, chairman of the Finance Committee, said as follows—I quote his precise words:

"This amendment proposes an appropriation for a claim of a State, and should go on some other bill than the Army bill."

It will be observed that Mr. Hunter's objection was, not that the motion was out of order on a general appropriation bill or because it came from a State, but that it was out of place on the Army bill. He did not call it a private bill. Now, what was said by the chairman of the Military Committee at the time, Mr. Welser? Here are his words:

"I do not know where this amendment could be placed except upon the Army bill. It is for the payment of military service."

The amendment was then agreed to without a decision. That appears in the Globe. Then there is another case which I have before me—

Mr. TRUMBULL. I rise to a question of order. I understand it to be the rule of the Senate that all questions of order are to be decided without debate. The Chair would so decide if it were submitted to him; and now, as it is submitted to the Senate, I insist that the Senate must decide this question of order without debate.

Mr. SUMNER. I have no desire to say anything more. The other day we discussed it at great length. I am merely adducing some additional precedents. I am perfectly willing to have a vote.

The PRESIDING OFFICER. All questions of order submitted to the Chair must be decided without debate.

Mr. SUMNER. Very well; I ask for a vote.

The PRESIDING OFFICER. It has been the custom, however, when a question is submitted to the Senate for the Senate to take the privilege of debating it.

Mr. WILLIAMS. I should like to make an inquiry. Is this the identical question which was decided the other day that we are now to decide upon, or is it a question whether or not the Senate is bound by the decision of the Senate in committee?

The PRESIDING OFFICER. The Chair understands this to be the identical question decided in Committee of the Whole whether the amendment is germane to the bill, and whether it can be put on an appropriation bill under the thirtieth rule of the Senate.

The question being taken by yeas and nays, resulted—yeas 25, nays 20; as follows:

YEAS—Messrs. Abbott, Anthony, Cameron, Corbett, Cragin, Doolittle, Fessenden, Fowler, Harlan, McDonald, Morrill of Maine, Morton, Norton, Nye, Osborn, Patterson of New Hampshire, Ramsey, Rice, Ross, Sawyer, Spencer, Sumner, Tipton, Warner, and Wilson—25.

NAYS—Messrs. Buckalew, Chandler, Conkling, Davis, Drake, Ferry, Frelighuysen, Grimes, Henderson, Hendricks, McCreery, Morgan, Morrill of Vermont, Patterson of Tennessee, Robertson, Sherman, Trumbull, Van Winkle, Willey, and Williams—20.

ABSENT—Messrs. Bayard, Cattell, Cole, Conness, Dixon, Edmunds, Harris, Howard, Howe, Kellogg, Pomeroy, Pool, Sanlisbury, Sprague, Stewart, Thayer, Vickers, Wade, Welch, Whyte, and Yates—21.

The PRESIDING OFFICER. The Senate decide that the amendment is in order.

Mr. GRIMES. Questions of order having been disposed of, I suppose now this proposition stands upon its own merits.

Mr. President, there are some exceedingly interesting things in connection with this proposition, some exceedingly interesting developments that have been made in regard to it, and there are some that have not yet been made, which I wish the Senate and the country to learn.

In the first place, it will be particularly pleasant to know how the claim originated. According to the history I have read I had supposed that Massachusetts was not exceedingly enthusiastic in favor of the war of 1812–15. At any rate it took that State forty-seven years to convince Congress that she had made any advances at all, according to the statements that have been made both by the Senator from Massachusetts [Mr. SUMNER] and the Senator from New Hampshire, [Mr. PATTERSON], who is in

part the representative of this claim on this floor; for they say that the principal of the claim was not paid until 1859. At that time the Government of the United States settled finally as it supposed with the States of Massachusetts and Maine. There was no claim preferred by either of those States, so far as the record appears and so far as has been stated by either of the Senators who have advocated the claim, on the subject of interest. The matter of interest was an afterthought. It was never presented by these exceedingly patriotic States, these States that claim to have suffered so much in behalf of the country during the war, until about five or six years ago in the midst of the civil war, when the energies of the country were crippled for the want of money. Then it was that through the instrumentality of some gentlemen who represented a railroad company in the State of Maine that has since disseminated its influences into Ohio and Pennsylvania, the States of Maine and Massachusetts appeared before the country claiming a payment for interest upon the advances that they had made of money during the war of 1812–14.

Then, Mr. President, there are some exceedingly interesting things in connection with the way in which the matter has been conducted here. When this claim came to the Senate, instead of being referred to the Committee on Claims or the Committee on Military Affairs to investigate a question of this sort, as would be the ordinary course of proceeding, it seems to have been referred to the Committee on Foreign Relations, where there happen—which does not occur in any other case in connection with any of our committees—to be a Senator from the State of Massachusetts, another one from the State of Maine, and another from the neighboring State of New Hampshire. I know how that is said to have occurred. The States of Maine and Massachusetts had several claims. They were combined in one petition. They were sent to committees while they were in that combination. All the claims have been allowed except this particular one, which did not relate to anything that had arisen under the Ashburton treaty, but related to an entirely separate and independent matter. At the instance of the Senator from Massachusetts, I believe, it was referred to his committee.

Mr. SUMNER. No; I beg your pardon. I had nothing to do with the reference.

Mr. GRIMES. Well, at the instance of some gentleman who was in favor of this claim it was referred to the Committee on Foreign Relations. That committee has not honored us or enlightened us with a report on the subject. We do not know anything about the facts. One gentleman who has talked to us in favor of the claim tells us that there is a precedent, and only one; and that is the precedent of the State of Maryland. Another one, the Senator from New Hampshire, [Mr. PATTERSON], who is also a member of that committee, says that there are several States that have been allowed interest on their claims, and that one of them is his own State of New Hampshire, and that Maine should be allowed interest in this instance. Where are the facts? Why do they not put themselves on the record on that subject? Why was it referred to the committee but for the committee to give us the enlightened judgment of that collective body? We have nothing that goes on record to show what the facts are.

It is true that this matter was referred to a committee in the House of Representatives in the Thirty-Eighth or Thirty-Ninth Congress. I have taken the trouble to examine their report. Five of the members of that committee united generally in favor of a claim of interest. At that time, I believe, it was understood that this interest amounted to only \$170,000. Four gentlemen of the committee united in an opinion saying that it was wholly unauthorized and unexampled for a State to demand a claim of this kind. The majority of the committee, of which the Senator from New Hampshire was the organ, only referred as a precedent to the

Maryland case to support the claim in this instance.

But, Mr. President, not only has the claim itself which is made against this Government expanded and enlarged, but the influences that control it and that are relied upon to carry it through Congress have been enlarged and extended. This claim is not for the benefit or to go to the government of the States of Maine and Massachusetts. The States of Maine and Massachusetts have already, owning as they claim to do according to the proposition before us two thirds in Massachusetts and one third in Maine, conveyed their title to a railroad corporation; and I saw some of the directors of that railroad corporation on the floor here to-day using the courtesy, I suppose, of the body to enlighten the minds of Senators in behalf of this claim.

I know that we have been in the habit of dealing in large sums of money, so much so that we are accustomed to regard seven hundred thousand or one million dollars as a matter of very small consequence; but let me admonish Senators that there is vastly more than that involved in this claim. You are going to establish a principle by passing it which will involve scores of millions of dollars. I know of claims in the pockets of Senators here to-day, ready to be presented upon the strength of the precedent you are going to establish in this case. There are States that claim to have made advances for one thing and another during this war to the amount of eight or ten million dollars each, each of whom will claim not only the amount which they are said to have advanced, but interest and compound interest upon that amount, and you will never get to the end of such claims.

I do not know that I have any special interest in this case, or that my constituents have any special interest in the case any more than the people of any other State, except that we have defrayed the expenses of our government; we have carried our State through the war upon our own resources, supporting ourselves by our own taxes; and if we have got to pay interest upon everything that has been advanced, and interest upon sums upon which there has been what was understood to be a final settlement and conclusion of the whole claim, it may be rather oppressive upon the people of my State, as the Senator from Indiana [Mr. MORTON] may in some future time find it is oppressive upon the people of his State.

Mr. SUMNER. The remarks of the Senator from Iowa seem to turn, so far as I apprehend them, on two points. The first was a suggestion with regard to the conduct of Massachusetts at the time when these claims occurred; and the second was another suggestion that if this interest account was recognized it would be a dangerous and costly precedent to the country. As to the first suggestion of the Senator, I am not here to discuss the conduct of Massachusetts on that occasion. It does not belong to the case. It belongs to the history of this Republic; and there I know it forms a not uninteresting chapter; but it has nothing to do with the merits of the question now before us. It has already been amply discussed in Congress and out of Congress. In Congress it has received a formal adjudication from which there can be no appeal. Twice over have those claims been thoroughly, most profoundly discussed in Congress; and twice over have they been recognized as among the valid claims on the Government. And now, when the question at this late day arises as to the payment of interest on those claims, not as to the payment of any part of the claims themselves, but simply as to payment of interest on the claims, the Senator from Iowa goes back of the question of interest, back of the question of the claims, and impeaches the conduct of the State of Massachusetts. Sir, I repeat again that does not belong to the case; it has nothing to do with it; it is settled. Some things must be treated as settled in the conduct of legislative.

business; and that is one of the things that this Congress cannot open for debate again. The principal has already been paid on the original claims, and I say that settles the first question which the Senator from Iowa raised.

And now the second question, as I understood him, was that this would be a dangerous and costly precedent to the Republic. Why so? Massachusetts is the only State that made advances to the national Government during the war of 1812 whose interest accounts have not been settled; and now when I propose that you shall settle them and close that book of the war 1812 the Senator from Iowa says you cannot do it without establishing a dangerous precedent. Why so? The precedent is already established with regard to every other State that has made advances to the national Government. I have before me here a memorandum showing that the interest has been allowed to Virginia for her advances, to Maryland for hers, to Delaware for hers, to New York for hers, to Pennsylvania for hers, to South Carolina for hers; and I am not aware that there is a single State that made any advances to the national Government during the war of 1812 that has not had its accounts fully closed and the interest paid to the last dollar except Massachusetts.

Now, sir, is there any reason for an exception with regard to Massachusetts? I resist as absolutely inapplicable to the case every suggestion in disparagement of the conduct of Massachusetts. That belongs, whatever it may be, for weal or woe, to the history of the past. The simple, practical question for you is, whether you will treat Massachusetts with regard to a claim the validity of which you have already twice over recognized as you treat every State in the Union? Sir, you cannot refuse to pay this interest without making an exception in disparagement of her. I have before me the statute-book which contains the act authorizing the payment of the interest due to the State of New York. Is there any reason why you should pay interest to the State of New York that is not equally strong for the payment of interest to the State of Massachusetts? Certainly not. Here it is:

"That the proper officers of the Treasury Department be, and they are hereby, authorized and directed to liquidate and settle the claim of the State of New York against the United States for interest upon loans on moneys borrowed and actually expended by her for the use and benefit of the United States during the late war with Great Britain."

There is the precedent, solid, precisely applicable. You have got to go back on your statute-book and have all these original payments of interest refunded to put those States on an equality with Massachusetts.

Mr. SHERMAN. What page and volume is that?

Mr. SUMNER. Page 192, volume four of the Statutes-at-Large. The act was passed May 22, 1826. The same volume contains the acts for Virginia, Maryland, Delaware, New York, Pennsylvania, and South Carolina. With regard to Maryland, which is perhaps the case most in point, it is entitled "An act authorizing the payment of interest due to the State of Maryland," and it goes on as in the New York statute:

"That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed to liquidate and settle the claim of the State of Maryland against the United States for interest upon loans on moneys borrowed and actually expended by her for the use and benefit of the United States during the late war with Great Britain."

That was passed May 13, 1826. Afterward, we have that famous section, particularly applicable to this case, in which Congress decided the rule with regard to interest growing out of the claims in Maryland as follows:

"That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to reexamine the account between the United States and the State of Maryland as the same was from time to time adjusted under the act passed on the 13th of May, 1826, and to assume the sums expended by the State of Maryland for the use and benefit of the United States, and the sums refunded and repaid by the United States to the said State and the times of such payments as being correctly stated in the ac-

count as the same has heretofore been passed at the Treasury Department; but in the calculation of interests due under the act aforesaid the following rules shall be observed, to wit: interest shall be calculated up to the time of any payment made. To this interest the payment shall be first applied, and if it exceed the interest due the balance shall be applied to diminish the principal; if the payment fall short of the interest the balance of interest shall not be added to the principal so as to produce interest. Second, interest shall be allowed the State of Maryland on such sums only on which the said State either paid interest or lost interest by the transfer of an interest-bearing fund."

That is the rule which is known as the Maryland rule. I understand it is now adopted at the Treasury in settlement of accounts with States. The account of Massachusetts will be subjected to this rule.

Mr. DRAKE. I inquire of the honorable Senator whether that rule is expressed in the proposed amendment?

Mr. SUMNER. It is not; because on inquiry at the Treasury Department it was ascertained that it was the rule of the Department and that there was no need of expressing it.

Mr. DRAKE. It is better to have it expressed.

Mr. SUMNER. That is the explanation in answer to the Senator.

Mr. HOWARD. Will the Senator from Massachusetts allow me to ask him a question? Mr. SUMNER. Certainly.

Mr. HOWARD. I understand that the principal of these advances made by Massachusetts was repaid to the State some ten or twelve years ago by an appropriation by Congress.

Mr. SUMNER. The principal has been paid in two installments. The account of the principal was closed in 1859.

Mr. HOWARD. Very well; it has been paid. What I wish to inquire is, when this claim for interest was first presented to Congress and brought to the attention of Congress—for the Senator will of course recollect that here are fifty years that have elapsed since these advances were made, and it looks to me like a stale claim unless it was brought forward at some reasonably early period—there must be some time within which such a claim is to be barred by the universal understanding on subjects of that kind.

Mr. SUMNER. I am obliged to the Senator from Michigan for putting the question he has; although had he been present at the discussion the other day I think he would have found there was no occasion for his question, for I had already anticipated it. I have already said that the payment of the principal was in two installments—one made many years ago—leaving, however, a balance not yet liquidated. That afterward was liquidated in 1837, in the report made by J. R. Poinsett, Secretary of War, but it was not paid until 1859. I wish the Senator would bear that in mind; that the Secretary of War, in pursuance of an order from Congress, investigated this question, and he made a report in 1837 in which he adjusted the balance of principal then due to Massachusetts. Mark you, in 1837; and that balance of principal continued unpaid until 1859, when I find in the Army bill under date of March 3, 1859, the following section:

"That for the purpose of executing a resolution approved May 14, 1836, entitled 'A resolution to authorize the Secretary of War to receive additional evidence in support of the claims of Massachusetts and other States of the United States for disbursement services, &c., during the late war,' the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Massachusetts, out of any moneys in the Treasury not otherwise appropriated, the sum of \$227,176 48, reported under said resolution to be due to said State by J. R. Poinsett, late Secretary of War, in a report dated the 23d of December, 1837, made to the House of Representatives the 27th of December, 1837: *Provided*, That in lieu of payment in money the Secretary of the Treasury may at his discretion issue to said State United States stock bearing an interest of five per cent. per annum, and redeemable at the end of ten years, or sooner, at the pleasure of the President."

Now, sir, you will please bear in mind that this was in 1837; but nothing was done in pursuance of this report until 1859.

Mr. FESSENDEN. My friend will allow me to state that repeated efforts were made to get the claim, but Congress, under the pressure

of the strong arguments that my friend from Iowa has advanced this morning with regard to the conduct of Massachusetts during the war, repeatedly refused to make the appropriation; but in 1859 both Houses recognized the claim and paid the money.

Mr. SUMNER. The Senator states it precisely. That is the point. It was not recognized by Congress until 1859, and then we find the appropriation in the appropriation bill before me. Now, is the present claim for interest stale? Of course there was no claim for interest until the principal was finally adjusted. That was not until 1859. I need not remind the Senate what occurred immediately after 1859: how this country already at that time was darkened by the troubles that were before us; and Massachusetts, of course, was in no mood to appear as a claimant here at Washington while the troubles of the country were pending.

Mr. GRIMES. She came in the Thirty-Eighth Congress.

Mr. SUMNER. She came after the war was over.

Mr. GRIMES. Was the war over in the Thirty-Eighth Congress?

Mr. SUMNER. Was it not?

Mr. GRIMES. No, sir.

Mr. PATTERSON, of New Hampshire. This claim was presented in the Thirty-Eighth Congress, and a report was made favorable to the claim in the Thirty-Eighth Congress. It came up again in the Thirty-Ninth Congress, and a favorable report was made upon it in the Thirty-Ninth Congress; and, unless I mistake, the subject was up in the Maine Legislature previous to that time, so that there was only one year intervening between the time the principal was paid and the time that this claim for interest was urged in Congress.

Mr. GRIMES. The principal was paid by order of the Thirty-Fifth Congress, and the claim for interest was made at the latter end of the war, but during the six years past. The Thirty-Eighth Congress was less than six years ago.

Mr. FESSENDEN. If the Senator from Massachusetts will allow me, since that time I have a most distinct recollection that a bill was introduced into this body including the recast of the claim for interest of several States. That bill was brought forward in this body and was carried through this body, if I recollect aright. That was before this specific claim was made on the part of Massachusetts, so that there has been no delay except that which occurred during the immediate pressure of the war in prosecuting the claim.

Mr. SUMNER. The report which I have before me was made in the other House, January 25, 1867, and my own impression is that I had no knowledge of this claim until about the year before that, when I remember it was referred to a committee with which I am connected on the motion of the Senator from Maine; and in making that motion reasons were assigned for the reference to the Committee on Foreign Relations. It is not necessary for me to go into those, for the criticism of the Senator from Iowa in that respect is merely one of form.

Mr. FRELINGHUYSEN. I should like the Senator from Massachusetts to refer to the appropriation of 1859, that we may see what its language was.

Mr. SUMNER. I have just read it. It was the last thing I read.

Mr. DRAKE. Let us hear it again.

Mr. SUMNER. I read it from the statute which I have before me:

"That for the purpose of executing a resolution, approved May 14, 1836"—

Mark that date, if you please—

"entitled 'A resolution to authorize the Secretary of War to receive additional evidence in support of the claims of Massachusetts and other States of the United States'—"

Not only Massachusetts, but other States of the United States—

"for disbursement services, &c., during the late war," the Secretary of the Treasury be, and he is

herely authorized and directed to pay to Massachusetts out of any moneys in the Treasury not otherwise appropriated the sum of \$227,176 48, reported under said resolution to be due to said State by J. R. Poinsett, late Secretary of War, in a report dated the 23d of December, 1837, made to the House of Representatives the 27th of December, 1837."

Therefore you will observe that this appropriation in 1859 to pay that balance of the claims is twenty-two years after the Secretary of War had reported that that balance was due; and now I ask should we not have interest on that account? Should we not have interest on the principal that had been paid before and on which we have had no interest? Is there any reason why you should treat Massachusetts differently from Virginia, differently from New York, different from Maryland, different from Delaware, different from South Carolina. Every one of those States, according to your statute-book, has had an allowance of interest on its accounts. Massachusetts alone is excepted. Sir, I insist that it is not right; I insist that if this money was due as principal to Massachusetts, Massachusetts has a right to receive the interest on that principal, according to the rule adopted with other States. You can make no exception. You cannot have fish of one and flesh of another. There is nothing in the history of Massachusetts that will justify this Senate in making an exception against her.

I believe I have answered every suggestion made by the Senator from Iowa—his suggestion with regard to the history of Massachusetts; his suggestion with regard to the pernicious character of this as a precedent, and the other suggestions. If there is any adverse decision, any adverse argument on this question, I am ready to meet it.

Mr. DRAKE. I ask the honorable Senator from Massachusetts whether the principle established in this case will not apply to all the expenditures of the States during the war of the rebellion; and whether there are not millions upon millions of dollars of interest to be paid upon those expenses if this precedent be established?

Mr. SUMNER. I cannot answer the question of the Senator. If the cases are alike then the precedent will apply. If they are unlike, the precedent will not apply. It remains to be seen whether States in the war have borrowed money and paid interest accounts for the benefit of the United States. If they have borrowed and have paid interest for the benefit of the United States, then the case would be like that of Massachusetts now. But I put the case of Massachusetts now under the shield and protection of all the other precedents with regard to the other States of the Union that took part in the war of 1812. This is the only outstanding case; it is the only one that has not been settled; and I put it to my friend, the Senator from Missouri, whether he can conscientiously say that the rule that has been applied to every other State in the Union with regard to those accounts shall not be applied to Massachusetts. On what ground will he make an exception? On what ground will he undertake to say that what is right for Virginia and South Carolina and New York and Maryland and Delaware is not right for Massachusetts? Massachusetts has been out of her money longer than any of the other States. It is because the national Government toward her has been in default. Now, shall she be made to lose the whole because of the long-continued default of the nation?

Mr. DRAKE. I ask for the reading of the amendment.

The Chief Clerk read the amendment, as follows:

And be it further enacted, That the Secretary of the Treasury be authorized and required to audit and fix the interest accounts of Maine and Massachusetts for advances made by Massachusetts, then including Maine, for the United States during the war of 1812-15 with Great Britain upon the basis that the claim for these advances belonged, after the separation of the two States, one third to Maine and two thirds to Massachusetts, and reckoning interest at six per cent. per annum; and that he is hereby authorized and directed to pay to Maine and Massachusetts, out of any money in the Treasury not otherwise appropriated, such sums as he shall ascertain to be

due to those States, as herein directed to be audited and fixed: *Provided, That in lieu of payment in money the Secretary of the Treasury may at his discretion issue to these States bonds of the United States payable in thirty years and bearing interest at the rate of six per cent. per annum, payable semi-annually; the principal and interest of such bonds to be made payable in lawful money of the United States.*

Mr. GRIMES. I desire to amend the amendment so as to put it in exactly the same condition with the case of Maryland. I have copied the words from the Maryland section, which is quoted as precedent and authority. It is to add these words:

But interest shall be allowed to the States of Massachusetts and Maine on such sums only on which the said State of Massachusetts either paid interest, or lost interest by the transfer of an interest-bearing fund.

Mr. CONNESS. The words "or Maine" ought to be inserted, I think.

Mr. GRIMES. No; it is right. It was all Massachusetts at that time.

Mr. DRAKE. That is the very point on which I intended to offer an amendment.

Mr. SUMNER. Very well; let it go on the amendment. I accept it.

Mr. DRAKE. I merely wish to say that that which the Senator from Massachusetts is claiming with so much vehemence here is not the thing that the amendment proposes to give. The amendment as framed and sent to the Clerk's desk allowed Massachusetts interest upon all of her outlay, whether she paid interest for it or not. That is the point. The objection I was going to make is obviated by the amendment of the Senator from Iowa.

Mr. SUMNER. Allow me to say that this proposition in its original form contained the very suggestion of the Senator from Missouri. What was known as the Maryland rule was embodied in it. On inquiry at the Treasury Department it was ascertained that it was unnecessary, that it was merely a form; for the Maryland rule is now the rule of the Treasury of the United States. Therefore the proposition which I had the honor of presenting, were it adopted precisely as I presented it, would contain this same thing. I have no objection to its going into the amendment.

Mr. FRELINGHUYSEN. The Maryland rule, I believe, is the rule adopted now in all the courts. I observe that on the 3d March, 1859, there was a certain sum voted, which I suppose was so done at the instance of Massachusetts. I mean the appropriation of 1859 read by the Senator from Massachusetts. Then it was ascertained that the sum of \$227,176 48 should be paid.

Mr. SUMNER. The principal.

Mr. FRELINGHUYSEN. It does not say what. It says as I have read, \$227,176 48, and that was in 1859. That sum, I suppose, was introduced into that appropriation bill at the instance of Massachusetts. I suppose that Massachusetts was satisfied with that sum had it been paid. Now, I ask my friend from Massachusetts whether the amendment as introduced here only contemplates interest on that sum of \$227,176 48 from 1859, or whether it goes back of that?

Mr. SUMNER. It contemplates all the interest that upon an examination of the account at the Treasury of the United States shall be found due Massachusetts, nor more nor less.

Mr. FRELINGHUYSEN. So I understand.

Mr. SUMNER. If when we go to the Treasury it appears that there is interest due us I hope under those words it will be paid. That is my object—simply to reach the interest what is due. Of course if on inquiry it is found not to be due there will be nothing to be paid.

And now as to the inquiry of my friend, why was not interest mentioned in 1859. The object was to close the account of the principal, and to close it on the report of the Secretary of War in 1837. That was taken according to the letter, and nothing was then said about the interest. Is that different from other accounts which occur so often in this Chamber?

First secure the principal; let that be fixed; and then we can better afford to deal with the question of interest.

Mr. FRELINGHUYSEN. I think that the claim of Massachusetts is contrary to all business transactions. In 1859 there was a settlement. There was introduced into the appropriation bill a sum, doubtless at the instance of Massachusetts, what was claimed by her, and that was adopted. Now, to go back of that settlement and to claim interest anterior to that is contrary to all business transactions. As to the suggestion of the Senator from Massachusetts that the object was to get the principal paid and to leave the interest unpaid, that would be a very extraordinary proceeding, because according to strict rules of law I suppose that interest is only an incident to principal; and that if we stand to the strict law, the principal being paid, there could arise no question of interest; but of course those two rules are not applicable. I certainly think that there is no propriety about a claim for interest anterior to 1859.

Mr. SUMNER. Allow me to ask my friend why he will treat Massachusetts different from Maryland? Her accounts were opened in 1857, and what is known as the Maryland rule was adopted. All that I ask now is that the same rule shall be adopted towards Massachusetts.

Mr. FRELINGHUYSEN. We cannot, when we come to consider one case, try the case of Maryland and all the other cases at the same time. If the Maryland precedent was contrary to law it ought not to be accepted as a precedent. But this claim for interest anterior to 1859 for anything more than was agreed to and accepted I think is unjust.

Mr. FESSENDEN. I think my honorable friend from New Jersey, who is too fair a man to even make a mistake unintentionally, (if I may use that rather awkward mode of speech,) argues this matter rather like a lawyer. Now, sir, let us look at the facts as they are known to history, as everybody who has studied the history of the time knows them to be; and when that history is thoroughly understood by men of the present day, and more especially by my honorable friend from New Jersey, I trust that the idea which he seems to convey to the Senate will no longer appear so very plausible even to himself.

Does the Senator remember—the Senator from Iowa has called the attention of the Senate to the fact—that in the time of that war with Great Britain Massachusetts came in collision with the Government of the United States as to the question of how troops raised within the State of Massachusetts should be officered and what use should be made of them? It made great noise at the time. The men in power in Massachusetts in that day thought their Governor was right. Succeeding generations have come to the conclusion, I believe, that their Governor was wrong. It was the action of the Federal party, so-called. I am of Federal descent; but on looking at some of the questions of those days I am free to say that I think that party was in error and that was one of the mistakes it made; but what was the result of it? The result of it was that when Massachusetts and other States came to Congress with claims for actual advances made for the benefit of the Government of the United States that State was singled out by the Democratic party, which was in a large majority, and continued to be for a great many years long after the Federal party, so-called, became extinct. That State came to Congress with other States with precisely similar claims; but its claims were rejected. The Congress of the United States refused to pay them, not upon the ground that the expenses had not been incurred, not upon the ground that the money had not been advanced, but upon the ground, and the sole ground, that Massachusetts had disputed the authority of the General Government in relation to the management of its troops.

That continued a matter of contest for many years; and it was not until after a considerable

number of years, although persistently demanded, that even a part of the just claim of the State of Massachusetts was recognized by the General Government and paid, and then only partially. The balance of the claim went on until the year 1837, or about that time. It was then, under the authority of Congress, adjusted at the War Department as to what amount of claim remained to Massachusetts, not of interest, but of actual payments and advances made by the State; and under the authority of Congress the Secretary of War audited the accounts and found that a certain sum was still due for those claims and advances. What did Congress do? Notwithstanding that that was found to be actually due, money paid by the Commonwealth of Massachusetts for the benefit of the General Government, Congress persisted year after year in refusing to make an appropriation to pay that money, which it admitted had been advanced by the Commonwealth of Massachusetts.

I came to the Senate in 1854. The subject was brought to my attention by an agent of the State of Maine. After several efforts the matter was brought forward. It was shown that these claims had been audited; that they had been allowed; that there was a certain sum of money due, according to the admission of the authorities of the General Government, which had stood for twenty or thirty years unpaid, because Congress would not make an appropriation to pay the debt which it admitted the General Government owed. In 1859 we succeeded in getting an order to pay that amount.

The Senator from New Jersey asks, why did you not get interest at the same time? I will answer him. We did not ask for interest at that time, simply for the reason that we were glad enough to get the principal. It was hard enough to get that. That was a fixed sum; and I did not dare to ask for interest upon that principal. That was the simple reason. We waived no claim; but with the class we had to contend against, year after year, in relation to a sum admitted to be due by the Government of the United States to the State of Massachusetts, I could not undertake and it would not have been wise for us to undertake to embarrass that claim with a claim of interest.

Now, sir, what is righteous? I put it to my honorable friend from New Jersey as a man of conscience, as a man of honor. At that period, 1859, Congress had paid interest to Maryland, had paid interest to New York, had paid interest to South Carolina, to Pennsylvania, and to other States, on claims precisely similar. They had actually paid it on moneys borrowed by the governments of those States, for which they had paid interest or lost interest by the sale of an interest-bearing fund in order to raise money for the Government of the United States. They had paid it and they had been in the enjoyment of it. Now, sir, having admitted in 1837 that the Government of the United States owed Massachusetts over two hundred thousand dollars, would it have been any more than honest that on that fixed sum, admitted at that time, which they ought to have paid at that moment, and which they did pay to other States at that moment, they should pay interest on every dollar of it, not on the Maryland rule or any other rule, but on the rule that they had admitted that sum to be due? It had been audited at their Department and was not disputed; and yet, although it was not disputed and although not one word could be said against it, they persistently refused to pay that money. Ought not the Commonwealth of Massachusetts to have been in the possession of that money in the year 1837? As an honest thing, could you, as a Senator sitting here, say that the Commonwealth of Massachusetts ought not to have been paid that money the moment it was ascertained what was actually due to her? And if Congress persistently refused to pay it what ought to be the consequence? The ordinary, natural, equitable consequence, that they should pay interest on that whole sum, which they had liquidated at that time and admitted to be due to the Commonwealth of Mas-

sachusetts. Sir, I claim that the proposition of the honorable Senator from Massachusetts, as he introduced it in the first place, if it could be construed to give interest on the whole of the money thus admitted to be due at that time, whether it arose from the sale of an interest-bearing fund or money borrowed or anything else, would be no more than just and equitable. It would be no more than could be claimed of an individual. I ask my friend from New Jersey, as a lawyer, what he would advise a client to do in such a case as that, unless he took advantage of the statute of limitations, which, I take it, the Government of the United States does not care to take advantage of in this case, although there is a terrible squinting toward that, that inasmuch as we have not got it for many years, therefore we ought not to have it at all. If that is equity, if that is good morals—

Mr. HOWARD. If the Senator will allow me, if he alludes to me, I asked the honorable Senator from Massachusetts whether any claim had been made for interest. If the claim had been made and persevered in for interest, and the party claiming it had attended to it from year to year and kept it alive, then there would be no prescription or limitation against it; but I think the case here is that there has been no claim for interest. It has been omitted, abandoned, laid aside.

Mr. PATTERSON, of New Hampshire. If the gentleman from Maine will allow me, I will state that commissioners were appointed by Maine and Massachusetts to settle this claim against the Government in the very first Congress after the principal was settled in 1859, and those commissioners presented a memorial, and it was referred in Congress the very first session after the principal was settled.

Mr. FESSENDEN. My friend from Michigan will observe that we could not get the principal.

Mr. HOWARD. That is no reason for not claiming both principal and interest because you could not get the principal.

Mr. FESSENDEN. Perhaps not; but was it not hard enough to be put off for twenty odd years; and what chance had we to be heard until we could establish to the satisfaction of an existing Congress the fact that we were entitled to the principal? They would not admit that. There was the difficulty. They would not admit that we should have a dollar of the amount which had been liquidated and allowed us on paper by the General Government under the authority of Congress, but for a period of more than twenty years refused to pay that balance for no other reason in the world than because they said they would not.

Mr. HOWARD. If the Senator will pardon me, I will call his attention to the report of Mr. Poinsett, from which it appears that in 1817 the State was paid \$11,000, and in 1831 the State was paid \$419,748 26. So it does not appear that there was any very long hesitation on the part of Congress to recognize the claim.

Mr. FESSENDEN. That small amount that was paid in 1817 had no reference to the question which I have now been discussing. Those were disputed claims; but the great mass of the claims were paid as I tell you. A portion was paid as the Senator says at that time, but it left an unsettled portion which Congress would not pay. That unsettled portion was liquidated in 1837, and from 1837, after the liquidation, we could not get a dollar even of the principal. Now the idea of throwing it in our faces when Congress was refusing to admit that the principal was due that we ought to have embarrassed our claim with interest at that time is demanding a little too much of us and holding us to rather too strict a rule. I submit to my honorable friend what chance would we have had for such a "claim?" We acted, I take it, with as much good sense as we could bring to bear on the question in order to make the whole thing succeed.

I say, therefore, sir, as I was saying when interrupted by my honorable friend, that in justice and equity we ought to have this six per cent. interest from the year 1837, when

that liquidation was made. The claim would be good in a court of law in the case of a private party, as my honorable friend knows. The claim would be good anywhere; and if this had been a suit to be adjusted as ordinary suits are it would have carried interest by the ruling of any court. There is no question about that at all. Now, the argument is, that because Congress refused to pay its own liquidated and admitted debts at a particular time, we are to lose interest for the reason that we did not ask for interest at that particular period. What is the sequence or the sequel? Why, sir, during these years, half a dozen other States, as I said before, came forward and demanded interest. The State of New York demanded interest and the State of New York had it—interest on the money that it had borrowed and for which it had paid interest, interest on the money that it had raised by the sale of an interest-bearing fund. That was paid and given to New York. So it was with the State of Maryland. So it was with the other States I have mentioned. Every one of them had it. Massachusetts did not have it; and why? Massachusetts did not have it because Congress fought the principal. They paid the principal in the other cases, paid it when it became due, paid it when it was liquidated. No claim for interest was made then. Why was not the objection made? They got their money. Massachusetts did not get hers for the reason I have stated. After they had received their money upon that very rule these States came forward and claimed that they should have interest on the principle of this measure as it stands now amended at the suggestion of my honorable friend from Missouri, and long before 1859.

Then, sir, we having succeeded at last in 1859 in getting our principal, as the other States had got theirs, we came forward at once with precisely the same claim that these other States had and said this: "Now, at last you have paid us our principal; you paid the principal to these other States long ago; they had their money; now we ask our interest, because you paid the interest to these States long ago; they had their money; put us precisely on the footing that you have put other States of this Union; deal with us justly and honestly as you have dealt by others." That is all we ask in relation to this matter. Sir, from 1859, through our Legislature, through bills in Congress, through applications of one sort and another, we have kept this claim alive and are determined to keep it alive until we find out, once for all, whether Massachusetts is to be treated as other States have been treated in relation to this matter.

I say, then, Mr. President, that it is a question merely of common, ordinary justice as between man and man. My honorable friend from Iowa talks about the precedent. The precedent has been established over and over again. He talks about the effect of the precedent in future. Sir, if other States exist which have similar claims they are just claims, and the Government must pay whatever they may amount to, in whatever war incurred, on the same principle. There is no justice in anything else; and I apprehend that the difficulty is not so very serious as he imagines. We ask nothing but the payment of a debt.

Gentlemen have said considerable here about this railroad business. Now let me ask them to look at that a moment. This railroad is one of the few railroads in the United States which is of a national character. It is a road leading from Bangor, in the State of Maine, to the line of New Brunswick, to connect with a road that leads first to St. John's, New Brunswick, and then to Halifax, in Nova Scotia, one of the most important roads that can possibly be made of national importance. In New Brunswick the road is nearly made; the province has appropriated \$10,000 a mile to the making of it and it is progressing, it is almost to the line. What will be the result if we cannot join it? They will go up through the British territory as they are now trying to do and connect with Canada instead of coming on to the United

States. It is of as much importance to the business of the country as almost any road that can be made; connecting the business of all those provinces with New York and the other States of the Union. I have a map on my desk which shows what that road is. It is unquestionably of great national importance. The persons who are engaged in building it cannot build it with their own means. Mark you, it does not stand as roads in the West do which have made checker-boards of almost every western State, cutting them up into small squares. They can get the public lands; they have had the public lands to assist them in making their roads, not roads of national importance in the same point of view as this is. Nobody has voted the lands of the United States to those roads more freely than the Senators from New England and the Senators from the Atlantic border. We have never disputed the value of the improvements thus projected. I have said repeatedly here in my place, "It is useless to contend against this thing, and I give up the lands for the benefit of the improvements of the West;" and they have had them and used them and derived all the advantage from them; and they have had them of so great importance in the building of their roads that the roads could not have been built without them; and they are enjoying, and we are enjoying, those facilities. I grant that they are a benefit to us.

Now, sir, we claim no such thing. We have no interest in the public lands. There are none of them in our State; and what do the States of Massachusetts and Maine do, which is thrown at them by way of reproach by honorable gentlemen here? In the first place, on account of the national importance of this road, the States of Massachusetts and Maine gave it all the lands which they had that were unsettled, for they owned considerable in the upper part of the State of Maine. They gave the company all there was left to take. They are not worth much; but the enterprise has the benefit of them so far as they go. Then the States had claims against the United States which they have been pressing for years. One is what was called the timber claim which the State lost under the Ashburton treaty; another was this interest claim. The States of Massachusetts and Maine said this road to unite with the provinces of New Brunswick and Nova Scotia is of very great importance; let it take our timber claim and make the most of it. I think Congress allowed that claim last year.

Mr. PATTERSON, of New Hampshire. No; the claim allowed last year was for lands lost under the treaty.

Mr. FESSENDEN. That was for quieting land titles in the State of Maine about which there was no sort of dispute the moment the Senate understood it. It was passed over and over again here, and we finally got that. This claim was given for the same purpose at the same time. The States of Massachusetts and Maine said by law, "Here we give you the benefit of this claim toward making the road; if we get this claim"—for this is the amount of the law—"we will let you have the money as fast as you build the road; \$10,000 a mile as far as it goes." We ask nothing of the General Government to aid in the construction of the road. Is it a matter of reproach to those two States that they are willing to appropriate their own means out of their own treasury? because it is substantially so; their claims are valid and good, and they are willing to make this appropriation for the purpose of this national work. Is that to be made a matter of reproach, and by Senators who have had the benefit in their own States of millions and millions of acres of public lands? I trust not. I think that the public generosity and public spirit of those two States ought to be, and I trust will be appreciated by gentlemen upon this floor better than that, and that they will not remind us that we are asking favors of the Congress of the United States; they will not say to us after what they have received themselves that we

come here begging, when as a mere matter of fact we come here and say, "Pay us the debt that the United States owe us; treat us as you have treated all the other States of this Union; pay to us what you have detained from us up to this period of time; and instead of putting it into the State treasury we put it into a public work, which is for the benefit not only of our own States but of the whole country as much so as any other road that can possibly be imagined or laid down upon the map." This is the simple question, and I want the Senate to understand it, and when gentlemen talk of our making claims, and the number of these claims, and all that, I wish them to understand that they have been made for years and years because they were just and honest, and not because we desired to take anything out of the General Government that did not belong to us.

Mr. HOWARD. I wish the honorable Senator would inform us whether there is such disposition made of this interest-money which is now claimed at the hands of Congress as will insure its application to the construction of the railroad to which he refers.

Mr. FESSENDEN. Certainly, by law.

Mr. HOWARD. By the law of both States?

Mr. FESSENDEN. Yes, sir; by the law of both States.

Mr. HOWARD. So that there is no danger of its being perverted to any other use?

Mr. FESSENDEN. Not a particle; only they hold it in their own hands to be paid out—\$10,000 a mile as the road is built. New York will be benefited as much as Massachusetts, and any of these States will be benefited as much as Maine. Trade will come through from the British provinces. It connects us with those provinces by a link that cannot be broken, and moreover it prevents the formation of a link between the upper and lower provinces themselves, which would be very disastrous to us when carried out.

Mr. GRIMES. Why?

Mr. FESSENDEN. Because when the road is once made this way the travel will come this way, and the great expense of a road off toward Canada and their distance from market will make it unwise to do it. This road will not be built for military defense, because the Government will not do it for that.

Mr. GRIMES. That is the title of the bill.

Mr. FESSENDEN. That is the title I know. I suppose there is a little *ad captandum* about the title. The fact is that the Government never raised its hand, and we do not expect them to do it, toward building the road; and the Senator knows that very well. We are not asking that; we are asking the Government to pay us an honest debt that we may do a thing from which the whole United States are to derive benefit. That is the simple question, and I want it understood by all the members of the Senate that when we present this matter we present it in that light only and no other.

Sir, I have said all that I desired to say on this subject.

Mr. FRELINGHUYSEN. I do not think, Mr. President, that this claim is at all to be prejudiced by the fact that the States of Massachusetts and Maine propose to apply the proceeds of the claim to a railroad, and it ought not to be thrown up in opposition to the claim. Neither do I think that the claim or its strength ought to be supplemented and aided by telling us what use the States mean to make of the money. The question is whether the United States Government, according to the principles of law and according to the principles of justice and conscience, owes this money to the State of Massachusetts, and that is the question which my friend has addressed to me. In 1859 the States of Maine and Massachusetts agreed with the national Government that this sum should be liquidated.

Mr. FESSENDEN. No, sir. The Senator is mistaken about that. It was long before.

Mr. FRELINGHUYSEN. One minute, if you please. I say in 1859 they agreed that this sum should be liquidated at \$227,000. I

say so for this reason—I do not think I mistake it, I think we have a right to infer, I think we may consider it as proven—that if there is introduced into an appropriation bill a sum that is going to a State, that sum has been introduced at the instance and direction and request of that State; and in 1859 that was the sum introduced in the appropriation bill. Therefore I do not think there is any mistake in that statement.

But further, Mr. President, I understand my learned friend to say that they did not dare to ask for the interest at that time; that they were afraid it would jeopardize the whole claim; a statement which goes directly to prove the correctness of my statement that that was the sum agreed upon; because if two parties get together to settle a disputed question and one party because he does not think it prudent, or because he does not dare, or does not think it is his interest to make the claim more than he asks, thereby waives that claim.

There had previous to this been objections made to this whole claim. The whole claim had been disputed. These objections were waived by the General Government in consideration of the sum which these States agreed to take, and after that sum had been fixed by the General Government under that settlement, that account stated, that balance struck, the State of Massachusetts and the State of Maine received the money which was paid them, and after they got the money, and ten years after the considerations which led to that settlement have elapsed, they come forward and present considerations and make a claim which they admit they did not dare to make at the time. I say that it is according to law, it is according to justice that the two parties to that settlement should each be held to the settlement which they have made.

Further, Mr. President, we do not plead the statute of limitations, but when fifty years have elapsed since the claim arose, when ten years have elapsed since the settlement of 1859, when the considerations which led to that settlement have all passed away, I think it is according to conscience and judgment as well as law to say that both parties shall be held by that settlement, and especially so when we see that this would be a precedent to many claims having equal equity. Why there is not a representative of any State of this Union here who will not feel it his duty, if the Treasury is thus to be visited, to go to his home and tell his State to seek among the archives of the State whether there is not some claim of interest which they may bring against the General Government, in order that they may get their share of the spoils, as they have to bear their part of the burdens of taxation, and if it is no bar to a claim of this kind that ten years ago it was settled by the acquiescence of both parties—the State not daring to ask more, the national Government not willing to give more—if that is no bar there is no end to the multitude of claims of this character that may be made upon the Treasury.

Mr. FESSENDEN. One word in reply to my honorable friend. I have heard many arguments like that on this floor on different occasions, but I never heard one of that kind before from him, and he is the last man from whom I expected it.

Mr. FRELINGHUYSEN. Never mind personalities; answer the argument.

Mr. FESSENDEN. It is not addressed to the merits of the case. Let me ask my friend a question. Suppose for any reason, political or otherwise, something perhaps in the conduct of New Jersey, the United States Government should refuse for twenty years to pay her for her advances during the late war, would not pay her a dollar when it paid all the other States precisely similar claims, and at the end of the twenty years it should liquidate the claim and pay it, would he not think the State ought to have interest? Or suppose the United States liquidated it and then refused to pay it after liquidating it for twenty years more, agreed upon the amount and then for twenty

years refused to pay that very amount, would he not think that his State of New Jersey was entitled to the interest, and if he stood upon this floor as a Senator from New Jersey would he not claim it? Sir, I know he would.

Now, a word as to what he says about the settlement of 1859. Settlement! Why, the settlement was in 1837; that is to say, the liquidation of the balance due was then made. Nothing could be said then about interest and nothing was. As I said before we claimed it persistently from that time; and what did we do in 1859? Did we make a new settlement? No settlement was made then; no adjustment was made; we simply said, "Make an appropriation to pay that which you admit to be due." That was all. So far as the liquidation was concerned, that was twenty years before. We asked for an appropriation to pay that which you then admitted to be due.

The Senator says that I admit that we were afraid to claim more. Sir, the Senator knows very well how difficult it is to get a claim through Congress. The Senator knows how hard it is; that if you put anything on it that may be carpied at you peril the whole claim. We were glad enough after twenty years to get the principal at that time. And then he says we said nothing about the interest for ten years after that. Sir, we said it every year; and does not the Senator know as a lawyer that if a suit is pending in court time does not run, that no laches, no delay, no carelessness, nothing that would make a legal objection can be made to a suitor who is constantly in court? We were in the only court to which we could come, and that was the Congress of the United States. We were there from 1815 down, every year, all the time making the claim; and now it is thrown in our faces by the honorable Senator from New Jersey that because Congress would not pay for ten years after we demanded it therefore time runs against us who were demanding it and ought to have had it before. He would not make such an argument as that in a court of law.

Mr. MORRILL, of Maine. I ask permission of the Senate to make a motion for a recess from half past four o'clock until half past seven o'clock this evening.

The PRESIDING OFFICER. The motion will be entertained if there be no objection. It is moved that the Senate take a recess from half past four to half past seven o'clock to-day.

The motion was agreed to.

Mr. SHERMAN. Mr. President, the danger of this kind of legislation will be illustrated before the discussion of this claim is closed. I suppose the case will be so clearly presented before the discussion is closed that this claim and all similar claims will fail as amendments to bills of this kind, as I think they ought to fail. The proposition as submitted by the Senator from Massachusetts involves an appropriation of over five million dollars. He himself would be staggered at the magnitude of the claim as presented by him. I have made a computation, which is accurate, showing that the amount of the claim as presented by him is over five million dollars.

Mr. SUMNER. How does the Senator make it?

Mr. SHERMAN. I ask the Secretary to read the amendment as the Senator offered it.

Mr. SUMNER. It has been read several times.

The PRESIDING OFFICER. It will be read if there be no objection.

The Chief Clerk read the amendment of Mr. SUMNER.

Mr. SHERMAN. The Senator will see that, as the proposition was offered by him, the Secretary of the Treasury is bound to take the amount due to the State of Massachusetts for expenditures during the war of 1812, amounting to \$843,000, and compute interest at the rate of six per cent., deducting payments already made and allowing interest on the balance. I have a statement here showing the aggregate of that claim. The report of Mr. Poinsett, which is before me, under date of December

23, 1837, shows that the amount of the claim in exact figures was \$843,349 60. Taking that amount as due in 1814, assuming that to be the average year, and computing simple interest on it at six per cent. up to the time of the payment in 1831, and then computing, according to the terms of this proposition, interest on the balance then due to 1859, deducting the amount then paid, and computing interest on the balance until this time, and it makes \$5,270,000.

Mr. SUMNER. Allow me to correct the Senator. He exaggerates the original claim as allowed.

Mr. SHERMAN. I have it before me.

Mr. SUMNER. The claim was over eight hundred thousand dollars, but the allowance was only six hundred and odd thousand dollars.

Mr. SHERMAN. Eight hundred and forty-three thousand dollars is the amount stated in Mr. Poinsett's report. Every dollar of the principal has been paid. I have before me an official report of the Third Auditor's office, showing that there was paid to Massachusetts in 1817 \$11,000, on the 2d March, 1831, \$419,748 26, and in 1859, \$227,176 49; so that the whole amount has been paid. But even if the Senator will take it upon any other basis he will find that the sum due upon the principle of computation adopted by him would stagger the Senate. But there is a carefully prepared report on this subject accompanied by a bill submitted by the Committee on Foreign Relations, and it is but just to say that the amendment suddenly offered here is a very different proposition from that reported from the Committee on Foreign Relations by the Senator from New Hampshire. That does contain certain restrictions which confine the computation of interest to the sums of money on which the State paid interest.

Mr. FESSENDEN. That is all we ask.

Mr. SHERMAN. I merely say that if we had gone blindly to work and adopted the proposition of the Senator from Massachusetts as offered there is no earthly power except Congress that could prevent the payment of over five million dollars. The proposition reported by the Committee on Foreign Relations contained this restriction: "that interest shall be allowed to Massachusetts and Maine on such sums only on which those States either paid interest or lost interest by the transfer of an interest-bearing fund." In other words, this applied to the case, the rule applied to the State of Maryland. Now, what is this claim, even within these limits? It amounts to \$1,500,000.

Mr. FESSENDEN. How does the Senator know that?

Mr. SHERMAN. I have it here in a report of the honorable Senator from New Hampshire. That report contains a statement of the claim, signed by George M. Weston, and this statement was made by a gentleman whose interest it was to reduce the claim as much as possible. He was the agent of the State of Maine to get the claim through Congress, and of course his object was to reduce it as much as he could in order to get it through; and yet in 1864 he states the charge of Maine to be \$353,732, and adding interest on the principal sum up to this time it would be about four hundred and fifty thousand dollars; and Massachusetts has twice the interest Maine has. Then, upon the statement of Mr. Weston, the amount due is three times \$450,000.

It is apparent, then, that even if you attach to this amendment the limitations presented by the Committee on Foreign Relations the claim amounts to \$1,400,000, and if you attach to it the limitation of the Senator from Iowa it is even greater. This shows that our attempt to legislate on a question of this kind at the closing period of the session when every member speaks against it with fear that he may injure the appropriation bill—when we are rushing through bills with little time to examine a question of this kind involving so large an amount directly—is dangerous legislation which ought to startle us. But, sir,

remember, if this is adopted, you must apply the same principle to every State of the Union. We allowed the State of Missouri only a little while ago \$7,000,000 for expenditures during this war and no interest was allowed her. That claim was pending three or four years unpaid. Why not allow Missouri nearly two million dollars interest on her claim? Ohio expended millions upon millions and was finally reimbursed the principal sum, but not until years after the money was paid out. So the three per cent. funds of some States existed for thirty years accumulating in the hands of the General Government unpaid. This principle if carried out would involve payments of fully \$100,000,000 to the States. If you once apply the rule to interest it ought to be paid to the States for all debts due to them, and then the proposition to limit the debt of the Government to its present amount must be at once abandoned; we must enlarge our arrangements in regard to the public debt.

But let me go further. Although we ought not to be called on at this late period of the session to go into a matter of this kind I must go back somewhat into the history of this claim. My general recollection of it was only a general recollection of the history of the war of 1812. My honorable friend from Maine has reminded us a little of this matter. I have before me the message of Mr. Monroe, of February 1, 1824, communicating the items of this claim to Congress. He begins his message by stating in the first place that when every dollar of this expenditure was made it was made by the State of Massachusetts for local defense merely, the State of Massachusetts taking the ground that under the Constitution of the United States she had a right to officer her militia, and that when that militia was called out it was under the command of State officers and that the Federal officers could not take command. I believe that was the claim then made by the Federalists. That ground was afterward renounced by Massachusetts, but when these expenditures were made they were made upon the claim of the Governor of Massachusetts that her troops were State troops to be paid by State authority and not to be controlled or governed by Federal authority, and the Governor refused to obey the orders of President Madison as Commander-in-Chief of the United States forces. It is true that Massachusetts subsequently renounced this ground, as I gather from the message of Mr. Monroe, but Mr. Monroe communicated the claim in a message setting out the historical fact. Mr. Monroe says that since Massachusetts had renounced this heresy, as he then claimed it to be, although all the South took the same position afterward, Massachusetts ought to be placed on the same footing as the other States, and he recommended to Congress to pass laws to pay Massachusetts precisely on the principles applied to the other States. Now, what is the character of the claim? In the message he sets out the items giving the particulars, and here they are in these great folio volumes of State Papers that are preserved, I suppose, for future ages.

Mr. CONKLING. Let them be read.

Mr. SHERMAN. I will refer to but a few of them. In the month of March, 1814, there was an alarm at Mount Desert, below Penobscot, and a detachment of militia was ordered down from Ellsworth and vicinity, and the expenses of that expedition is one of the items, being \$511. Then, several cannon and a large quantity of powder were furnished to the town of Kennebec in April, 1813, and in May small arms and cartridges and shot for cannon were furnished to Portland by request of the selectmen, as several British ships were near that place, and that expense was included in the bill of items although there was no actual attack. In April, 1814, Captain Hull was apprehensive of an attack on the vessels of the United States at Portsmouth, and he applied to General Dearborn for protection. General Dearborn requested that the militia of Massachusetts might be ordered out for the purpose,

as the militia of New Hampshire were destitute of arms and in a state of insubordination. Orders were promptly issued calling out two hundred and fifty men from York, Kittery, and the vicinity, and the expenses of this service amounted to \$14,174 97. This was a false alarm, the men had no fighting to do. In the course of the same month, April, 1814, there were alarms at various other places and the inhabitants at many points applied to the commissioners for sea-coast defenses to furnish arms to equip men in cases of emergency. Among these were Augusta, Bristol, Wiscasset, and Bath, and on these occasions detachments of militia were ordered out and arms furnished as requested.

So I might go through all the items. They aggregate \$822,173 97, claimed of the United States, every dollar of which was subsequently paid. I have looked over these items, and so far as I can see from a cursory examination every item was for mere local defense. It does not appear that any of these expenses were for any matter that related to anything beyond local defense. Nearly all the items were for expenses of the militia of Massachusetts called out, and very properly called out, to defend the northern border. Why, sir, during the late rebellion at one time seventy-five thousand men were called out in Ohio to defend her people against an anticipated attack on Cincinnati—the "squirrel hunters," as they were called, and they were never paid.

Mr. MORTON. They were not paid by the State of Ohio.

Mr. SHERMAN. They were not paid at all. These men did not expect pay. Now, let us see what is the history of this claim and whether the Government has not dealt fairly by Massachusetts. It seems that in 1817 a small amount of this claim, \$11,000, was paid. Subsequently, on the 2d of March, 1831, \$419,748 26 was paid under the act of 1830. And let me state here that the same rules were applied to the adjustment of the claim of Massachusetts as were applied to the adjustment of the claims of New York. The law fixing the manner in which the accounts should be made up was passed in 1826. It was a general law. The Senator read from it in the fourth volume of the statutes. The \$419,000 was not adjusted and allowed until five years after the passage of that law, and that amount was then paid to Massachusetts as it was believed by the accounting officers in full satisfaction of the claim. But Massachusetts still insisted upon a further claim because the whole amount she presented had not been allowed, and finally Mr. Poinsett, Secretary of War, on the 23d December, 1837, made a very brief report showing the amount still due. I will read from his report. He says:

"In compliance with the resolution of the House of Representatives, of March, 1836, I have examined the claims of the State of Massachusetts for militia services and expenditures during the late war with Great Britain, and have now the following report:

"The original amount of these claims was \$843,349 60, which by a payment of \$11,000 in 1817, and one of \$419,748 26 in 1831, was reduced to \$412,601 34, which is still claimed."

And now I call the particular attention of the Senator from Massachusetts to what follows:

"Of this sum it appears, upon applying the same principles which have governed this Department in the settlement of similar claims made by other States—"

And all the States were settled with prior to this report of Mr. Poinsett.

Mr. SUMNER. Not Maryland.

Mr. SHERMAN. I will come to Maryland after a while. Maryland had been settled with before this time, however. Mr. Poinsett says that applying the same principles to this claim of Massachusetts that had been applied to the claims of the other States, "there will be due \$272,716 14."

For some reason there was no appropriation of money then, and Massachusetts presented the claim, as she had a right to do, until in 1859 it was paid to her every dollar upon the basis of this report of Mr. Poinsett.

Now, sir, what pretense or ground is there for any addition to the claim then paid?

Mr. PATTERSON, of New Hampshire. Allow me to correct the Senator. He has misstated the report he has in his hands; undoubtedly by mistake.

Mr. SHERMAN. I read it.

Mr. PATTERSON, of New Hampshire. Instead of an allowance amounting to \$843,000 it is \$657,869 40, as I have just reckoned it up.

Mr. SHERMAN. Here it is in black and white:

"The original amount of these claims was \$843,349 60, which by a payment of \$11,000 in 1817, and one of \$419,748 26 in 1831, was reduced to \$412,601 34, which is still claimed. Of this sum it appears, upon applying the same principles which have governed this Department in the settlement of similar claims made by other States, there will be due \$272,716 14, of which \$45,539 60 being for arms and equipments purchased by the State, arms, &c., to the value of that amount must be charged to the State and be withheld from its quota under the act of 1808 for arming and equipping the militia. And all warlike stores remaining in the State which are paid for by the General Government must be delivered up to the possession and use of the United States."

It is true as shown by this report that all the claim of Massachusetts was not allowed. Nor do they now come here to claim that which was in excess of the report; but everything that was due, upon the principle that was applied to other States, was allowed by Mr. Poinsett in his report, and subsequently paid.

Now, what was the case presented by the State of Maryland? I remember it well, although my legislative experience here is short. In 1857, in just the way we are now legislating, at the heel of the session a claim in behalf of the State of Maryland was put in an appropriation bill, if I remember rightly, in this branch of Congress, and carried through and sent to the other House. I was a member of the other House, then, and opposed the passage of that claim on the ground that it opened up settled questions; but in the hurry of the closing scenes of the session the claim of Maryland was allowed; and upon what ground? You have it here in the statute: on the ground that Maryland had appropriated a portion of her school fund, a trust fund, and had used it for the defense of the country at the time of the attack on Baltimore, and as that fund was drawing interest the State of Maryland thereby lost interest, and so it was a case of peculiar equity. That was the case as I now remember it, and as you will see, by the limitation put upon the claim in the act, it was to reimburse Maryland for the application of a trust fund. The situation of Massachusetts was very different from that of Maryland. Maryland was actually invaded by the British in 1814. Almost within sight of this Capitol a battle was fought, and our troops were defeated and the Capitol building was burnt to the ground by the British. Maryland was overrun by the enemy. Massachusetts never was trodden by a hostile foe during that whole war.

Mr. SUMNER. I beg the Senator's pardon. A town in Massachusetts was captured, unhappily.

Mr. SHERMAN. What town?

Mr. SUMNER. Castine.

Mr. SHERMAN. That was a very insignificant affair.

Mr. DRAKE. Castine was in Maine.

Mr. SUMNER. Maine was then part of Massachusetts.

Mr. SHERMAN. It is manifest that the cases of Maryland and Massachusetts are very different. An appeal was made to us in behalf of Maryland to allow her claim, to refund the State interest it had paid, or to make good the interest on a fund which the State had taken from its school children. Is that the case of Massachusetts? Certainly not; and yet the precedent established in the case of Maryland in 1857 is now urged in behalf of this claim. But, sir, in 1859, two years after this precedent was established, we again had another settlement with Massachusetts of this identical claim. Then she again presented the last item of this account and we paid it to her. Up to that date she never had claimed one dollar of

interest. I have here the report of Mr. Wilson, the Third Auditor, to that effect, under date of June 23, 1869. It will be found on page 38 of the report made in the Thirty-Ninth Congress, which has been referred to:

"It does not appear by either of the settlements (copies of which I have herewith) that any interest was allowed, nor is there any evidence on file in this office that any demand was made by the State for interest."

That was in 1866, only two years ago. Two years after the Maryland precedent was established, when if there were any peculiar claim on the part of Massachusetts which entitled her to the special relief granted to Maryland it could have been presented—two years after interest was allowed to Maryland under peculiar circumstances—the balance of the claim of Massachusetts was paid. Although the report of Mr. Poinsett was controverted, still the amount was paid, and no demand was then made for interest. Now, the question is whether we shall reopen the account and allow interest and make a new precedent applying to the State of Massachusetts an exceptional rule. It will open the door for reopening all the settlements made during this war, because I say to you, Senators, that if this claim is allowed to the State of Massachusetts you cannot refuse to apply the same rule to the other States, and you must allow interest to Ohio and to Missouri, and to all the other States which have made advances during the late war. Massachusetts will lose by this operation. Massachusetts' share in the payment of the claims that will be presented under this precedent will be greater than the total amount that she will receive under this amendment. She had better build this railroad through that region up in Maine than establish a precedent which, in my judgment, will eventually add largely to the public debt.

In the settlement of claims between the States and the Government the Government has never paid interest except under peculiar, limited rules; and, so far as the official evidence before us is concerned, the same rules have been applied to this claim of Massachusetts that have been applied to all the other States.

Sir, this is a dangerous, yes, more than a dangerous experiment which is now attempted to be made by fastening this claim upon the Army appropriation bill at a time when the legislative appropriation bill, the miscellaneous appropriation bill, and all the great money bills of the session are still unsettled.

I do not wish to discuss this matter. I do not see how the question of building the railroad referred to has anything to do with the case. I am in favor of building the railroad. If the Senator offered this as a distinct grant of public money to aid in building a railroad in that region, I would rather vote twice the amount than establish this precedent. I have no doubt the railroad ought to be built. Friends and constituents of mine are engaged partly in the enterprise. But, sir, we dare not establish a precedent of this kind for twice the cost of building that railroad. My friend from Maine alluded to the rule that had been adopted in regard to the western States, of giving lands for railroads. Let the people of Maine who own the land up in that country apply the same rule in the construction of this road that the Government has applied in building new railroads in the western country. Let them give half their land and double the price of what remains and they will make money by the operation, as the United States Government has always done. The Government has made large sums of money by giving one half of its lands in order to double the price of the other half. In the State of Illinois, which is referred to, there were lands which had been surveyed for twenty or thirty years, and remained unsold until by the graduation system they were brought down to twenty-five or twelve and a half cents an acre. When this policy of land grants was adopted by which half the land was given and the other half put up to double the minimum price, to \$2 50 an acre, the result was that in five years after that grant was made not a single acre of public land

could be found on the whole line of that railroad; every acre of it was absorbed at \$2 50 or more, and the railroad company, becoming seized by this grant of a vast amount of land, sold some of it as high as twenty dollars an acre, if I am not mistaken—much of it at ten or fifteen dollars. I have no doubt that by local aid of the States of Maine and Massachusetts to the building of this road, with the application of a liberal land grant by the people and the counties and the States, they can, without reviving a dangerous claim of this kind, and attaching it to a very important appropriation bill at this period, build that road, as I hope they will. But, sir, this is too serious a matter, in the view I take of it, to establish a precedent that in future time will be made the occasion, as the precedent in the case of Maryland is now being, of unlimited and boundless appropriations of the public money.

Mr. FRELINGHUYSEN. Mr. President, I do not wish to enter into the argument of this question again, and I have but a word to say in answer to the inquiry which was put with a good deal of point by the Senator from Maine as to what would be my course of action if the party was the State of New Jersey instead of the State of Massachusetts. I would with all respect say, Mr. President, that I understand myself to be a Senator of the United States, and I would pay as much regard to a claim from Massachusetts or from Maine as to one from New Jersey. But that that declaration may not rest upon my assertion alone I would remind the Senator that the State of New Jersey has to-day just as good a claim as the States of Maine and Massachusetts for a similar claim, and so has every other State of this Union that for the last eight years has been advancing its millions, and who has settled with the national Government without interest. We are now about to establish a precedent which will cost this Government hundreds of millions, unless the States of Maine and Massachusetts are to be favorites with the General Government.

I will say further that if I, as the representative of the State of New Jersey in 1859, had agreed that the sum to be paid on such a claim should be \$227,000, no matter what might have been the motive that led me to that conclusion, whether it was because I did not dare to ask more, or whether because it was hard to get a measure through Congress, or whether because there were objections to the claim by reason of the fact that the money had been spent in defense of the States rather than of the national Government; no matter what might have been the motive which prompted me to that settlement, I would have considered myself bound in justice and in honor to stand by the settlement.

Mr. FESSENDEN. Let me say to the Senator from New Jersey that I, too, if there had been any such settlement in 1859, would stand by it; but that is an assumption of his. That he assumes, and repeats, and reiterates. He says it over and over, but he does not make out the fact. There was no settlement in 1859, no agreement.

Mr. FRELINGHUYSEN. My assertion does not make out the fact, but the record makes out the fact.

Mr. FESSENDEN. The record does not make out the fact. That I dispute, notwithstanding the assertion of the honorable Senator from New Jersey, repeated by the honorable Senator from Ohio. It is no such thing. That is an assumption. The fact was that the money was admitted to be due on the book. All that we asked for was not an act to pay that any further than to make an appropriation for what was admitted to be due. That was all there was of it, a mere appropriation to pay it. That was no settlement. It did not take the shape or form of a settlement in any possible way.

Mr. FRELINGHUYSEN. Then this would not be a settlement. In 1859 the Congress of the United States appropriated to be paid to the State of Maine and the State of Massa-

chusetts every farthing that either or both of those States had ever asked for.

Mr. FESSENDEN. The Senator does not state it right now. The State of Massachusetts had been claiming that her accounts should be settled and paid. Up to that time they never had been settled and paid. They had been adjusted in 1837 to a certain point, and a balance was due. Of course that adjustment said nothing about interest; that was a question for legislation; but it found under the law that a certain amount was due. That stood so for a number of years, and finally, after the lapse of more than twenty years, after having asked for it repeatedly, year after year almost, an appropriation was made to pay that which was admitted to be due. Now, because one claim is appropriated for and paid, does it follow that that is a receipt in full for everything else? That is an inference of the honorable Senator and not the fact. I take issue with him right there. His argument is founded upon an assumption, which assumption is not borne out by the facts, in my judgment. Of course, however, every Senator will draw his own inference.

Mr. DRAKE. Will the honorable Senator, while he is discussing this part of the case, allow me to make an inquiry of him in connection with it, that he may treat it now and avoid my saying anything about it hereafter?

Mr. FESSENDEN. I will do so; but there are other gentlemen to speak.

Mr. DRAKE. I merely wish to know of the honorable Senator from Maine whether, if a man having a claim against another accepts the full principal of that claim, it is not a perfectly recognized principle of law that in accepting the full principal and making no claim for interest he abandons all the claim for interest?

Mr. FESSENDEN. No, sir; not unless he he says so.

Mr. DRAKE. I take issue with the honorable Senator there.

Mr. FESSENDEN. A man by taking one part of a debt does not give a receipt in full for the other part.

Mr. CONKLING. But if he presents the claim in that form he does.

Mr. FESSENDEN. He is not bound to present it in that way. This was presented in the form always usual here. When a State has a claim for advances against the General Government what does it do? It brings forward its items and calls for an account; that account is taken; it says nothing about interest. Massachusetts, the Senator will remember, brought forward every item of her claim between 1815 and 1820. If that claim had then been paid promptly it would have stood, precisely as the State of New Jersey stands with its claim for advances during the late war, which was paid as soon as it was audited. That was the case with other States during the war of the rebellion. They bring here their claims under the law; they are audited, and then an appropriation is made to pay them. Nobody thinks of asking interest in such a case; neither would Massachusetts under those circumstances. Massachusetts presented her claim promptly. At the time she presented it there was no claim made for interest of course. She could not make any such claim until the claim was audited and the amount adjusted. Finally an appropriation was made to pay it and no more was said. It was a hard fight undoubtedly to get so far as that. To hold that because Massachusetts took the money which she had been calling for, and which had been admitted to be due for over twenty years; that because she consented to take the money from the Treasury and give a receipt for what she got, she therefore cannot claim anything else, however justly it may be admitted to be, Senators will permit me to say is founded on an assumption of a principle of law that does not exist at all.

It never was held that a man who received part of his claim, even if it was all the principal on a note, was therefore prevented from claiming the interest due. How is it in the case of

a note of hand which does not bear interest on its face, payable at a certain time, for instance in six months, or on demand? Demand is made and nothing is said about interest. Suppose, long afterward, the debtor comes forward and pays the holder of that note the principal, and he indorses the amount of it on the note, does the payee give up the interest thereby? Could he not maintain an action for it? Unquestionably he could in any court in the United States unless he gave up the note or gave a receipt in full. Then the principle on which gentlemen argue is not a correct one; and I say again, in answer to what the Senator has said in regard to the State of New Jersey and to what other Senators have said about the extent of these claims, they have no claim for interest, because their money was paid as soon as the accounts were adjusted. If that had been the case with Massachusetts she would have no claim for interest. The difference, it seems to me, is as obvious as it can be in any possible case. Of course, before the vouchers are presented no State can claim interest, but when they have presented them, and the account is stated, then of course interest commences to run.

Mr. PATTERSON, of New Hampshire. I do not propose to take up much time in the discussion of this question. I should not speak upon it at all but for the fact that the report which I made on this subject two or three years since has been referred to several times in the debate, and some misstatements of fact, it seems to me, have been made which are very important in considering the question.

In the first place, the fact that this amendment comes from the Committee on Foreign Relations has been criticised somewhat severely. As I said when this amendment was first offered, four claims upon the General Government were presented by Massachusetts and Maine in the Thirty-Eighth Congress. Three of those claims arose under the treaty of Washington, and hence they were all united in one bill and referred to the Committee on Foreign Affairs. The States have received the amounts due under one of those claims, about one hundred and forty thousand dollars. All the rest, amounting to millions of dollars, they give up, and come here asking that this claim alone may be paid to those States. Now, we shall do well to go back a little, and remember that the treaty of 1842, the treaty of Washington, established a line for the northeastern boundary which took from the State of Maine three million acres of her territory, and in lieu of that gave to one of the States of the West over four million acres of territory.

Mr. SHERMAN. What State was that?

Mr. PATTERSON, of New Hampshire. Minnesota. The Senator from Ohio, I think, has fallen into a mistake on this subject. He refers to the report of Mr. Poinsett. Let me read from that report. Mr. Poinsett says:

"The original amount of these claims was \$843,349 60, which, by a payment of \$11,000 in 1817, and one of \$419,748 26 in 1831, was reduced to \$412,601 34, which is still claimed."

Now mark what follows:

"Of this sum it appears, upon applying the same principles which have governed this Department in the settlement of similar claims made by other States, there will be due \$272,716 14, of which \$45,339 66, being for arms and accoutrements purchased by the State, arms, &c., to the value of that amount, must be charged to the State and be withheld from its quota, under the act of 1808 for arming and equipping the militia. And all warlike stores remaining in the State which are paid for by the General Government must be delivered up to the possession and use of the United States."

Now, sir, putting these sums together—the \$11,000, the \$419,748 26, and the \$227,176 48—and you have a total of \$657,924 74. That is the whole amount which Massachusetts and Maine have ever received under this claim, instead of \$843,000, as the Senator from Ohio would have us believe.

The Senator says furthermore that the claim of Massachusetts was settled precisely as the claims of the other States were settled; and he quotes this report to prove it. The report

proves no such thing. (There is not a word in the report that goes to show it.) Let us read it:

"Of this sum"—that is, the remaining sum of \$412,601 84—"it appears upon applying the same principles which have governed this Department in the settlement of similar claims made by other States, there will be due \$272,716 14," of which \$45,539 66 for arms supplied for the defense of the State was to be subtracted. Thus it will be seen that the report simply says that in settling this residue of the claim the same principles must be applied that were applied to the other States. And the Senator made a mistake in another particular—

The PRESIDENT *pro tempore*. The hour of half past four having arrived, the Senate will, according to order, take a recess until half past seven o'clock.

EVENING SESSION.

The Senate reassembled at seven and a half o'clock p. m.

SUFFRAGE CONSTITUTIONAL AMENDMENT.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate a dispatch which he has just received.

The Secretary read as follows:

JEFFERSON CITY, MISSOURI,
March 1, 1869.

To the President of the Senate:

The constitutional amendment this day ratified by the Legislature of Missouri.

J. W. McCLURG.

GOLD MEDAL TO COMMANDER BALDWIN.

Mr. SUMNER. I ask unanimous consent, before proceeding with the regular order, to pass a little resolution with regard to which there can be no question. It is Senate joint resolution No. 208, authorizing Commander Charles H. Baldwin, United States Navy, to accept a gold medal from the king of the Netherlands.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which authorizes Commander Charles H. Baldwin, of the United States Navy, to accept a gold medal from the king of the Netherlands, tendered him in appreciation of services rendered to a merchant vessel of that nation in distress.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills:

A bill (S. No. 903) granting a pension to Horace Peck, of Charlton, Massachusetts;

A bill (S. No. 904) granting a pension to Benjamin T. Raines, of Indiana;

A bill (S. No. 906) granting a pension to Elizabeth Clarke;

A bill (S. No. 910) granting a pension to the children of Martin N. Slocum, deceased;

A bill (S. No. 942) granting a pension to Sarah E. Haines; and

A bill (S. No. 949) granting a pension to Mrs. Lydia W. Ford.

The message also announced that the House had passed the following bills of the Senate with amendments, in which it requested the concurrence of the Senate:

A bill (S. No. 900) granting a pension to William B. Looney, of Alabama; and

A bill (S. No. 941) granting a pension to Benjamin C. Stone.

The message also announced that the House had passed a bill (H. R. No. 2015) for the relief of Mrs. Susan A. Shelby, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 1758) to incorporate the Masonic Mutual Relief Association of the District of Columbia;

A bill (H. R. No. 1847) for the relief of the heirs and representatives of Charles C. Cook, deceased;

A bill (S. No. 903) granting a pension to Horace Peck, of Charlton, Massachusetts;

A bill (S. No. 904) granting a pension to Benjamin T. Raines;

A bill (S. No. 906) granting a pension to Elizabeth Clarke;

A bill (S. No. 910) granting a pension to the children of Martin N. Slocum, deceased;

A bill (S. No. 942) granting a pension to Sarah E. Haines;

A bill (S. No. 949) granting a pension to Mrs. Lydia W. Ford; and

A bill (S. No. 941) granting a pension to Benjamin C. Stone.

PETER M'GOUGH.

Mr. CATTELL. The Committee on Finance, to whom was referred the bill (H. R. No. 1989) for the relief of Peter McGough, collector of the internal revenue and disbursing agent, twentieth district, Pennsylvania, have directed me to report it back with an amendment, and as it is a very simple question and the bill must go back to the House, I ask for its present consideration, as I think it will create no discussion.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill.

The Committee on Finance reported the bill with an amendment, to strike out all after the enacting clause and to insert:

That the proper accounting officers of the Treasury be, and they are hereby, authorized to allow Peter McGough, collector and disbursing agent of the twentieth internal revenue district of Pennsylvania, a credit for the sum of \$4,750 64, public money deposited in pursuance of law in the Venango National Bank, lately a United States designated depository, and lost by the failure of said bank without fault or neglect of the said collector and disbursing agent.

Mr. RAMSEY. I should like to ask the Senator from New Jersey whether the two Senators from Pennsylvania do not prefer the House bill as it came without this amendment reported by the Senate Committee?

Mr. CATTELL. I believe they do.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill read a third time. The bill was read the third time, and passed.

WILLIAM B. LOONEY.

The Senate proceeded to consider the amendment of the House of Representatives to the bill of the Senate No. 900, granting a pension to William B. Looney, of Alabama; and

On motion by Mr. SPENCER, it was

Resolved, That the Senate disagree to the amendment of the House of Representatives to the said bill, and ask a conference on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. SPENCER, Mr. VAN WINKLE, and Mr. WARNER.

BENJAMIN S. STONE.

The Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 941) granting a pension to Benjamin S. Stone; which was to strike out the words "at the rate of fifteen dollars per month;" and, on motion of Mr. SPENCER, the amendment was concurred in.

DEFICIENCY BILL.

Mr. HOWE, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 1911) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes, reported it with amendments.

ILLINOIS IRON AND BOLT COMPANY.

Mr. MORRILL, of Vermont. I desire to call up House bill No. 1867, for the relief of

the Illinois Iron and Bolt Company, to which I presume there will be no objection.

The PRESIDENT *pro tempore*. It can only be taken up by unanimous consent.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury to examine a judgment by confession, rendered on the 2d of October, 1865, in the circuit court of the northern district of Illinois, against the Illinois Iron and Bolt Company for \$5,500, penalties for certain alleged violations of the internal revenue laws, and to refund to the company so much of the amount paid into the Treasury of the United States as upon investigation he may think it right and proper under the circumstances of the case to remit.

The Committee on Finance reported the bill with an amendment, to insert in line eleven, after the words "United States," the words "not exceeding \$2,750."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1972) granting a pension to John Law;

A bill (H. R. No. 2017) granting a pension to Joseph Wheat;

A bill (H. R. No. 2016) granting a pension to Abigail Dix;

A bill (H. R. No. 2018) granting a pension to Sophia E. Harmon;

A bill (H. R. No. 2019) granting a pension to Mary Whitten; and

A joint resolution (H. R. No. 472) providing for filling vacancies in the Naval Academy from the State of Louisiana.

NEW ORLEANS AND CHATTANOOGA RAILROAD.

Mr. RAMSEY. There is a small bill, reported from the Committee on Post Offices and Post Roads, which will occupy no time to pass it, that I should like to have taken up. It is Senate bill No. 956.

The PRESIDENT *pro tempore*. The title of the bill will be read for the information of the Senate.

The CHIEF CLERK. "A bill (S. No. 956) to establish and declare the railroad and bridges of the New Orleans, Mobile, and Chattanooga Railroad Company, as hereafter constructed westward from the city of New Orleans, a post road, and for other purposes."

Mr. PATTERSON, of New Hampshire. I must object to that. I believe I have the floor on the regular order of business.

The PRESIDENT *pro tempore*. The Senator is entitled to the floor when that bill shall be taken up.

Mr. RAMSEY. I hope the Senator will allow this bill to pass.

Mr. PATTERSON, of New Hampshire. But it will lead to discussion.

Mr. RAMSEY. Not at all. There is no disposition on the part of the Senate to discuss the bill.

Mr. PATTERSON, of New Hampshire. If it leads to no discussion I have no objection.

Mr. RAMSEY. It will lead to no discussion.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill.

The Committee on Post Offices and Post Roads reported the bill with amendments. The first amendment was in section one, line seven, after the words "Mississippi river" to strike out the words "which shall be crossed by means of a ferry-boat, unless otherwise authorized hereafter."

The amendment was agreed to.

The next amendment was in section one, lines twenty-one, twenty-two, and twenty-three, to strike out the words:

Said declaration being hereby approved and declared to be a valid law of the State of Texas.

The amendment was agreed to.

The next amendment was in section one, line twenty nine, after the words "Trinity river" to insert "and all other navigable rivers, bays, and bayous."

The amendment was agreed to.

The next amendment was in section one, line thirty-three, after the words "Bayou La Fourche" to insert the words "and the other navigable rivers, bays, and bayous."

The amendment was agreed to.

The PRESIDENT *pro tempore*. That completes the amendments reported by the committee.

Mr. RAMSEY. I understand that the Senator from Louisiana [Mr. KELLOGG] desires to offer an amendment, and therefore to enable him to do so I am willing that the bill should be passed over informally.

Mr. KELLOGG. Let the bill go over until to-morrow morning. I have just come into the Chamber and desire to offer an amendment to the bill, but have not yet had an opportunity to prepare it.

The PRESIDENT *pro tempore*. The bill will lie over.

HOUSE BILLS REFERRED.

The bill (H. R. No. 1015) for the relief of Mrs. Susan A. Shelby was read twice by its title, and referred to the Committee on Claims.

The joint resolution (H. R. No. 472) providing for filling vacancies in the Naval Academy from the State of Louisiana was read twice by its title, and referred to the Committee on Naval Affairs.

The following bills were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (H. R. No. 1972) granting a pension to John Law;

A bill (H. R. No. 2017) granting a pension to Joseph Wheat;

A bill (H. R. No. 2016) granting a pension to Abigail Dix;

A bill (H. R. No. 2018) granting a pension to Sophia E. Harmon; and

A bill (H. R. No. 2019) granting a pension to Mary Whitten.

ARMY APPROPRIATION BILL.

The Senate resumed the consideration of the bill (H. R. No. 1803) making appropriations for the support of the Army for the year ending June 30, 1870, and for other purposes.

The PRESIDENT *pro tempore*. The pending question is on the amendment offered by the Senator from Massachusetts, [Mr. SUMNER,] and upon that question the Senator from New Hampshire [Mr. PATTERSON] is entitled to the floor.

Mr. PATTERSON, of New Hampshire. Mr. President, at the moment the Senate took a recess I was speaking upon the statement made by the Senator from Ohio, [Mr. SHERMAN,] who said that the amount which had been paid to the States of Massachusetts and Maine was equal to \$843,349 60. I showed from the report of Mr. Poinsett, I think to the satisfaction of the Senator from Ohio himself, that the whole amount which had been paid by the Government on this claim is \$657,869 84.

The next point which the Senator made was that this would open the way to claims which would amount to something over five million dollars; but immediately he descended somewhat rapidly, but gracefully, from five millions to a million and a quarter. Now, sir, that is an overstatement of something like half a million dollars as to the amount which will be due under this amendment to the Army bill. The whole amount due for interest, as calculated by the friends of this measure, is \$767,000. At any rate, they are willing to confine their claims within that amount.

Mr. HENDRICKS. Is that the amount that

is to go to Massachusetts by this amendment, if it is passed?

Mr. PATTERSON, of New Hampshire. Seven hundred and sixty-seven thousand dollars to Maine and Massachusetts. I now come to the statement made by the Senator from New Jersey [Mr. FRELINGHUYSEN] that this claim was settled finally on the payment of the last installment of the principal in 1859. If we look at the language of the law we shall see that it simply covers the last installment of the principal, and has nothing to do with the interest whatever. It is in this language:

"The Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Massachusetts out of any moneys in the Treasury not otherwise appropriated the sum of \$227,176 48, reported under said resolution to be due to said State by J. R. Poinsett, late Secretary of War, in a report dated the 23d of December, 1837, made to the House of Representatives the 27th of December, 1837."

So it seems that by the language of this act provision was made simply for the payment of the last installment of the principal.

Mr. FRELINGHUYSEN. Does it say so?

Mr. PATTERSON, of New Hampshire. It says so.

Mr. FRELINGHUYSEN. I did not hear it.

Mr. PATTERSON, of New Hampshire. That is, it says for the payment of the award made by the Secretary of War, and by reading the report we find that that refers only to the principal; there is nothing said in relation to the interest. The Secretary, in speaking of the last installment of \$412,601 34, says:

"Of this sum, it appears, upon applying the same principles which have governed this Department in the settlement of similar claims made by other States, there will be due \$272,716 14."

From which \$45,539 66 would be subtracted, leaving \$227,000 all told. The act of 1859 simply provided for the payment of this amount reported by the Secretary of War in 1837, and it is on precisely the same ground upon which other States received interest upon advances made in the war of 1812-15 that these two States come here and ask for interest upon their advances.

The gentleman from New Jersey was fearful that this would establish a dangerous precedent. He stated that New Jersey was entitled to large amounts under the precedent which would be established if this claim was allowed. Now, sir, I apprehend that that cannot be so. The advances made in the war of the Revolution were paid, not only the principal, but interest at six per cent., whether the State had paid interest or not. A new principle was established on the advances made in 1812-15, which was that the principal should be paid and interest where the States paid interest or lost interest. If the State hired the funds which it advanced, or advanced its own bonds or securities on which it was receiving interest, then the General Government was to pay back to the State the interest which it had so lost. All the States except Massachusetts have received interest on their advances upon this principle. The same principle also held in paying the advances made for the war with Mexico. My own State also has received payment for advances which she made in 1835, 1836, and 1837, by an act passed January 27, 1852, in this language:

"Be it enacted, &c., That the Second Auditor of the Treasury be, and he is hereby, authorized and directed to liquidate and settle the claim of the State of New Hampshire against the United States for interest upon the military expenses incurred and actually expended by her for the protection of the northeastern frontier of said State and repelling invasion and suppressing insurrection at Indian Stream, in the county of Coos, in said State, in the years 1835, 1836, and 1837; and the sum so found to be due to said State shall be paid out of any money in the Treasury not otherwise appropriated: *Provided*, That said amount shall not exceed \$6,000."

It also provides that interest shall not be computed on any sum which New Hampshire has not expended for the use and benefit of the United States, as evidenced by the amount refunded or repaid to the State of New Hampshire. It seems, then, that New Hampshire received not only principal but interest, as is demanded in this amendment to the Army bill.

Maryland received it, Pennsylvania received it, and several other of the States of the Union who made advances in the war of 1812 received it.

The Senator from Iowa has complained that this claim had been made over to a railroad; Well, sir, this claim was presented by the State of Maine before it was so made over to this railroad; for it was not made over to the railroad until 1864.

Mr. GRIMES. The Senator is mistaken in saying that I complained of it. I merely stated the fact that this claim had gained great additional strength from the fact that it had been transferred to a railroad company, and hence it had added to it a large railroad lobby in its interest.

Mr. PATTERSON, of New Hampshire. Well, sir, if it has gained strength because it has been made over to this railroad, so much the better for the claim; and if it has gained any strength it is because it has added to the public interest in the claim.

Mr. GRIMES. That is what I thought—and to the private interest also.

Mr. PATTERSON, of New Hampshire. It seems to me that the gentleman from Iowa is the last man to complain because the States of Massachusetts and Maine come here and ask to have an honest debt paid, which they have appropriated to the construction of a railroad. Why, sir, over one hundred and ninety million acres of land have been appropriated by the Government of the United States for the building of railroads and canals in the great West, and New England has helped to make that appropriation of lands for that purpose.

Mr. GRIMES. That is not so.

Mr. HENDRICKS. Is the Senator from New Hampshire willing to do justice to the West by stating at the same time the fact that in the larger and more important grants to that section of the country the price of the reserved sections was doubled, and that when the lands were granted it was provided that the people who settled upon the reserved sections should pay it back to the Government in the enhanced price of that land.

Mr. PATTERSON, of New Hampshire. I do not know that that changes the principle at all. I was not complaining because this amount of land had been set apart for these internal improvements. I am glad of it. The East as well as the West have entered into the advantages and the fruits of that appropriation of public land. The gentleman from Iowa [Mr. GRIMES] says the statement is not true. If it is not true, then the Commissioner of the General Land Office has made a grand mistake in his last report; for that is his report on this subject. More than that: New England helped to pass the homestead act, and under the homestead act during the last fiscal year more than two million acres were taken up by men who had settled in the West, and since the passage of that act more than nine million acres have been taken up. Who is it that settles upon this land in the West? The sons of New England. They go forth from our homes and they settle in the West. We are glad that the West is made prosperous by these appropriations of land and by the New England men who go there and settle. All that we complain of is that gentlemen should rise here and refuse to pay this honest debt simply because it is appropriated to the building of a railroad, especially when this railroad is to benefit the West quite as much as it does New England. It brings us two days nearer to Liverpool and London. If the farmers of the great West are to sell the products of their prairies then they must have cheap transportation to the markets of the world, and this helps them to that cheap transportation. It brings them two days nearer to all the markets of Europe. Is that no advantage to the gentleman from Iowa?

Mr. GRIMES. Not the slightest.

Mr. PATTERSON, of New Hampshire. I think it is. But, sir, there are other advantages growing out of this railroad—the military advantages of this road. It was not until after the war of 1812-15 that England laid claim to

the northern part of the State of Maine, and that claim was set up simply because England discovered the necessity of a military road from her lower provinces to her upper provinces. In order to escape from the railroads which will be built northward from this line of road, running from St. John to Bangor, the English Government has appropriated \$15,000,000 in order to build a road along the northern shore of the lower provinces and through the valley of the Ristigouche from Halifax to Quebec; but that will not be accomplished if this road is built from St. John's to Bangor, because branches will run northward to the line of Maine, so that it will be easy for the United States to throw her troops northward to intercept troops who may be passing from Halifax to Quebec. If you close up this line of communication between the lower and the northern provinces of Canada you close up military communication between England and her American provinces for five months of the year. New England is not the only section of the country that will derive advantage from this, for in another war with England the attack would not be made upon the line of New England, but upon the line of the great lakes and far west of New England; and it is quite as desirable for the West to break up this military road from the lower to the northern provinces as for New England.

But, sir, there are other considerations—the political considerations. It will give us a commercial union with those lower provinces; and when we have got this commercial union established a political union will soon follow. This may not be a very great advantage in the eyes of the gentleman from Iowa, but it certainly is in the eyes of many people in this country. I cannot see therefore why because this amount of money is to be used in the building of a railroad it should be refused if it is a just and honest claim, as I think everybody must admit that it is.

One objection made by the gentleman from Ohio was that this money which was advanced by Massachusetts in the war of 1812 was advanced in order to defend the State of Massachusetts. It strikes me that is rather a singular objection. I supposed that under the Constitution the Government of the United States was bound to defend every State against an attack from abroad. Suppose a hostile fleet were to land to-morrow in Boston harbor or in New York harbor, would it rest upon the State of Massachusetts or New York to defend the State against such an invasion? It would rest upon the United States to defend those States under the Constitution. It is upon this ground that the original principal of the amount advanced has been paid to Massachusetts and Maine and the other States for the advances which they made in the war of 1812.

Mr. CONNESS. I shall be compelled to occupy the time of the Senate for a few minutes on this subject. I desire to submit some remarks, and as preliminary to those remarks I will ask the Clerk to read the report which I send to the desk. It is very short. I was listening to the honorable Senator from New Hampshire, as I always do, with satisfaction; and he attracted my attention particularly as he reached the poetical point of overstating the amount of land granted to the West for the construction of railroads. I ask the Secretary to read the report I send to the desk, and I ask the honorable Senator to listen to it. It is very brief.

The Chief Clerk read the following letter of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate of the 30th of January, information in relation to the quantity of land certified to States and corporations to aid in the construction of railroads, wagon-roads, and canals:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., February 2, 1869.

SIR: I have received the resolution adopted by the Senate on the 30th ultimo. In answer thereto I have the honor to transmit herewith a copy of a letter from the Commissioner of the General Land Office, dated the 1st instant, giving the quantity of land cer-

tified to States and corporations to aid in the construction of railroads, wagon-roads, and canals.

I am, sir, very respectfully, your obedient servant,
O. H. BROWNING,
Secretary.

Hon. B. F. WADE, *President pro tempore of the Senate.*

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, February 1, 1869.

SIR: In resolution of the Senate of the United States, adopted on the 30th ultimo, it is ordered "that the Secretary of the Interior be requested to inform the Senate the quantity of public lands certified and patented to States and Territories and corporations to aid in the construction of railroads, wagon-roads, and canals, and the improvement of rivers and harbors, indicating the quantity thereof, and conveyed within the limits of each State and Territory, naming the corporation to be benefited thereby, and the quantity of land received by each of such corporations."

Pursuant to the Secretary's reference, the following is respectfully submitted in reply:
The aggregate quantity actually certified under existing laws for railroads and wagon-roads up to June 30, 1867, is, acres..... 21,561,654.06
For canals..... 4,405,986.00

The quantity certified to the following named States since the 30th of June, 1867, is:
Minnesota, for railroads..... 670,695.48
California, for railroads..... 26,562.09
Wisconsin, for wagon-roads..... 72,133.47
Oregon, for wagon-roads..... 19,153.73
Michigan, for canals..... 280,290.92

Total..... 27,036,475.75

The estimated quantity that will eventually inure to States and corporations under existing grants is 185,591,894.67 acres.

With great respect, your obedient servant,
JOSEPH S. WILSON,
Commissioner.

Hon. O. H. BROWNING, *Secretary of the Interior.*

Mr. PATTERSON, of New Hampshire. If the gentleman will allow me I will send to the Secretary's table to be read an abstract taken from the Land Office report for the present year, not yet published.

The Chief Clerk read as follows:

"As given in the report of the Commissioner of the General Land Office for 1868—printed, but not yet distributed—the land grants for the West, as estimated at the Land Office, are:

For railroads..... 182,108,581
For canals..... 4,405,986
For wagon-roads..... 3,782,213

Aggregate..... 190,296,780

"Of the acres included in the railroad grants 58,108,581 acres were granted to the States for railroads, and 124,000,000 acres were granted directly to Pacific railroad corporations.

"What was left of the public domain after the enormous swamp land grants to the new States, and after the above appropriation of 190,296,780 acres for western canals, railroads, and wagon-roads, has been set apart to invite emigration to the West under the homestead act."

Mr. CONNESS. Mr. President—

Mr. PATTERSON, of New Hampshire. There are only a few words more.

Mr. CONNESS. But this is not from the report of the Land Office. This is the language of somebody who characterizes the legislation of the country.

Mr. PATTERSON, of New Hampshire. I said it was an abstract from the report of the Commissioner of the Land Office.

Mr. CONNESS. The figures may be part of an abstract; but this language is not used by the Commissioner of the Land Office. Now, Mr. President, I have this remark to make—

Mr. PATTERSON, of New Hampshire. I wish, as the gentleman says my language is poetical, that he would allow those figures to be read. He will find that it is the poetry of fact.

Mr. CONNESS. They have been read. The PRESIDENT *pro tempore*. The whole paper has not been read. Is there any objection to the reading of it?

Mr. CONNESS. I have no objection. Let it be read.

The Chief Clerk continued the reading, as follows:

"During the last fiscal year two million three hundred and twenty-eight thousand nine hundred and twenty-three acres were taken under that act, (the homestead act.) In all, down to June 30, 1868, nine million five hundred thousand acres had been taken under it."

Mr. CONNESS. That relates to the home-

stead act, and has nothing to do with the case. Mr. President, it will be observed that the amount certified and patented up to the present time to States, Territories, and corporations for the construction of roads and canals is twenty-seven million acres. The enormous figures that my friend has presented here to the Senate are made up of grants, so called; made to the Pacific Railroad Company; the large grant that is made to the Northern Pacific road, not one acre of which is taken, and may never be; the grant made to the Union and Central Pacific Railroad companies, which that gentleman or the nation can buy back again at not more than twenty-five cents an acre, and the companies will be very glad to sell and give title for it; the grant made on the southern route to the Atlantic and Pacific Railroad Company and a company in California over the desert parts of this country, amounting in reality to nothing. Those figures are brought in here from time to time and paraded as the enormous grants of empires for the purposes of railroads and other improvements in the West. All the grants made up to this time have consumed twenty-seven million acres of the public lands.

Mr. STEWART. I will ask the Senator from California if that is any expense to the Government under the plan which has been adopted?

Mr. CONNESS. I have not gone into that. We all know the plan upon which these grants have been made, but I desired for once to call public attention to the looseness with which those statements are made. I do not care about the argument, so far as it applies to the pending question, at all.

Mr. DAVIS. If I understand the proposition before the Senate, all the principal for moneys advanced by Massachusetts in the war of 1812 has been reimbursed to her, and the claim is now barely and simply for the interest upon the advances that Massachusetts made for the common military defense in the war of 1812. The honorable Senator from Ohio, the chairman of the Committee on Finance, read two or three items that made up the amount of this charge, and they were merely for improvising a local militia force upon some alarm of an irruption of the enemy across the frontier, which alarm was not realized, and when the alarm subsided of course this improvised militia returned to their residences. And for such service as that the account of Massachusetts in part is made out against the General Government. But, sir, there are other items in that charge of a more serious character and larger in amount, to which I will refer.

The honorable Senator from Maine [Mr. FESSENDEN] spoke truly of the difference between the State authorities of Massachusetts in that war and the Government of the United States as to the principles upon which the militia of that State should be employed in the service of the United States. We remember that Governor Strong issued his proclamation forbidding the militia of the State to go under the control and direction of United States military officers; in other words, he refused to submit the militia of the State to the government of the Commander-in-Chief of the armies of the United States. We remember that when Plattsburg was assailed by one of the most formidable forces that was ever collected by the British during the war, under General Prevost, and the militia of New York and Vermont, and a few regular forces were congregated there to make a defense of the place, the Governor of Massachusetts was called upon for his quota of militia, and he issued a proclamation forbidding the militia commanders to march to the defense of Plattsburg. That is a historical fact.

Now, this claim of Massachusetts for moneys advanced in the service of the United States results partly from this consideration: the militia, to whom Governor Strong issued his proclamation forbidding their marching to the defense of their country, were in the employment of that State, and that State advanced the pay

and military equipments for the benefit of this militia, the Governor of which State had forbidden them to enter into the defense of our common country; and after this money had been advanced by the State of Massachusetts it was made out and charged as a portion of the claim advanced by that State for the benefit of the United States in the war of 1812. Now, sir, is that a character of expenditure that is to be paid, not only the principal, but interest for forty or fifty years? Let me draw a parallel to this case.

In the late rebellion the position of Kentucky was about parallel to the position of Massachusetts in the war of 1812, but not so strong. Two to one of the white soldiers from Kentucky went into the Union Army. A majority of the people of Massachusetts in the war of 1812 were against their country, were against the armies and the triumph of their country, and gave their sympathies, and their active sympathies, to the enemy. Among those men who sympathized with the enemy was Governor Strong, and the Senator from Massachusetts knows full well that that Governor issued his proclamation forbidding the militia of the State to march to the defense of Plattsburg. He knows furthermore that the State of Massachusetts paid this militia and its military equipment herself and then filed it as an item of her account against the General Government for moneys which she had advanced in the military defense of the country.

Now, let me put a case. Suppose in the late war of the rebellion the Governor of Kentucky sympathized with the rebellion as Governor Strong in the war of 1812 sympathized with the British enemy; suppose that troops had been enrolled and mustered into the service in the State of Kentucky to march into the more southern States to put down the rebellion, and the troops were ready and willing to march, and Governor Magoffin issued his proclamation to forbid those troops from marching across the line of the State and being placed under the command of the officers of the United States Army, and in consequence of this obstruction those militia failed to march and rendered no service in the common defense of the country and the common suppression of the rebellion; but notwithstanding this failure of duty on the part of the Governor and militia of Kentucky the State settled the account of that militia force, paid the soldiery and the officers, and met the expense of all the military equipment of the command, and after having done that produced an account against the Government of the United States for an expenditure of money in that sort of performance of duty, where would be found the Senators from Massachusetts in the consideration of such a claim as that?

That is an analogous case to the present. This money that was advanced by Massachusetts was in part for the militia that the Governor refused to have march to the frontier. He submitted the question whether it was the duty of himself, as Governor of the State, to place the militia of his State under the command of the United States forces solemnly and officially to the supreme court of Massachusetts, including Governor Parson and others, and the four members of that court rendered a formal opinion that in their judgment the Governor of the State of Massachusetts had a right to withhold the militia of that State from the command and control of the United States military forces. That is one of the ingredients of this claim. Sir, the principal of the debt that was thus advanced by Massachusetts to pay off militia that her authorities would not permit to go to the field for the common defense of their country never should have been paid, and it is an outrage now upon justice and patriotism to demand the payment of interest upon that sum.

But the honorable Senator from Massachusetts says that his State ought to be put on a line with Maryland, with New York, with Delaware, with Virginia; and that those States have all received remuneration and reimburse-

ment for money that they thus advanced for military defense of the country. I ask the honorable Senator if that part was ever played by the Governor of any of those States or by the people of those States? Did they ever fail or refuse to breast the iron storm that the proud mistress of the seas was in that day hurling against our infant country? No, sir; instead of repressing the military and patriotic ardor of their people and their soldiery they encouraged it; and so did a general in the State of Maine encourage it. General William King, a brother of Rufus King, who at that time commanded some militia that was raised in the district of Maine, defied the order and proclamation of Governor Strong and marched his troops to meet the enemy. For these troops and the charge that has been made for their services I feel a profound respect. But when the constituted authorities of the State of Massachusetts, who gave all their sympathies and aid to England, our common enemy, to come forward and trumpet up a charge for moneys advanced to the United States in that war, a charge which includes the payment and military supplies of the force of Governor Strong, whom he prohibited from marching to meet the enemy, I say they ought to be well satisfied that they have got the principal.

Let me give one other illustration. We have recently had a war. The Government was put to great strait or pretended to be put to great strait to raise forces. What did it do? It offered a bounty of \$300 to the loyal owner of every negro who would volunteer into its armies. That measure, if I recollect aright, was brought forward by the vigilant and able chairman of the Committee on Military Affairs. The proposition was solemnly submitted to Congress, and if I recollect aright every Senator from the New England States voted in favor of that proposition. You solemnly made this contract and entered it upon your statute-books as a law of the United States. You said, "If the loyal owners of slaves will permit or encourage their slaves to enlist in the United States Army we will pay you, loyal owners, \$300 for each one of the slaves." At the same time, to give more impetus and force to this movement, you proceeded to liberate the wives and the children of the slaves. What was the consequence? The owners in Kentucky brought forward about ten thousand of their young negro men, the fittest material that ever wore a black skin for military operations. Their bounty promised by you according to your solemn contract amounted to the sum of about ten million dollars. You did not pay it. You required a bounty fund to be paid into the Treasury in order to meet it, and that bounty fund was paid into the Treasury to an amount sufficient to meet it by white men who sought exemption from military service. You pocketed the \$10,000,000 thus received, and with the avowed purpose of paying it over to the loyal owners of the slaves who had entered into your Army; but you did not pay it. We then brought forward a proposition appropriating money out of the public Treasury to Kentucky, to Maryland, to Tennessee, and to Delaware; and that law appropriating the money was passed, and enough of you voted for it to pass it.

Here, then, was contract filed upon contract, to meet the moderate and meager claims of the owners of slaves that were worth \$1,000 apiece by paying them \$300 apiece. You permitted the appropriation bill to pass. There was then a solemn contract between you and the loyal slave-owners of the United States that you would pay them this sum of \$300 a head for those negro slaves. You then entered into another contract, and you directed your Treasury officers peremptorily and positively to pay it; and after you had done this what did you do? You turned around and extended indefinitely the payment of this money which you had twice so solemnly contracted to pay. All New England did this; that is, the New England Senators. If any of them failed to do so I should like to know who he was, that I may honor his name.

I recollect that the honorable chairman of the Committee on Finance was once speaking upon the kindred subject of liberating the wives and children of the negro soldiers, and he said then that at a future day he would not only be willing to compensate for these soldiers themselves, but for their wives and children, that the act of Congress took forcibly, as it were, from their owners and liberated. Sir, the thirty-five thousand slaves from Kentucky, the most valuable young men in the State of that color, instead of being worth nine or ten million dollars were worth from thirty-five to forty million dollars. Here is a positive provision of the Constitution which declares that private property shall not be taken for public use without just compensation made. You repudiate that solemn provision of the Constitution. You do that after you pledged yourselves twice by solemn legislation to pay \$300 for each of these volunteer slaves. After that has been your course in relation to our rights and our property, and in relation to your own repeated and most solemn obligations to pay for that property, you expect us to vote for the payment of interest upon a claim on which you have long since received the principal, after a lapse of forty or fifty years—an account made up in part, as this account has been, by Massachusetts? After the Massachusetts Senators and other eastern Senators—I do not know of any who acted differently—thus paltered in a double sense with the slaveholders, whose slaves they encouraged to enlist in the armies of the United States, after they have twice so solemnly repudiated it, after they have been guilty of the offense of incorporating this principle of repudiation in the Constitution of the United States in one form of the fourteenth amendment, I say it is neither reasonable nor just nor decent for those gentlemen now to ask for this stale claim for interest to be paid.

Mr. DRAKE. Mr. President, I cannot but regard this claim, in its intrinsic character and in the manner of its presentation here, as one of the most extraordinary that has come under my observation during my service in this body. In the last days of the session, without any previous examination whatever by the Senate or by any committee of the Senate, it is attempted to attach to an Army appropriation bill a provision which will take out of the Treasury of the United States an amount of money which no Senator on this floor is able at this time to give, even conjecturally, the exact figures of.

Mr. SUMNER. If the Senator will allow me to correct him, I will say that I am able to give it, and will give it to the Senator if he desires it; and I will say further, in reply to him, that the claim has been carefully considered and reported upon more than once by a committee of this body.

Mr. DRAKE. I should like to see the report of a committee of this body upon this claim as now presented to the Senate.

Mr. SUMNER. It was made during the present session.

Mr. DRAKE. Where?

Mr. SUMNER. It is on the table of the Senator.

Mr. DRAKE. Will the honorable Senator be so good as to refer me to it?

Mr. SUMNER. It was made by the Committee on Foreign Relations, and I had the honor of making the report myself in the form of a bill, which was adopted by that committee after careful consideration.

Mr. DRAKE. Was there a written report connected with it?

Mr. SUMNER. There was not. It is not customary to make written reports on bills.

Mr. DRAKE. It is customary, Mr. President, to make written reports on bills which are to take an indefinite amount out of the Treasury and which are to reopen settled accounts of the Government and to make the Government liable for interest. I do not suppose there is a claim reported upon here by the Committee on Claims that is not "accompanied" with a written report. And now we are asked here, in the closing hours of the ses-

sion, to incorporate into an appropriation bill a provision which is to take a large amount out of the Treasury when there has been no opportunity of examining it through any committee of this body and placing the facts on record.

Mr. President, this case bears no analogy, in the manner of its presentation to the Senate, to the case of the State of Maryland about which so much has been said. That case underwent investigation here, and a separate bill was passed by both Houses of Congress ten years before the provision was put into the appropriation bill which has been referred to in this debate. On the 13th of May, 1826, there was passed an act authorizing the payment of interest due to the State of Maryland. Prior to the passage of that act doubtless the whole relations of the State of Maryland to the United States in reference to the war of 1812 underwent a rigid scrutiny, and Congress decided finally that it was right and proper, under the peculiar circumstances of that case, that interest should be allowed to the State of Maryland; but it was more than ten years after that act was passed that the money was paid. Here, without the passage of any such act on the part of Congress with reference to the claim of Massachusetts, we are called upon, in the last hours of a session, to order the payment of an amount of interest which no Senator on this floor can with certainty say what it is.

Mr. SUMNER. I have told the Senator already once that I am ready to say what it is.

Mr. DRAKE. And I will venture to say that if the honorable Senator's colleague, or the Senator from Maine, will undertake to make a computation, it will differ materially from that of the honorable Senator who has just taken his seat.

Mr. SUMNER. It is impossible.

Mr. DRAKE. I do not see how it is impossible. How does the honorable Senator know what proportion of the amount claimed here is that upon which Massachusetts paid interest, or lost interest by the payment of it?

Mr. SUMNER. Because I am not ignorant of the history of my State.

Mr. DRAKE. Has the honorable Senator ever examined the account of Massachusetts against the Government? Has he ever gone over it in detail? Has he ever gone over it to ascertain how much of the amount claimed by Massachusetts was money that she borrowed and paid interest for, or how much of it she lost interest upon by converting interest-bearing funds into money to realize for the occasion? No, sir, he does not know it; nor does any other living man know it; and how, then, can he say that the amount which he would state, however honestly he might state it, would be the correct amount? Sir, he knows that it cannot be so as well as I do.

Mr. President, we are not only called upon to do all this without any previous investigation of the claim of Massachusetts in such manner as is our wont in such cases, but we are called to assume that this claim was settled and liquidated in 1837, directly in the face of the facts. The whole stress of the argument of the honorable Senator from Maine in favor of this amendment was derived from the fact, as he averred it, that the claim was liquidated in 1837, when there is not in my judgment a single fact to justify that assertion. I wish to examine that point, because it is a very important fact in this case. The Senator from Maine, as doubtless the Senator from Massachusetts, puts this matter upon the ground of liquidation by the report of Secretary Poinsett in 1837. Now, sir, what are the facts? He simply made a report to the House of Representatives in pursuance of a resolution of that body. He gave them the information; he made the examination in obedience to a resolution of one House of Congress, not under an authority of the two Houses. He did not act as an accounting officer. He acted with no authority of Congress. He was simply required by one House to make a report to that House, and he made a report; and now it is claimed that that report is a liquidation of the claim. Sir, what

is a liquidation of an open claim, an open account, but an agreement by the party against whom it is alleged that it is right?

Mr. HOWARD. What is the date of that report?

Mr. DRAKE. December 23, 1837. If I have a claim in open account against another which rests upon evidence to establish it, it never can be considered liquidated until that party agrees that the amount claimed by me is the correct amount, or we agree upon some amount. I say that you cannot base upon this report of the Secretary of War any such thing as a liquidation by the United States of this claim. Why did they not go to the Secretary of War and get payment according to that report? Simply because it was a mere report giving information. They must come, then, to Congress, and they did come to Congress; and the resolution of May 14, 1836, was passed which authorized him to receive certain evidence as establishing the claim. Then, they go on further, after giving that authority, and let the matter rest until 1859. Then it was, and not before, that under the act of March 3, 1859, the authority was given in pursuance of the resolution of 1836; then it was, and never before, that Congress recognized the validity of the amount of this claim and ordered it to be paid; and yet it is asserted that twenty-two years before that time, upon the mere fact of the report of a Secretary of War, the claim had been liquidated. Sir, there can be no more unfounded assertion than that which considers that this claim was ever liquidated prior to the act of March 3, 1859.

These being the simple facts of the case, I say that the act of liquidation on the part of the Government was simultaneous with the payment of the amount ascertained by that act to be due, or, if not simultaneous, that the amount ascertained by that act to be due was paid as soon afterward as it could be in the ordinary forms of proceedings in the Treasury Department. They took the amount which after so great a lapse of time had been thus liquidated upon their own statements, upon their own proofs. And they took it in satisfaction of their claim. Not a word was said about interest prior to the payment of that money; not a word for long years after about interest; not a word of previous ascertainment of the liability to interest; not a word about any previous ascertainment of the amount of the interest or the rules upon which it should be allowed. But, sir, in the progress of time, some hunter-up of old things finds here what he supposes to be a claim against the Government for interest, and forthwith there looms up before his vision a fortune for himself as the discoverer of this claim, and a fortune for some railroad company, all to be got through a grant of the States of Massachusetts and Maine; and that is the thing that brings this claim here now, without, as I understand it, any authority from the governments of either Massachusetts or Maine.

Mr. President, if there is one principle of law which is as well settled as any other principle of law, it is that a man who, after having an open account against another, receives the total amount of that account, without laying any claim to interest upon it, he is forever barred from claiming interest. We are expected here, if we allow the claim, to go in the teeth of that principle of law. We are expected, in other words, to turn over as a mere gratuity to Maine and Massachusetts a sum ranging anywhere from \$700,000 to three or four or five times that amount.

Sir, there is no more dangerous thing that we can do in connection with the Treasury of the United States than thus to make drafts upon it in the last days of the session upon the urgency of Senators here, no matter how highly distinguished and honorable and illustrious they may be. If this claim is good, then I shall present immediately a claim on behalf of my own State. You allowed her \$6,700,000 for her war expenses. Not one single dollar of that amount was ever expended by her with-

out paying interest upon it. On that \$6,700,000 an interest probably of one quarter of its full amount, perhaps one third, was paid out by the people of Missouri in the midst of their sufferings from the rebellion. It was considered lost, given up, laid as a sacrifice upon the altar of our country's good. And now we have to go back to pay Massachusetts interest on claims for defending her neighborhood against false alarms in the war of 1812.

Mr. CONKLING. Was not yours raised upon interest-bearing funds?

Mr. DRAKE. Yes, sir.

Mr. CONKLING. But you actually paid it?

Mr. DRAKE. Missouri actually paid every dollar of the interest. That State has paid, principal and interest, every dollar of that war debt.

Mr. FRELINGHUYSEN. And your vouchers were here for two or three years before you were paid.

Mr. DRAKE. Certainly. Mr. President, I dislike very much to be brought into antagonism with Senators so distinguished as those from Massachusetts and Maine, and for whom I have so great a respect, but I must be permitted to say that in my judgment a more indefensible claim, presented in a more indefensible manner before the Senate of the United States, it has not been my fortune to have observed in the course of my experience in this body.

Mr. SUMNER. Mr. President, the Senator from Missouri tells us that the claim now before the Senate is extraordinary in character. Sir, it is my duty now to say to him in reply that the opposition is most extraordinary in character. If the claim is extraordinary it is because of the long default of the nation to one of the States of the Union. It is not extraordinary in any other respect. It is kindred to a large family of claims already amply satisfied, principal and interest, by the votes of Congress. It is rather hard that Massachusetts, who has so long been kept out of this money by a reason that I will in a moment explain, should be obliged to encounter at this time the opposition of a Senator like my distinguished friend from Missouri.

It was in 1837 that a report from the Secretary of War declared that there was a large sum due Massachusetts from the national Government. Why was it not paid at that time? Consult the history of your country and you will find a very easy answer. It was in that very year that the Legislature of Massachusetts signalized itself by demanding of the national Government the abolition of slavery in the District of Columbia. It was during that very year and the succeeding years for nearly a generation that Massachusetts sent her petitions into this Chamber demanding the abolition of slavery not only in the District of Columbia, but in all the Territories of the United States. It was in that very year that John Quincy Adams in the other branch of Congress made himself illustrious by representing this great cause. And now, what was the penalty paid by the State which he represented? It was the constant, bitter, abiding hostility of the dominant party and of the slave power which ruled this Republic. Senators need not be reminded how active that opposition was from 1837 to 1859. The principle of this claim was recognized by Congress as early as 1837, but there could be no appropriation for its payment until a late day. This is the secret of the default from which Massachusetts has suffered.

Mr. DRAKE. Will the honorable Senator allow me to say a word here?

Mr. SUMNER. I hope the honorable Senator will allow me to go on.

Mr. DRAKE. I think the honorable Senator interrupted me at least four times.

Mr. SUMNER. Very well; the Senator shall go on to any extent.

Mr. DRAKE. I merely wish the honorable Senator to explain to the Senate how it is that the State of Maryland had to wait from the 13th of May, 1826, to the 3d of March, 1857, thirty-one years, before she got the money and

the interest which by the act of 1826 she was entitled to? She was not an abolition State.

Mr. SUMNER. The answer is very easy. If the Senator will look at the statute of 1826 relating to Maryland he will find that it relates exclusively to interest which was provided for. The subsequent provision in 1857 was to reopen these interest accounts. It proceeded on the idea that interest had been paid to Maryland, but that there was a mistake in adjusting this interest. At that early day Massachusetts had not received her principal. Of course there was no provision for her interest. The cases are entirely different. And now, thanking the Senator for the interruption with which he honored me, I will proceed with my remarks.

I was observing that the anti-slavery warfare which commenced in these two Chambers was led by an illustrious Representative from Massachusetts, and that the State paid the penalty of devotion to a great cause by drawing upon itself an inexorable opposition. When I had the honor of entering this Chamber in 1851 one of my first cares was to procure the final settlement of this claim. I counseled then with my distinguished colleague, who will be remembered personally by some whom I now address—there is the honorable Senator from Kentucky, who I know knew him well—the late John Davis, my first colleague in this Chamber, and what was the reply of that wise, sagacious, and experienced Senator? Said he, "It will do no good to pursue this claim now; the power that predominates in this Chamber is adverse to Massachusetts, and you must wait for a better hour." After a protracted struggle in 1859 the anti-slavery sentiment had increased in power. Under its enhanced influence Massachusetts succeeded in ingrafting on an appropriation bill a provision for the final payment of the principal of her claim. That is all. Nothing was said about interest. Massachusetts still felt the ban under which she was placed; and now, after enduring for so long a time that ban, which she suffered from the part she took in the great warfare by which you have all profited, you turn around upon her and say that her claim is stale. This is very hard, especially from Senators here. Massachusetts appears tardily, I know; but it is only recently that she has been able to appear and ask for justice in this court.

And here, sir, I have to say that I represent no cause in this Chamber, whether it bears the name of Massachusetts or any other name, which is not the cause of justice. I scorn to make myself the attorney of an unjust claim. I know the character and the value of this claim too well to fear to encounter any Senator, even the Senator from Missouri, who attacks it. I know, sir, that this claim is just. I know that if the Senate applies its attention to the question there can be but one answer.

And now, sir, pardon me if I turn to Senators who have spoken on this matter. There is my distinguished friend, the Senator from Ohio, whose speech was compounded of sundry different elements; first of history, which was entirely inapplicable to the case; secondly of figures, absolutely exaggerated so as to be worthless; and thirdly of menaces of danger if the Senate should do justice on this occasion, all of which was entirely out of place.

First as to his history, which I say was entirely inapplicable. He treated us to messages of James Monroe, criticising the conduct of Governor Strong. There is no occasion to criticise the conduct of Governor Strong, nor is there any occasion to defend it. The case does not present any question on his conduct. The question of the principal of this claim has already been settled by the legislation of Congress. Twice over by solemn acts you have recognized it; twice over in two different installments has the principal been paid; and yet Senators enter into this debate and fly back of these two acts of Congress in order to criticise the conduct of Governor Strong. It has nothing to do with the case. Governor Strong may have acted well or ill; history will make the record with regard to him; but this Sen-

ate now has no jurisdiction over that question. Something in this world must be considered as settled; and the liability of the national Government for the principal of this claim belongs to this class. There have been two judgments in court which you cannot set aside; and yet Senators, in the face of these judgments recognizing the principal of this claim, undertake to arraign the conduct of Massachusetts out of which the claim arose. Impossible! It is not in the case.

But the Senator from Ohio goes further, and descending into minute criticism he undertakes to say that the claim of Massachusetts is founded on an allegation of services not actually rendered to the nation, being merely of a local character for which the national Government is not responsible. Here, permit me to say, the Senator from Ohio shows how little he has studied this question. He shows that, though generally so well informed on those questions that come within his particular province, he has not mastered the present question on which he has spoken so fervently and positively. Sir, the class of claims to which he referred is not included in the list of the Massachusetts claims; that class was expressly ruled out. The claims of Massachusetts already paid, and on which she now asks interest, were all included in those classes where the liability of the national Government has been recognized in the settlement of the claims of other States, and on which interest has been paid. That I may not seem to speak without authority, allow me to read a part of the act of Congress dated May 31, 1830, making the first provision for these claims.

Mr. HOWARD. Will the Senator be good enough to read the whole act?

Mr. SUMNER. I will read the whole; and if the Senator from Kentucky [Mr. DAVIS] will give me his attention he will see that this statute answers—I say it with all respect—his whole speech. It is entitled "An act to authorize the payment of the claim of the State of Massachusetts for certain services of her militia during the late war:"

"Be it enacted, &c., That the proper accounting officers of the Treasury, under the superintendence of the Secretary of War, be, and they are hereby, authorized and directed to audit and settle the claims of the State of Massachusetts against the United States for the services of her militia during the late war."

How?

"In the following cases: first, where the militia of the said State were called out to repel actual invasion or under a well-founded apprehension of invasion"

That is the first case.

"Provided, Their numbers were not in undue proportion to the exigency; secondly, where they were called out by the authority of the State and afterwards recognized by the Federal Government; and thirdly, where they were called out by and served under the requisition of the President of the United States or of any officer thereof."

That is the basis on which the Massachusetts claims were settled, and every claim that was paid was included within these terms, and these are the very terms on which the claims of all the other States for advances made during the war of 1812 were settled. If the Massachusetts claims were bad, then were the kindred claims of all the other States bad.

Mr. SHERMAN. If my friend will allow me, I will state that the payment made in 1831, the year following, covered that class of claims, amounting to some four hundred thousand dollars. All that was subsequently settled, included in the report of Secretary Poinsett, was for claims that were not embraced in that classification. It seems to me that that classification includes every kind of claim that the United States ought to have paid to the State of Massachusetts, but after that, upon the report of Mr. Poinsett in 1837, and upon the urgent recommendation of the Senator himself in 1859, the United States paid over \$200,000 on claims not included in that classification.

Mr. SUMNER. Mr. President, again the Senator will pardon me; he is mistaken. He is mistaken in this statement of fact, as I shall show in a very few minutes how grievously he was mistaken in his figures and estimates. The

payment in 1831 was of \$480,478 26, and it was for claims coming precisely within the terms of the act of 1830, which I have just read. Now, the Senator will bear in mind, if he looks at the report of the Secretary of War, Mr. Poinsett, that at the same time Massachusetts did prefer another claim, being the very claim which the Senator criticises. But I am not here to represent that claim. It is not in issue. That claim is not now before the Senate. It has never been paid. It was thrown out, and therefore there is no present question of interest upon it. The claim of interest now before the Senate is on account of a claim where the principal has already been paid and which came within those general terms applicable to all the States that made advances to the national Government during the war of 1812. Every State was held to these terms. When Massachusetts came forward with her advances she was of course held to them, and she complied with them. She brought her claims within the required conditions. The claims were audited and adjusted, and now the question of interest is before you. That is my answer to that part of the argument of my honorable friend the Senator from Ohio; but by way of intensifying his opposition, by way, as some lawyers in old days said, of aggravating the case, my honorable friend went so far as to say that there was a great distinction between the case of Massachusetts and the case of New York and the case of Virginia and the case of Maryland, because her soil was never trod by hostile foot, as was unhappily the case with those States.

Sir, one of the pleasantest sayings of antiquity is that which comes down from the Spartan matron who boasted that she had never seen the smoke of an enemy's camp. I wish that the children of Massachusetts could enjoy that boast. They cannot. The State of Maine, which was at that time a part of Massachusetts, bone of her bone, flesh of her flesh, was invaded and in large part occupied by the public enemy. A famous case will be found in your law books growing out of the occupation of the port of Castine by the British in the war of 1812; but from that place they carried their flag still further into the interior and much of that State was under constant menace. Nor was that all. The British fleet was cruising off the harbor of Boston, the harbor of Marblehead, and the harbor of Salem, so that all these different towns were compelled to make provision against the common enemy. The guns of the Shannon, in an encounter with the Chesapeake, were heard in their echoes along the coast of Massachusetts. Talk with the old citizens there and they will tell you of the sadness of that hour when gathered on hill-tops or in steeples they could espy the flag of the enemy and heard the boom of his cannon. Under such circumstances Massachusetts was driven to make provision not only for the national defense, but for the defense of her own ports and towns; and now when she comes forward at this late day she is told that her claim for advances on account of these services is worse than nothing; that it is most extraordinary that it should now be brought forward; that it is absolutely without foundation.

The Senator from Ohio, making himself the representative of the Opposition, frightens or tries to frighten the Senate by saying that if you recognize this claim you will open the door to claims to the amount I would say of innumerable millions, and the Senator from Missouri takes up the menace. Now, sir, I deny the whole conclusion. The claim of Massachusetts, I have already said, had two parts; the first, \$430,748, liquidated May 31, 1830, and then further \$227,176, which was appointed to be paid by the statute of 1859, making \$657,924. There you have the claim all told, and on that the question of interest arises.

To the allegation of Senators that this interest account would extend to many millions the answer is easy. It is entirely unnecessary that I should go into details, but I am ready to affirm that after careful estimates—

Mr. MORTON. I should like to ask the Senator from Massachusetts one question for information: whether the amount that was allowed by the act of 1859 was placed upon the same conditions and under the same limitations with the amount that was allowed by the act of 1830?

Mr. SHERMAN. The act of 1859 refers to the report of Mr. Poinsett.

Mr. SUMNER. I know that it does; but there was an act in 1836 that some one has taken from my table. I had it here.

Mr. WILSON. I wish simply to say, with my colleague's permission, that in 1836 Congress referred this matter to the Secretary of War, and the Secretary of War made a report in 1837 showing that Massachusetts had due her \$227,000. From that time until 1859 every effort was made that could be made to obtain its payment. On the 11th day of February, 1859, I introduced a bill here for its payment. It went to the Committee on Military Affairs and was referred in that committee to Mr. Chesnut, of South Carolina, who made a thorough investigation of it and a long report to the committee. The committee adopted it and instructed me to report the bill. I prepared it without amendment and agreed to report it, but finally asked Mr. Davis, chairman of the committee, if he would do it, and he said he would do it as a personal favor to me. I supposed it would be stronger here if it came from him than from me, as I belonged to a small party, and which it was said at that time had not a healthy political organization; and the bill was passed at that time founded entirely on Mr. Poinsett's report, Mr. Poinsett's report being made on the terms of the act of 1836. I hope my colleague has found the act.

Mr. SUMNER. I have it in my hand.

Mr. SHERMAN. I have the report of Mr. Poinsett.

Mr. SUMNER. I prefer to go by the statutes of the land.

Mr. SHERMAN. I have the report before me.

Mr. SUMNER. The statute of May 14, 1836, is as follows:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War, in preparing his report pursuant to a resolve of the House of Representatives, agreed to on the 24th of February, 1832, be, and he hereby is, authorized, without regard to existing rules and requirements, to receive such evidence as is on file and any further proofs which may be offered tending to establish the validity of the claims of Massachusetts upon the United States or any part thereof for services, disbursements, and expenditures during the late war with Great Britain; and in all cases where such evidence shall in his judgment prove the truth of the items of claim, or any part thereof, to act on the same in like manner as if the proof consisted of such vouchers and evidence as is required by existing rules and regulations touching the allowance of such claims; and that in the settlement of claims of other States upon the United States for services, disbursements, and expenditures during the late war with Great Britain the same kind of evidence, vouchers, and proof shall be received as is herein provided for in relation to the claim of Massachusetts, the validity of which shall be in like manner determined and acted upon by the Secretary of War."

There, sir, you have it.

Mr. SHERMAN. Now allow me to read in this connection that report.

Mr. SUMNER. Let me finish my sentence. There you have it; Massachusetts by the law of the land is put on an equality with other States, and that is all she now asks.

Mr. SHERMAN. That has been paid.

Mr. SUMNER. All that she asks is an equality with other States. The Senator says she has been paid. Of course he means that her principal has been paid. The question is whether you will deny interest on the principal. How can you do it? You have not denied the interest of any other State. Already in this debate I have reminded you of other States to whom you have paid interest—Virginia, Maryland, Delaware, New York, South Carolina; to all these you have paid interest. You have paid interest to every State that had a claim for advances during the war of 1812, always excepting Massachusetts. I have asked why Massachusetts was so long excepted?

It was because she was carrying the flag of anti-slavery which made her the subject of vindictive opposition in the Halls of Congress; and now when that cause has triumphed is it not hard that the delays to which she has been subjected on account of her loyalty should be brought against her? Sir, I cannot comprehend it; but I am sure that the opposition proceeds less from indisposition to do justice than from ignorance of the question. In the pressure of business Senators will not look into it or make themselves acquainted with the actual facts.

Mr. HOWARD. If the honorable Senator from Massachusetts will allow me, I wish to inquire at what time Massachusetts first made and presented her claim for interest upon these advances and in what way it was done? I find nothing of the kind in the statutes, nor in the reports or debates so far as I have been able to investigate them.

Mr. SUMNER. I have already stated more than once that when the final payment of the principal was made in 1859 this country of ours was on the verge of civil trouble. If Massachusetts at that time was in no mood to press a claim for interest she ought not now to suffer. Soon afterward she took her part in the strife and gave her money and her blood to carry the great cause. When the cause was won, then through her agents, and among others her late honored Governor, John A. Andrew, Massachusetts appeared here. Governor Andrew was received by both the committees of Congress to which the subject had been referred—now about four years ago. I had the honor myself as chairman of the committee of this body to preside at a joint meeting of the two committees, before which that distinguished citizen made an eloquent argument. Then, sir, was the claim, in a formal way, presented to my knowledge—about four years ago. This was after the war was over.

Mr. HOWARD. It must have been in 1865.

Mr. SUMNER. I should say it was at the end of 1865.

Mr. HOWARD. Was any report made then?

Mr. SUMNER. There was a report by the Committee on Foreign Relations at that time. My impression is that it was made by the Senator from Wisconsin, [Mr. DOOLITTLE,] a member of the committee, and there was also a report in the House of Representatives by the Senator from New Hampshire, [Mr. PATTERSON,] who was at that time a member of that body.

Mr. PATTERSON, of New Hampshire. Allow me to state that the last installment of the principal was in the Thirty-Sixth Congress. In the Thirty-Seventh Congress a memorial was presented for the interest. In the Thirty-Eighth Congress it was reported upon in the House, and again in the Thirty-Ninth Congress; so that in the very first Congress after the principal was paid application was made for the payment of the interest.

Mr. HOWARD. What was the character of the reports, favorable or unfavorable?

Mr. PATTERSON, of New Hampshire. Favorable, all of them.

Mr. SUMNER. Every report has been favorable, and that brings me again to the remark of the Senator from Missouri, which he will pardon me if I say I thought rather critical, if not ungenerous. He commented on what he called the want of a report to sustain this measure. Sir, we have proceeded according to the habits of this Chamber. More than once a report has been made on this measure; but when I had the honor of reporting the bill the other day, under the instructions of the committee, we did not think that the occasion required any explanatory report. The bill was our report. It was left to us on the floor, as occasion might require, to answer inquiries, and that I am ready to do.

This brings me, sir, to one other remark of the Senator from Ohio. He winds up by saying very sententiously that it is all settled. How? The question of the principal is all settled, but no question of interest is "all settled." This

question still remains, and it will remain, so long as the national Government is in default; and should the Senate, yielding to the arguments of my friend from Ohio, refuse to pay this interest, you only prepare the way for another discussion another year when this same claim will be presented. It is a just claim, and a just claim cannot die. It will be presented by the representatives of Massachusetts on this floor and in the other House until the national Government does justice.

And now allow me to appeal to my excellent friend, the Senator from New Jersey, whose opposition to this claim passes my comprehension. With his usual fairness, his excellence of judgment, his candor, his habits of accuracy, I cannot account for the objection that he has thought it his duty to make and to which he has lent his silver-tongued eloquence. Sir, I regret it; I prefer always to have that Senator with me than against me; but he will pardon me if I say that I think he makes a mistake; and allow me now to put the question to him directly: suppose a whole class of cases or a class of claims from different States had all been satisfied, principal and interest, except from one single State, could the Senator have the heart or the conscience to refuse payment to that single State in harmony with the payments already made to every other State? Suppose the solitary State thus excepted were New Jersey. I can answer for him. I know how ably he would insist that his State should enjoy equal rights, and receive all that other States similarly situated had received; and this is all that I now ask for Massachusetts.

I do not mean to raise any question with regard to claims that may grow out of our late rebellion. They are a distinct class, although if a State has paid interest on advances it seems to me that is a part of the advance. Let me say, sorrowfully enough, "sufficient unto the day is the evil thereof." I would provide for the claims that have arisen in the early part of our history out of one of our wars and close those accounts. This will be done simply by putting Massachusetts on an equality with the other States that made advances in that war. That is all that she now claims, and so long as I have a seat in this Chamber she will never be content with less.

Mr. MORRILL, of Vermont. Mr. President—

Mr. SUMNER. Before my friend from Vermont proceeds I hope he will pardon me if I add one further remark. I have been reminded that I forgot to state the maximum of interest on this account. I was diverted from it by an inquiry from the Senator from Indiana. According to calculations which have been made by competent persons the maximum of interest now due is \$767,947, which is very different from the exaggerated estimate by the Senator from Ohio, whose imagination saw in it several millions and the vista of yet other millions. I am perfectly willing that the Senator from Ohio, if he sees fit, shall put this sum into this very amendment as the maximum appropriation, so entirely am I satisfied that the interest will not exceed this sum.

Mr. MORRILL, of Vermont. Mr. President, I regret that this amendment has been indorsed upon an appropriation bill, because I deem it the worst of all kinds of precedents for the adjudication of State claims, of which we have a large number; and if this precedent is set it must be followed hereafter. I think the much better mode would be to provide in a general bill on fixed principles for the adjudication of all these State claims. I therefore voted against it on the question of order without any regard to its merits in itself. But I desire to call the attention of the Senator from Massachusetts to the fact that we have four general appropriation bills yet unacted upon, and some besides these four yet to be brought in from the House of Representatives. Does he believe that if this appropriation were to be passed unanimously by the Senate it has the least possible chance of becoming a law at this session?

Mr. SUMNER. I do.

Mr. MORRILL, of Vermont. I have not the slightest faith that the House will agree to it without a long contest. I am satisfied that we shall debate this question for this whole night and to the jeopardy of the general legislation of the country. I think the Senator from Massachusetts in pressing this claim with so much persistence actually prejudices it in the minds of the Senate. Holding fast on this appropriation bill and preventing the progress of public business, it seems to me, has a tendency to cast a slur on the claim itself, on which I do not pretend to pass any judgment. I hope, therefore, that the Senator from Massachusetts will be content to withdraw the claim at this time, for I am quite certain that it cannot become a law at this session.

Mr. HENDRICKS. Mr. President, after the suggestion made by the Senator from Massachusetts, I am satisfied the Senate might as well consent to pay this claim as not. He says the prosecution of this claim before Congress is not to cease while he is a member of this body. Of course the claim has been rejected before by the Senate. A day or two ago the Senate decided that it was not in order at all to consider it; but that has been taken back, so persistently did he demand it, and now he is going to persist in this demand, and of course we shall witness the spectacle that has been so frequently seen here of a change in the determination of the Senate because that Senator demands it. Why not pay it, then, at once, and be done with it? I do not think it is right, but then it has got to be paid, you know, Mr. President; the Senate knows it. Now, why should Senators oppose it after they know that after a little they will go for it. So frequently have I seen this that I know what is to be the result of this claim. This is only six or seven hundred thousand dollars. The principal was paid long ago, paid in full, and everybody thought it was settled. Nobody made a claim of interest until four years ago, according to the statement of the Senator; but it never can die. I do not know whether a payment would kill it or not. That is the only death it is to meet, according to his statement and according to what I have witnessed so often in the Senate—it is to be paid. Why not pay it at once?

Mr. President, I am not going to discuss the question whether the Government, which is presumed always to be ready when a claim is properly presented, ought to pay interest or not. But our policy, with a few exceptional cases, has been not to pay interest. When the Government has owed a private citizen for many years and has delayed him in the application, and oftentimes allowed him to meet with financial ruin before it complied with its just obligations to him, still it has refused to pay him interest; and why? Upon the theory that the Government is always ready to pay its debts when properly presented. But it seems in this case that there was no claim for interest presented; it was not demanded. The Senator says that the slave power was in the way. Why, sir, the slave power paid Massachusetts all she asked. Did the Senator from Massachusetts expect that the slave power would go beyond the asking and voluntarily pay more than Massachusetts wanted?

Mr. President, I think this claim ought to be put upon the ground that Massachusetts was so earnest in her support of the war of 1812. It does appear that she did not advance anything, according to the argument of the Senator, until the booming of the cannon was heard just beyond the hills that line her coast and until her own soil was invaded; and then it seems she raised a militia for the purpose of protecting her own borders, not to aid in the general cause except so far as the defense of her own borders was connected with the general cause; and I suppose she paid this militia that was called out for the special purpose of protecting her own borders, not like Indiana in the recent war, not like Ohio in the recent war, advancing funds so as to fill the

Army immediately to fight the battles of the country upon other than her own soil; but Massachusetts, showing her devotion to the cause and the flag of the country in the war of 1812, did not want her own soil invaded, and she took active means, prompt steps to prevent that, and she paid that particular force for that particular service and then she asked Congress to pay it back. It was paid. It was paid a long time before a good many other claims arising in that war were paid, very long before. Why, sir, as young a man as I am myself I recollect when I was a member of the House of Representatives to have presented a claim for an old gentleman whose vessel had been taken under such circumstances that Congress had to pay for it, and yet nobody thought of paying him interest.

He was a young man in command of his vessel upon the Delaware when it was taken from him, and he was left without the means of support almost, except his hands; and when it was paid he was old and gray and blind, and Congress never thought of paying him interest; and when it was asked the slave power, as the Senator says controlling Congress at that time, would not listen to him. He lived in Indiana, and it never occurred to him that it was the slave power that was opposed to the blind, gray-headed old man who did not get interest. Why? Upon the theory that the Government of the United States is always ready to pay when a claim is established to the satisfaction of its conscience. When did Massachusetts present her claim in such form as that it could not be questioned any longer? Was it before 1820? It seems that in 1820 she presented it in such a shape that there was a partial allowance made. Did Massachusetts in 1820 present the claim so as that the conscience of the Government was in default in not paying the whole? Then in 1836 some additional evidence was presented and additional payment was made; and then in 1859 a final allowance, when the State having presented all the evidence she could produce received the money from the Government upon a declaration that it is the last payment that is to be made. But that is a mistake. It is not the last. The Senator says he will not stop at all. Why did he allow that to go into the law and into the reports that this is upon the balance, the final payment? He did not intend it I suppose. Now, the truth of the business is that in 1820 the State of Massachusetts presented her evidence as well as she could, I suppose, and she was paid according to the claim then established; in 1836 she added to her evidence, I suppose, and she was paid according to the claim as then presented.

Mr. MORTON. I inquire of my colleague if there was anything in that appropriation bill saying that this is in payment and discharge of the debt. Was that language used?

Mr. HENDRICKS. As read by the Senator from Ohio I observed it. I have not read that appropriation bill myself.

Mr. MORTON. I ask whether the appropriation bill contained a declaration that this was in final discharge and payment of the whole debt?

Mr. SHERMAN. It refers to the report of Mr. Poinsett.

Mr. HOWARD. I should like to hear that.

Mr. SHERMAN. With the leave of my friend I will read it. I do not want to take time. The language of the law refers to the report of Mr. Poinsett. I will read that, for it is only a few lines:

DEPARTMENT OF WAR, December 23, 1837.

SIR: In compliance with a resolution of the House of Representatives of March, 1836, I have examined the claims of the State of Massachusetts for militia services and expenditures during the late war with Great Britain, and have now the honor to report: The original amount of these claims was \$843,349 00, which, by a payment of \$1,000 in 1817 and one of \$419,748 26, in 1831, was reduced to \$423,601 34, which is still claimed. Of this sum it appears, upon applying the same principles which have governed this Department in the settlement of similar claims made by other States, there will be due \$272,716 14, of which \$45,539 66, being for arms and accouterments purchased by the State, arms, &c., to the value of that amount must be charged to the State and be withheld from its quota, under the act of 1808, for arming

and equipping the militia. And all war like stores remaining in the State, which are paid for by the General Government, must be delivered up to the possession and use of the United States.

Very respectfully, your most obedient servant,
J. B. POINSETT.

HON. JAMES K. POLK,
Speaker of the House of Representatives.

The sum there found due has been paid under the act of 1859.

Mr. HOWARD. Yes; but I wish to inquire of the Senator from Ohio whether he has at hand the statute making the appropriation for the payment of that balance. I have not got it at hand. I would thank him to read it.

Mr. SHERMAN. I will read it. It is the act of 1859:

"And be it further enacted, That for the purpose of executing a resolution approved May 14, 1836, entitled 'A resolution to authorize the Secretary of War to receive additional evidence in support of the claims of Massachusetts and other States of the United States for disbursements, services, &c., during the late war,' the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Massachusetts out of any money in the Treasury not otherwise appropriated the sum of \$227,176 48, reported under said resolution to be due to such State by J. B. Poinsett, late Secretary of War, in a report dated the 23d of December, 1837, made to the House of Representatives the 27th day of December, 1837: *Provided*, That in lieu of payment in money the Secretary of the Treasury may in his discretion issue bonds." &c.

Mr. HENDRICKS. Mr. President—

Mr. CONKLING. I ask the honorable Senator from Indiana, before he proceeds, to let me remind him that beside the import of that act in extinguishing this claim it is obvious that there is no reservation of interest; and I remind the honorable Senator that that is the legal question here, whether when the principal was received the claimant reserved any right to demand interest. As I understand the law unless that was done whatever be the terms of the payment the interest is estopped.

Mr. FRELINGHUYSEN. That is the rule between individuals.

Mr. CONKLING. Certainly.

Mr. SHERMAN. At the request of the Senator from Indiana I will read the report of Mr. Wilson, the Third Auditor, who states in his letter of June 28, 1866:

"It does not appear by either of the settlements (copies of which I hand herewith) that any interest was allowed, nor is there any evidence on file in this office that any demand was made by the State for interest."

This was years after the last payment.

Mr. HENDRICKS. Then, Mr. President, until four years since there was no claim urged by the State of Massachusetts for interest; but she received the money as it was appropriated by Congress, upon a statement made by the Secretary of War and referred to by the law, that that was the balance of the claim. The one side, that is, the Government, in her legislation and by her Department ascertains that this is the balance; and the State accepting it upon that statement, in my judgment, is not now in a condition to demand interest.

But, Mr. President, this law of 1859 shows the fact to have been as I supposed it to be, that in 1820 the State of Massachusetts was not in a condition to demand all that was due to her from the Government; in other words, she had not presented her claim to Congress in such form as satisfied the conscience of Congress that this payment ought to be made; so that in 1836 there was a resolution passed authorizing the State of Massachusetts to present evidence in support of her claim. Up to that time she had not presented evidence. I ask the Senator from Massachusetts if the Government of the United States is under any moral obligation to pay interest to a State or any other body or person until that person or State is in a condition to demand the money? If the accounts of the State when presented are not supported by such evidence as makes it the duty of the public officers to pay the money is the Government in default? This was service rendered peculiarly under the eye of Massachusetts. This military service was not under the control and management of the officers of the United States; but it was her own militia upon her own pay-rolls, as I suppose, and it was for her, if she had a claim against the Gov-

ernment for this irregular service, to present it with such evidence as would justify the representatives of the States and of the people in making the payment from the public Treasury. I submit to Senators can interest be demanded upon any principle of conscience and equity from the United States until the claim is supported by such evidence as makes it a duty on the part of the Government to pay?

Then, in 1836, Congress—I suppose at the request of Massachusetts—provided that Massachusetts might furnish evidence of her claim. Then she prepares her evidence, and in 1859, through the Secretary of War, that evidence is brought before Congress and the appropriation is made of the sum of money then found due. I want to know from the Senator from Massachusetts when was this claim presented in such shape as that it became the duty of Congress to make the appropriation for the \$800,000? The Senator says that no written report has been made on this subject; none was necessary.

Why, Mr. President, when a claim is made against the Government for interest what must be established? Not that the principal was found to be due some time, but it must be shown that the Government was in default in making payment, that it unreasonably delayed the party after the claim was in proper shape, presented against it. Can a citizen, can a State, in conscience demand interest of the Government until the State or person has made the claim so clear by evidence as that the Government in conscience cannot refuse it? The claim for interest is in the nature of damages; and in the nature of damages for what? For delay of payment, for unreasonable and wrongful delay, for default in payment. When does the default occur on the part of the Government? Not when the debt first has its origin; but when the debt is presented against the Government in such shape so established by evidence as that the public officers are in the wrong if they refuse to pay it. In this case the officers appealed to were the members of the legislative body. When then, I ask, was this evidence of the claim presented to Congress in such shape as that Congress was in default in this matter? I think that the Senator from Massachusetts cannot say to the Senate that no written report has ever been made upon this subject, because it was not necessary. I want to know of him now when did the State of Massachusetts present her case to Congress supported by such evidence as made it the duty of Congress to appropriate eight hundred and odd thousand dollars? It clearly had not been done up to 1836, because in 1836 a resolution was passed authorizing Massachusetts to present her evidence. Then she prepared her testimony, I suppose, in support of her claim, and it came finally to be acted upon in 1859, and payment was then received by Massachusetts as the balance of the claim, urging no interest, thinking of no interest, not regarding that as a part of her claim until a railroad company becomes interested in it and that corporation urges it as a claim against the Government. The conscience of the Government was not charged with wrong by the State of Massachusetts until her assignment is made to a corporation; and I want to know before the Senator from Massachusetts undertakes to say that we are in fault in this matter when the evidence was completed in support of this claim.

But, Mr. President, it is not the policy of the Government to pay interest on claims when allowed. I will not discuss the right or the wrong of that. A State has no better right to interest than the humblest citizen of this country. He who furnishes corn to feed the cavalry horses or provisions to feed the soldiers during war is as much entitled to interest upon his advances as a State that makes an advance of money to support the cause, and especially if it be made to defend her own borders.

Now, we had better decide the question whether we choose to reverse the whole policy of the Government on this question. I am free to say that I cannot answer very satisfactorily

the demand that may be made for interest by any party after a claim has been presented with sufficient evidence to support it. I do not know why the Government should not pay interest after that time; but we have said during our whole history that we will not pay interest. Shall we reverse it? The citizen comes to Congress and he can scarcely have a hearing. Session after session he attends, he beseeches, he prays, he begs that he may be paid what the Government owes him; it may be for a horse taken, it may be for provisions supplied; whatever it is he importunes, and he stays about the Capitol hoping from day to day that he may receive that which the Government owes him. At the end of year he gets his money upon a claim which was established in the first place by sufficient evidence, but nobody talks of giving him the interest, and by the time he gets the money perhaps he is broken up in the prosecution of the claim. I have thought sometimes that the Government was the worst debtor that the citizen could possibly find, so difficult, so tedious, and so expensive is the prosecution of a claim against the Government; but after all we say to him, "We owe you no interest." Why? Upon the theory that the Government is always ready to pay; but in the case I have referred to it does not pay, has not paid except upon very unreasonable delay. Now, if that citizen thus presenting a claim well supported in every respect and commanding the conscience of the Government cannot receive interest why shall a State?

The State that I represent is somewhat interested in this question, for during the war she made advances for Army purposes; she sold her bonds and paid interest upon those bonds, and when a settlement was made in the Departments she was only allowed the amount advanced. Of course if Massachusetts is paid interest this must be returned to Indiana. We cannot see a discrimination of that sort, because there is nothing peculiar in the case of Massachusetts. There is much that was peculiar in the case of Maryland where she sold her trust funds, which were yielding interest, in order to raise money; but in this case of Massachusetts there is nothing peculiar to justify the payment of interest; and if it be paid to her, then Indiana must have her interest, of course. I should not be doing my duty to my State if I did not most earnestly insist upon it, and do that now. I want it to be understood that if this claim be carried then Indiana must be provided for, and I should say all the States ought to be provided for that have made advances; and if you go upon the theory of this proposition that interest is to be allowed before a State has perfected her evidence in support of her claim, then of course Indiana must be paid from the date that she made the advances, not from the day that she demanded the money back again.

Mr. President, the circumstances of a case very much change the zeal of gentlemen. A few days ago there was a claim of a girl here whose house was taken that upon the site of the house there might be built a fortification, and the entire property taken for military purposes. No Senator in this body was more earnest in opposition to that claim than the Senator from Massachusetts, and his hostility rested upon the most heartless technicality that it is possible to conceive. If I oppose this claim to-night urged for interest upon the theory that the Government is always to be presumed ready to pay every demand when properly presented, that technicality is not so harsh, so cold, so heartless as the technicality that a loyal person—using the language of the Senator from Massachusetts—in a southern State whose property was taken for public use cannot make demand against the Government for the simple reason that that person was a public enemy. Devoted to the country, standing by the flag all the while, never deserting the old Government, but always true—the Senator from Massachusetts says to such a person, "Unfortunately your home was in a southern State, and you are by law branded with the character of a

public enemy. It is not true in fact; you were as loyal as I," says the gentleman from Massachusetts, "as loyal as any son of Massachusetts, yet you had the misfortune to live in a southern State, and therefore the law marks you as a public enemy." To stand by the flag you had to stand against public sentiment; you had to make a stand where it was difficult to stand; and in that respect you have greater merit than a man living in the North, and yet unfortunately you lived in a southern State, your property was taken for public uses; your property aided the cause of the country, and you cannot be paid because you are a public enemy." That was the argument made by the honorable Senator the other day to save the Treasury from the payment of a claim presented here upon the most satisfactory evidence. Now he says that no technicality is to be urged against a claim for interest. I urge against the State of Massachusetts—a sovereign State, one of the Confederacy—the very technicality which is arrayed against the humblest citizen that comes to the Halls of Congress for relief; the Government is always ready to pay its debts when they are presented in such form and supported by such evidence as makes it an obligation of conscience to pay them.

Mr. FESSENDEN. Mr. President, I have been a little surprised by the Senator from Indiana, particularly by his admissions, and then by his arguments from those admissions: "A little while ago, at another session, when a claim of the State of Maine was urged here the Senator cried out 'codfish!' 'codfish!'" Now, when another claim of the State of Maine is urged, he cries out "Sue Murphey!" "Sue Murphey!" I think the codfish argument was as good as the Murphey argument and the Murphey argument as good as the codfish argument. I trust the claim will not be prejudiced in that way.

Mr. HENDRICKS. I did not know the State of Maine had any claim for codfish. I never heard of that claim. When was it presented?

Mr. FESSENDEN. No, sir. But when we had a claim presented for lands, under a treaty, the Senator then brought forward the codfish argument.

Mr. HENDRICKS. I think that the codfish argument is altogether in the imagination of the Senator. I did not know she had any such claim.

Mr. FESSENDEN. The Senator must recollect the fact. Now, sir, leaving that matter, I want to say one or two things in reference to this particular situation of affairs. The Senator first reads from a book, or he calls on the Senator from Ohio to read from a book, to show that in 1836 this claim, so far as the principal was concerned, was finally liquidated and settled and two hundred and odd thousand dollars found due. That is undisputed. That appears unquestionably by Mr. Poinsett's report, which the Senator called for and which was read. In 1836, under a resolution of Congress, Mr. Poinsett made a report in which he admitted the balance due to the State of Massachusetts to be between two and three hundred thousand dollars.

Mr. EDMUNDS. Due when?

Mr. FESSENDEN. At that moment.

Mr. EDMUNDS. In 1859?

Mr. FESSENDEN. No, sir; 1836.

Mr. SHERMAN. Eighteen hundred and thirty-seven.

Mr. FESSENDEN. Eighteen hundred and thirty-six or 1837. It was liquidated at that period under a resolution of Congress on the same principles applied to the settlements with other States; it has been read over and over again, and the sum of over two thousand dollars was found to be due.

Mr. EDMUNDS. Was any part of it interest?

Mr. FESSENDEN. No, sir; all principal, every dollar of it.

Mr. EDMUNDS. Where is the evidence of that?

Mr. FESSENDEN. It has been read forty

times to-day. The Senator from Ohio has the book before him and will read it again if the Senator wants to hear it.

Mr. EDMUNDS. I do not understand that that report shows what composes that balance.

Mr. FESSENDEN. Certainly it does. It was a settlement of the claim of Massachusetts on the same principles applied to the settlements with other States for advances.

Mr. EDMUNDS. Then does the report show that any part of it was interest and another part principal?

Mr. FESSENDEN. No. It shows that no part of it was interest.

Mr. EDMUNDS. I failed to see that when the report was read. It is silent on the subject.

Mr. FESSENDEN. It was settled on the principles applied to the settlements with other States.

Mr. EDMUNDS. You mean it was silent on that subject, and you infer from that that the amount was all principal.

Mr. FESSENDEN. I will say, in reply to that, that if any part of that was interest it will be found when we come to settle the interest account. Nobody pretends there was any interest in it. And yet, sir, notwithstanding that settlement precisely in that way, the Senator from Indiana gets up here and says "In order to claim interest you must show that there has been an admitted debt due which has not been paid; if you show that there has been a debt admitted and settled which has not been paid then you may properly claim interest;" and yet there is the fact as long ago as 1837.

Mr. EDMUNDS. Did Congress act at that time?

Mr. FESSENDEN. Congress acted precisely in the way I have stated to-day. I have gone over the whole ground to-day and stated it once. From that time, from 1837, the effort was made to get that principal paid. Congress refused to make the appropriation to pay that admitted balance up to the year 1859, over and over again, on account of the old prejudice against Massachusetts, which my friend is familiar with, growing out of the events of the war of 1812-15. Although under a resolution of Congress that amount was found due by the Secretary of War, and stated on a liquidation of the claim on the principles applied to the settlement of such claims, Congress refused to pay the money, to make the appropriation, and so it stood until 1859, and then Congress made the appropriation.

Now the honorable Senator from Indiana says, "Show, before you demand interest, that the account has been liquidated, that the money was admitted to be due." That is precisely what we show to-day, and that is the ground on which we claim it. It is that in that year the account was liquidated, the money admitted to be due, the account stated and never disputed, but no payment was made; payment was constantly refused till 1859. Sir, I take the Senator from Indiana on his own statement precisely. We present precisely the case in which in his argument he said interest would be due and ought to be paid, because he cannot possibly dispute the fact that that liquidation took place at that time. Therefore I say it is very curious for him to call for the reading of the report to establish the fact, and then lay down the principle upon which interest ought to be paid, and when we show that we come within that principle he says it should not be paid at all. Why? Because Congress refused to pay Sue Murphey. That is the amount of it. If that is an argument applicable to a matter of this kind I do not understand what proper argument is.

One thing more I want to say to the Senate, for I do not mean to argue this matter over again. He says Massachusetts did not do her part in the war; when called upon for soldiers she did not send her soldiers to fight the enemies of the country out of the State, but observed a studied silence, doing nothing until her own borders were invaded, and then she was active to exert herself to save herself and called upon the General Government for pay-

ment. Why, is it possible that my learned friend from Indiana is so ignorant of the history of his country? Does he not know—if he does not he ought to know—that some of the bravest and most distinguished soldiery in the war of 1812-15 came from Massachusetts and from all New England? Why, sir, "the Fighting Fourth" was one of the most celebrated regiments of that war. It is not so. New England—Massachusetts is a part of New England—furnished her quota of troops.

Mr. GRIMES. Who commanded the Fourth?

Mr. FESSENDEN. I do not remember. A considerable portion of it was raised in New Hampshire, some in Vermont, some in Massachusetts. Did the Senator never hear the name of Ripley? Was he not a Massachusetts man?

Mr. GRIMES. A New Hampshire man.

Mr. FESSENDEN. No, sir; a Massachusetts man.

Mr. SUMNER. Let me remind the Senator there is General Miller, who uttered the famous saying "I will try."

Mr. GRIMES. But he did not happen to be a Massachusetts man, nor Ripley either. Ripley was born in Hanover, New Hampshire.

Mr. FESSENDEN. He lived in the State of Maine when he went into the war. At any rate, if he had stayed in New Hampshire I do not know what might have become of him; but he came into Maine, and from there went into the Army; and Miller went from Massachusetts.

Mr. SUMNER. From Salem.

Mr. GRIMES. Miller was afterward Governor of Arkansas, and was then appointed collector of customs at Salem; but he happened to be a relative of mine, and I know something about him. He was born in New Hampshire.

Mr. SUMNER. He lived in Massachusetts.

Mr. GRIMES. In the latter part of his life, long after the war.

Mr. FESSENDEN. If he was not born in Massachusetts he could not have found a better State than New Hampshire to be born in. [Laughter.] That is all I have to say about it. My friend from Iowa was born there, too, and he does honor to his native State. But I have this to say, that some of the bravest men in that war were from Massachusetts; many of the bravest officers, many of the most distinguished officers, and the Massachusetts soldiery and the New Hampshire soldiery and all the New England soldiery were known in every field in that war. Go to Chippewa and Lundy's Lane and inquire the history of the New England men there. And does the Senator know nothing about the almost innumerable fleet of privateers that went from the ports in New England, from Massachusetts and from Maine?

Mr. HENDRICKS. I would not deny the privateers.

Mr. FESSENDEN. I do not understand you.

Mr. HENDRICKS. I do not dispute about the privateers.

Mr. FESSENDEN. They did a very respectable quantity of fighting. But the remark was that Massachusetts stood still, that she would not send her men out to fight on other fields, that the people of Massachusetts stayed at home and did nothing until her own borders were attacked. Does the Senator believe that statement that he made? If he believes it is because he has not read or has forgotten his country's history at that period. No, sir; Massachusetts and all New England furnished their quota of troops, and went out of the State and fought under the command of officers appointed by the General Government where ever fighting was done during that war. And, sir, you must remember that Massachusetts at that time was bordering for a great part of the length of her territory on hostile territory, and that she was exposed; her territory was attacked not only by land but by sea; and the General Government failed to defend her, and called on Massachusetts to defend herself, and

she turned out her own citizens to defend her own borders. Did that make a claim of Massachusetts on the General Government or not? Was she bound or was the General Government bound to defend her as a part of the United States—a part of the territory of the country? Sir, the principle has been admitted over and over again. It has been admitted during the very last war we had, the war of the rebellion; it is admitted everywhere. And, sir, is it true that the policy of the Government is not to pay interest? The Senator states it as a fact. Sir, the Government paid interest to the States upon advances made during the revolutionary war; and the Government has paid interest to every State except Massachusetts for advances made during the war of 1812-15 in all cases where the States had paid interest and were obliged to pay interest; so that the Senator is wrong in his facts. Sir, I argued this matter at length this morning, and I will not trouble the Senate with a repetition of what I said then; but I could not sit still and hear statements so broad made by my honorable friend, showing that he was laboring under so very great a mistake in regard to history with which he ought to be familiar.

Mr. MORTON. Mr. President—

Mr. FRELINGHUYSEN. I would ask the Senator from Indiana if he will not give way for a motion to adjourn? ["No!" "No!"] We cannot settle this matter to-night.

Mr. MORTON. I shall conclude in a few minutes.

Mr. President, this claim set up by Massachusetts ought not to be disposed of upon any narrow or technical principles. The statute of limitations does not run against the General Government, nor should it run against a State. If this money is fairly due to the State of Massachusetts it should be paid without regard to lapse of time. It is a question therefore as to the justice and equity of the claim. But, Mr. President, should the Government pay interest on a claim? I ask why not? Why should not the Government pay interest in any case where a private individual would be required to pay interest by equity or by law? Because the Government has not done it in many cases where it ought to do it it cannot be argued that it ought not to. And should the Government pay interest to a State for advances? Why not? If a State advances money to the General Government that loan answers the same purpose as if the Government borrowed money on its bonds, and if it can afford to pay six per cent. interest in gold on its bonds it can afford to pay interest on advances made by a State for it. Where is the difference in principle and in justice? What has been the precedent in regard to paying interest to States for advancements? After the war of the Revolution when our new Government was organized, and we came to settle the claims growing out of that war, we paid interest to the States for their advances; and that, too, without going into the question whether the States themselves had been paying interest on the same sum.

There is the first precedent. Again, after the war of 1812 the Government paid interest to all the States for their advances except to the State of Massachusetts. Then, after the war of 1846, the Mexican war, the Government paid interest to the several States for the advances during that war. So we have the uniform practice of the Government for paying interest on advances made by States, except it may be in the single case of Massachusetts—first, after the Revolution; second, after the war of 1812; and third, after the war of 1846. Now, sir, I come down to the war of 1861. Why shall not the Government pay interest to the States for their advances during that war? I should not have said one word in this debate but for the argument made by the Senator from Ohio and the Senator from New Jersey and the Senator from Missouri that if this claim be allowed to Massachusetts it will open the door to allowing the claims of States for interest on advances made during the war of the

rebellion. Sir, I hope the Government will be called upon and will pay the States for the advances made. Why not? Take the case of my own State. In 1861 when the war broke out the Government was without money to organize troops and put them into the field. It must be done by the States or not at all. The State of Indiana was compelled to put her bonds into the market to the amount of more than two million dollars, to sell them at a discount, and she has been paying interest on those bonds until they have been paid off, or a part of them, and she is paying interest on some of them now. Why should not the State of Indiana be refunded for that advance? It was the cheapest money that this Government borrowed. When it borrowed money of private persons it was compelled to pay interest at the rate of six per cent. in gold. The States will not ask gold interest, nor will they ask their principal to be paid in gold; but when Indiana has borrowed money and is now paying interest on it for the purpose of advancing it to the Government in the payment of supplies, can you tell me any principle of common honesty or integrity that will not require the Government of the United States to refund that interest to the State of Indiana?

Mr. GRIMES. How much is that claim of Indiana? What is the amount of it?

Mr. MORTON. The claim of Indiana for discount on her bonds and for interest that she has paid upon them is about six hundred thousand dollars. It was said by my friend from Ohio to-day, "If you open this door perhaps you will open the door to \$1,000,000,000." It is not so; it would be comparatively a small sum; but suppose it amounts to \$50,000,000, what of it? It is a just debt, as just a debt as any bond that we owe; but because it has not yet been allowed, shall it be repudiated because we may thereby increase the public debt? I would like to inquire whether we are now to repudiate honest debts that may be due to the several States for advances made simply because if we do not repudiate them we shall to that amount increase the public debt?

Sir, these debts due to the several States for advances made are just as honest and as meritorious as debts due for money borrowed directly by the Government; and as I before remarked, it is the cheapest money that the Government borrowed during the war. Now, Mr. President, I protest against the argument that if you allow the Massachusetts claim you will thereby open a door to pay the other States. Why, Mr. President, the right of the other States to be reimbursed does not depend upon this question, and the rejection of this claim should not be made a precedent or an argument for hereafter refusing to reimburse Indiana and other States for advances made in the late war.

Mr. President, there have been several things thrown in sideways as an argument against this claim of Massachusetts. One is that this money is to go to a certain railroad corporation. What have we got to do with that? The question is whether the money is due to Massachusetts and Maine. When they get the money it is of no importance to the Government whether they give it to a railroad company or throw it into Boston harbor. Is it their money? Is it due to them? If it is, how can you refuse to pay it to Massachusetts and Maine because they have seen proper to promise this money when they get it to a railroad company? What business is that of ours? What kind of an argument is that, sir?

Then, we are told that this claim was not urged in time. As I said before, States are not to be barred by the statute of limitations nor is the Government to take advantage of its own ruin, and because it has failed to pay a claim for forty or fifty years to turn around and say "the claim is an old one and we will not pay it on that account." If the Government had paid this claim for interest years ago, the argument of age could not have been urged against it; but after having failed to pay it for half a century, then to turn around and say

"this is an old claim and we will not pay it on that account" has neither justice nor equity in it.

There is one point, however, in this particular claim which strikes me rather unfavorably, though I do not know that it authorizes us to reject it, because the justice of the claim has been recognized by two preceding Congresses. It would hardly be proper, perhaps, now to go back to the original consideration, because having agreed to pay the principal as to advances made by the State during the war it is now perhaps too late to inquire whether the original payment was correct or not. But it does go somewhat, I confess, to the moral character of this claim that Massachusetts at the time the claim was contracted refused to allow her militia to be commanded by the Government of the United States; that she chose to carry on the defenses upon her own plan and upon her own account. That does go somewhat, I confess, to the moral character of this claim for interest. It might perhaps be said with some propriety that if Massachusetts chose to carry on the defense of her territory according to her own plan and upon her own account, and refused to allow the Government of the United States to command her troops, she might also look to the accounts herself and have no claim on the Government.

I do not speak particularly of the merits of this claim; but I protest against the argument made here to-night that if it is allowed you will thereby open the door to Indiana and other States to come forward with claims for money advanced on which they have paid interest and are now paying interest, not to defend their own borders, but to equip troops to go a thousand miles south to fight the battles of the country. Indiana has done it and other States have done it, and where they have done it they have a legal and a moral right to be reimbursed, not only principal, but interest; and however this claim may be decided I, for one, shall insist hereafter that the Government of the United States is legally and morally bound to reimburse those States.

Mr. FRELINGHUYSEN. I move that the Senate do now adjourn. There are a number who wish to speak. I have something myself to say further.

Mr. MORRILL, of Maine, called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 22, nays 27; as follows:

YEAS—Messrs. Buckalew, Chandler, Cole, Conkling, Corbett, Davis, Drake, Edmunds, Fowler, Frelinghuyesen, Grimes, Harlan, Hendricks, Howard, McCreery, Morgan, Ramsey, Rice, Sherman, Tipton, Whyte, and Williams—22.

NAYS—Messrs. Cattell, Conness, Cragin, Doolittle, Fessenden, Harris, Howe, Kellogg, McDonald, Morrill of Maine, Morrill of Vermont, Morton, Nye, Osborn, Patterson of New Hampshire, Pomeroy, Robertson, Ross, Sawyer, Sprague, Stewart, Sumner, Thayer, Trumbull, Van Winkle, Warner, and Wilson—27.

ABSENT—Messrs. Abbott, Anthony, Bayard, Cameron, Dixon, Ferry, Henderson, Norton, Patterson of Tennessee, Pool, Saulsbury, Spencer, Vickers, Wade, Welch, Willey, and Yates—17.

So the Senate refused to adjourn.

Mr. POMEROY. Mr. President, I voted against the adjournment thinking perhaps the Senate would come to some conclusion on this subject and take the vote this evening. I made several efforts some days ago to induce the Senate to limit, before the session closed, in some measure the debate on a pending proposition. It did not meet with any favor or very little favor in the Senate. We have now but two days more of this session, and I make the assertion that it is impossible to complete any appropriation bill this session. We may, for instance, close this question to-night, the bill will be returned to the House with the amendments to-morrow, and they of course will non-concur and ask for a committee of conference. It is impossible for that committee of conference to report if they examine these amendments before the day after to-morrow, the last day of the session, and you cannot enroll the bill and put it before the President before we adjourn; and so of the others. When the chairman of the Committee on Appropriations consented

that the appropriation bills might stand aside on Saturday, and the chairman of the Committee on Finance introduced a measure which took a day and a night, in that measure was lost every appropriation bill. That measure of course will not be signed by the President, there will be no law growing out of it, but it must consume the time of the Senate to discuss it, and in that discussion we have lost the appropriation bills, and it is of very little consequence now what is done between this and the last hours of the session. It is impossible to make one of these bills a law by the greatest industry we can practice, because all of them have to go back to the House, committees of conference have got to be appointed; and after they are appointed they have to examine and report, and then we must get the bills enrolled; and twelve o'clock on the 4th of March will come before that is done.

Mr. GRIMES. What is the subject under consideration, Mr. President?

Mr. POMEROY. It is just as appropriate to talk about the order of business as it is about any question under discussion. This thing has been gone over and over and over, and gentlemen on this side of the Chamber have not spoken on the question.

The PRESIDING OFFICER. (Mr. THAYER in the chair.) The Chair will state that the question is on agreeing to the amendment proposed by the Senator from Iowa to the amendment proposed by the Senator from Massachusetts.

Mr. POMEROY. I know what the question is.

Mr. CONNESS. Will the Senator let us vote?

The PRESIDING OFFICER. The Senator from Kansas will confine himself to the subject.

Mr. POMEROY. I am approaching the subject gradually. [Laughter.] If the Senate are willing now to come to a vote I will yield. There never was a time since I came to this body that I would not stop speaking for a vote; but if there is no vote to come one Senator may speak as well as another, and we may as well speak on one subject as another. Debate has gone by; it is merely a question now who can occupy the most time and how long the patience of the Senate will hold out. Nothing more can be said on this question. It has been argued in the first place on a point of order one whole day, and now all day and all night on the merits of the question.

Mr. HENDRICKS. I think the Senator from Kansas, being in the chair, declined to consider the decision of the Senate on the question of order as authority. If the Senator had just stood by the decision of the Senate we should have got along very well.

Mr. POMEROY. I did not desire, by any arbitrary decision of mine in the chair, to prevent the Senate discussing and debating this thing fairly. It was due to this question that the claim should be presented. I did not desire to take any part in it or throw any obstacle in its way. I do not know but the claim is a good one. I have not any hostility to this claim myself; I only want it voted upon. It does not seem any worse to me because it is to be appropriated to build a railroad of considerable national importance. Let the Senators from Massachusetts and Maine ask an appropriation for that purpose and I will vote it; so far as I am concerned I will vote it to-night. It is a fair, legitimate question, and even if there was no claim for interest if they would put it on that ground I would vote for it. I have done it for enterprises of this character in other sections of the country. Why not do it for Maine and Massachusetts?

I do not propose to discuss it. I want the Senate to vote. They cannot be unmindful of the fact that the hours of this session are numbered. It is not like a session when we can put off our adjournment; the hours are numbered, and by no ingenuity of ours can we make this bill a law even if we take the question to-night.

Mr. CONNESS. Let us try.

Mr. MORRILL, of Maine. One word. I am not responsible for having consumed much time in speeches on this or any other subject; I have not been disposed to trespass much on the time of the Senate on this bill; but I think it is entirely practicable to pass all the appropriation bills that have come to the Senate, or may come in the course of the business of the House, provided the Senate gives its attention to that subject, and does not unnecessarily procrastinate debate. I have not participated in this discussion, nor do I intend to do so. We have no previous question here which authorizes or enables me as chairman of the Committee on Appropriations to bring debate to a close at any time. We have one rule that I believe can be applied proximately, and that is that no Senator shall be allowed to speak more than twice upon any one question on the same day. I hope Senators will not hereafter think it out of order for me to enforce that rule.

What I rose to say was that it is entirely practicable to pass all the bills that have been sent to the Senate and those which I anticipate will be sent to-morrow, in my judgment. Now, sir, how much more time this bill is to take of course I do not know. The discussion has been so ample and broad up to the present time that it would seem to have covered all the necessary points of the case; and if the Senate are desirous of acting upon the information they have upon the subject, and not to defeat the bill by unnecessary speaking, having no reference to the judgment of the Senate, I do not see why they cannot finish this bill to-night and go home in pretty good time. That being done, what have we left? We have the Post Office appropriation bill, which has not been amended at all by the committee, and which I predict will pass in half an hour, and will be read and enacted in a single half hour. Then you have the legislative bill, which will soon pass. It has been very little amended. I do not know of but one single point in it which I think will be controverted at all, and that is as to the clause the House of Representatives have inserted increasing the pay of the female clerks. That may give rise to some debate, but it does not occur to me that there is a single item in the bill calculated to challenge much debate in the Senate. So that in a single two hours I should hope that the Post Office bill and the legislative appropriation bill would get the sanction of the Senate; then you have the deficiency bill, which is not a long bill, and has very few controverted points. The chief items of that bill are for deficiencies in the Army, those relating to the Indian war. They are, in gross, some fifteen million dollars. Nobody, I think, will challenge them, and I should not expect that the bill would occupy much time in the Senate. All you have back of that is the miscellaneous or sundry civil bill, as we call it. That has not reached the Senate yet.

Now, one word about the responsibility which attaches to me, alluded to by the honorable Senator from Kansas. He says if I had not yielded to the bill of the Senator from Ohio on Saturday all would have been well. Mr. President, I did yield to the solicitations of the chairman of the Committee on Finance. The honorable Senator from Ohio reminds me that he was compelled to yield to a railroad bill. That may be so. How much responsibility I have about that the Senate may judge.

Mr. SHERMAN. I hope my friend from Maine does not impute that I thought he was responsible for it.

Mr. MORRILL, of Maine. No; but the Senator from Kansas alludes to the chairman of the Committee on Appropriations as having been guilty of laches in some way, or at least the allusion is susceptible of that inference. On Saturday, when my bill was regularly before the Senate, I did yield to the solicitations of the chairman of the Committee on Finance. He had a bill which in the judgment of the Senate ought to receive a consideration in this body, and I was appealed to by leading gentlemen—by a number of gentlemen here—to allow that bill to be considered. It was then sup-

posed it would occupy but very little time. I lost the day, to be sure, but there was this consideration about it: I only had this bill, which I could not presume would occupy this entire day; the House had not sent to the Senate any other bill upon which we had been able to act; we had the legislative bill, but the deficiency bill had not reached here. I thought I could with perfect safety yield to the Senator from Ohio on Saturday, and have to-day to finish this bill; and I submit to the Senate whether or not it was reasonable to suppose that this day would be ample to finish this bill; and if so then we should be allowed, as we shall now if this bill is finished, to take up the Post Office, the legislative, and the deficiency bills, and finish them to-morrow. The time is ample. These bills have been prepared since Saturday night, and have been reported and will be in order to-morrow. Therefore I trust the Senate will proceed to a vote on this bill, and allow us to-morrow to take up in their order the bills which will then be lying on the table, and we shall have ample opportunity to finish it, and to conclude so far as we are concerned, I am sure, all the appropriation bills which have been sent to us.

Mr. CHANDLER. I had hoped there would be an end somewhere to this question of interest and to these claims for moneys expended in the war of 1812. There is usually a statute of limitations somewhere. I suppose there is not a member of this body who does not know that there was, and is, no claim against the Government for the expenditures provided for in this amendment. There never was a claim at all. The States for their own protection, because perhaps the people were scared, made certain investments, called out the militia; a hay-stack would be burned in another town, and the militia would be called out; the enemy were approaching! The militia were not called out by the Government, and not one dollar of this money was expended under the direction of the Government or at the call of the Government, and when these sums were expended not a single one of these States expected ever to receive one dollar from the Government in consequence of these expenditures, and no claim was made for years by any one of these States or cities. Finally, in process of time, the city of Baltimore, the State of Maryland, the State of Massachusetts, and other States, brought in their claims and asked the Government, at its discretion and at its pleasure, to refund money that had been expended by the States for their own protection. There was no intimation made that they would even ask for interest, nor did they intend to ask for interest. In process of time those several amounts were credited to the different States; and as the Government had money in its Treasury it paid these claims from time to time, and still there was no thought of interest. That was a final settlement. No other demand was made upon the Government, and it was deemed a gratuity, and was a gratuity.

In process of time, and after a long time, the States came in and asked for interest. They said that they had paid interest, and after a long time interest was paid to States that had paid interest until it was all paid upon the claims that had been adjusted and properly presented interest at six per cent. The interest was all paid where interest had been paid by the States. On the 3d of March, 1857, the late Mr. Pearce, of Maryland, moved upon an appropriation bill just as this is that the accounts of the State of Maryland should be reopened and settled by the Secretary of the Treasury upon the principles of mercantile usage. It was a very innocent little thing. There could not seem to be any objection to that. The mouse in the meal was thoroughly covered; there was not a track on the surface; and in this hasty, inconsiderate manner that simple amendment went on, and the accounts of the State of Maryland were opened and the account for interest was reopened.

Mr. CONKLING. Was that the language of the motion?

Mr. CHANDLER. I have not got it before me; but that was the substance of it. I have not the act before me.

Mr. SUMNER. Would the Senator like to have it precisely and not draw upon his imagination?

Mr. CHANDLER. I say I only give it from recollection, for I have not looked it up.

Mr. SUMNER. The Senator's recollection is ordinarily, as we all know, very exact; but here I think it fails a little.

Mr. CHANDLER. I shall be glad to be corrected.

Mr. SUMNER. It reads:

"That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to reexamine the account between the United States and the State of Maryland as the same was from time to time adjusted under the act passed May 13, 1826, entitled 'An act authorizing the payment of interest due to the State of Maryland,' and on such reexamination to assume the sums expended by the State of Maryland for the use and benefit of the United States, and the sums refunded and repaid by the United States to the said State and the times of such payments as being correctly stated in the account as the same has heretofore been passed at the Treasury Department; but in the calculation of interest due under the act aforesaid the following rules shall be observed, to wit: interest shall be calculated up to the time of any payment made."

Mr. CHANDLER. That is it.

Mr. SUMNER. That is not all.

"To this interest the payment shall be first applied."

That is what the Senator has always done in his large business, I am sure.

"And if it exceed the interest due the balance shall be applied to diminish the principal."

Mr. CHANDLER. That is it.

Mr. SUMNER. "If the payment fall short of the interest the balance of interest shall not be added to the principal so as to produce interest."

Mr. CHANDLER. Certainly.

Mr. SUMNER. No compound interest.

Mr. CHANDLER. I was correct.

Mr. SUMNER. That is not all.

"Second. Interest shall be allowed to the State of Maryland on such sums only on which the said State either paid interest or lost interest by the transfer of an interest-bearing fund."

That is the precise rule which we ask to have applied to Massachusetts.

Mr. CHANDLER. That is it. I knew I was correct, Mr. President. I did not give the language, but I gave the idea correctly.

Well, sir, the accounts were to be reexamined and settled according to the principles of mercantile usage; that is, if a payment was made of \$100,000 in 1816 and another \$100,000 on the 1st of January, 1817, interest was to be counted up to the 1st of January, 1816, and then on the 1st of January, 1817, and so on, making compound interest. That is all there is to it. The accounts of the State of Maryland were reopened and settled according to the principles of mercantile usage, thus obtaining several hundred thousand dollars of compound interest. Maryland had already received every dollar of the principal and every dollar of the interest at six per cent. from the date the money was advanced where she had paid interest. This is a similar case; and therefore I wish to have the attention of the Senate while I state it fairly. This was on the 3d of March, 1857. On the 31st of May, 1858, there was another mouse found in the meal, and of a larger size:

"And be it further enacted, That the proper accounting officers of the Treasury be authorized and directed to examine the accounts between the United States and the several States which have been or may be allowed interest upon claims against the United States which have accrued during or since the war of 1812 with Great Britain, and apply in such examination the provisions and principles of the twelfth section of the act of March 3, 1857, entitled 'An act making appropriations for certain civil expenses of the Government for the year ending 30th June, 1858,' and that any money found upon such reexamination to be due any State shall be paid to such State out of any money in the Treasury not otherwise appropriated."

That was postponed. It was not adopted immediately. Congress began to suspect that there might be something larger than appeared on the surface, and gave it the go-by for that year; but in the next year, on the 26th of

February, 1859, came the final struggle on compound interest. Then this clause was moved to an appropriation bill. Mark you, all this was done in the same way that these jobs are always done—brought in on an afternoon or evening on an appropriation bill:

"That all the States which have had or shall have refunded to them by the United States moneys expended by such States for military purposes during or since the war of 1812 with Great Britain, which have not already been allowed interest upon the moneys so expended, shall now be allowed interest so far as they have themselves paid or lost it; said interest to be computed by the proper accounting officers of the Treasury according to the provisions and principles directed to be applied to the case of Maryland by the twelfth section of the act of March 3, 1857, entitled 'An act making appropriations for certain civil expenses of the Government for the year ending June 30, 1858'; and that all the States which have been allowed interest upon claims against the United States, accruing during or since said war of 1812, shall be entitled to have their interest accounts reexamined and restated by the proper accounting officers of the Treasury according to the provisions and principles of the twelfth section of said act of March 3, 1857; and that those provisions and principles shall govern the computation of interest in all cases in which interest may hereafter be allowed to any of the States. Any money found to be due to any State, as directed by this section to be computed and ascertained, shall be paid to such State out of any money in the Treasury not otherwise appropriated."

Mr. SUMNER. What statute does the Senator refer to?

Mr. CHANDLER. This amendment was offered February 26, 1859.

Mr. DOOLITTLE. What committee moved the amendment?

Mr. CHANDLER. It was "on motion by Mr. Iverson, from the Committee on Claims." That proposition was adopted in this body. Information was called for; and it finally turned out that there were seventeen million some odd thousand dollars in that innocent little readjustment. Seventeen hundred thousand dollars compound interest was to go to Virginia alone.

Mr. SUMNER. It never passed.

Mr. CHANDLER. No, sir; thanks to the new States, for we combined and defeated you; and I supposed we had settled compound interest forever. It has not appeared from that day to this. Its hydra-head was smashed. [Laughter.]

Mr. CONNESS. My friend from Michigan does not mean that the Senator from Massachusetts was in combination with the "slave power" to do that at that time? [Laughter.]

Mr. CHANDLER. No, sir; but we killed compound interest, and I supposed it was dead forever. I never expected to see compound interest appear again on the face of the earth in this body; but here it is again. As I said before, all the new States then combined and voted down this question of compound interest. Every dollar of the principal and every dollar of simple interest, where interest had been paid, having already been paid, we went against this \$17,000,000 for compound interest. We combined against it and killed it; and I hope the Senate will never resuscitate the remains of that monster. There, sir, is briefly the history of this whole question.

Mr. HOWARD. I had hoped that the Senate would adjourn and take a night's rest after the earnest remarks of the Senator from Massachusetts were finished; but that does not seem to be the will of the Senate, and as I have a few words to say on the subject I shall be compelled to proceed, somewhat against my will, because I should like especially to inform myself more fully and accurately respecting this claim before I undertake to say a word upon it. If it is the desire of any gentleman to move an adjournment I will yield the floor for that purpose.

Mr. TIPTON. With the permission of the Senator from Michigan, I move that the Senate adjourn.

Mr. MORRILL, of Maine. I hope not.

Mr. CONKLING. Oh, yes; there are several gentlemen who want to speak on this subject, and you might as well adjourn first as last.

The PRESIDING OFFICER, (Mr. THAYER

in the chair.) The Senator from Nebraska moves that the Senate do now adjourn.

Mr. CONNESS. On that motion I call for the yeas and nays.

Mr. SHERMAN. I hope my friend from Nebraska will withdraw that motion for a moment. I desire to make a brief statement if he will with withdraw it.

Mr. TIPTON. I withdraw it.

Mr. HOWARD. I believe I have the floor.

Mr. SHERMAN. If the Senator will allow me I will take but a moment.

Mr. HOWARD. I have but a word to say, and unless it is something important that the Senator desires to state I should prefer to proceed.

Mr. SHERMAN. I desire to appeal to my friend from Massachusetts to withdraw this amendment, because it is manifest that it stands in the way of the appropriation bills. I have no desire to speak against it, and never consume time beyond what I think necessary to express my views; but I am satisfied that the public good will be advanced by letting this question go over until the next session of Congress.

Mr. SUMNER. Mr. President, the Senator from Ohio has opposed this amendment in every possible form—on questions of form, on questions of order, on questions of history, on questions of finance, on everything. He has summoned from his arsenal every possible weapon against it, and now he asks to kill it by indirection. So long as I have any control over it it shall not be withdrawn. I am perfectly willing to accept the judgment of the Senate. They may vote it down if they see fit; but it is a just claim, and I insist upon having a vote of the Senate upon it.

Mr. SHERMAN. Very well; I will vote to adjourn.

Mr. HOWARD. I differ diametrically from the honorable Senator from Massachusetts as to the justice of this claim.

Mr. POMEROY. Will the Senator allow me to make a point of order?

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. POMEROY. I rise to a question of order. My point of order is under the fourth rule of the Senate, which I should like to have the Clerk read.

The PRESIDING OFFICER. The rule will be read.

Mr. CONNESS. Let us hear the point of order first.

Mr. POMEROY. The point of order is that no Senator can speak more than twice on the same subject on the same day. It is the fourth rule of the Senate.

Mr. HOWARD. Read the rule.

The Chief Clerk read as follows:

"4. No Senator shall speak more than twice in any one debate on the same day without leave of the Senate, which question shall be decided without debate."

Mr. HOWARD. Does the Senator from Kansas assert that I have spoken even once on this subject?

Mr. POMEROY. I understood the Senator to have spoken twice during the day.

Mr. HOWARD. I have put some questions for information, but I have not addressed the Senate on this subject.

The PRESIDING OFFICER. Under that statement the Senator from Michigan will proceed.

Mr. POMEROY. I withdraw the point of order if the Senator has not spoken twice. My understanding was that he had.

The PRESIDING OFFICER. The Senator from Michigan will proceed without interruption except by his consent.

Mr. TRUMBULL. I ask the Senator from Michigan to give way to me for one moment to make a statement.

Mr. HOWARD. I will give way for a motion to adjourn, if the Senator wishes to make it.

Mr. TRUMBULL. I will conclude what I

have to say, which is but a word or two, with a motion to adjourn.

Mr. HOWARD. I will yield for that purpose.

Mr. TRUMBULL. I wish to say that it is now manifest that certain Senators here are willing to take the responsibility of defeating the ordinary appropriations for the support of the Government at the present session of Congress, and upon the heads of those who take that responsibility I think it may now properly rest. We met at eleven o'clock this morning; it is now past eleven at night; and if Senators who belong to the majority that controls the Government will insist on putting upon appropriation bills matters not pertinent to those bills, claims of this character, I think those of us who want to support the Government, and want to pass the ordinary appropriation bills to maintain the Government, will be justified; at this hour, and after this protracted session, and with this disposition manifested and avowed that it shall be persisted in, let the public service suffer as it may, in going to our homes and letting them take the responsibility. I move that the Senate adjourn.

Mr. SUMNER. Who is persisting?

Mr. CONKLING. Is debate in order?

The PRESIDING OFFICER. Debate is not in order. The Senator from Illinois moves that the Senate do now adjourn.

Mr. CONNESS. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

The Chief Clerk proceeded to call the roll.

Mr. BUCKALEW (after voting in the affirmative) said: With the permission of the Senate I desire to withdraw my vote.

Mr. CONKLING. How can the Senator withdraw his vote?

Mr. BUCKALEW. I am paired off on the subject of this amendment with my colleague, [Mr. CAMERON,] and under the circumstances I would rather not vote on the adjournment.

Mr. CONKLING. But if that be so, allow me to suggest there are other Senators here who have paired on this section and who have voted on the other side.

Mr. CONNESS. I hope the result will be announced.

Mr. CONKLING. I object with great respect to the withdrawal of the vote, because other Senators have voted under the same circumstances.

The result was announced—yeas 23, nays 24; as follows:

YEAS—Messrs. Buckalew, Chandler, Conkling, Drake, Fowler, Frelinghuysen, Grimes, Harlan, Hendricks, Howard, McCreery, Morgan, Osborn, Pomeroy, Ramsey, Rice, Robertson, Sherman, Stewart, Tipton, Trumbull, Whyte, and Williams—23.

NAYS—Messrs. Abbott, Cattell, Cole, Conness, Corbett, Cragin, Doolittle, Fessenden, Harris, Kellogg, McDonald, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Ross, Sawyer, Sprague, Sumner, Thayer, Van Winkle, Warner, and Wilson—24.

ABSENT—Messrs. Anthony, Bayard, Cameron, Davis, Dixon, Edmunds, Ferry, Henderson, Howe, Norton, Patterson of Tennessee, Pool, Saulsbury, Spencer, Vickers, Wade, Welch, Willey, and Yates—19.

So the Senate refused to adjourn.

Mr. HOWARD. Mr. President, the Senator from Massachusetts with great fervor and confidence asserts his conviction in the perfect justice of this claim, and goes so far as to assure us that although it may be defeated now it will rise up and be again presented in the future, and that Massachusetts will never abandon it; that she will persist in this claim until it is finally paid. Of course we do not know what may be found in the great womb of the future; but one thing I am quite sure is not to be found there—elsewhere, and that is the justice and legality of this claim.

I have listened with great attention to the discussion which has been had on the subject and with a sincere desire to form a correct opinion in my own mind, certainly without any prejudice toward Massachusetts or any other State, without any prejudice to the personal owner or owners of the claim, but with the single purpose to arrive at a just and fair conclusion; and after hearing the statutes all read

and the arguments in favor of the claim presented with all the ingenuity of which we know the Senator from Massachusetts and others are such masters I cannot resist the conclusion that the claim is absolutely unfounded in justice and unfounded in any principle of law. If that be the character of the claim I trust the day is far distant when it will be recognized as a just claim on the part of the Congress of the United States.

I shall not go into the inquiry respecting the conduct of the Executive of the government of Massachusetts during the war, into the legality or constitutionality of the order of the Governor of that Commonwealth in refusing to allow the militia of the State to be taken out of the limits of the State. All that is past and gone, and it ought to be considered as buried in oblivion. It is sufficient for me to look upon the statute which is now before me, the act of May 14, 1836, and upon the statute making the appropriation, which was made in 1859 for the payment of the claim, to satisfy myself that the thing is paid and satisfied and that there is no part of this claim at present in legal existence. I wish to call the attention of Senators to the language of this act of 1836. It was passed as a special act with special reference to the claim or claims of Massachusetts growing out of the war of 1812. What does it say?

"That the Secretary of War in preparing his report pursuant to the resolve of the House of Representatives, agreed to on the 24th of February, 1832, be, and hereby is, authorized, without regard to existing rules and requirements, to receive such evidence as is on file and any further proofs which may be offered tending to establish the validity of the claims of Massachusetts upon the United States or any part thereof for services, disbursements,"—

Listen to the language—

"disbursements, and expenditures during the late war with Great Britain."

Now, sir, pray tell me what was the subject-matter thus submitted to the Secretary of War? What were the claims of Massachusetts mentioned in this special act? Disbursements and expenditures for services in the war of 1812. Now, sir, suppose for illustration's sake that Massachusetts had disbursed \$100,000 in money for the benefit of the Government in that war. She is by this act called upon to account to the United States, and the law refers the account to the Secretary of War for settlement and adjustment. Massachusetts brings before the Secretary of War for account her claim for disbursements, for expenditures made for this purpose and that purpose and the other purpose, and she says nothing about interest upon those disbursements. I ask any lawyer, any business man, any commercial man—any man I will go so far as to say, of common sense—whether if there was supposed to be any interest due upon these disbursements and expenditures that interest did not constitute, under that statute, part and parcel of the claim of Massachusetts? The interest, if it was claimed or claimable, if it was due or demandable, in any sense legal or commercial, was just as much a part and parcel of this claim as was the principal itself; and who here can deny the accuracy of that proposition?

Mr. CONKLING. And still more, interest which she claimed to have paid out.

Mr. HOWARD. Yes, sir; then it would have been money paid out. What I say is, if she had any claim of interest it was part and parcel of the claim itself, for interest upon a sum which has been advanced is as much a part of the claim, in contemplation of law and of justice and common sense, as the principal itself. That is an undeniable proposition in law and in justice. Under this special statute relating to the claims of Massachusetts and every part thereof, in the language of the statute, Massachusetts accounted with the United States before the proper officer appointed under this statute, and that officer found a certain amount to be due to Massachusetts, to wit, the sum which was mentioned in the appropriation act of 1859, two hundred and odd thousand dollars; and the United States having thus audited these claims for disbursements, expenditures, and everything else that comes

within the category of claims, the United States paid the amount thus awarded, and Massachusetts received for those claims. She was satisfied, sir. She understood that the claim, whatever it was, the claim mentioned in that statute, was paid and satisfied, and she had no other claim and no part of any other claim. The claim itself, by payment, became annihilated and extinct; and that was her understanding, because she did not make any special claim for interest at that time. She had never made any such claim before, and she never made any such claim afterward, until 1865, as we have been informed by the Senator from Massachusetts. Now a claim is brought forward here, and we are asked to pay twice the claim which existed formerly before the passage of this act. It is nothing more nor less than a demand of double payment.

Mr. President, I can agree to no such thing. If the old Bay State, famous in her history, famous in her jurisprudence, noted for her vigilance in regard to her own interests, public as well as private, had omitted for so many years to make a specific claim for interest upon these items it shows conclusively to my mind that she never intended to make such a claim, and that when she accepted the money from the Treasury of the United States she esteemed herself entirely satisfied and the claim itself paid off and settled.

Since then, for some motive or reason not known to me and not explained here, she has seen fit to assign to a railroad company the possibility which may exist in her favor of recovering interest which she never before thought of and which she had uniformly renounced and repudiated. She merely assigned her chances to a railroad corporation. It was never the act of the old Bay State to present this claim here. It was the work of some claim-monger whose ingenuity had gone so far as to discover a possibility of getting the interest upon this paid-off claim for the benefit of a railroad.

Now, sir, so far as that railroad is concerned it has my highest regard. If the railroad company would come forward here manfully and say, "We are in need of money or lands to aid us in our enterprise," I would be liberal with them; and I am not sure but that I would give them a small but a very small subsidy in bonds or guarantees. But, sir, when this claim, which has once been formally satisfied and extinguished, is presented as a just and legal claim, I say that although I do not suspect old Massachusetts of resorting to this trick upon Congress, I suspect somebody who is interested in the claim of resorting to artifice, I do not say misrepresentation, for the purpose of wringing out of the people of the United States the payment of interest money which was never due, and which was never claimed by that honest old Commonwealth. Sir, I speak in honor of the old Commonwealth of Massachusetts when I assert this; but I say that this claim has no justice and no legality in it, and it will not be recognized, even should it pass this body, as a very creditable act to the Senate of the United States, in my judgment. That is all I have to say on the question.

Mr. CONNESS. I now move that the Senate adjourn.

Mr. MORTON and others. Oh, no; let us vote.

Mr. MORRILL, of Maine. I call for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. SPRAGUE. I desire to state that I have paired off with the Senator from Ohio [Mr. SHERMAN] on this amendment, and therefore decline to vote on this motion.

Mr. WILLEY. I have paired off with the Senator from Maryland, [Mr. VICKERS,] and therefore I decline to vote on all these questions.

Mr. WILSON. I am paired off on this amendment with the Senator from Vermont, [Mr. EDMUNDS,] I am told it is not right under that pair to vote on this motion. I did not so understand it, and voted on a similar

motion before; but I see that other Senators who are paired off are declining to vote, and therefore I decline also.

The result was announced—yeas 21, nays 18; as follows:

YEAS—Messrs. Chandler, Conkling, Conness, Drake, Fowler, Frelighuysen, Grimes, Hendricks, Howard, McGreey, Morgan, Osborn, Pomeroy, Ramsey, Rice, Robertson, Stewart, Tipton, Trumbull, Whyte, and Williams—21.

NAYS—Messrs. Abbott, Anthony, Cattell, Cole, Cragin, Fessenden, Harlan, Harris, McDonald, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Ross, Sawyer, Sumner, and Thayer—18.

ABSENT—Messrs. Bayard, Buckalew, Cameron, Corbett, Davis, Dixon, Doolittle, Edmunds, Ferry, Henderson, Howe, Kellogg, Norton, Patterson of Tennessee, Pool, Saulsbury, Sherman, Spencer, Sprague, Van Winkle, Vickers, Wade, Warner, Welch, Willey, Wilson, and Yates—27.

So the motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, March 1, 1869.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of Saturday last was read and approved.

ORDER OF BUSINESS.

The SPEAKER. This being Monday, the first business in order is the call of States and Territories, commencing with the State of Maine, for the introduction of bills and joint resolutions to be referred to their appropriate committees, not to be brought back into the House by motions to reconsider. During this call memorials and resolutions of State and territorial Legislatures are in order.

TENNESSEE AND COOSA RAILROAD.

Mr. CALLIS introduced a bill (H. R. No. 2010) granting lands in the State of Alabama to the Tennessee and Coosa Railroad Company, to aid in the construction thereof, and for other purposes; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

REMOVAL OF DISABILITIES.

Mr. HAUGHEY introduced a bill (H. R. No. 2011) to relieve Joseph H. Sloss, of Franklin county, Alabama, from all legal and political disabilities; which was read a first and second time, and referred to the Committee on Reconstruction.

Mr. HAUGHEY also introduced a bill (H. R. No. 2012) to relieve Robert B. Lindsey, of Franklin county, Alabama, from all legal and political disabilities; which was read a first and second time, and referred to the same committee.

Mr. HAUGHEY also introduced a bill (H. R. No. 2013) to relieve D. M. Lindsey, of Lauderdale county, Alabama, from all legal and political disabilities; which was read a first and second time, and referred to the same committee.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its Clerks, informed the House that the Senate had passed without amendment a bill and joint resolutions of the House of the following titles:

A bill (H. R. No. 1758) to incorporate the Masonic Mutual Relief Association of the District of Columbia;

A joint resolution (H. R. No. 466) donating condemned cannon and muskets for the McPherson monument; and

A joint resolution (H. R. No. 469) granting the use of military equipments for the inauguration ceremonies.

The message also informed the House that the Senate had passed the bill (H. R. No. 1744) to strengthen the public credit and relating to contracts for the payment of coin, with amendments, in which he was directed to ask the concurrence of the House.

The message further announced that the Senate had passed a concurrent resolution requesting the President of the United States to transmit forthwith to the Executives of the

several States of the United States copies of the article of amendment proposed by Congress to the State Legislatures to amend the Constitution of the United States, passed February 26, 1869, respecting the exercise of the elective franchise, to the end that the said States may proceed to act upon the said article of amendment; and that he request the Executive of each State that may ratify said amendment to transmit to the Secretary of State a certified copy of such ratification; in which the concurrence of the House was requested.

BRIDGES ACROSS THE OHIO RIVER.

The SPEAKER. There being no further bills for reference, the next business in order is calling the States for resolutions, commencing with the State of Illinois; where the call was arrested by the expiration of the morning hour on Monday last.

Mr. COOK. I introduce a bill which has the approval of the Committee on Roads and Canals, and upon it I demand the previous question.

The bill (H. R. No. 2014) in relation to bridges across the Ohio river was read a first and second time. The bill provides that the Secretary of War, with the approval of the President, shall appoint a board of scientific engineers; to consist of not less than five nor more than seven, who shall report to the next session of Congress the proper width of span in railroad bridges across the Ohio river adapted to the wants of navigation and commerce upon that river, and that until Congress shall by law take action upon said report no bridge shall be erected over said river unless such bridge shall have one continuous span not less than four hundred feet in width in the clear over the main channel of the river.

Mr. KERR. How does that bill get in?

The SPEAKER. The gentleman from Illinois [Mr. Cook] introduces the bill under the call of States, and if it gives rise to debate it will go over.

Mr. KERR. I rise to debate it.

The SPEAKER. The gentleman from Illinois [Mr. Cook] has demanded the previous question.

Mr. LAWRENCE, of Ohio. I would inquire if the gentleman from Illinois proposes to allow some discussion of this bill?

Mr. COOK. It is impossible at this stage of the session. It must pass under the previous question or not at all.

Mr. LAWRENCE, of Ohio. Will you allow me to say a single word about it?

Mr. COOK. Not a word. [Laughter.]

Mr. TWICHELL. I hope the bill will not pass.

The question was put upon seconding the previous question; and there were—ayes 33, noes 30; no quorum voting.

Tellers were ordered; and Messrs. Cook and KERR were appointed.

The House divided; and the tellers reported—ayes 78, noes 42.

So the previous question was seconded.

The main question was then ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. KERR. I rise to a point of order. Does not this bill call for an appropriation of money?

The SPEAKER. If it did it would be too late to make the point of order, but the Chair thinks it does not.

Mr. COOK. I move the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. KERR and Mr. ECKLEY called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 85, nays 58, not voting 79; as follows:

YEAS—Messrs. Anderson, Delos R. Ashley, Bailey, Beaman, Bingham, Boyden, Broomall, Broomall, Buckley, Cake, Callis, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Corley, Cornell, Covode, Cullom, Dickey, Dockery, Donnelly, Eggleston, Thomas D. Eliot, Ferriss, Fields, French, Gar-

field, Getz, Gravelly, Griswold, Haughey, Hawkins, Higby, Hill, Holman, Hulburd, Hunter, Jendkes, Alexander H. Jones, Thomas L. Jones, Judd, Julian, Kellogg, Kelsey, Laffin, Lash, Lincoln, Loan, Marvin, McCarthy, Mercer, Moore, Moorhead, Morrell, Mungen, Niblack, Orth, Perham, Pettis, Pierce, Plants, Poland, Price, Raum, Robertson, Schenck, Scofield, Shanks, Spalding, Starkweather, Stokes, Stover, Taffe, Taylor, Trowbridge, Upson, Van Aernum, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, and William Williams—85.

NAYS—Messrs. Allison, Ames, Baker, Barnes, Barnum, Beatty, Beek, Benjamin, Blackburn, Blair, Boutwell, Brooks, Buckland, Burr, Benjamin F. Butler, Chanler, Dawes, Dixon, Eckley, Eldridge, James T. Elliott, Farnsworth, Gossbrenner, Golladay, Grover, Hooper, Hopkins, Hotchkiss, Humphrey, Kerr, Ketcham, Kitchen, Knott, Koonz, William Lawrence, Mallory, Marshall, McCormick, McKee, Morrissey, Mullins, Norris, Paine, Phelps, Pomeroy, Pruyn, Stevens, Stewart, Taber, John Trimble, Twichell, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, James F. Wilson, Windom, Wood, and Woodward—68.

NOT VOTING—Messrs. Adams, Archer, Arnell, James M. Ashley, Axtell, Baldwin, Banks, Benton, Blaine, Boles, Bowen, Boyer, Roderick R. Butler, Clift, Coburn, Delano, Deweese, Dodge, Driggs, Edwards, Ela, Ferry, Fox, Goss, Gove, Haight, Halsey, Hamilton, Harding, Heaton, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Ingersoll, Johnson, Kelley, George V. Lawrence, Logan, Loughridge, Lynch, Maynard, McCullough, Miller, Myers, Newcomb, Newsham, Nicholson, Nunn, O'Neill, Peters, Pike, Pile, Polsley, Prince, Randall, Robinson, Roots, Ross, Sawyer, Selye, Shellabarger, Sitgreaves, Smith, Stone, Sypher, Thomas, Tift, Lawrence S. Trimble, Van Auker, Van Trump, Vidal, Elihu B. Washburn, Welker, Whittemore, Thomas Williams, John T. Wilson, Stephen F. Wilson, Woodbridge, and Young—79.

So the bill was passed.

Mr. COOK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

Mr. BINGHAM. On that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 68, not voting 72; as follows:

YEAS—Messrs. Anderson, Delos R. Ashley, Bailey, Boyden, Broomall, Broomall, Cake, Callis, Cary, Reader W. Clarke, Sidney Clarke, Cook, Cornell, Covode, Cullom, Dickey, Dockery, Donnelly, Eggleston, Ferriss, Fields, French, Garfield, Getz, Gossbrenner, Gravelly, Griswold, Haughey, Hawkins, Higby, Holman, Hulburd, Hunter, Jendkes, Alexander H. Jones, Thomas L. Jones, Judd, Julian, Kelsey, Lash, George V. Lawrence, Loan, Loughridge, Marvin, McCarthy, Mercer, Miller, Moore, Moorhead, Morrell, Morrissey, Niblack, Nunn, O'Neill, Orth, Perham, Peters, Pettis, Pike, Plants, Poland, Price, Raum, Ross, Schenck, Scofield, Shanks, Spalding, Stover, Sypher, Taffe, Taylor, Trowbridge, Upson, Van Aernum, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Whittemore, William Williams, and Stephen F. Wilson—82.

NAYS—Messrs. Allison, Ames, Baker, Barnum, Beaman, Beatty, Beck, Benjamin, Bingham, Blackburn, Blair, Boutwell, Brooks, Buckland, Buckley, Burr, Chanler, Cobb, Dawes, Dixon, Eckley, Edwards, Thomas D. Eliot, Ferry, Fox, Golladay, Goss, Grover, Hill, Hooper, Hotchkiss, Kellogg, Kerr, Ketcham, Kitchen, Knott, Koonz, William Lawrence, Mallory, Marshall, Maynard, McKee, Mullins, Mungen, Newcomb, Newsham, Norris, Paine, Phelps, Pierce, Pomeroy, Prince, Pruyn, Robinson, Shellabarger, Stevens, Stewart, Stokes, Stone, Taber, Tift, John Trimble, Twichell, William B. Washburn, Welker, James F. Wilson, Wood, and Woodward—68.

NOT VOTING—Messrs. Adams, Archer, Arnell, James M. Ashley, Axtell, Baldwin, Banks, Barnes, Benton, Blaine, Boles, Bowen, Boyer, Benjamin F. Butler, Roderick R. Butler, Churchill, Clift, Coburn, Corley, Delano, Deweese, Dodge, Driggs, Ela, Eldridge, James T. Elliott, Farnsworth, Gove, Haight, Halsey, Hamilton, Harding, Heaton, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Johnson, Kelley, Laffin, Lincoln, Logan, Lynch, McCormick, McCullough, Myers, Nicholson, Pike, Polsley, Randall, Robertson, Roots, Sawyer, Selye, Sitgreaves, Smith, Starkweather, Thomas, Lawrence S. Trimble, Van Auker, Robert T. Van Horn, Van Trump, Vidal, Elihu B. Washburn, Henry D. Washburn, Thomas Williams, John T. Wilson, Windom, Woodbridge, and Young—72.

So the motion to reconsider was laid on the table.

COMPLETION OF PACIFIC RAILROADS.

Mr. JUDD introduced a joint resolution (H. R. No. 470) in reference to a proper completion of Pacific railroads and branches; which was read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

Mr. JUDD. On that question I call for the previous question.

The resolution, which was read, provides that the President of the United States shall be

authorized and required to demand and require from the Union Pacific Railroad Company and the Central Pacific Railroad Company of California and their branches bonds or other securities sufficient to guaranty the completion of said railroads and branches and bring them up to the standard fixed by the special commission which has examined and reported upon the Union Pacific railroad and its branches, and is now examining the Central Pacific railroad and its branches, applying the same standard of construction to each and requiring the same security from each; and until said commission report upon each road the issue of bonds to the road or roads not reported on shall be suspended until such report shall have been made.

On seconding the demand for the previous question, there were—ayes 50, noes 47; no quorum voting.

Tellers were ordered; and Mr. JUDD and Mr. SPALDING were appointed.

The House divided; and the tellers reported—ayes one hundred and one, noes not counted.

So the previous question was seconded.

The main question was ordered; which was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. HOOPER, of Massachusetts, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INTERNATIONAL PACIFIC RAILROAD.

Mr. RAUM introduced a joint resolution (H. R. No. 471) declaring valid certain declarations of the constitutional convention of the State of Texas; which was read a first and second time.

The question being on ordering the joint resolution to be engrossed for a third reading,

Mr. RAUM demanded the previous question.

The joint resolution, which was read, proposes to declare valid the declarations of the constitutional convention of the State of Texas, passed August 10, 1868, and January 2, 1869, reincorporating the Brazos Branch Railroad Company under the corporate name of the International Pacific Railroad Company.

Mr. BOUTWELL. I hope that this resolution will be referred.

The SPEAKER. The previous question has been demanded, pending which a motion to refer is not in order.

Mr. BROOKS. Would it be in order to ask what are those declarations of the convention of Texas?

The SPEAKER. The Chair cannot answer that question.

On seconding the demand for the previous question, there were—ayes seven, noes not counted.

Mr. RAUM. I call for tellers.

Tellers were not ordered.

So the previous question was not seconded.

Mr. BOUTWELL. I move that the joint resolution be laid on the table.

The motion was agreed to.

RELICS OF GEORGE WASHINGTON.

Mr. LOGAN submitted the following resolution, on which he demanded the previous question:

Whereas there appears in the Evening Express, a paper published in this city, under date of February 26, 1869, the following:

The Articles Taken from the Arlington House.—General Robert E. Lee made application a few days ago, through a gentleman residing in this city, to the Secretary of the Interior for a number of articles once the property of George Washington, which were taken from the Arlington House, General Lee's estate, before the war, when that place fell into the possession of the Federal Army. The articles were pieces of household furniture, clothing, dishes, and papers which formerly belonged to General Washington. Secretary Browning has decided to grant the request, and an order has been given to turn the articles over to the person deputed by General Lee to receive them.

Resolved, That the Committee on Public Buildings and Grounds be directed to inquire into the subject and ascertain whether the matter so published is true, and if true to ascertain by what right the Secretary of the Interior surrenders those articles so cherished as once the property of the Father of his Country to the rebel general-in-chief; and that said committee report fully upon the subject by bill or otherwise; and that they have power in pursuing said investigation to send for persons and papers and leave to report at any time; and that the Secretary of the Interior be requested not to permit said articles to be removed until such investigation shall be had.

The previous question was seconded, there being—ayes 94, noes 28.

The question being on ordering the main question,

Mr. BROOKS called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 133, nays 36, not voting 53; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, Bailey, Baker, Beaman, Beatty, Benjamin, Benton, Blackburn, Blaine, Blair, Boutwell, Broomall, Broomall, Buckland, Buckley, Benjamin F. Butler, Roderick R. Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Cornell, Covode, Cullom, Dawes, Dickey, Dixon, Dodge, Donnelly, Driggs, Eckley, Elia, Thomas D. Eliot, James T. Elliott, Farnsworth, Ferriss, Ferry, Fields, French, Garfield, Goss, Griswold, Hamilton, Heaton, Higby, Hill, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Jenckes, Alexander H. Jones, Judd, Julian, Kelsey, Kitchener, Koonz, Ladin, Lash, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughbridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McKee, Mercer, Miller, Moore, Moorhead, Morrill, Mullins, Myers, Newcomb, Newsham, Norris, O'Neill, Orth, Paine, Perham, Peters, Pierce, Pike, Plants, Pomeroy, Price, Prince, Raum, Roots, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Starkweather, Stevens, Stewart, Stokes, Stover, Taffe, Taylor, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, Stephen F. Wilson, and Windom—133.

NAYS—Messrs. Adams, Barnes, Beck, Boyer, Brooks, Burr, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Thomas L. Jones, Kerr, Knott, McCormick, McCullough, Morrissey, Mungen, Niblack, Nicholson, Pruyn, Robinson, Ross, Taber, Thomas, Tift, Van Auken, Van Trump, Wood, and Woodward—36.

NOT VOTING—Messrs. Archer, James M. Ashley, Axtell, Baldwin, Banks, Barnum, Bingham, Boies-Bowen, Boyden, Callis, Cary, Delano, Deweese, Dockery, Edwards, Eggleston, Gove, Gravely, Haight, Halsey, Harding, Haughey, Hawkins, Hooper, Asahel W. Hubbard, Ingersoll, Kelley, Kellogg, Ketcham, Marshall, McCormick, Nunn, Pettis, Phelps, Pike, Poland, Polesley, Randall, Robertson, Selye, Shanks, Sitgreaves, Smith, Stone, Sypher, Lawrence S. Trimble, Vidal, Elihu B. Washburne, Henry D. Washburn, John T. Wilson, Woodbridge, and Young—53.

So the main question was ordered.

Mr. BROOKS. I ask that the resolution be again read.

The resolution was again read.

Mr. WOOD. I rise to a point of order, and it is this: that this House has no right to prevent the restoration of stolen property; and these articles were stolen from the Arlington house.

Mr. LOGAN. I call the gentleman to order.

Mr. WOOD. That is my point of order.

Mr. MULLINS. I should like to ask the gentleman from New York a question.

The SPEAKER. Debate is not in order. The Chair overrules the point of order. It is a question for the judgment of the House and not for the decision of the Chair. It is laid down in the parliamentary law that the Chair shall not decide general questions of coherence.

Mr. WOOD. I have made my point of order and the country will understand it.

Mr. BROOKS. I demand the yeas and nays on the adoption of the preamble and resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 120, nays 35, not voting 67; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, Bailey, Baker, Banks, Beaman, Beatty, Benjamin, Benton, Blackburn, Boies, Boutwell, Broomall, Broomall, Buckland, Buckley, Benjamin F. Butler, Roderick R. Butler, Cake, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Coburn, Cook, Corley, Cornell, Covode, Cullom, Dawes, Dickey, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Elia, Thomas D. Eliot, Ferriss, Ferry, Fields, French, Garfield, Goss, Griswold, Heaton,

Hill, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Alexander H. Jones, Judd, Julian, Kellogg, Kelsey, Koonz, Ladin, Lash, George V. Lawrence, William Lawrence, Loan, Logan, Loughbridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McKee, Mercer, Miller, Moore, Moorhead, Morrill, Mullins, Myers, Newcomb, Newsham, Norris, Nunn, O'Neill, Orth, Perham, Peters, Pettis, Plants, Pomeroy, Price, Prince, Raum, Roots, Schenck, Scofield, Shanks, Shellabarger, Starkweather, Stevens, Stewart, Stover, Taylor, John Trimble, Trowbridge, Twichell, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, and Stephen F. Wilson—120.

NAYS—Messrs. Adams, Archer, Barnes, Barnum, Beck, Boyer, Brooks, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Holman, Richard D. Hubbard, Humphrey, Johnson, Thomas L. Jones, Kerr, Knott, McCormick, McCullough, Morrissey, Mungen, Niblack, Nicholson, Pruyn, Randall, Robinson, Taber, Tift, Van Auken, Van Trump, and Wood—35.

NOT VOTING—Messrs. Arnell, James M. Ashley, Axtell, Baldwin, Bingham, Blaine, Blair, Bowen, Boyden, Burr, Cary, Cobb, Delano, Deweese, Dockery, Edwards, James T. Elliott, Farnsworth, Gove, Gravely, Haight, Halsey, Hamilton, Harding, Haughey, Hawkins, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Hulburd, Kelley, Ketcham, Kitchen, Lincoln, Marshall, Paine, Phelps, Pierce, Pike, Pile, Poland, Polesley, Robertson, Ross, Sawyer, Selye, Sitgreaves, Smith, Spalding, Stokes, Stone, Sypher, Taffe, Thomas, Lawrence S. Trimble, Upson, Vidal, Elihu B. Washburne, Henry D. Washburn, Whittemore, James F. Wilson, John T. Wilson, Windom, Woodbridge, Woodward, and Young—67.

So the preamble and resolution were adopted.

Mr. LOGAN moved to reconsider the vote by which the preamble and resolution were adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED JOINT RESOLUTIONS.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolutions of the following titles; when the Speaker signed the same:

Joint resolution (H. R. No. 466) donating condemned cannon and muskets for the McPherson monument; and

Joint resolution (H. R. No. 469) granting the use of military equipments for the inauguration ceremonies.

SIXTEENTH AND SEVENTEENTH JOINT RULES.

Mr. SCHENCK. I rise to offer this resolution in reference to the business of the House.

The Clerk read as follows:

Resolved by the House of Representatives, (the Senate concurring,) That the sixteenth and seventeenth joint rules of the Senate and House be suspended during the remaining term of this Congress.

Mr. ELDRIDGE. What are those rules?

The SPEAKER. They are the rules prohibiting the sending of bills from one House to the other or to the President within the last three days of the session.

Mr. SCHENCK. I never knew a Congress when those rules were not suspended at this stage of the session.

The resolution was adopted.

ORDER OF BUSINESS.

Mr. SCHENCK. Mr. Speaker, it is exceedingly important that some agreement or understanding be had in regard to attention to the public business from this time to the end of the session, now so near at hand. The appropriation bills are, of course, to be passed, if possible. There is on the Speaker's table an immense amount of business. Some of the bills are very important and some are not so important. I therefore ask unanimous consent, and if I cannot get it I will make the motion, that the House meet to-morrow at ten o'clock and proceed then to business on the Speaker's table, letting the appropriation bills run on through to-day and to-night as late as may be necessary.

Mr. PRUYN. How long a time does the gentleman propose to allow for the consideration of business on the Speaker's table?

The SPEAKER. The House can suspend the order whenever it sees fit.

Mr. ROSS. I suggest that there is to be another session of Congress immediately after this and there is no use working ourselves to death.

The SPEAKER. Does the gentleman object? Mr. ROSS. No, sir.

Mr. FARNSWORTH. I object to the last part—proceeding to business on the Speaker's table.

The SPEAKER. There are two motions. Is there any objection to agreeing to the first motion, that the House meet to-morrow and the next day at ten o'clock?

No objection being made it was so ordered.

Mr. SCHENCK. I now ask unanimous consent that the House proceed to-morrow morning, as the first business in order after the reading of the Journal, to the consideration of business on the Speaker's table.

Mr. BUTLER, of Massachusetts. I object.

Mr. SCOFIELD. Can the gentleman tell us something about the character of the bills on the Speaker's table that are deemed to be important.

Mr. SCHENCK. There are a great many of them. I cannot say definitely as to their character.

Mr. BUTLER, of Massachusetts. Allow me one moment to explain the reason of my objection.

The SPEAKER. The Chair will state that if this order shall be made it will stand in the same condition as a special order, which requires two thirds to make it, except as regards appropriation bills; but the order can be dispensed with at any time by a majority.

Mr. BUTLER, of Massachusetts. I desire to state that I propose, with the leave of the House, to have a vote upon the Indian appropriation bill very soon, and then if to-morrow we can get through the miscellaneous appropriation bill the other business can be taken up. As soon as we get through those bills I shall be quite willing and desirous to have the motion of the gentleman from Ohio prevail. But it is necessary that they should go the Senate very soon or we shall lose the miscellaneous appropriation bill.

Mr. SCHENCK. I desire to say that if we should make an order now to go to the Speaker's table to-morrow morning we can devote to-day and to-night as late as the House may be willing to sit, and that perhaps will obviate the necessity of laying aside the other business; and if we make the order now a majority of the House at any moment to-morrow after going to business on the Speaker's table can lay aside any particular bill or can stop proceedings under the order, so that the matter will be within the control of the majority of the House.

The SPEAKER. It is for the House to determine its order of business during the remainder of the session.

Mr. SCOFIELD. Is there any way of ascertaining very briefly what the important business on the Speaker's table is?

The SPEAKER. There are one hundred and ten bills on the table. The Chair cannot state about their importance. Gentlemen can examine the Calendar.

Mr. MAYNARD. I suggest that as the Journal is very voluminous at this stage of the session we can save a good deal of time by dispensing with the reading of it for the remainder of the session.

Mr. SCHENCK. I withdraw for the present the proposition I have made, and move that the reading of the Journal to-morrow morning and the next morning be dispensed with. But first I ask unanimous consent to make that order.

Mr. BROOKS. I will not ask if this is in order, but have we not a constitutional right to have the Journal read?

The SPEAKER. It is read under the rules of the House. The Constitution requires a Journal to be kept, not that it shall be read; otherwise it could not be dispensed with by unanimous consent.

Mr. BROOKS. How will the House know we have a Journal if it is not read?

The SPEAKER. It is kept under the direction of the Speaker.

Mr. SCHENCK. I move to suspend the rules for the purpose of making the order.

The question was put on Mr. SCHENCK's motion; and (two thirds voting in favor thereof) the rules were suspended, and the order was made.

Mr. SCHENCK. I now renew my proposition; that at ten o'clock to-morrow morning the House shall proceed to the consideration of business upon the Speaker's table. It can be laid aside whenever a majority so determines.

Mr. BUTLER, of Massachusetts. I hope that will not be done until we get through with the miscellaneous appropriation bill. It is very necessary that that bill shall go to the Senate that it may be there examined, otherwise we shall lose it.

Mr. CULLOM. Does the gentleman suppose that the committee of the Senate will have time to consider the miscellaneous appropriation bill?

Mr. BUTLER, of Massachusetts. They will not have unless we pass it at once.

Mr. FARNSWORTH. I demand the regular order of business.

The SPEAKER. The regular order is to vote on the pending proposition, which is undebatable. The Chair did not arrest the debate, because it was necessary that the House should understand the condition of its business.

Mr. WOOD. If the motion of the gentleman from Ohio should prevail will it be competent for a majority to alter the order of business to-morrow?

The SPEAKER. It will at any time, precisely as in the case of a special order. Whenever it is reached a majority can lay it aside. This is precisely the same. Between the consideration of any two bills on the Speaker's table a motion can be made to dispense with the further execution of the order.

Mr. CULLOM. Is the motion amendable?

The SPEAKER. A motion to suspend the rules is not amendable.

Mr. SCOTFIELD. Can I ask the gentleman from Ohio to modify his motion?

The SPEAKER. The gentleman from Ohio can modify his motion before the vote is taken.

Mr. SCOTFIELD. I want him to modify his motion so as to move that only such bills shall be taken up as the Committee of Ways and Means shall state are important.

Mr. INGERSOLL. I object to that.

Mr. SCOTFIELD. A great many of the bills on the Speaker's table are not only useless, but some of them are mischievous.

Mr. SCHENCK. The House can lay aside any bill by a majority vote.

Mr. FARNSWORTH. I wish to make a suggestion to the gentleman from Ohio.

The SPEAKER. Does the gentleman withdraw the demand for the regular order then?

Mr. FARNSWORTH. For that purpose I do. I suggest to the gentleman from Ohio that he can by a two-thirds vote take up any of these bills from the Speaker's table. We certainly cannot reach and dispose of the one hundred bills on the table between now and the adjournment. I suggest to the gentleman that he make his motion so as to cover only the particular bills which he wishes the House to consider.

Mr. SCHENCK. I do not know them all.

Mr. FARNSWORTH. The probability is that if we take up the bills in their regular order we shall not reach his bills.

Mr. COBURN. I desire to ask the Chair whether the effect of the adoption of the motion of the gentleman from Ohio will not be that we cannot go to business on the Speaker's table to-day?

The SPEAKER. The effect of the order would be to dispense with a motion to go to business on the Speaker's table to-day. That motion is privileged every day after the morning hour. There has been a morning hour to-day, but the gentleman from Ohio moves to postpone the right until to-morrow at ten o'clock, and to leave to-day to the Committee on Appropriations.

Mr. BUTLER, of Massachusetts. I move to proceed to business upon the Speaker's table; and pending that motion I move that the House

resolve itself into Committee of the Whole on the state of the Union on the amendments of the Senate to the Indian appropriation bill.

Mr. SCHENCK. I believe I have the floor.

The SPEAKER. The Chair would state that the motion of the gentleman from Massachusetts would not take the gentleman from Ohio off the floor for the reason that he has moved to suspend the rules and to suspend all the rules that stand in the way of his motion, and the motion to go to the business on the Speaker's table is under the rules.

Mr. SCHENCK. I ask for a vote on my motion.

The question was put; and there were—ayes 72, noes 70.

So (two thirds not voting in favor thereof) the rules were not suspended.

PAY OF CONTESTANTS.

The SPEAKER. The House resumes the consideration of the business pending when the House took a recess on Saturday last, being a resolution offered by Mr. DAWES and modified by him at the suggestion of Mr. KERR. The resolution will be read.

The Clerk read the resolution, as follows:

Resolved, That the Clerk be, and is hereby, directed to pay, under the sanction of the Committee on Accounts, the sum of \$2,500 each to Simon Jones, J. Willis Menard, and Caleb S. Hunt in full for time spent and expenses incurred in contesting the right to a seat in this House as a Representative from Louisiana.

The question was upon agreeing to the resolution.

Mr. DAWES. Upon that question I call for the previous question.

The previous question was seconded and the main question ordered.

The question was then taken; and upon a division there were—ayes 91, noes 39.

Before the result was announced,

Mr. HOLMAN and Mr. FOX called for the yeas and nays.

The yeas and nays were ordered.

Mr. DAWES. I would like to have the gentleman from Indiana [Mr. HOLMAN] state his objection to this resolution.

The SPEAKER. No debate is now in order, pending the previous question.

The question was then taken; and it was decided in the affirmative—yeas 89, nays 66, not voting 67; as follows:

YEAS—Messrs. Allison, Ames, Delos R. Ashley, Bailey, Banks, Beaman, Beck, Benton, Bingham, Blackburn, Blair, Boutwell, Boyden, Buckley, Cake, Cary, Churchill, Sidney Clarke, Clift, Cobb, Cullom, Dawes, Diekey, Dixon, Dodge, Donnelly, Eggleston, Thomas D. Eliot, James T. Elliott, Ferriss, Ferry, French, Garfield, Goss, Griswold, Haughey, Hawkins, Heaton, Hooper, Hopkins, Ingersoll, Alexander H. Jones, Judd, Julian, Kelsey, Kerr, Ladin, George V. Lawrence, Loan, Logan, Maynard, McCormick, Mercer, Miller, Moorhead, Morrell, Mullins, Myers, Newsham, Norris, O'Neill, Orth, Perham, Peters, Pierce, Poland, Pomeroy, Robertson, Sawyer, Selvy, Shellabarger, Smith, Spalding, Stewart, Stover, Sypher, Taffe, Thomas, John Trimble, Trowbridge, Twichell, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Whittemore, James F. Wilson, and Stephen F. Wilson—89.

NAYS—Messrs. Adams, Anderson, Archer, Baker, Baldwin, Barnes, Benjamin, Bowen, Boyer, Burr, Chanler, Coburn, Corley, Cornell, Deweese, Eckley, Eldridge, Fields, Fox, Getz, Glossbrenner, Golladay, Harding, Higby, Hill, Holman, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Hunter, Johnson, Thomas L. Jones, Ketcham, Kitchen, William Lawrence, Loughridge, Marvin, McCullough, Moore, Morrissey, Mungen, Newcomb, Niblack, Nicholson, Paine, Phelps, Pruyn, Ross, Schenck, Seofield, Shanks, Sitgreaves, Stevens, Stokes, Taber, Taylor, Van Auker, Van Trump, Ward, Welker, Thomas Williams, William Williams, Wood, Woodward, and Young—66.

NOT VOTING—Messrs. Arnell, James M. Ashley, Axtell, Barnum, Beatty, Blaine, Boies, Bromwell, Brooks, Broomall, Buckland, Benjamin F. Butler, Roderick K. Butler, Callis, Reader W. Clarke, Cook, Covode, Delano, Dockery, Driggs, Edwards, Ela, Farnsworth, Gove, Gravely, Grover, Haight, Halsey, Hamilton, Asahel W. Hubbard, Humphrey, Jenckes, Kelley, Kellogg, Knott, Koontz, Lash, Lincoln, Lynch, Mallory, Marshall, McCarthy, McKee, Nunn, Pettis, Pike, Pile, Plants, Polesiey, Price, Prince, Randall, Raum, Robinson, Rooks, Starkweather, Stone, Tift, Lawrence S. Trimble, Upson, Van Aernam, Burt Van Horn, Vidal, Elihu B. Washburne, John T. Wilson, Windom, and Woodbridge—67.

So the resolution was adopted.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also

moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had passed without amendment a bill of the House No. 1877, for the relief of the heirs and legal representatives of Charles C. Cook, deceased.

The message further announced that the Senate had passed with amendments, in which the concurrence of the House was requested, a bill of the House No. 1879, for the relief of certain companies of scouts and guides organized in Alabama.

The message further announced that the Senate had passed the following bills, in which the concurrence of the House was requested:

An act (S. No. 177) regulating the rights of property of married women in the District of Columbia; and

An act (S. No. 726) to authorize imprisonment with hard labor as a punishment in certain cases.

MRS. SUSAN A. SHELBY.

Mr. BINGHAM. I ask unanimous consent to report from the Committee of Claims a bill for the relief of Mrs. Susan A. Shelby. The committee look upon it as a meritorious claim, and the reason why I ask the consideration of the bill at this time is that the whole of her money for her cotton is in the Treasury of the United States, while all the property she has left is under execution for her debts, and advertised for sale this day.

Mr. WARD. Has the bill received the assent of the Committee of Claims?

Mr. BINGHAM. Undoubtedly it has; and there is a full report made by the committee.

Mr. WARD. Does not this involve the same question as the Sue Murphey claim?

Mr. BINGHAM. Not at all. The loyalty and good conduct of this lady is certified to by some of our own generals and many prominent citizens. I ask unanimous consent for its consideration at this time.

No objection was made.

Accordingly the bill (H. R. No. 2015) for the relief Mrs. Susan A. Shelby, of Port Gibson, Mississippi, was introduced; and read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, directs the Secretary of the Treasury to pay to Mrs. Susan A. Shelby, of Port Gibson, in the State of Mississippi, out of any money in the Treasury not otherwise appropriated, the sum of \$5,000, in full for all claims for cotton taken, captured, or sold by the United States.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BINGHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BINGHAM. I move that the report accompanying this bill be printed, so that it may go to the Senate with this bill.

The motion was agreed to.

PENSION BILLS.

Mr. PERHAM. The House has twice assigned an hour for the consideration of pension bills, but each time other business, appropriation bills, has supervened, and the Committee on Invalid Pensions have not yet been able to obtain the advantage intended by the assignment of this time for their business. I now ask unanimous consent that the House meet this evening at half past six instead of half past seven o'clock, and that the first hour of to-night's session be devoted to the consideration of pension business only, with the understanding that at the end of that hour the House shall proceed to the consideration of other business.

Mr. SCOTFIELD. I object, unless we can

have a quorum present during the consideration of these pension bills.

Mr. PERHAM. Allow me to say that these wounded soldiers have made for us and their country much greater sacrifices than we would make by coming here this evening an hour earlier than usual for the purpose of spending that hour in the consideration of pension bills.

The SPEAKER. Objection is made.

Mr. SCOFIELD. I withdraw my objection with the understanding that we shall have a quorum here, and that business shall be suspended if there should not be a quorum.

The SPEAKER. If a division should be demanded upon any bill it could not pass in the absence of a quorum. If there be no objection the order proposed by the gentleman from Maine [Mr. PERHAM] will be made.

There was no objection, and it was ordered accordingly.

INDIAN APPROPRIATION BILL.

Mr. BUTLER, of Massachusetts. I propose to move that the rules be suspended to order that the Committee of the Whole on the state of the Union be discharged from the further consideration of the Indian appropriation bill, and that the amendments of the Senate be non-concurred in. The Committee on Appropriations have recommended non-concurrence in a few amendments; but they are mostly unimportant, though one or two are of some importance.

Mr. GARFIELD. Do the committee recommend concurrence in any of the amendments attaching appropriations to carry out these new treaties?

Mr. BUTLER, of Massachusetts. Not one. I propose that all the amendments, those in which the Committee on Appropriations recommend concurrence as well as those in which they recommend non-concurrence, be non-concurred in.

I will state further that the impression upon the mind of the committee is that they may have to recommend an appropriation to feed some of these Indians not under these treaties, but at a very much less expense than the treaties propose. I move that the Committee of the Whole be discharged from the further consideration of the bill for the purpose I have indicated.

The SPEAKER. It can only be done by a suspension of the rules. The gentleman from Massachusetts [Mr. BUTLER] moves to suspend the rules for the purpose of ordering that the Committee of the Whole on the state of the Union be discharged from the further consideration of the Indian appropriation bill, that the amendments of the Senate be non-concurred in, and that the House ask the appointment of a committee of conference.

Mr. CLARKE, of Kansas. I hope the House will not agree to the motion.

Mr. SCOFIELD. The request for a committee of conference is not a part of the motion of the gentleman from Massachusetts.

Mr. CLARKE, of Kansas. Is it designed to ask hereafter for a committee of conference?

Mr. SCOFIELD. We do not propose a conference unless the Senate shall ask it.

Mr. WINDOM. I hope, then, the House will not suspend the rules.

Mr. SCOFIELD. If the House non-concur in those proper amendments in which the Committee on Appropriations recommend concurrence we shall be obliged, of course, to have a committee of conference. Hence I am opposed to the motion of the gentleman from Massachusetts to non-concur in those proper amendments along with the improper ones. I think the House ought to concur in those amendments in which the Committee on Appropriations recommend concurrence and non-concur in the others. There will then be no necessity for a conference. If the Senate will not recede let the bill fall.

Mr. CLARKE, of Kansas. I hope the gentleman will modify his motion in the manner suggested by the gentleman from Pennsylvania, [Mr. SCOFIELD.]

The SPEAKER. The Chair will state that if the House should proceed to the consideration of the amendments any gentleman will have a right to demand that each amendment shall be read and acted on separately. There are about one hundred and seventy-five amendments.

Mr. WINDOM. I demand that the amendments shall be voted on separately.

The SPEAKER. That demand is not in order now. The pending motion is to suspend the rules for the purpose of dispensing with separate action on the amendments.

Mr. PILE. Would it not be in order to move to suspend the rules for the purpose of taking a vote on those amendments in which the Committee on Appropriations recommend concurrence and non-concurrence in all the others?

The SPEAKER. The House can suspend the rules for any purpose whatever not inconsistent with the requirements of the Constitution.

Mr. PILE. Then I suggest to the gentleman from Massachusetts that he make the motion in the form I have suggested.

Mr. BUTLER, of Massachusetts. I certainly am willing to submit to the judgment of the House. I will mention some of the amendments in which we recommend concurrence. One is No. 15, making an appropriation for a saw-mill for the Kiowas, Comanches, and Apaches; we, however, recommend an amendment reducing the amount from \$8,000 to \$7,000. Another is the amendment No. 19, appropriating \$750 instead of \$568 for building a dwelling-house for Tush-ewa, the Comanche chief. Another is the amendment No. 25, the Senate proposing to appropriate \$8,000 instead of \$5,600, the amount fixed by the House for the erection of a saw-mill for the Cheyennes and Arapahoes. In this amendment we recommend concurrence with an amendment fixing the amount at \$7,000. We also recommend concurrence in the fifty-fourth amendment, making an appropriation of \$15,000 for the Nisqually, Puyallup, and other tribes, to pay for insurance and transportation. Another amendment in which we recommend concurrence is the fifty-sixth, making an appropriation for the relief of the Navajoes at Fort Sumner. We also recommend concurrence in the one hundred and forty-sixth amendment, substituting "the President" for "the Secretary of the Interior." In the one hundred and seventy-fourth amendment, providing for medallions to be distributed among Indians, we recommend concurrence, with an amendment making it read "medallions of the President of the United States" instead of "medallions of U. S. Grant, President of the United States."

Mr. WINDOM. Does the gentleman from Massachusetts propose to send medallions of the President of the United States to the Indians with whom we have made treaties which it is now proposed to violate? Does he think that they will be glad to get the medallion of their Great Father under such circumstances?

Mr. ALLISON. I object to debate.

Mr. BUTLER, of Massachusetts. In the one hundred and seventy-sixth amendment I move to insert after the words "in the presence of the head men of the tribe" the following: "and in the presence also of the agent and superintendent."

Mr. WINDOM. I desire to give notice that I shall demand a separate vote on each proposition.

The SPEAKER. If the rules are suspended it will suspend, as the gentleman well knows from his long service here, all rules that stand in the way of immediate action.

Mr. BUTLER, of Massachusetts. I move to concur in all the amendments of the Senate which I have indicated and that all the others be non-concurred in.

Mr. HOLBROOK. How many do the Committee on Appropriations recommend we shall concur in? I believe that they recommend this House shall concur in about twenty-one of the Senate amendments, and that it shall non-concur in all the remaining ones out of the

one hundred and eighty that the Senate have sent us. Are gentlemen willing to vote down all those amendments without having them read or explained?

Mr. BURLEIGH. I wish to say a word.

Mr. ALLISON. I object to debate.

Mr. WINDOM. I rise to a parliamentary question. What becomes of this bill if the Senate should refuse to receive this bill under the direction of the House?

The SPEAKER. Each House has the right to concur or non-concur in amendments sent to it. If either House should non-concur in amendments of the other and refuse to refer the disagreeing votes to a committee of conference the bill would then be lost.

The House divided; and there were—ayes 68, noes 55.

Mr. KELSEY. I demand tellers.

Tellers were ordered; and Mr. KELSEY and Mr. WINDOM were appointed.

The House again divided; and the tellers reported—ayes 75, noes 50.

So the rules were not suspended, two thirds not having voted in favor thereof.

CHINA.

The SPEAKER laid before the House the following message from the President of the United States.

The Clerk read as follows:

To the Senate and House of Representatives:

Referring to my communication to Congress of the 26th ultimo, concerning a decree made by the United States chargé d'affaires in China on 1st of June last, prohibiting steamers sailing under the flag of the United States from using or passing through the Straw Shoe channel on the Yangtze river, I now transmit a copy of a dispatch of the 22d of August last (No. 23) from S. Wells Williams, esq., and of such of the papers accompanying it as were not contained in my former communication. I also transmit a copy of the reply of the 6th instant made by the Secretary of State to the above-named dispatch.

ANDREW JOHNSON.

WASHINGTON, February 23, 1869.

The message was referred to the Committee on Foreign Affairs, and ordered to be printed.

MEXICO.

The SPEAKER also laid before the House the following message from the President of the United States.

The Clerk read as follows:

To the Senate and House of Representatives:

I transmit to Congress a copy of a convention between the United States and the Mexican republic, providing for the adjustment of the claims of citizens of either country against the other, signed on the 4th day of July last, and the ratifications of which were exchanged on the 1st instant.

It is recommended that such legislation as may be necessary to carry this convention into effect shall receive early consideration.

ANDREW JOHNSON.

WASHINGTON, February 24, 1869.

The message was referred to the Committee on Foreign Affairs, and the question of printing the document was referred to the Committee on Printing.

MISCELLANEOUS APPROPRIATION BILL.

Mr. BUTLER, of Massachusetts. I move to suspend the rules to lay aside in the Committee of the Whole on the state of the Union the amendments of the Senate to the Indian appropriation bill in order to take up the miscellaneous appropriation bill.

The House divided; and there were—ayes 71, noes 39; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. BUTLER, of Massachusetts, and Mr. ROSS.

The House again divided; and the tellers reported—ayes 94, noes 8.

So (two thirds having voted in favor thereof) the rules were suspended, and it was ordered accordingly.

Mr. SPALDING. I move that the House resolve itself into the Committee of the Whole on the state of the Union on the miscellaneous appropriation bill; and pending that motion I move that all general debate on that bill shall be closed in ten minutes.

Both motions were agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr.

DAWES in the chair,) and proceeded to the consideration of House bill No. 2007, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, and for other purposes.

By unanimous consent the first reading of the bill was dispensed with.

Mr. BROOKS. Mr. Chairman—

Mr. SPALDING. Allow me two minutes and you may have the remaining eight.

Mr. BROOKS. I will allow you the first five minutes.

Mr. SPALDING. I desire to say to the committee that it is highly important to the interests of the country that this bill should be passed, and I think unless it is passed to-day it will fail in the Senate. It is a very important bill. It involves an appropriation of some eight million dollars, but the items are few, mainly embraced in three. One is to carry into execution the loan laws, printing bank notes and Treasury notes. That is an item of some thirteen or fourteen hundred thousand dollars. Then the whole light-house establishment is supported by appropriations in this bill, and the expenses of the revenue-cutters are also provided for here.

Now, I hope the committee will give the bill their attention and offer as few amendments as are practicable. We are willing to entertain all reasonable propositions for amendments, but the Committee on Appropriations, with an eye to economy, have exercised some liberality toward the Government, or toward the Administration that is to carry on the Government; and while we think we have not offered too much we hope we have not offered too little in this bill.

Mr. BROOKS. I have risen, Mr. Chairman, merely to call the attention of the committee once more to the enormous appropriations of the public money for the printing of the public money. I stated the other evening to a small House that the expenses of printing at the Public Printing Office had amounted since its establishment to over eleven million dollars. The bill now before us proposes to appropriate for the coming year \$1,300,000 for that printing office. I am not in the majority, and I have no control over public affairs; therefore I submit no proposition. But I invoke the attention of gentlemen on the other side to the fact that this printing establishment is an enormously costly thing, far more so, I think, than it ought to be. I have not examined into the particulars, but the cost of printing the public money and bonds has been, is, and promises to be in the coming years, enormous. It is time the printing of the public money was separated from the public Treasury building. The printing office there is a nuisance, a nuisance to all the officers and employes in that Department, and unless it is separated therefrom and those who have charge of the disbursements necessary therefor are held to a strict responsibility or it is given out by contract there is no probability whatsoever that there will be any decrease in the expenses. Nor is there any certainty in my mind that the public money can be safely printed hereafter as it has been done heretofore. As we approach that desirable era, though far, far in the distance, when a dollar again may once more mean a dollar, when the golden eagle may once more jingle in our pockets and be visible to the public eye, I trust the attention of Congress, and more especially of the Committee on Appropriations, will be directed to an entire reform in this bureau, which within six years has grown up to be one of the most expensive bureaus of this Government.

The Clerk proceeded to read the bill by paragraphs for amendment, and read the following:

In the Treasurer's office:

For four clerks, at \$1,800 each, \$7,200; fourteen clerks, at \$1,600 each, \$22,400; eleven clerks, at \$1,400 each, \$15,400; ten clerks, at \$1,200 each, \$12,000; three messengers, at \$840 each, \$2,520; six laborers, at \$720 each, \$4,320; four laborers, at \$432 each, \$1,728; fifty female clerks, at \$900 each, \$45,000; contingent expenses, \$1,000; in all, \$111,588.

Mr. HOLMAN. I notice the Committee on

Appropriations in reporting this bill have overlooked a change which the House has made in relation to the pay of female clerks. I therefore move to strike out "\$900" as the pay of female clerks and to insert "\$1,200;" and also to increase the aggregate from "\$45,000" to "\$60,000."

Mr. SPALDING. I wish the committee to understand that these appropriations upon which we are now acting have heretofore been made in gross; that is, we have appropriated a million and a half or two million dollars, as the case might be, to cover all the expenses of the loan department and the printing department. But our chairman, [Mr. WASHBURN, of Illinois,] who, I regret to say, is kept away by sickness, feeling as if economy might be introduced into this branch of the Government, visited in person the Treasury Department and ascertained what kind of employes of the several descriptions were necessary in order to carry out this object, and after his interview with persons who are skilled in this matter in the Department made out these estimates.

Now, I am informed that some of these females are very young misses who receive only two, three, and four hundred dollars each; little girls who carry papers and notes and bills from one room to another, and their pay is graduated according to the importance of their work, some of them getting as high as \$900, some \$720, some \$500, and some perhaps \$250. Now, really I do not know where to make the discrimination here. If the chairman of the committee were present he could tell where it occurs; but I think it safe for us to adopt the schedule as he has presented it. I know he does not put the salary of any female clerk above \$900, and I hope the committee will evince no disposition in this printing department to put them above \$900. I do not say that these females are not of as good character as any of the females employed in other bureaus; I will not say that, but I do say that they are well paid with the compensation as it stands in this bill.

The amendment offered by Mr. HOLMAN was rejected.

The Clerk read the following paragraph:

In the Register's office:

For five clerks, at \$2,000 each, \$10,000; fourteen clerks, at \$1,800 each, \$25,200; nine clerks, at \$1,600 each, \$14,400; one clerk at \$1,200; five messengers, at \$840 each, \$4,200; four laborers, at \$720 each, \$2,880; one hundred and forty female clerks, at \$900 each, \$126,000; for contingent expenses, \$1,000; in all, \$184,880.

Mr. HOLMAN. I move to amend the paragraph by striking out in line fifty-two the word "nine" and inserting "twelve," so as to make the salary of the one hundred and forty female clerks \$1,200 each. I have made this motion for the purpose of ascertaining, if I can, the reason for distinguishing between these female clerks and those provided for in the legislative, executive, and judicial appropriation bill. The Committee on Appropriations agreed that if it was deemed expedient by the House to put the female clerks on the same footing as to the lowest class of male clerks, \$1,200, that principle should be carried out in all the provisions of that bill. Now, if the gentleman from Ohio, who has charge of this bill, is able to say that the one hundred and forty female clerks authorized to be employed in the Register's office are to perform different labors from those enumerated in the other bill, then I will not press this motion. But, on the other hand, if they stand upon the same footing and discharge the same class of duties, I think the principle which has been already adopted should be carried out here. There is no reason for the discrimination apparent on the face of the bill, and the House has already expressed its determination to do away with this ungallant and almost unaccountable discrimination that is made. If these female clerks are to perform the same amount of labor they ought to get the same pay. It is a mere question of even-handed justice. Unless the gentleman from Ohio will say that the service to be performed by these one hundred and

forty female clerks in the Register's office is different from the service required of clerks in other bureaus, then I insist that the House is already committed to the adoption of the principle of fixing their compensation at the same that is paid to male clerks of the same class. I know the gentleman from Ohio, with his sense of justice, will not consent that for the same labor these women shall receive a smaller compensation than is paid to men.

Mr. SPALDING. I understood the amendment offered by the gentleman the other day to the legislative, &c., appropriation bill to relate to the clerks in the office of the Treasurer of the United States, and that officer, I think, at one time recommended that where his female clerks performed the same duties as his first-class male clerks they should have the same pay. That did not seem to me so objectionable. But with respect to this class of clerks with whom we are now dealing we have no request of that sort from the head of the bureau, or from any quarter. We do not know that the female clerks themselves are at all dissatisfied with the pay we allow them, \$900 a year, and we are paying some men in this same Printing Bureau much less than we pay these female clerks. I think \$900 is enough.

The question was put on Mr. HOLMAN's amendment; and there were—ayes 20, noes 52; no quorum voting.

Tellers were ordered; and Mr. SPALDING and Mr. HOLMAN were appointed.

The committee divided; and the tellers reported—ayes 42, noes 71.

So the amendment was rejected.

The Clerk read as follows:

In the First Comptroller's office:

For three clerks, at \$1,400 each, \$4,200; eight female clerks, at \$900 each, \$7,200; in all, \$11,400.

Mr. BARNES. I move to amend the clause relating to female clerks by striking out "\$900" and inserting "\$1,200."

Mr. Chairman, the question of rewarding female labor employed by the Government of the United States has frequently been referred to in the discussions upon appropriation bills at this session and at previous sessions. The Government of the United States stands in a different position with reference to labor and rewarding its employes from that occupied by a commercial or manufacturing establishment employing labor. A commercial house or a manufacturing establishment employing labor is compelled to look upon the price paid for that labor as a part of the cost of the article which it buys or which it manufactures for sale. And they are compelled to hire that labor in the cheapest market in order to sell in competition with other manufacturers conducting the same business.

The Government of the United States is in an entirely different position. It is not compelled to look at the wages of its employes in the light of competition, because it has no competition. It can reward its employes in a just and a fair manner. When we look at the amount of labor and the character of the labor to be performed by these employes here sought to be provided for we find that it is as well done by the women of the country as it can be done by the men. And we have the authority of the the Secretary of the Treasury that in many of the bureaus under him the labor has been done better by the female employes than it has been done by the male employes. Therefore I say this is simply a question of justice, not only to the individuals directly concerned, but to others. And it is necessary to have this indorsement by the Government in order to call the attention of the country to this large class of helpless and needy individuals. The avenues to female labor in this country are so much restricted that the greatest amount of suffering prevails among the classes who are dependent upon their own resources for a livelihood. A recent advertisement in the city where I reside, asking for one employe, at a compensation of \$4 50 per week, was answered by five hundred and forty applicants. I submit to the intelligence and fairness of gentle-

men upon this floor that there can be no occasion for them to reject my amendment.

[Here the hammer fell.]

Mr. SPALDING. We have twice taken the sense of the Committee of the Whole on this very subject; and as I am not to be hereafter a candidate for either Congress or matrimony, [laughter] I shall say nothing further on the subject.

The amendment of Mr. BARNES was not agreed to.

The Clerk read as follows:

For carrying out the provisions of the acts of August 30, 1852, for the better protection of the lives of passengers on vessels propelled in whole or in part by steam, and of the acts amendatory thereof, the following sums, to-wit: for the salaries of the supervising and local inspectors, \$78,800; for the traveling expenses of the supervising inspectors, \$10,000; for the traveling expenses of the local inspectors, \$15,000: *Provided*, That whenever the public interest requires it any local inspector may be allowed for travel in any one year a sum not exceeding \$700; for the salary and traveling expenses of a special agent of the Department, \$3,600; for the expenses of the meeting of the board of supervising inspectors, including travel and necessary incidental expenses, printing of manual and report, \$4,000; for stationery, for furniture of offices and repair thereof, for repair and transportation of instruments, and for fuel and lights, \$15,000.

Mr. SPALDING. The paragraph following this is headed "Miscellaneous." I move that that heading be transferred to just preceding the paragraph last read.

The motion was agreed to.

Mr. PRICE. I move to insert after the paragraph last read the following:

For continuing the work, according to existing law, on the rapids of the Mississippi river, known as the Rock Island rapids, \$150,000.

Mr. SPALDING. I hope my friend from Iowa [Mr. PRICE] will withdraw his amendment for the present; he will have an opportunity to make it in another part of the bill.

Mr. PRICE. This is a very good place for my amendment. I offer it to come in after a paragraph which begins—

For carrying out the provisions of the acts of August 30, 1852, for the better protection of the lives of passengers on vessels propelled in whole or in part by steam, and of the acts amendatory thereof, the following sums, &c.

It will be remembered that a year ago an appropriation was made by this House for the improvement of these rapids. The bill making that appropriation went to the Senate, where it still lies unacted upon.

There are five bars or chains of rocks across these rapids within a distance of sixteen miles. Three of those chains have been taken out by the appropriations made by Congress within the last two years; two of them still remain to be taken out. The parties who are there taking out these rocks have their machinery and appliances on the spot. I need not say to the Committee of the Whole that if we do not continue the work now while the tools, machinery, and appliances are there, but these contractors are compelled to abandon the work, it will require additional expense to the Government to get the same tools, the same machinery, the same appliances on the ground in order to get at the work on a future day.

In addition to that, it must be very plain to any gentleman who will give the subject a moment's consideration that although three of these chains of rocks have been taken out a boat cannot be taken over the rapids until the other two chains of rocks are taken out. Therefore the expenditure up to this time does not avail the commerce of the country anything until the other two chains are removed. The Committee on Commerce at this session have not reported; they have not had an opportunity to report. Consequently no appropriation could come before the House in the river and harbor bill, no such bill having been reported. Hence I offer this amendment to the miscellaneous appropriation bill that the work on these rapids may not cease.

Mr. SPALDING. Mr. Chairman, I should be very glad to see my friend from Iowa [Mr. PRICE] accommodated in this respect by an appropriation of \$150,000 to improve the rapids of the Mississippi river. But, sir, this is

not a river and harbor bill; and if we commence with one appropriation of this kind it will be followed by the offering of every river and harbor appropriation that was contained in the bill we sent to the Senate some time ago. We here are not responsible for the failure of the Senate to act on that bill. I hope we shall not commence putting appropriations of this character in the miscellaneous bill, which is designed to contain only such items as are necessary to carry on the wheels of Government.

Mr. PRICE. I desire to say that, according to my recollection, the bill which was sent to the Senate contained no other appropriation resting upon the same ground as this.

Mr. SPALDING. I will say to the gentleman that I have just received information that the bill which we sent to the Senate has been amended there by inserting this very appropriation, and will probably pass the Senate.

On agreeing to the amendment, there were—ayes 8, noes 52; no quorum voting.

Mr. PRICE. I must insist on tellers, for I am satisfied that if this amendment were properly understood it would be adopted.

Tellers were ordered; and Mr. PRICE and Mr. SPALDING were appointed.

The committee divided; and the tellers reported—ayes thirty, noes not counted.

So the amendment was not agreed to.

The Clerk read as follows:

For supplying deficiency in the fund for the relief of sick and disabled seamen, \$100,000.

Mr. BENJAMIN. I move to amend by striking out the paragraph just read.

Mr. Chairman, it will be recollected that in the deficiency bill passed here last Friday there was an item of \$50,000 to supply a deficiency in this same fund. I suppose there must be a mistake in inserting this item in this bill.

Mr. SPALDING. I will state for the information of my friend from Missouri [Mr. BENJAMIN] that the Department asked for \$300,000 for this purpose for the next fiscal year. The committee cut down the amount to \$100,000. We could not do any less. These sailors pay every month their hospital money into the Treasury to be taken care of for this very purpose. In these expenditures we only return to them their own money.

Mr. BENJAMIN. Do I understand the gentleman to say that this appropriation is for the next fiscal year?

Mr. SPALDING. Yes, sir.

Mr. BENJAMIN. Then why is it called a deficiency?

Mr. SPALDING. We did not appropriate a sufficient amount last year; and in the deficiency bill we made an appropriation for the present fiscal year. This appropriation is for the fiscal year beginning next July.

Mr. BENJAMIN. Then you ought to strike out the word "deficiency."

The amendment was not agreed to.

The Clerk read as follows:

For the construction of four steam revenue-cutters, namely, one for Alaska; one for Columbia river, Oregon; one for Mobile, Alabama, and one for Charleston, South Carolina, \$300,000: *Provided*, That said cutters shall not cost more than the sum hereby appropriated: *And provided further*, That the Secretary of the Navy be authorized to transfer the revenue-cutter S. P. Chase from the great lakes to Boston, Massachusetts.

Mr. HULBURD. I raise the point of order that the last proviso of the paragraph just read is out of order because it proposes new legislation.

Mr. SPALDING. I do not question the right of the gentleman from New York [Mr. HULBURD] to raise the point of order; but I beg that he will hear me first. This cutter S. P. Chase—

The CHAIRMAN. The Chair sustains the point of order on the ground that the proviso proposes independent legislation.

Mr. FARNSWORTH. I move to amend by striking out the paragraph. I do not know whether this motion ought to prevail, but I make it for the purpose of getting information. Has not the Government enough vessels of one kind or another not in use to supply the place

of these revenue-cutters? Is it necessary that we should build three more revenue-cutters for this service?

Mr. SPALDING. The chairman of the Committee on Commerce [Mr. ELIOT, of Massachusetts] can explain this matter to the satisfaction of the gentleman. I think that these cutters are imperatively necessary to prevent smuggling on those coasts; and the Secretary of the Treasury assures us that these cutters will save annually four times the cost of their construction. I ask the chairman of the Committee on Commerce to tell what he knows about it.

Mr. ELIOT, of Massachusetts. Mr. Chairman, in reply to the inquiry of the gentleman from Illinois, I have to say that the Committee on Commerce, under the instruction of the House, had this matter in charge, and they gave to it a good deal of consideration. When I had the honor to take charge, of the business of the committee as chairman I found several memorials and requests from the Treasury Department calling the attention of the committee to the importance of having these steamers built. Last year the Secretary of the Treasury did all he could to induce Congress to make the appropriation at that time. No action was taken then; and it has been found since then that there has been in point of fact no power within the control of the Secretary of the Treasury to perform the duties which the law imposed upon him, because Congress has withheld from him the steamers absolutely necessary for the performance of the duties required. There was not any of the naval vessels of a suitable character and description for the purpose wanted either on the coast of Alaska, the Pacific coast, or in the waters of the Gulf States. There are two side-wheel steamers wanted at the South and two propeller steamers wanted at the North; and I take it upon myself to say, from the information I have from the Department, that it will be utterly out of the power of the incoming Secretary of the Treasury, as it has been out of the power of the outgoing Secretary of the Treasury, to fulfill his duties in that regard unless this appropriation is made.

I was inclined to urge that the amount called for might be reduced, and went personally to the Treasury Department for the purpose of having that investigated. I examined the estimates and found that the amount asked for was the lowest sum for which these vessel could be constructed.

Mr. WASHBURN, of Wisconsin. Are there not revenue-cutters on the lakes which will answer for that purpose?

Mr. ELIOT, of Massachusetts. There is but one steamer which can be brought out at all, as I understand. There are some on the lakes out of commission, and something ought to be done in reference to them. As I understand, excepting the steamer S. P. Chase, which is the subject of the proviso, there are none of these steamers which can be taken for that purpose.

[Here the hammer fell.]

Mr. FARNSWORTH's amendment was rejected.

Mr. PAINE. If it be in order after the vote just taken I move to strike out the first three words, "one for Alaska."

Mr. MAYNARD. I ask the gentleman from Massachusetts, who knows these things much better than I do, whether there are not vessels in the Navy which can be used for that purpose without this expense?

Mr. ELIOT, of Massachusetts. From the best information I have there is not one that can be used for that purpose.

Mr. GARFIELD. I wish to inquire in that case whether we did not last year, when this bill was under consideration, vote to lay up three or four revenue-cutters that we did not need in the service?

Mr. ELIOT, of Massachusetts. I will explain that matter. The revenue-cutters to which allusion has been made by the gentleman from Ohio were never constructed for the lakes at the instance either of the Committee of Com-

merce of this House or of the Treasury Department. They were originally built because of a clause in the appropriation bill inserted in the Senate, as I recollect, at the instance of one of the Senators from Ohio. These steamers were built; and they are perhaps as admirable vessels as any which can be made to float on the water, but it was found for the purpose of the revenue service, at least so the House decided, they were not wanted upon the lakes at the instance, I believe, of the gentleman from New York [Mr. CHURCHILL] last year. They were put out of commission, and are now upon the lakes. They are not of value, and cannot be put in service in the Gulf or upon the Pacific coast, because they cannot be got out of the lakes, as they were built there and there they must remain.

Mr. GARFIELD. How do you mean to get the S. P. Chase out?

Mr. ELIOT, of Massachusetts. That is a small vessel.

Mr. CHURCHILL. It is of the same tonnage precisely as the others.

Mr. PIKE. These six steamers for the lakes we all understood at the time were to form a kind of fleet of which Assistant Secretary Harrington was to be the commodore. They were steam-vessels, and were intended to increase our force upon the lakes without violating the treaty of 1818, which allowed us to keep only one armed vessel on the lakes. It was a sort of beating the devil around the stump. Now, there is still remaining in the Navy a large class of vessels of five hundred tons and upwards, and I do not know why some of them could not be fitted for this service. It is well known that the English system is to use the naval vessels almost entirely. We have a large number of double-enders of a thousand tons, and they would be capital vessels for that purpose if they are not too large. We have another class of side-wheel double-enders of five hundred tons, the others being propellers, some of which might be selected to answer the purpose. Then there are intermediate vessels that might possibly be suitable. It has seemed to me for a long time that this revenue-cutter system as now organized is entirely wrong, and that it should be attached, together with the coast survey and light-house system, to the Navy Department and be under the conduct of naval officers.

Mr. PILE. I move to strike out the last two words, and I yield to the gentleman from Wisconsin.

Mr. PAINE. Mr. Chairman, I have no objection to constructing a revenue-cutter for the service in Oregon if that shall be necessary, nor to constructing one for Alabama and for South Carolina, if we have not, as my friend seems to think we have, in the service already vessels that will answer the purpose. But I do object to constructing one for the service in Alaska. The amount of appropriation for that revenue-cutter is \$75,000. I shall oppose all appropriations for service of that kind or any other kind in Alaska. I am opposed to investing \$75,000 in a revenue-cutter for that purpose. I desire to have the Treasury Department to employ such vessels as can be found in the service now, and if none can be found I am inclined to leave them without any service in Alaska.

Mr. SPALDING. I ask to have read the letter which I send to the desk.

The Clerk read as follows:

TREASURY DEPARTMENT, January 5, 1869.

SIR: In respect to the steam revenue vessels required at Mobile, Charleston, Puget sound, and Alaska, as stated in communications from this Department to the House of Representatives, dated January 23 and April 23, 1868, to which reference is made in your letter of the 4th instant, I have the honor to reply to your inquiries that the necessity for the vessels is still more urgent than at the time of my first communication, and that the estimates then given of the cost of construction, &c., cannot, I am satisfied, be reduced.

For Charleston and Mobile it is contemplated to build side-wheel steamers of light draft that can follow smugglers into the shallow inlets abounding on those coasts, into which the vessels we have been hitherto to employ in that region have been

unable to enter. The Department has reason to believe that the absence of vessels of this description has been taken advantage of by smugglers to a very considerable extent.

On the Pacific coast it is hardly necessary to do more than call attention to the present obvious inadequacy of the revenue marine to meet the requirements of the service along so extensive a coast, particularly since the addition of Alaska, for which it has been necessary to withdraw two vessels from former stations in California and Washington Territory.

On the whole Pacific coast there are at present but four revenue vessels, two steamers and two sailing vessels, of which one of the latter is old and unfit for service.

I regard the early construction of these additional vessels as of the highest importance, and take the liberty to inclose a draft of a bill adapted to enable the Department to accomplish it, to which I earnestly request favorable attention.

I am, sir, very respectfully,

H. McCULLOCH,

Secretary of the Treasury.

Hon. T. D. ELIOT, Chairman of the Committee on Commerce, House of Representatives.

Mr. PILE. I withdraw the amendment to the amendment.

Mr. MAYNARD. I renew it for the purpose of inquiring of the gentleman from Maine [Mr. PIKE] whether we have already vessels that will answer the purpose which is expected to be accomplished by these revenue-cutters. If we have we ought to apply them in that direction; if not, I agree that we ought to build them. It is necessary, of course, to be prepared to follow smugglers everywhere, but I understand we have already many small steamers of light draft that may be used for this purpose. I am not, however, sufficiently acquainted with the subject to know whether they can be used, and therefore I ask for information.

Mr. PIKE. I suppose that Alaska ought to have a vessel to shed rain. That, I suppose, would be quite important, but I do not know what peculiar quality may be necessary for the northwest coast. I only know there is a variety of small and large vessels in the Navy not now in commission, being laid up. I do not suppose it will be necessary to use iron-clads for the purpose. There are light-draft and heavy-draft vessels, some of them side-wheels and some propellers. I am not a professional man, and not being a professional man in this matter I should suppose that a selection might be made from some of these vessels which would answer this purpose. As I said just now, it does seem to me that this whole system needs remodeling, and instead of building another vessel to add to the forty or fifty of this fleet of custom-house vessels it does seem to me that it will be proper for the new Congress to remodel the system and transfer the whole of it to the Navy Department, as is now done in England with great efficiency.

Mr. MAYNARD. I withdraw the amendment to the amendment.

The question recurred on Mr. PAINE's motion to strike out the words "one for Alaska."

Mr. FARNSWORTH. I move to strike out the paragraph and to insert in lieu thereof the following:

The Secretary of the Navy shall transfer to the Secretary of the Treasury for the revenue service any number of vessels suited to the said service, not exceeding four, one for Alaska, one for Columbia river, Oregon, one for Mobile, Alabama, and one for Charleston, South Carolina.

Mr. SPALDING. I make a point of order on that. The committee has once refused to strike out the whole paragraph.

The CHAIRMAN. The committee refused to strike out, but the amendment is to strike out and insert. The amendment of the gentleman from Wisconsin must first be voted on.

Mr. PAINE. In order to give the gentleman from Illinois an opportunity to have a vote on his amendment, I withdraw mine.

Mr. WOOD. I make the point of order on the amendment of the gentleman from Illinois [Mr. FARNSWORTH] that it is independent legislation and is not in order on an appropriation bill.

The CHAIRMAN. The Chair sustains the point of order.

Mr. FARNSWORTH. For what reason?

The CHAIRMAN. On the ground that the amendment is independent legislation.

Mr. FARNSWORTH. It certainly is germane to the paragraph and germane to the proviso to the paragraph.

The CHAIRMAN. The objection is not that it is not germane, but that it proposes independent legislation. The Chair sustains that point of order.

Mr. FARNSWORTH. I renew the amendment of the gentleman from Wisconsin [Mr. PAINE] to strike out the words "one for Alaska." It seems from what has been said here by the chairman of the Committee on Naval Affairs and the chairman of the Committee on Commerce that there is at least very grave doubt whether we have not in the naval service a great number of vessels suited to this purpose, and which could just as well be transferred to the Treasury Department as not. That being the case, I ask the committee what propriety there is for us to be selling with one hand and building with the other, laying up vessels in ordinary at the various navy-yards while we are building revenue-cutters for the revenue service? It seems to me that without more light upon the subject we ought not to appropriate money for the building of any more of these revenue-cutters. If anything is to be done, let us by some proper provision of law, where it may be in order, provide for the transfer of such naval vessels as may be suited to the service to the Treasury Department for this purpose.

Mr. ELIOT, of Massachusetts. Mr. Chairman, I wish to call the attention of the committee to the question before the committee. It is on the motion of the gentleman from Illinois [Mr. FARNSWORTH] to strike out the words "one for Alaska." The argument of the gentleman from Maine, [Mr. PIKE], the chairman of the Committee on Naval Affairs, would go to show that the whole system in regard to our revenue-cutters is wrong, and that it ought to be revised and the whole matter placed under the care of the Navy. I want to say that that cannot be done now. It is utterly out of the question for this Congress to do it. The gentleman from Maine has been at the head of the Committee on Naval Affairs for many years, and yet we have had no proposition in the shape of a bill brought into the House on the recommendation of that committee to reorganize in the way that he now thinks would be desirable this revenue-cutter system. But it is impossible that we can at this late day of the session accomplish what the gentleman from Maine [Mr. PIKE] thinks ought to be done, because we have not time.

Now, in regard to the boat for Alaska, I undertake to say that unless this Congress desires that there shall be smuggling indefinitely along that coast, and unless they desire that the Secretary of the Treasury shall by law have imposed upon him a duty the power to perform which we take from him, then we must pass this appropriation. Because, I say to the gentlemen of this committee that there is no power now in the hands of the Secretary of the Treasury to enforce the law without this legislation. How would the members of this House undertake to have the laws enforced? It is conceded by the gentleman from Tennessee [Mr. MAYNARD] that there ought to be a steamer there. I say that there is none within the control of the Treasury now. And I go further than that, and say that there is not in the Navy of the United States at this moment such a steamer as is wanted by the revenue service on that coast.

Mr. FARNSWORTH. The next Congress convenes on the 4th of this month. Does not the gentleman believe that that Congress can pass a bill for the transfer of these vessels sooner than these four vessels can be constructed?

Mr. ELIOT, of Massachusetts. The gentleman from Illinois [Mr. FARNSWORTH] can answer that question as well as I can; just as well. I know that for more than a year past the Secretary of the Treasury has had his hands

tied and has had his power crippled because of the want of such a steamer as this.

[Here the hammer fell.]

Mr. BUTLER, of Massachusetts. I move to amend the amendment by striking out the word "Alaska." I only desire that members may understand exactly the position of this matter as it appeared to the Committee on Appropriations, and then I will submit the whole matter to the good judgment of the House. In the first place, it will not do for gentlemen to get up here and say that there are vessels in the Navy fit for service on this coast of Alaska, for there are none now actually in commission. Double-enders will not do; it will not do to take light-draft vessels for this purpose. These steamers must be sea-going, strong, and made perfect in all their parts, in order to carry out one of their important duties, that of going to the rescue of distressed and shipwrecked vessels.

In regard to the vessels in the Navy, I desire to say that all the vessels of this description that were in the Navy were merchant vessels, bought at the time they were so imperatively needed during the rebellion, and some few that were constructed in great haste. But none of them are now fit for this duty, and some of them, if put up at auction to-day, would not fetch the price of old iron. I have no greater love for Alaska than the rest of mankind. But we have Alaska on our hands; we must sustain our custom-houses there. If we have no protection to the revenue on that coast all that the people interested in the trade with China and Japan will have to do will be simply to smuggle the tea and silks into Alaska, when they will become subject to the coast-trade regulations, and in that way the whole of the United States may be supplied without the revenue receiving any benefit therefrom.

I believe, on the examination we have made, that these vessels are necessary. Now, to say "Do something else" is simply to say "do nothing." Gentlemen remain on committees here all during Congress and make no proposition to do anything. Then the moment the Committee on Appropriations undertake to make an appropriation for the purpose they get up and say, "O, let us have this great reform done first," or "We will reform this, that, or the other;" "We will have a new system of marines;" or "We will have a new system of the Navy;" or "We will abolish the light-house boards," or something of that kind. They are ready to do all things, but they never think of them except when they are opposing the amendments of the Committee on Appropriations.

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. BUTLER, of Massachusetts. I withdraw the amendment to the amendment.

Mr. WOOD. I renew the amendment. Mr. Chairman, the gentleman who has just addressed the committee has taken, I think, the practical, common-sense view of this question. There is a very great distinction between vessels employed by the Treasury Department for service along our coasts in protecting the revenue and vessels constructed for the regular naval service. It is totally impracticable to use naval vessels for any such purpose as that here contemplated. Their draught of water is too great; they cannot run along the coast and into the inlets and bayous, and thus prevent or detect smuggling. Hence the proposition to substitute naval vessels for revenue-cutters is simply a proposition to refuse any provision whatever for this object. Now, sir, we have acquired Alaska. While I was opposed to that acquisition; while I believe it will never compensate the Government for one tenth of the amount that it cost, yet we have that territory and must put it to the best possible use. Its geographical position is such as to make it a commercial entrepot, by means of which, under a proper revenue system, there will be brought into the Treasury millions of dollars which will be lost if a suitable revenue service be not maintained.

Mr. PIKE. Mr. Chairman, the gentleman from Massachusetts [Mr. BUTLER] suggests that the proposition now advocated by those who oppose this appropriation might have been brought in before; and so it might. In introducing propositions of this sort there is a kind of divided honor between the Committee on Commerce and the Committee on Naval Affairs. The latter being disposed to defer to the Committee on Commerce has never brought in the proposition, and consequently does not feel itself involved in this imputation of neglect. But there is another reason, which is that none of these propositions are ever made without the aid of a Department. Now, during the last two or three years we have had, as gentlemen no doubt are aware, an exceedingly bad time for the introduction of reforms; but we shall have in the future a very excellent time for bringing forward measures of reform. This appropriation, whatever may be its amount, cannot take effect until the 1st day of next July. Now, between this time and that a session of Congress will intervene, and then we shall have a very suitable period for the introduction of these reforms. We shall then have a new Secretary of the Navy, and gentlemen, when a proposition of this kind is introduced, cannot say, "We have not a properly efficient man at the head of the Navy Department." We shall then have a proper and competent man in that position, and hence that will be a suitable time to say, "Having an efficient officer at the head of the Department we will extend its operations." Consequently, if this matter should be properly investigated, and undoubtedly the incoming Congress will attend to all its duties at the proper time, that Congress meeting next Thursday will, doubtless, before it adjourns take this matter into consideration. The proper business will be assigned to the Navy Department; the vessels now laid up in ordinary at our navy-yards will be set to work watching for smugglers; the unemployed naval force, of which there is now great abundance, will be used for the detection of smugglers in all quarters. The consequence will be that on the coast of Alaska, and on the Pacific as well as on the Gulf—for I see that this proposition makes provision for all these—there will be stationed suitable vessels with expert officers, who will not only act as a detective force in taking care of the revenues of the country, but will also protect its honor in time of war.

[Here the hammer fell.] I withdraw my amendment to the amendment.

The amendment of Mr. FARNSWORTH was not agreed to, there being—ayes twenty-one, noes not counted.

The Clerk read as follows:

To defray the expense of a preliminary survey of the site for the proposed navy-yard at League Island, \$2,000.

Mr. O'NEILL. I move to amend the paragraph just read by striking out "\$2,000" and inserting "5,000." Mr. Chairman, it will be recollected by many members that in the Thirty-Ninth Congress an act was passed accepting from the city of Philadelphia the gift of League Island, a tract of land embracing some six hundred acres fronting on the river Delaware, upon which to erect a navy-yard. In accordance with one of the provisions of that act a narrow strip of land on the opposite bank of what is called the back channel was also to be presented by the city to the Government. The city authorities acquired by purchase from different owners the title to this strip of land and conveyed it by deed with the island to the United States, and thus vested the whole of this valuable property in the Government. It is valued at \$500,000 at least.

Preliminary to constructing docks, basins, workshops, and other buildings required to make this an unsurpassed navy-yard it will be necessary to have surveys of the land upon which to base such plans as will eventually and when carried out give the Government all the conveniences demanded by naval architecture for the present and future time. The Secretary of the Navy has asked for an appropriation of

\$10,000 for this purpose. The Committee on Appropriations, however, reports but \$2,000. This amount is too small for the work contemplated, hence my amendment, although I should prefer \$10,000, and it seems to me to be so obviously just that we should increase it to at least \$5,000 that it is scarcely necessary to detain the Committee of the Whole by any arguments on the subject. The title conveyed it by deed to the United States, and this valuable property is now vested in the Government, preliminary to constructing docks, basins, workshops, and other buildings necessary to make a navy-yard such as is required.

Mr. Chairman, this great navy-yard, which is to be built at League Island, and which for the sake of the country and for the sake of the Navy ought to be commenced as soon as possible, must be preceded as a preliminary step by proper surveys, and then its construction will go on in regular order and according to proper plans. The Secretary of the Navy has recommended that provision should be made at once for the surveys, so that there may be no delay in carrying to completion at no distant day a navy-yard much needed. My amendment only proposes \$5,000. It is the very lowest amount with which the Navy Department can get along, and it is absolutely necessary for the beginning of the preparations for a naval station at this, the fittest place in the country, if not in the world. I hope that it will be adopted.

[Here the hammer fell.]

Mr. MAYNARD. This is mere earnest money, and we might as well reduce it to \$1,000.

Mr. O'NEILL. I withdraw my amendment in order that my colleague may renew it.

Mr. MYERS. I renew the amendment. All that could be said on the subject has been well said by my colleague who has just taken his seat, but the gentleman from Tennessee has just made a remark which deserves some reply. The Committee on Appropriations, I will say here, however, have no objection to increasing the appropriation to \$5,000. The city of Philadelphia has spent \$500,000 in the purchase of this island for the purpose of making it a free gift to the Government of the United States in view of the construction there of a great naval station. The gift has been offered and the Government has accepted it. The question now is whether we shall appropriate sufficient money to make the necessary preliminary survey. The amount asked by the Navy Department for this purpose is \$10,000, but the amendment of my colleague merely asks for \$5,000, one half of the amount recommended by the Secretary of the Navy.

Let me add another word. I see that a civil engineer is employed at the Portsmouth navy-yard at a salary of \$2,500, and there is one at the New York navy-yard, and almost every principal navy-yard in the country. The regular business of the engineers of the Navy is in reference to machinery, and therefore it is necessary that there should be a civil engineer at this station, and for that purpose this sum of \$5,000 is absolutely required.

Mr. SPALDING. I beg to say to the committee that no estimate was made for this appropriation from any Department of the Government, that it comes to us in no official way; but the members of this House from Philadelphia applied for a small appropriation to survey this island, and the committee, out of the excess of their good nature, put in the bill this appropriation for \$2,000. Now, if the Committee of the Whole on the state of the Union are better natured than the Committee on Appropriations they will increase the appropriation to \$5,000. The Committee on Appropriations have at least done their duty.

Mr. RANDALL. I move to increase the appropriation to \$10,000, simply for the purpose of stating that I consider this appropriation necessary and not a single cent too little. I am sorry to see the spirit which the gentleman in charge of this bill has exhibited toward the members of the city of Philadelphia.

Mr. SPALDING. My friend is mistaken. I said that in the excess of their good nature the Committee on Appropriations put in an appropriation of \$2,000, but that if the Committee of the Whole on the state of the Union are better natured they could increase the appropriation to \$5,000.

Mr. RANDALL. I understand that the Secretary of the Navy recommended \$10,000, and that the committee in a spirit of great economy reduced the appropriation to \$2,000. Now, I have good reason to believe from information which I have received that a sum less than \$5,000 will be altogether insufficient. I hope, therefore, that there will be no objection on the part of any one to increase the appropriation to \$5,000. I withdraw my amendment to the amendment.

Mr. PIKE. I renew it merely to express the hope that the amendment proposed by the gentleman from Pennsylvania will be adopted. It seems to me wise economy to improve this valuable property which has been presented to the Government by the city of Philadelphia. We are already using it very profitably by laying up there a large number of steamers which have been put out of commission. This naval station should be gradually improved; and if I had charge of the matter I would expend \$100,000 year by year at that station until the navy-yard at Philadelphia can be sold. The lowest estimate which the present navy-yard can be sold for is \$1,500,000.

Mr. O'NEILL. It has been assessed by the board of revision of taxes of Philadelphia, the board of last appeal of valuation, at \$3,500,000.

Mr. PIKE. It will bring more than is necessary for building this navy-yard at League Island. It would therefore be a matter of economy to go on improving the naval station at League Island at once.

Mr. MULLINS. I oppose this amendment on the ground that we have only a very little while back got possession of this ground, and now this appropriation is for no other purpose than to make a preliminary survey of that ground. It is clear to every thinking man that looks at the subject that as soon as the necessity develops itself a further survey can be had, but I cannot see now the propriety of raising this appropriation to the extent proposed by the gentlemen from Pennsylvania, that is, to \$5,000, as proposed by one gentleman, [Mr. MYERS] and to \$10,000, as proposed by the other, [Mr. RANDALL.] The committee have had this bill under consideration and have inserted these appropriations after an investigation of the case more definitely than any other members of the House can do upon a casual examination or mere superficial idea of the facts. Go on and expend the amount already appropriated by the bill, and when you have done that if the necessity exists for more this House is always ready to give what is required.

The question being taken on the amendment of Mr. RANDALL, it was disagreed to.

The question recurred on the amendment of Mr. O'NEILL, as renewed by Mr. MYERS, and there were—ayes 41, noes 26.

Mr. SPALDING. I give it up.

So the amendment was agreed to.

Mr. KELSEY. I offer, by direction of the Committee on Appropriations, the following amendment as a new paragraph:

For the completion of bridge over the Dakota river, located and surveyed, and road from said bridge to Vermilion bridge, \$1,000.

Mr. SPALDING. That is right.

The amendment was agreed to.

The Clerk read as follows:

For Washington asylum and hospital, Washington, District of Columbia, \$25,000; for Richmond asylum and hospital, Richmond, Virginia, \$15,000; for Vicksburg asylum and hospital, Vicksburg, Mississippi, \$10,000: *Provided*, That on and after the close of the present fiscal year the said asylums and hospitals shall be discontinued.

Mr. PAINE. I move to strike out the word "present" and insert the word "next," so that it will read "close of the next fiscal year." I supposed this must be a mistake, for this is not an appropriation bill to supply deficiencies for

the present fiscal year, but is a miscellaneous appropriation for the next fiscal year, after the present shall have terminated. Now, if we terminate the existence of these hospitals on the 30th of June next, then we shall have an appropriation of \$50,000 for the three hospitals to be expended during the year ending the 30th June, 1870. I would inquire of my friend from Massachusetts how that was intended?

Mr. BUTLER, of Massachusetts. It was intended that the hospitals should be wound up on the 30th of June next.

Mr. PAINE. Then let me inquire why is it that we appropriate in the aggregate for three hospitals \$50,000 for the year commencing the 30th of June?

Mr. BUTLER, of Massachusetts. We do not. It reads:

Provided, That on and after the close of the present fiscal year the said asylums and hospitals shall be discontinued.

Mr. PAINE. Now let us see how that is. I turn back to the enacting clause of the bill, as follows:

That the following sums be, and the same are hereby, appropriated for the objects hereinafter expressed for the fiscal year ending the 30th June, 1870.

Now, the appropriation here is \$50,000 for the fiscal year ending the 30th of June, 1870, yet this discontinues all the hospitals before the year closes.

Mr. BUTLER, of Massachusetts. But the subsequent proviso controls the opening statement. These hospitals by law ended with the Freedmen's Bureau on the 1st of January; but as it would be cruel to have to turn out into the world poor wounded men and sick men in the middle of the winter, we move this appropriation to run them till June of this year and then wind them up. We were asked for a much larger appropriation, but we did not give it—only what is here reported. But I call attention to the fact that if this amendment prevails there will be nothing to run these hospitals between now and the 1st of July.

Mr. PAINE. I did not wish to continue these hospitals after the end of this fiscal year, but what I did want is this: that the committee should make some provision for their maintenance during this fiscal year, which we have not done by this bill; for I call attention to the fact that not a cent is appropriated in this bill for the current fiscal year.

Mr. BUTLER, of Massachusetts. It is generally understood that in a miscellaneous appropriation bill the appropriations become due and payable at once.

Mr. PAINE. When the miscellaneous appropriation bill provides an appropriation of \$50,000 for the fiscal year ending June 30, 1870, there is no room for any doubt about it. The appropriation is for that year and it makes no difference what the usage has been. It gives us no money to expend on these hospitals for the fiscal year commencing June 30, 1869. The consequence is that it defeats the very object the gentleman has in view. I am willing to discontinue these hospitals at the end of the year, but I think some provision should be made for defraying the expenses while the year is running, and no such provision has been made. I withdraw the amendment, but I call the attention of the gentleman to the fact that he has made no provision at all.

Mr. BUTLER, of Massachusetts. To remove all doubt I move to insert after the word "dollars," in line one hundred and eighty-five, the words "during the current fiscal year;" so that the paragraph will read:

In connection with the late Bureau of Freedmen and Refugees:

For Washington asylum and hospital, Washington, District of Columbia, \$25,000; for Richmond asylum and hospital, Richmond, Virginia, \$15,000; for Vicksburg asylum and hospital, Vicksburg, Mississippi, \$10,000, during the current fiscal year: *Provided*, That on and after the close of the present fiscal year the said asylums and hospitals shall be discontinued.

The amendment was agreed to.

The Clerk read as follows:

For collection and payment of bounty, prize-money, and other legitimate claims of colored soldiers and sailors for the fiscal year ending June 30, 1870, and for salaries of agents, clerks, &c., \$145,000.

For rent of offices, fuel, light, &c., \$25,000.

For office furniture, \$3,000.

For stationery and printing, \$20,000.

For mileage and transportation of officers and agents, \$18,000.

For telegraphing and postage, \$3,000. Being in all \$214,000.

Mr. HOLMAN. I move to strike out the first paragraph. I make that motion for the purpose of inquiring what is the object of this appropriation. I trust the gentleman from Ohio will explain it.

Mr. SPALDING. I will endeavor to explain it to the satisfaction of the gentleman from Indiana. Although the Freedmen's Bureau was considered to be closed on the 1st of January, the Commissioner made a requisition upon the Committee on Appropriations for quite a large appropriation to continue a number of hospitals, among which were the three named in the paragraph that we have just passed, during the next fiscal year. He also required appropriations for some of the officers and agents of that establishment to collect bounty and pay for freedmen who have been in the service of the United States. I hold in my hand letters from the Commissioner of the Freedmen's Bureau in relation to the matter, and if the committee desires to have them read I will have them read. The chairman of our committee of his own volition inserted these clauses in the bill; I mean all these clauses in relation to the Freedmen's Bureau, involving an expenditure of perhaps two or three hundred thousand dollars. The committee at its session this morning passed upon this matter and instructed me to say to the Committee of the Whole that these paragraphs were put in the bill by mistake, and that they have not received the approbation or sanction of the Committee on Appropriations. It was no fault of our clerk; but the chairman, for some purpose of his own, put these clauses in the bill without any action by the committee. In pursuance of the instructions of the committee, I ask that all those paragraphs may be stricken out.

The CHAIRMAN. Does the gentleman from Indiana [Mr. HOLMAN] accept that as a modification of his amendment?

Mr. HOLMAN. I do.

Mr. SPALDING. I hope all those clauses will be stricken out, as they have not received the sanction of the Committee on Appropriations; but before the committee acts upon the question it is but fair that the letters from the Commissioner should be read.

The Clerk read as follows:

WAR DEPARTMENT,
BUREAU OF REFUGEES, FREEDMEN, &c.,
WASHINGTON CITY, December 31, 1869.

DEAR SIR: I find by necessity that I am compelled to ask for a larger appropriation than I anticipated in my report. I have not been able to reduce the hospitals and asylums for the aged and for helpless orphan children so rapidly as was then contemplated. The hospitals remaining at this date are: one at Washington, District of Columbia, one at Louisville, Kentucky, one at New Orleans, Louisiana, one at Vicksburg, Mississippi, one at Talladega, Alabama, and one at Richmond, Virginia. There is an orphan asylum either connected with or separate from each of the hospitals named. The detail of my estimate is as follows:

Washington asylums and hospital.....	\$75,000
Richmond asylum and hospital.....	60,000
Vicksburg asylum and hospital.....	50,000
New Orleans asylum and hospital.....	70,000
Louisville asylum and hospital.....	10,000
Talladega asylum and hospital.....	10,000

This item for appropriation will then be as follows:

For hospitals and asylums for freedmen and refugees.....\$275,000

For collection and payment of bounties, prize money, and other legitimate claims to colored soldiers and sailors, I will be obliged to ask an appropriation for the next fiscal year to the amount of \$300,000. The details of the estimate are as follows:

Salaries of agents, clerks, &c.....	\$170,000
Rents of offices, fuel, and lights.....	45,000
Office furniture.....	5,000
Stationery and printing.....	50,000
Mileage and transportation of officers and agents.....	20,000
Telegraphing and postage.....	10,000

Very respectfully, your obedient servant,

O. O. HOWARD,

Major General, Commissioner.

Hon. E. B. WASHBURN,
Chairman of Committee on Appropriations.

The question was then taken on the motion

to strike out submitted by Mr. SPALDING; and it was agreed to.

Mr. KELSEY. By direction of the Committee on Appropriations I move to insert the following:

To enable the Secretary of the Interior to pay Vinnie Ream the sum now due her on the contract authorized under the joint resolution approved July 23, 1863, for a statue of the late President Lincoln, \$5,000.

This amendment is necessary to carry out a contract made on behalf of the United States by the Secretary of the Treasury with Vinnie Ream. She has performed her part of the contract so far as to be entitled to \$5,000, according to the strict terms of the contract. This amendment is to carry out a vested right.

Mr. BALDWIN. I wish to say that the contract provides that \$5,000 shall be paid at a certain stage of the work. How are the members of the House to ascertain when that point has been reached? There has been no examination or report in this matter. Consequently the House can have no sufficient ground upon which to make this appropriation. When an examination and report has been made it will then be time to make the appropriation.

Mr. KELSEY. Even if the gentleman is right in the position he takes there is no reason why we should not appropriate this money in this bill. Vinnie Ream cannot draw this money until the terms of the contract are complied with on her part and until her work has been accepted. But it has been represented to our committee that the work has been perfected to a point which entitles her to this sum. It may be necessary to have a formal report to that effect upon the subject before this money can be drawn from the Treasury. But the examination and report can be made in a very short time, and we ought to put the power into the hands of the Secretary of the Treasury to comply with our part of the contract as soon as the report has been made.

The amendment of Mr. KELSEY was agreed to.

Mr. HOOPER, of Utah. I move to insert the following after the amendment just adopted:

For printing and binding three thousand copies of the laws of the Territory of Utah, as estimated by the First Comptroller of the Treasury, \$4,005 12.

I ask the Clerk to read the letter I send to his desk, showing good and sufficient reason why this printing and binding should be done and paid for.

The Clerk read as follows:

WASHINGTON CITY, D. C., December 14, 1867.

SIR: I have received your note of the 9th instant with regard to the account of the public printer of Utah Territory for publishing three thousand copies of the compiled laws of that Territory amounting to some nine thousand dollars, and asking from me a statement of facts as to that matter. I have been secretary of the Territory of Utah for something over four years past, having charge of the laws and the distribution of the same. The laws of the Territory were revised and published in one volume in 1855, since which time no codification or compilation of the laws of the Territory has been made and published until the one for which this amount is rendered. Each year a limited number of copies of the current session laws were printed, limited by the Comptroller of the United States Treasury, but quite sufficient during the early years of the Territory. The rapid increase of population, the formation of new counties and townships, and consequent increase of the number of officers and the continual changes of officers throughout the Territory, soon exhausted these session laws so that I do not think there has been a time during my whole term of office that I have been able to furnish a full set of the laws of the Territory to those entitled to them. Besides, as in all new countries rapidly filling up, the great development of its varied material interests required continual changes in the laws of the Territory by way of amendment, repealing, &c., until it became almost impossible to tell what laws were in force in the Territory. It was apparent to all that the laws must be compiled and republished, but it was postponed from year to year by the Legislature, expecting that the Territory would be admitted as a State, which would require a new revision of the laws until the session of 1865-66, when the Legislature provided for the compilation and publication of three thousand copies in one volume of all the laws then in force in the Territory. I informed the public printer at the time that under the instructions of the Comptroller of the Treasury I could, as Secretary, pay for only one thousand copies of the current session laws, and that he must look to Congress for his pay of the balance. It is for this that the account referred to is made. This republication of the laws was very necessary, and it seems to me just and proper that

Congress should provide for the payment of the expense.

Truly, yours,

AMOS REED,
Secretary of Utah Territory.

I concur in the view expressed by Mr. Reed in reference to the necessity of the amount of printing done.

GAL. P. McCUNDY,
Associate Justice, Supreme Court, Utah Territory.
Hon. WILLIAM H. HOOPER, Delegate in Congress.

The question was on the amendment of Mr. HOOPER, of Utah.

Mr. SPALDING. I do not think this is in order at all. The amendment is to provide for some incidental expense.

The CHAIRMAN. The Chair is of the opinion that the point of order is made a little too late.

Mr. SPALDING. The Committee of the Whole will see that the communication which has been read is from officers of the Territory of Utah, and not from any of our Departments here. There has been no estimate or anything of that sort sent to us by any Department; and I desire to say further, that Congress has already made an appropriation for one thousand copies of the laws of the Territory of Utah. But they are not satisfied with that; they want three thousand more.

Mr. HOOPER, of Utah. I desire to say, Mr. Chairman—

The CHAIRMAN. No further debate on this amendment is in order.

Mr. HOOPER, of Utah. I move to amend the amendment by increasing the sum to \$6,000 for the purpose of obtaining an opportunity to explain this matter. The members will have noticed from the letter just read that this printing actually cost \$9,000. The Legislature of Utah, when this printing was authorized to be done, felt itself in duty bound to see that the public printers were paid, and they performed that duty, and they now ask Congress to refund the amount which was advanced by the Territory to those printers. But knowing the discrepancies that sometimes arise between the accounts coming from my Territory and the amounts allowed by the Comptroller in auditing those accounts, I referred the bills to the First Comptroller, who had the work measured, and whose finding in the matter is stated in the communication which I send to the Clerk to be read.

The Clerk read as follows:

TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE, January 18, 1868.

SIR: In compliance with the request contained in your letter to me of the 23rd December, 1867, I have had measured the volume of laws of the Territory of Utah, accompanying said letter, the execution of which work was performed by Messrs McEwen & Thompson, whose account for printing and binding the same has been placed in your hands, and respectfully advise you of the result of said measurement, as follows:

For printing and binding 3,000 copies of laws of Utah:	
Composition, 308 pages, 3,168 ems each, 975,744, at \$1 50.....	\$1,463 61
Presswork, 8 pages to a form, 39 signatures, 12 tokens each, 463 tokens, at \$1 50.....	702 00
Paper, 122 reams, at \$10 per ream.....	1,220 00
Binding, estimated for law sheep, at seventy-five cents per volume.....	2,250 00
Total amount estimated.....	5,635 61
From which deduct amount previously allowed for 1,000 copies of laws of Utah, session of 1863-67.....	1,630 49
Total amount to be provided for.....	\$4,005 12

Respectfully, yours,

R. W. TAYLOR, Comptroller.
Hon. W. H. HOOPER,
Delegate to Congress from Utah Territory.

[Here the hammer fell.]

Mr. KELSEY. The Committee on Appropriations decided not to recommend an appropriation for this purpose, because it is to pay for the publication of a compilation of the laws of the Territory; and, as we understand, the Government has heretofore paid for the publication of the laws annually passed by the Legislature. It appears, however, that we have made an appropriation to pay for one thousand copies of this compilation—an expense that was entirely unnecessary on the part of the Gov-

ernment. The committee therefore decided not to recommend this appropriation, as the Territory of Utah had already received the same amount in this respect as other Territories.

Mr. HOOPER, of Utah. I withdraw my amendment to the amendment.

The question being taken on the amendment of Mr. HOOPER, of Utah, it was not agreed to.

The Clerk read as follows:

For this amount to pay B. A. Shepherd the sum due him on a lost check drawn by Robert S. Neighbours, United States special Indian agent, on the 2d of June, 1859, on the Assistant Treasurer of the United States at New York city, for supplies furnished the Indian department, \$1,200.

Mr. MAYNARD. I move to amend by striking out this paragraph. It simply provides for the payment of a claim, and a very old claim at that. It is ten years old. It ought to go to the Committee of Claims and be investigated and reported upon by that Committee before any action upon it by the House.

Mr. SPALDING. This paragraph has been inserted at the instance of the Commissioner of Indian Affairs, who says that the Government in 1859 had the benefit of this sum of \$1,200 in supplies for the Indians. The Indian agent, Mr. Neighbours, drew his draft on the Assistant Treasurer in New York city; but the draft never reached its destination; and the money then on deposit in New York was withdrawn by the bureau, so that a specific appropriation is needed in order to pay this sum. He further states that the whole subject has been thoroughly investigated by two or three different Commissioners of the Indian Bureau who were thoroughly satisfied that this money ought to be paid. The man has been deprived of the use of this money ever since 1859, and he ought to have it, the claim having accrued under the operation of law. The Committee on Appropriations agreed to this appropriation without a dissenting voice.

Mr. MAYNARD. How does it happen that this claim has slept ten years?

Mr. SPALDING. For the reason that it has been undergoing investigation from time to time. Mr. Neighbours, the Indian agent, was killed soon after the occurrence of the transaction, and this rendered it more inconvenient to furnish the proof.

Mr. MAYNARD. What is there to distinguish this claim from any of the claims against the Government that are sent to the Committee of Claims?

Mr. SPALDING. It was contracted under the laws regulating the Indian Bureau, and the money was actually paid out by this man.

Mr. MAYNARD. As the gentleman from Ohio [Mr. SPALDING] appears to have some feeling about this matter, I withdraw the amendment.

The Clerk read as follows:

For compensation of the acting chargé d'affaires *ad interim* at Venezuela, at the rate of \$4,500 per annum from the 1st day of June last until such time as a minister shall be appointed and shall take charge of the legation, such sum as may be necessary.

Mr. FLANDERS. I move to amend by inserting after the paragraph just read the following:

For the completion of the work of the commission for determining and marking the boundary line between Washington Territory and the British possessions, \$13,600.

Mr. SPALDING. If the provisions in reference to the chargé d'affaires at Venezuela is still pending I make the point of order that this amendment is not germane.

The CHAIRMAN. The amendment is to add a new paragraph.

Mr. MAYNARD. After the House has disposed of the amendment of the Delegate from the Territory of Washington to add a new paragraph, will it be in order to go back to move an amendment in reference to the chargé d'affaires at Venezuela?

Mr. FLANDERS. I will withdraw my amendment.

Mr. MAYNARD. I move to strike out the following paragraph:

For compensation of the acting chargé d'affaires *ad interim* at Venezuela, at the rate of \$4,500 per

annum from the 1st day of June last until such time as a minister shall be appointed and shall take charge of the legation, such sum as may be necessary.

I ask the gentleman from Ohio why that was not included in the consular and diplomatic appropriation bill of this year?

Mr. SPALDING. This is made in obedience to an express request of the Secretary of State, who says that under very peculiar circumstances, a gentleman, the son of one very near to me, became chargé d'affaires and performed valuable services when our minister ran away, and this provision is for the purpose of compensating this gentleman who did so well for his services while acting as chargé d'affaires.

Mr. MAYNARD. I withdraw the amendment. The circumstances had for a moment escaped my attention.

Mr. FLANDERS. I move to add the following:

For the completion of the work of the commission for determining and marking the boundary line between Washington Territory and the British possessions, \$13,600.

Mr. Chairman, that is the amount asked for by the Secretary of State to continue the present commission for the completion of the northwestern boundary. The committee has, for some reason best known to itself, left out that appropriation, and I hope the amendment will be agreed to.

Mr. MAYNARD. That is an old acquaintance. It was here when I first came to Congress, and I should like to ask the gentleman when he expects this work will be done.

Mr. FLANDERS. That it is not already completed is no fault of the commission on the part of the United States, for they have already prepared their report and signed the papers. The work was commenced on the 11th of August, 1856, and the United States Government have expended in the survey for marking that boundary \$500,000. It is also well known that, although the boundary line has been run and marked, the papers have never yet been signed. That would have been done if a question had not arisen between the United States and Great Britain in regard to the water boundary. The settlement of this question has been delayed up to the present time, but the commission is now ready, as I understand it, to sign the papers. It is therefore necessary that this sum should be appropriated.

Mr. MAYNARD. How long will it take to complete the signing of these papers?

Mr. FLANDERS. When the English commission is ready the papers will be signed.

ENROLLED BILLS.

The committee informally rose; and the Speaker having resumed the chair, Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills with the following titles; when the Speaker signed the same:

An act (H. R. No. 568) explanatory of the act entitled "An act declaring the title to land warrants in certain cases;"

An act (H. R. No. 1758) to incorporate the Masonic Mutual Relief Association of the District of Columbia; and

An act (H. R. No. 1877) for the relief of the heirs and legal representatives of Charles C. Cook, deceased.

MISCELLANEOUS APPROPRIATION BILL.

The committee resumed its session.

Mr. SCOTFIELD. The gentleman from Washington Territory [Mr. FLANDERS] says that the Committee on Appropriations have omitted this amendment of his for reasons best known to themselves. If the gentleman had the same information the committee had I think he would never have proposed it. This commission has been in existence a great number of years; the work is all done and has been done for a long while; the line is run and the boundary has been substantially marked upon the ground, and there is no necessity for any appropriation at all. As a friend near me says, the boundary has been marked by a good

engineer. The work is all complete and has been for a long time, but the English commissioners refuse to sign the report. It seems that the Secretary of State proposes that we shall keep this commission in existence without anything to do at an expense of \$13,000 a year.

Mr. FLANDERS rose.

Mr. SCOTFIELD. I will yield to the gentleman as soon as I get through my statement. The English commission refuse to sign on account of the difficulty with reference to the Island of San Juan. The work is all done, all complete; the report is all drawn, and yet the English commissioners refuse to sign it, expecting that we will keep the commission alive till some future time. I had a conversation with one of the commissioners on the subject and he told me he had no duty to perform. He admitted that the work was all done and all they had to do was to sign their names. Therefore I say if the gentleman from Washington Territory had known some of the reasons as we do I think he would not have offered his amendment.

Mr. PRUYN. I move to amend by striking out "\$600," making it "\$13,000," and for the purpose of stating two or three facts bearing upon the matter which the House ought to understand. This survey was going on for many years under the treaty of 1846 with Great Britain under direction of a commission appointed by the two Governments. Mr. Campbell, of this city, is one of the acting commissioners now on the part of this Government. The survey, as the gentleman from Pennsylvania correctly stated, has been made and I believe completed, or very nearly so. The commission are now to sign the requisite maps and certificates which under the treaty are to be evidence of the completion of the survey and the establishment of the line. Now, for certain diplomatic reasons most likely the British commissioners have declined thus far for some time past to meet our commissioners for this purpose. The reason probably the gentleman from Pennsylvania has already alluded to—the negotiations going on between the two Governments which have ended in the San Juan treaty, a confirmation of which has been reported upon in the Senate, and probably by this time it is confirmed. The survey has continued for six hundred miles over a broken territory, and the question is now whether we shall break it up before the result is arrived at and the whole thing is completed when this small appropriation will close it all up. I withdraw the amendment to the amendment.

Mr. MUNGEN. I renew it for the purpose of saying a word. The gentleman from Pennsylvania says this is completed. In a legal point of view I dispute that very respectfully. Where a commission is appointed to run a boundary line and make a survey, if they break up when they run the first mile it is incomplete; and if they break up after they have run the last line without concluding and signing the survey it amounts to nothing, and we will have to rerun the line. Now, I am in favor of this appropriation because it is much cheaper for the Government to allow this sum and get the signatures of these men than it will be to appoint a new commission, which would undoubtedly have to be appointed to rerun this line. We have settled this question in the settlement of the line of the territory acquired from Mexico in 1846 or 1847. It is true as a legal proposition that the survey is incomplete until it is signed.

Mr. SCOTFIELD. How long does the gentleman propose to pay these large salaries to these commissioners simply to sign their names? They have had about two years to do it.

Mr. MUNGEN. I propose nothing further than to leave it open and see if we can get it done. It is simply a matter of economy, because we shall have to start again from the initial point and pay the expense all over again if this is not completed. I would rather pay

\$13,000 as a matter of economy than run the risk of having to rerun the entire line at an expense of \$600,000.

The amendment of Mr. FLANDERS was disagreed to.

MESSAGE FROM THE SENATE.

The committee informally rose; and the Speaker having resumed the chair, a message from the Senate was communicated by Mr. GORHAM, its Secretary, announcing that that body had concurred in the resolution of the House suspending the sixteenth and seventeenth joint rules during the remainder of this session of Congress.

MISCELLANEOUS APPROPRIATION BILL.

The committee resumed its session.

Mr. DODGE. I move to amend by inserting the following as a new paragraph:

For reimbursing the State of Iowa for expenses incurred and payments made during the late rebellion, as examined, audited, and found due the State by General Robert C. Buchanan's commission under the act of Congress approved July 25, 1866, \$229,848 23.

Mr. SCOTFIELD. Is not this new legislation?

The CHAIRMAN. The Chair does not so understand it. The terms of the amendment are expressly in accordance with an act of Congress.

Mr. DODGE. This matter has been fully discussed in this House, and I believe there is no gentleman who denies that this amount is justly due. This claim was reported by General Buchanan, and I read from his report the following:

"In the examination of the question of reimbursement to the State of Iowa for the expenses incurred by these several bodies of troops two questions arise, by the answers to which the whole matter must be decided:

"First. Was there such necessity for their employment as to justify their organization?

"Second. Were the expenditures made under the several heads reasonable and proper, and in accordance with the spirit of the laws in such cases made and provided?

"With regard to the necessity, the facts stated above show, in my opinion, that it was absolutely imperative. On the one border the lives and property of the inhabitants of the State were threatened by a sanguinary and savage foe; and on the other the integrity of the State itself as a member of the Union was in imminent jeopardy from armed traitors and rebels seeking its conquest; no one can doubt the necessity and propriety of employing these troops.

"As to the expenditures, the Legislature, by the act referred to, directed that all accounts arising under the employment of these troops should be submitted previous to payment to a board of commissioners then in existence, whose duty it was to audit and allow all claims against the State. Fortunately the members of this board were intelligent and discreet, and consulted a rigid economy in their allowances, being somewhat controlled, perhaps, by the idea of the uncertainty of the amount being refunded by the Government. The board had plenary powers; its decisions were final, as no appeal could be taken from them, nor could any account be paid without its approval, with the amount allowed indorsed upon it and verified by the signatures of its members. My examination of these accounts shows me that they are carefully made up in accordance with the laws of the State, verified on oath, and though not in the forms used by the Treasury Department, yet sufficiently like them for all practical purposes. I therefore did not attempt to apply to them the regulations of the accounting officers of the Treasury, for had this been possible it did not seem likely that Congress would have provided by law for a commissioner 'to examine and report upon' claims that could have been as well decided upon by those officers themselves. The letters of the Secretary of the Treasury and the Second Comptroller, hereto appended, sanction this opinion."

This officer has been nearly a year examining these claims—six months of the time in the State of Iowa—and he reports that the total amount due the State is \$229,848 23. Similar claims have been paid to the States of Ohio and Missouri, and I hope there will be no objection to this amendment.

The question was put on the amendment; and there were—ayes 22, noes 44; no quorum voting.

Tellers were ordered; and Mr. DODGE and Mr. SCOTFIELD were appointed.

The committee divided; and the tellers reported—ayes 45, noes 67.

So the amendment was rejected.

Mr. ALLISON. I offer the following amendment:

For reimbursing the State of Iowa for expenses.

incurred and payments made during the rebellion, as examined, audited and found due by General Robert C. Buchanan's commission under the act of Congress approved July 25, 1866, \$229,848 25: *Provided*, That in determining the claims to be allowed under this act the same principles, rules, and regulations shall be observed by the accounting officers of the Treasury Department in auditing said expenses as have been applied to the claims allowed to States under the acts of Congress approved July 17 and 27, 1861, for reimbursing expenses incurred in raising, &c., troops to suppress the rebellion against the United States.

Mr. SCOFIELD. I rise to a point of order. The proviso is general legislation, which is excluded under the rules, and the amendment itself is the same thing which has been voted down.

The CHAIRMAN. The Chair sustains the point of order.

Mr. WILSON, of Iowa. I offer the following amendment:

For reimbursing the State of Iowa for expenses incurred and payments made during the rebellion, as examined, audited, and found due by General Robert C. Buchanan's commission under the act of Congress approved July 25, 1866, \$229,848.

That is the same amendment that was offered by my colleague, [Mr. DODGE,] only leaving off the odd cents so as to make it a different proposition. The amount of money represented by this claim is justly due to the State of Iowa. A portion of the claim arises out of the fact that the State had erected barracks for troops and turned them over to the United States. The United States sold the property, and the money to-day is in the Treasury of the United States. Another portion of the claim arises out of the fact that a portion of the militia of the State of Iowa went to the aid of the United States in the State of Missouri. That part of the claim is precisely of the same nature as that allowed and paid to the State of Missouri. So that in addition to having part of this money in the Treasury the Government has heretofore reimbursed another State for precisely such services and such claims.

Now, I insist that in the adjustment of the claims of the State of Iowa by the officers of the Government the same liberality has not been manifested that has been manifested toward other States. For instance, the gentleman from New York [Mr. WOOD] objected to this claim some time ago because the State of New York had not been paid. But I find that while the accounting officers of the Government deducted from the claim of the State of Iowa every dollar of the direct tax levied upon the people of that State in 1861 there stands to-day unliquidated against the State of New York the sum of \$650,000 of the direct tax of 1861. The claims of New York under the original legislation for the adjustment of claims against the Government were paid without the deduction of that direct tax. Now, we simply ask that after the Government has deducted all the direct tax levied upon us they will give us back the money which we spent in the service of the Government as represented by this claim, which has been thoroughly examined. It was examined by a special commissioner appointed in pursuance of an act of Congress, and it has been referred to the Committee on Military Affairs of this House, who have unanimously reported that this money is due to the State of Iowa. If other States have claims yet unpaid that constitutes no reason for not paying this debt which the Government owes to our people. I hope, therefore, the committee will adopt this amendment and adjust this claim, right and proper as it is in every sense.

Mr. WOOD. The House has already during the present session had this subject before it, when it was very fully and ably discussed by the gentleman from Iowa and his colleagues, and there was a report in favor of the claim from the Committee on Military Affairs. After that discussion the House voted to refer the subject back again to that committee with instructions to report a bill that would cover all similar cases. I objected to it then and I object to it now. I object to it on the ground that there are other States, and the city of New York itself, that have far more meritorious claims against the Government than has the State of Iowa.

Mr. WILSON, of Iowa. I resume the floor for the purpose of saying in the remainder of my time that I made a misstatement in regard to the amount of direct tax standing against the State of New York. I said it was \$650,000. Instead of that amount it is more than nine hundred and sixty thousand dollars.

[Here the hammer fell.]

Mr. BUTLER, of Massachusetts. I move to amend the amendment by adding to it the following:

Provided, That an amount be appropriated from the Treasury to pay the war claims of the rebellion from all the States which have been reported upon favorably by commissioners appointed by Congress.

When this claim came before the Committee on Appropriations I had been instructed by my State to present precisely the same kind of claim for the State of Massachusetts. That State had expended \$400,000 in coast defense under the orders of the Government. She managed to get \$200,000 of that sum back by selling some of her heavy ordnance. A commission was established of three persons; one was Judge Verplanck, of New York, another was Mr. Collyer, of Philadelphia, and the third I do not remember. That commission passed upon the claim of Massachusetts and reported in favor of it, after making the proper deductions. We had no direct tax nor any other tax. We owe nothing on earth to this Government but loyalty, good will, and fealty. I only desire that the same rule shall be applied to us that is applied to Iowa or to any other State. We have passed through the same stages precisely that Iowa has passed through.

Mr. WILSON, of Iowa. I accept the amendment of the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. SCOFIELD. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. SCOFIELD. My point of order is that the amendment of the gentleman from Massachusetts, [Mr. BUTLER,] as accepted by the gentleman from Iowa, [Mr. WILSON,] is new legislation and not in order on this bill.

Mr. BUTLER, of Massachusetts. The point of order is raised too late.

Mr. SCOFIELD. Not at all; I raised the point as soon as the gentleman from Iowa [Mr. WILSON] accepted the amendment.

Mr. BUTLER, of Massachusetts. The gentleman should have raised the point of order as soon as I offered the amendment.

Mr. SCOFIELD. I raised the point as soon as the gentleman took his seat.

The CHAIRMAN. The Chair is of opinion that the point of order was raised too late.

Mr. PRICE. I find no fault with the proviso of the gentleman from Massachusetts, [Mr. BUTLER.] If Massachusetts has expended money in good faith in defense of the Union against the rebellion she should have the amount refunded to her. But there is one strong point in favor of the claim of Iowa in this matter that has escaped observation. The gentleman from Massachusetts states that Massachusetts has received back over two hundred thousand dollars of the money she expended by selling the heavy ordnance for which a part of this money was expended at the commencement of the rebellion. But right there I want to say that a part of the money which we claim to-day for the State of Iowa was expended in the construction of barracks which were taken possession of by United States troops. Those barracks were sold, and the money received from the sale was paid not into the treasury of the State of Iowa, but into the Treasury of the United States at the other end of the avenue here. We come here to-day and ask that the United States shall pay us back the money they took from us and paid into the Treasury of the United States.

Mr. BUTLER, of Massachusetts. How much money was paid into the Treasury from that source? Perhaps \$10,000.

Mr. PILE. I ask that the amendment be read as it is now modified.

The amendment was read, as follows:

For reimbursing the State of Iowa for expenses incurred and payments made during the rebellion, as examined, audited, and found due the State by General Robert C. Buchanan's commission, under the act of Congress approved July 25, 1866, \$229,848; *Provided*, That an amount be appropriated from the Treasury to pay the war claims of the rebellion from all the States which have been reported upon favorably by commissioners appointed by Congress.

Mr. CLARKE, of Kansas. I move to amend the amendment, as modified, by adding to it the following:

To reimburse the State of Kansas for the services and supplies of the militia called out by the Governor of Kansas upon the requisition of Major General Curtis to repel the invasion of General Price, \$259,000.

When the claim of the State of Iowa was before the House a few weeks ago I had occasion to appeal to the chairman of the Committee on Military Affairs, [Mr. GARFIELD,] who reported the claim, to allow me to offer the amendment which I have now offered; but it was ruled out of order, and I did not then have an opportunity to present my amendment. The whole question, as I understand it, and as has already been stated by the gentleman from New York, [Mr. WOOD,] was sent to the Committee on Appropriations, with instructions to report a bill providing for the payment of the indebtedness due all the States. I hold in my hand a bill which has twice passed the Senate of the United States, having for its object the reimbursement of the State of Kansas for an expenditure of \$259,000 made under the order of the Federal commander at that time, the late Major General Curtis, to repel the invasion of the rebel General Price, near the close of the late rebellion. I say that this bill—

The hour of half past four o'clock p. m. having arrived, the committee rose informally, the Speaker resumed the chair, and the House took a recess till half past six o'clock p. m.

EVENING SESSION.

The House reassembled agreeably to order at half past six o'clock p. m.

ORDER OF BUSINESS.

The SPEAKER. The business in order during the first hour of this evening's session is business of the Committee on Invalid Pensions.

ABIGAIL DICK.

Mr. MILLER, from the Committee on Invalid Pensions, reported a bill (H. R. No. 2016) granting a pension to Abigail Dick; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Abigail Dick, mother by adoption of Elijah R. Dick, *alias* Richard Clemens, late a private in company E, fifteenth regiment United States infantry, and pay her a pension at the rate of eight dollars per month, commencing November 14, 1863.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOSEPH WHEAT.

Mr. MILLER, from the Committee on Invalid Pensions, reported a bill (H. R. No. 2017) granting a pension to Joseph Wheat; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Joseph Wheat, late a private of Company E, fifteenth regiment West Virginia volunteers, and pay him a pension commencing August 9, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote

by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SARAH E. HAINES.

Mr. MILLER, from the Committee on Invalid Pensions, reported back a bill (S. No. 942) granting a pension to Sarah E. Haines.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Sarah E. Haines, widow of George H. Haines, late a private in company K, eighteenth regiment Missouri volunteers, and to pay her a pension at the rate of eight dollars per month, to commence on the 18th of July, 1864, and to continue during her widowhood.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELIZABETH CLARKE.

Mr. MILLER, from the Committee on Invalid Pensions, reported back a bill (S. No. 906) granting a pension to Elizabeth Clarke.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Clarke, widow of Newman S. Clarke, late colonel of the sixth regiment of infantry, United States Army, and to pay her a pension at the rate of thirty dollars per month, to commence from and after the passage of this act, and to continue during her widowhood.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARY A. DAVIS.

Mr. HOLMAN. There is on the Speaker's table a bill (H. R. No. 596) granting a pension to Mary A. Davis, widow of William P. Davis, a private in the eighteenth regiment of Indiana volunteers in the war of 1861. To this bill the Senate has made a verbal amendment, filling up a date. I trust there will be no objection to taking up that bill and acting on the amendment.

Mr. PERHAM. I would consent, but I know that the proposition will be resisted, and the matter will consume time.

Mr. HOLMAN. I will consent that the blank shall be filled with the date of the original application for a pension. There were two reports in favor of Mrs. Davis by subordinate clerks for the allowance of this pension.

Mr. BENJAMIN. I object to the consideration of this bill. I did not understand that the session to-night was for the consideration of Senate bills upon the Speaker's table. The amendment of the gentleman from Indiana is of very great importance, and I cannot consent at this time to taking up that bill.

BENJAMIN C. STONE.

Mr. PERHAM, from the Committee on Invalid Pensions, reported back Senate bill No. 941, granting a pension to Benjamin C. Stone, with an amendment.

The bill, which was read, directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Benjamin C. Stone, late a private in company I, ninth regiment Vermont infantry volunteers, and to pay him a pension at the rate of fifteen dollars per month, to commence on the 27th of June, 1865.

The amendment of the committee was agreed to, as follows:

Strike out the words "at the rate of fifteen dollars per month."

The bill, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HORACE PECK.

Mr. PERHAM, from the same committee, also reported back Senate bill No. 908, granting a pension to Horace Peck, of Charlton, Massachusetts, with the recommendation that it do pass. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Horace Peck, of Charlton, Massachusetts, and to pay him a pension at the rate of eight dollars per month, to commence on the 24th day of May, 1862, and to continue during his natural life.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARTIN N. SLOCUM.

Mr. PERHAM, from the same committee, also reported back Senate bill No. 910, granting a pension to the minor children of Martin N. Slocum, deceased, with the recommendation that it do pass.

The bill provides that the Secretary of the Interior is authorized and directed to continue the pension allowed by private act, approved February 25, 1867, to Mrs. Josephine Slocum, widow of Martin N. Slocum, late a second lieutenant in the sixty-fifth regiment United States colored infantry, who has remarried, and to pay the same to Ireton N. Slocum and Lucilla J. Slocum, children of the said Martin N. Slocum, or to their legally authorized guardian or guardians, from the 3d day of March, 1867, until they severally attain the age of sixteen years.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM B. LOONEY.

Mr. VAN AERNAM, from the same committee, reported back Senate bill No. 900, granting a pension to William B. Looney, of Alabama, with an amendment.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William B. Looney, of Alabama, late a scout in the service of the United States, and to pay him at the rate of fifteen dollars per month, to commence on the 1st day of July, 1864.

The amendment, which was agreed to, strikes out "fifteen" and inserts "eight;" so it will read "eight dollars a month."

The bill, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LYDIA W. FORD.

Mr. VAN AERNAM, from the same committee, also reported back Senate bill No. 949, granting a pension to Mrs. Lydia W. Ford, with the recommendation that it do pass.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mrs. Lydia W. Ford, widow of Jefferson Ford, late an acting master in the

United States Navy, and to allow and pay her a pension at the rate of twenty dollars a month, to commence June 18, 1864, and to continue during her widowhood, to be paid out of the naval pension fund.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BENJAMIN T. RAINES.

Mr. VAN AERNAM, from the same committee, reported back without amendment the bill (S. No. 904) granting a pension to Benjamin T. Raines, of Indiana. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Benjamin T. Raines, of Indiana, late a private in Captain Branham's company, one hundred and fifth regiment Indiana militia, and to pay him a pension at the rate of fifteen dollars per month, to commence on the 14th day of July, 1863.

Mr. HOLMAN. How is it that this is fifteen dollars a month?

Mr. BENJAMIN. Read the report.

The report was accordingly read.

Mr. HOLMAN. I have no objection; I know the facts.

The bill, as amended, was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SOPHIA D. HARMON.

Mr. VAN AERNAM, from the same committee, reported a bill (H. R. No. 2018) granting a pension to Sophia D. Harmon; which was read a first and second time. It directs the Secretary of the Interior to place on the pension-roll, subject to the provision of the pension laws, the name of the petitioner, widow of James Harmon, late a private in company M, eleventh regiment United States colored artillery, and pay her a pension, commencing January 1, 1866.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SARAH E. BROOKER.

Mr. BENJAMIN, from the same committee, reported adversely on the bill (S. No. 790) for the relief of Mrs. Sarah E. Brooker; and the same was laid on the table.

Mr. BENJAMIN moved to reconsider the vote by which the bill was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARY WHITTEN.

Mr. PERHAM, from the same committee, reported a bill (H. R. No. 2019) granting a pension to Mary Whitten; which was read a first and second time. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions of the pension laws, the name of the petitioner, widow of Eli Whitten, late of company B, fourteenth Maine volunteer infantry, and pay her a pension, commencing December 6, 1867.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GENERAL PENSION LAW.

Mr. PERHAM. We have now disposed of all but one or two private bills that we have ready to report, upon which there will be some discussion, but we have a general bill that was referred to the committee some time since. Members of the House will undoubtedly be disposed to discuss it, but I will say that the committee have endeavored to strike out the provisions of those sections to which objections were made and have retained such as they deemed to be important. I wish now to report that bill.

Mr. HOLMAN. Allow me to make a suggestion. There are a few pension bills left undisposed of on the Speaker's table, and I suggest that we take them up. This is certainly a proper time to dispose of them, and I believe it was the general understanding that we should consider these pension bills on the Speaker's table at this time.

Mr. PERHAM. Personally I have no objection to that if it would be deemed proper to go to the Speaker's table under the order under which we are now acting.

The SPEAKER. In the opinion of the Chair it would. The hour was reserved to the Committee on Invalid Pensions exactly as the evening sessions have been for some time past reserved to the Committee on Appropriations, and they can call up whatever they see fit, subject to a vote of the House.

Mr. PERHAM. So I supposed. There are other bills on the table which the committee desire to have considered, and which they will be ready to act on when they are reached in their order.

Mr. HOLMAN. Does the gentleman from Maine propose to call them up during this hour?

Mr. PERHAM. As I understand the decision of the Speaker we cannot do so during this hour.

Mr. HOLMAN. I understand just the reverse.

The SPEAKER. The decision of the Chair was the other way. The hour belongs to the Committee on Invalid Pensions, and they can call up those bills if they see fit.

Mr. BENJAMIN. I hope the gentleman from Indiana will not press the calling up of the bill to which he refers.

The SPEAKER. It is a matter for the committee and not for any member.

Mr. HOLMAN. I am aware of that.

Mr. BENJAMIN. There is an important amendment to the bill to which the gentleman refers which the committee have not examined, and if it comes up at all it is sure to cause discussion and a division. It should be considered by the Committee on Invalid Pensions.

Mr. HOLMAN. That would be to defeat it at this stage of the session.

Mr. PERHAM. The committee are particularly desirous that the House shall act upon the general bill, and if there should be time afterward we can take up the bill to which the gentleman refers.

Perhaps a brief statement of the provisions of the bill will facilitate the action of the House in regard to it. It will be recollected that the section of the bill which was attacked with the greatest severity and to which there was the greatest objection made was the third section, the one in reference to that class of widows drawing pensions who live in violation of the marriage laws. An amendment has been prepared to that section which I would be glad under different circumstances to have the House vote upon. It is that whenever any of the persons referred to shall be convicted in any court of competent jurisdiction of the crimes alluded to, then the pension shall be withdrawn. But I do not propose to offer that amendment. The committee have concluded to strike out that section entirely and have freed the bill, so far as they knew, from every provision to which objection was made except the proviso in the present third section of the bill, which will be remembered as the provision relating to the pensioners from whom pensions were withheld from 1865 to 1866. We

propose to leave that just as the law of 1866 left it, thinking that under all the circumstances it had better be deferred to be acted on at some future time. I wish to say here that one of these sections extends the time within which applications may be made in order to have the pension date from the time that the right thereto accrued from five to seven years. The committee have some thirty or forty cases of that kind, nearly all of which seem to be meritorious, where good reasons are presented why the parties did not make their applications in time. They have declined to act upon them as individual cases, but they have assured the applicants and their friends in the House here that they would provide for them by a general bill. One section of the bill provides for that. We think an extension to seven years will include them all.

Mr. WASHBURN, of Indiana. I desire to ask the gentleman what is the necessity for this proviso to the third section of the bill.

Mr. BENJAMIN. What is before the House?

The SPEAKER. The chairman of the Committee on Invalid Pensions. [Laughter.]

Mr. BENJAMIN. Is there any question before the House?

The SPEAKER. The gentleman from Maine has indicated his purpose to bring something before the House, but he has not yet presented it.

Mr. PERHAM. I will present it now.

Mr. BENJAMIN. There seems to be a discussion going on.

Mr. PERHAM, from the Committee on Invalid Pensions, then reported a bill (H. R. No. 2020) relating to the operation of the pension laws, and for other purposes; which was read a first and second time.

Mr. PHELPS. I move to dispense with the first reading of the bill.

The SPEAKER. Any member has a right to demand the reading.

Mr. BEAMAN. I demand the reading.

Mr. STEVENS. I suggest that by unanimous consent we consider this bill as in Committee of the Whole, section by section, with discussion under the five minutes rule.

Mr. BEAMAN. I object.

Mr. PERHAM. In regard to the reading of the bill—

The SPEAKER. It must be read, as the gentleman from Michigan [Mr. BEAMAN] has called for the reading of it. Any member has a right to call for the reading of the bill, and it must be read at some stage of its consideration.

The bill was then read. The first section provides that hereafter no claim of a widow for a pension, pay, or bounty on account of the service and death of her husband shall be allowed nor shall payment of such pension, pay, or bounty heretofore allowed be continued in any case when the widow has for five consecutive years immediately preceding his death voluntarily lived separate and apart from him and without receiving from him any support.

The second section provides that pension agents may, under such regulations as the Secretary of the Treasury may prescribe, issue duplicate checks to pensioners in lieu of such original checks as may be lost or destroyed by transmission in the mails and in other cases before the same shall have been received by the pensioner or his or her agent or attorney.

The third section provides that section six of an act relating to pensions, approved July 27, 1868, be, and is hereby, repealed, and the following shall stand in lieu thereof:

That all pensions which have been granted in consequence of death occurring or disease contracted or wounds received since the 4th day of March, 1861, or may hereafter be granted, shall commence from the discharge or from the death of the person on whose account the pension has been or shall hereafter be granted: *Provided*, That the application for such pension has been or shall hereafter be filed with the Commissioner of Pensions within seven years after the right thereto shall have accrued; except that applications by or in behalf of insane persons and children under sixteen years of age may be filed after the expiration of the said eight years, if previously thereto they were without guardians or other proper legal representatives: *And provided further*, That

nothing in the several acts relating to pensions shall entitle any person who was in the service of the United States between March 3, 1865, and June 6, 1866, as mentioned in section one of an act supplementary to the several acts relating to pensions, approved March 3, 1865, to a pension during such period.

The fourth section provides that in all cases upon the death of any person to whom a pension has been granted, and in every case when any person shall die while an application for a pension is pending, all arrears due such person at the time of his death shall be paid only to such person or persons as would have been entitled to a pension had such deceased person been killed or died of wounds received or disease contracted while in service and in the line of duty, or to such person as the deceased may be indebted to for care and expense during his last sickness, including burial expenses; provided that such arrears, if due a female pensioner, shall be paid only to the children of such deceased, or the person to whom the deceased may be indebted as aforesaid.

The fifth section provides that no pension claim now on file, or hereafter filed, unless proof sufficient to establish the same shall be presented within five years from the date of such filing, shall be allowed without satisfactory record evidence to establish the same; and when so allowed it shall commence from the date of completing the proof.

The sixth section provides that if any person entitled to a pension or bounty shall, by affidavit or otherwise, having guilty knowledge thereof, aid in procuring or attempting to procure any fraudulent claim upon the Government, or knowingly aid in the preparation of any fraudulent paper, or present or cause to be presented such fraudulent paper, to procure the allowance or payment of any such claim, his or her right to such pension shall be forfeited; provided that the forfeiture of the pension shall be only for the lifetime of the original claimant, and shall not affect the right of those who are by law entitled to succeed to the pension, to apply therefor from the date of his death; and no person guilty of aiding in committing the offense specified in this section shall be recognized as an attorney or agent in the prosecution of any claim against the Government.

The seventh section provides that whenever it shall be discovered that any amount of arrears of pay, bounty, or pension has been overpaid any claimant, either by error or by reason of any concealment or misstatement of matter of fact on the part of such claimant, it shall be lawful for the Second Auditor, Second Comptroller, or Commissioner of Pensions to withhold from such claimant the amount of overpayment from any claim pending before either of said officers, and to turn the same into the Treasury of the United States by certificate of deposit to the credit of the appropriation from which the amount was paid.

The eighth section provides that the joint resolution in reference to the collection and payment of moneys due colored soldiers, sailors, and marines, or their heirs, approved March 29, 1867, be, and the same is hereby, amended so as to read as follows:

That all checks, Treasury certificates, and pension warrants hereafter issued in settlement of claims for arrears of pay, bounty, prize-money, pension or other moneys due to the colored soldiers, sailors, or marines, or their legal representatives residing, or who may have resided, in any State in which slavery existed in the year 1860, shall be made payable to the Commissioner of the Freedmen's Bureau, who shall be held responsible for the safe custody and faithful disbursement of the funds hereby intrusted to him; and whenever the claimant shall be properly identified and his account is ready for settlement the amount shall be paid him in current funds and not in checks; and it shall be the duty of said Commissioner, the officers and agents of his bureau, to facilitate as far as possible the discovery, identification, and payment of claimants, and to pay attorneys such fees as are now prescribed by law; but in no case shall any allowance be made for advances or loans claimed by any attorney.

The ninth section provides that all moneys held or disbursed under this act shall be held and disbursed under the same rules and regulations governing other disbursing officers.

The tenth section provides that hereafter all

applications for pay, bounty, pension, prize-money, or other moneys in behalf of colored claimants, with the evidence necessary to the correct settlement of the claim, shall be rendered direct to the office of the Commissioner of the Freedmen's Bureau for preliminary examination; that the correctness of the application and that the party claiming is the proper claimant shall then be certified to, when the papers shall be forwarded to the bureau to which they pertain for examination and settlement of the claim; and no claim suspected of being fraudulent shall be settled upon any application now pending in any bureau, filed by attorneys; but the attorneys filing them shall be required to present new applications and submit them to the Commissioner of the Freedmen's Bureau to be examined and disposed of by him the same as original applications under such rules and regulations as he may prescribe.

The eleventh section provides that all officers and agents disbursing money or certifying the correctness of claims under this act shall give bond to the Treasury Department in such sum as the Second Auditor, Second Comptroller, and Commissioner of Pensions may direct for the faithful performance of their trust, and for the reimbursement of money paid upon claims certified by them which may be ascertained to have been paid to any party not entitled thereto; provided that the Secretary of the Treasury, upon the recommendation of the Second Auditor, Second Comptroller, Commissioner of Pensions, and Solicitor of the Treasury, may grant relief upon the bonds in such cases as are deemed by them equitable and just.

The twelfth section provides that all uncalled for moneys shall be disposed of as provided in the act approved March 2, 1867, entitled "An act to regulate the disposition of an irregular fund in the custody of the Freedmen's Bureau;" and that the officers and agents giving bonds as provided in the preceding section of this act shall be allowed such additional compensation, to be paid from the uncalled for funds, as the Commissioner of the Freedmen's Bureau, the Secretary of War, and the Secretary of the Treasury may fix and establish.

The thirteenth section provides that sections twelve and thirteen of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July 14, 1862," approved July 4, 1864, be, and the same are hereby, amended and reenacted so as to read as follows:

That the fees of agents and attorneys for writing out and causing to be executed the papers necessary to establish an original or a suspended or rejected claim for pension and other allowance before the Pension Office, or for procuring a pension by special act of Congress, shall not exceed the following rates: For making out and causing to be duly executed a declaration by the applicant, with necessary affidavits, and forwarding the same to the Pension Office, with the requisite correspondence, ten dollars; which sum shall be received by such agent or attorney in full for all services in obtaining such pension, and shall not be demanded or received in whole or in part until the certificate for such pension shall be obtained.

The section provides that the sixth and seventh sections of an act entitled "An act to grant pensions," approved July 14, 1862, are hereby repealed.

The fourteenth section provides that any agent or attorney who shall directly or indirectly demand or receive any greater compensation for his services than is prescribed in the preceding section, or who shall contract or agree to prosecute an original or a suspended or rejected claim for a pension, bounty, or other allowance, on the condition that he shall receive a per cent. upon the amount of such claim, or who shall wrongfully withhold from a pensioner or other claimant the whole or any part of the pension or claim allowed and due to such pensioner or claimant, shall be deemed guilty of a high misdemeanor, and upon conviction thereof shall, for every such offense, be fined not exceeding \$300, or imprisoned at hard labor not exceeding two years, or both, according to the circumstances and aggravations of the offense.

The fifteenth section provides that section

two of an act entitled "An act supplementary to the several acts relating to pensions," approved June 6, 1866, be, and the same is hereby, repealed, and the following shall stand in lieu thereof:

That any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any pension not included in the fee prescribed in the preceding sections, which has been or may hereafter be granted, shall be void and of no effect; and any person acting as attorney to receive and receipt for money not included in such fee for and in behalf of any person entitled to a pension shall, before receiving said money, take and subscribe an oath, to be filed with the pension agent, and by him to be transmitted, with the vouchers now required by law, to the proper accounting officer of the Treasury, that he has no interest in said money, not included in the fee prescribed in the preceding sections, by any pledge, mortgage, sale, assignment, or transfer, and that he does not know or believe that the same has been so disposed of to any person; and any person who shall falsely take the said oath shall be guilty of perjury, and on conviction shall be liable to the pains and penalties of perjury.

The sixteenth section provides that section four of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July 14, 1864, be, and the same is hereby, so amended as to empower the clerks detailed by the Commissioner of Pensions in accordance with said section to investigate any violations of the pension laws by any of the agents or employes of the Government or attorneys, claim agents, examining surgeons, or claimants; and for such purposes to examine persons, books, papers, accounts, and premises, to administer oaths, to summon any person to produce books and papers, or to appear and testify under oath, and to compel a compliance with such summons in the same manner as United States commissioners may do.

The seventeenth section provides that section nine of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July 14, 1862," approved July 4, 1864, be amended and reenacted so as to read as follows:

That those persons, not enlisted soldiers in the Army, who volunteered for the time being to serve with any regularly organized military or naval force of the United States, or where persons otherwise volunteered and rendered service in any engagement with rebels or Indians since the 4th day of March, 1861, shall, if they have been disabled in consequence of wounds received in battle, or who were captured in such temporary service and disabled from disease contracted in rebel prisons, be entitled to the same benefits of the pension laws as those who have been regularly mustered into the United States service; and the widows or other dependents of any such persons as may have been killed in the temporary service aforesaid or who were captured in such service and died in rebel prisons shall be entitled to pensions in the same manner as they would have been had such persons been regularly mustered: *Provided*, That no claim under this section shall be valid unless presented and prosecuted to a successful issue within five years from and after the passage of this act.

The eighteenth section repeals all acts and parts of acts inconsistent with the foregoing provisions of this act.

Mr. PERHAM. I have been instructed by the Committee on Pensions to move some verbal amendments to section thirteen of this bill, so that it will read as follows:

SEC. 13. And be it further enacted, That sections twelve and thirteen of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July 14, 1862," approved July 4, 1864, be, and the same are hereby, amended and reenacted so as to read as follows: That the fees of agents and attorneys for writing out and causing to be executed the papers necessary to establish an original or a suspended or rejected claim for pension and other allowance before the Pension Office, or for procuring a pension by special act of Congress, with necessary affidavits, and forwarding the same with the requisite correspondence, shall not exceed ten dollars; which sum shall be received by such agent or attorney in full for all services in obtaining such pension, and shall not be demanded or received in whole or in part, until the certificate for such pension shall be obtained. And the sixth and seventh sections of an act entitled "An act to grant pensions," approved July 14, 1862, is hereby repealed.

It will be noticed, Mr. Speaker, that there is very little time left in which to dispose of this bill. If we do not dispose of it between now and half past seven o'clock that will be the last of the bill for this Congress.

And allow me to say right here, before we proceed any further, that in addition to the particular sections to which I have already referred there are other sections in regard to

frauds that are being committed against the Government. I desire to state the character of those frauds. They obtain chiefly in connection with the claims made by the widows of colored soldiers for bounties and for pensions. Facts have recently been developed going to show that certain claim agents in different parts of the country where these colored people are located have obtained possession of company rolls, by which they have been able to ascertain what colored men have died or been killed while in the military service of the United States. Having done that they select certain names, and in reference to each one they adopt this plan of operations: they call in one of their runners and say to him, "Can you find a widow for this colored man?" To which he replies, "Yes, I guess I can." Then they give him three or four dollars and he goes out and finds some ignorant colored woman, who is induced to go into the claim agent's office and there to affix her mark to some paper which is read to her perhaps in part, and which is a declaration that she is the widow of such or such a colored man who was killed or who died of disease while in the service. And some instances have come to light in which the woman has been questioned a half an hour afterward as to the name of her husband or the man whose widow she personated and she was unable to tell his name.

And it has been ascertained from an examination of claims filed in the Second Auditor's office that one man has certified that he was present at the marriages of eighty of these widows who have made these claims; and he also declares that he was present at the death of all the husbands of these eighty claimants. There have recently been filed in the Second Auditor's office some eight or ten thousand of these claims, of which it is estimated that at least three fourths are forgeries. And what is worse, when the money is paid on these claims it does not go to these colored widows except to a very small extent; but these claim agents manage to retain nearly the whole of it by charging the most exorbitant interest, sometimes upon money they may have advanced three, four, or five hundred per cent., and also by making extraordinary charges for their services. In that way they manage to retain in their possession nearly the whole of the money paid on these claims.

If no steps are taken to correct these evils the Commissioner of Pensions and the Second Auditor of the Treasury Department will be obliged to shut down upon these colored claimants entirely and refuse to settle any of them, although many of them may be meritorious, or they will be obliged to pay the claims that are founded upon fraudulent papers.

Now, the provisions of this bill, as members who have noticed its reading will have observed, is calculated, so far as the Committee on Pensions were able to devise, and so far as the Second Auditor's office and the Pension Office have advised us in regard to this bill, to prevent such frauds as I have described. That is the general purpose of this bill in that respect.

The SPEAKER. If there be no objection the amendments of the committee will be regarded as agreed to.

There was no objection.

Mr. HOLMAN. I infer that the gentleman from Maine [Mr. PERHAM] intends to call the previous question on this bill. I ask him to allow me before he does that to submit an amendment to strike out all of the twelfth section after the word "bureau," in the fifth line. The portion which I propose to strike out reads as follows:

And that the officers and agents giving bonds as provided in the preceding section of this act shall be allowed such additional compensation, to be paid from the uncalled-for funds, as the Commissioner of the Freedmen's Bureau, the Secretary of War, and the Secretary of the Treasury may fix and establish.

Mr. PERHAM. This provision, as the gentleman will see, is important with reference to the system which the committee has adopted for the disbursement of these claims.

Mr. HOLMAN. I think that the gentleman

from Maine must see the impropriety of allowing any officer to increase without limit the compensation of other officers of the Government. That is the effect of the provision which I desire to strike out.

Mr. BENJAMIN. These officers have to give bonds.

Mr. HOLMAN. I know that; but still their salaries are very good.

Mr. PERHAM. I know that my friend from Indiana [Mr. HOLMAN] does not wish to antagonize the general provisions of this bill, and if he will defer offering his amendment until another amendment shall have been moved and acted upon, I think he will meanwhile become convinced by examination that the provision to which he now objects is absolutely necessary.

I yield to the gentleman from Indiana [Mr. WASHBURN.]

Mr. WASHBURN, of Indiana. I desire to offer an amendment, to strike out the last proviso of the third section, which is in these words:

And provided further, That nothing in the several acts relating to pensions shall entitle any person who was in the service of the United States between March 3, 1865, and June 6, 1866, as mentioned in section one of an act supplementary to the several acts relating to pensions, approved March 3, 1865, to a pension during such period.

Mr. PERHAM. I yield for the purpose of allowing that amendment to be offered, but as gentlemen will see I cannot yield to allow speeches to be made upon it.

Mr. WASHBURN, of Indiana. I move, then, the amendment which I have just stated.

Mr. LOGAN. I move to amend the amendment, by striking out in the proviso the word "entitle," in the nineteenth line, and inserting in lieu thereof the word "deprive;" and by striking out the word "to," in the twenty-fourth line, and inserting in lieu thereof the word "of." The proviso will then read as follows:

And provided further, That nothing in the several acts relating to pensions shall deprive any person who was in the service of the United States between March 3, 1865, and June 6, 1866, as mentioned in section one of an act supplementary to the several acts relating to pensions, approved March 3, 1865, of a pension during such period.

I will explain my object in offering this amendment. I know it has been argued by the Committee on Pensions that persons in the civil service of the United States should not be entitled to receive a pension during the time they are so employed. I could never see any good reason for that position.

Mr. BENJAMIN. Does the gentleman say that the Committee on Pensions have argued in that way?

Mr. LOGAN. I do not say that they argue it here on the floor, but they bring forward in their bill a provision involving that principle, the effect of which will be to deprive of their pensions any persons who were in the civil service of the United States between March 3, 1865, and June 6, 1866.

Now, sir, let me illustrate the position which I take upon this question, and in pursuance of which I have offered my amendment. We have standing at one of the doors of this House a man who in the service of his country lost both his arms, and who cannot possibly earn a living for himself and his family except by some such occupation as that in which he is now engaged here. He has a hook attached to the stump of each arm, and by means of a cord he opens and shuts the door. Now, I ask members of this House whether they think that man is not entitled to a pension because he has been fortunate enough to be appointed one of the attachés to attend the doors of this House. Because a man happens to be called upon to perform a certain duty, or is employed in a civil capacity, whether legless or armless, he is prevented from receiving his pension. It is a great hardship, and I say that it is not a correct principle for this House to insist upon.

We give a pension as a gratuity. We do not give it because he is a poor man or because he is a rich man, but because he has lost a leg or

an arm or an eye. It is because the man has been wounded and disabled in the service of his country.

Mr. PERHAM. I must resume the floor, or otherwise we will lose the bill.

Mr. LOGAN. One minute is all I ask. Up in the Departments there are about one hundred and fifty clerks who have been soldiers in the Army and a majority of whom have lost an arm or a leg. Some of them cannot follow any other employment. Some of them write with their left hand. They are there upon very small salaries, which are just enough to keep them. I insist because of that employment their pension shall not be stopped. I want them to receive their pension the same as all others. It is only just and equitable.

Mr. WASHBURN, of Indiana. I will accept the amendment of the gentleman from Illinois as a modification of my own.

Mr. PERHAM. I now yield to the gentleman from Missouri for a minute or two, and when he concludes I shall ask for the vote.

Mr. BENJAMIN. The gentleman from Illinois has very unfairly stated this case. There is no member of the committee who is in favor of depriving these persons of their pensions. On March 3, 1865, Congress passed an act which provided that persons in the civil service at full compensation should not be entitled to pensions. June 6, 1866, Congress repealed the law, and since then pensions are continued to such persons. The law is the same now, and no attempt is made to change it. But there is a class of persons who were in the civil service during that period who have never made application for pensions or whose application was made subsequent to the repealing act; and by a decision of the Secretary of the Interior their pensions will when granted extend back through the fifteen months the law was in force. The committee think they should be on the same footing of those whose cases have been passed upon. This section is to carry out that idea, and that is all of it.

Mr. LOGAN. Let me explain this matter, for I understand it as well as the committee.

Mr. PERHAM. I cannot yield any longer.

Mr. LOGAN. I only ask for half a minute.

Mr. PERHAM. I yield to the gentleman for half a minute.

Mr. LOGAN. I assert this to be the fact, that those men were deprived of their pensions who were unfortunate enough not to put their applications on file at a certain time, while those who did still receive their pensions. My proposition is they shall all be put upon a par, and that they shall all receive their pensions.

Mr. PERHAM. I now demand the previous question.

The previous question was seconded and the main question ordered.

The question first recurred on the amendment of Mr. WASHBURN, of Indiana, as modified.

The House divided; and there were—ayes 85, noes 26.

The Speaker voted in the affirmative to make a quorum.

So the amendment was adopted.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LOGAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN LAW.

Mr. VAN AERNAM. I now move that the House resume the consideration of House bill No. 1972, granting a pension to John Law, which was pending at the expiration of the morning hour some two weeks ago.

The motion was agreed to.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the limitations and restrictions of the pension laws, the name of John Law, late private company

I, one hundred and fourth New York volunteers, commencing May 15, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. VAN AERNAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARINE HOSPITAL, CHICAGO.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting a report of the supervising architect relating to the marine hospital at Chicago, Illinois; which was referred to the Committee on Commerce, and ordered to be printed.

ART DECORATION OF THE CAPITOL.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, in reference to the art decorations of the United States Capitol; which was referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

BANK OF METROPOLIS, WASHINGTON.

Mr. RANDALL, from the Committee on Banking and Currency, by unanimous consent, presented the following report; which was laid on the table, and ordered to be printed in the Globe:

The Committee on Banking and Currency, which was by resolution of the House of Representatives of December 18, 1868, directed to inquire into the condition of the Bank of the Metropolis, of Washington, which said bank is now in course of liquidation, and whether the public money placed therein had been recovered to the Treasury of the United States, beg leave to report that in obedience to instructions of the House the committee addressed letters of inquiry to the Comptroller of the Currency and the Treasurer of the United States, the replies to which are hereto annexed, together with the original resolution. As an answer to the first portion of the resolution, upon the further inquiry whether any legislation is necessary to prevent in future any loss in public deposits, the committee would state that they have heretofore recommended such legislation as will in their judgment prevent in the future any recurrence of such risk in reference to the funds of the Government deposited in national banking associations as has occurred in the case of the Bank of the Metropolis, of Washington, and that the House has passed the same. The committee therefore desire to be discharged from the further consideration of the subject.

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE CURRENCY,
WASHINGTON, January 20, 1869.

SIR: In response to the inquiries contained in the resolution passed by the House of Representatives December 18, 1868, relative to the affairs of the National Bank of the Metropolis, of Washington, and in compliance with your verbal request made by authority of the Committee on Banking and Currency, I have to state that with said bank as a designated depository of Government moneys I have never had anything whatever to do. By the provisions of section forty-five of the national currency act, national banking associations may be designated as depositories of public moneys by the Secretary of the Treasury, who is authorized to require associations so designated to deposit United States bonds "for the safekeeping and the prompt payment of public money deposited with them," &c.

The statement made by the bank in question on the first Monday of October, 1867, showed \$400,000 of United States bonds held by the Treasurer of the United States to secure Government deposits; and it showed United States deposits amounting to \$552,713 45. This is all the official information I have on that branch of the subject.

The quarterly report made on the first Monday of October, 1868, showed the same amount of securities held by the Treasurer, \$470,950 75 of United States deposits, and \$1,387 69 deposits to United States disbursing officers. The apparent addition of deposits of United States disbursing officers between October, 1867, and October, 1868, is owing to the fact that the form furnished to the banks for their quarterly reports was so changed as to require statements in greater detail. The item "deposits of United States disbursing officers" was added to the reports subsequent to October, 1867, although the money placed under that head was in the bank at the date of said report under the head of "individual deposits." So that it may be safely stated that no Government deposits or deposits of United States disbursing officers were placed in the bank subsequent to its going into liquidation.

In response to that part of the resolution which calls upon the committee to "inquire and report what legislation, if any, is necessary to enable the Comptroller of the Currency to wind up the affairs of a bank which has no office or place of business and stop the payment by the United States of interest to a bank upon a debt which the bank owes to the United States, and to prevent an insolvent bank from becoming a depository for United States dis-

bursing officers," I would respectfully refer to the suggestions contained in my last annual report to Congress, to be found under the head of "Banks in Voluntary Liquidation," on page 21 of said report. So far as interest upon the bonds held by the Department to secure the circulating notes of banks in liquidation is concerned, I think a law compelling banks in that condition to deposit lawful money for their circulation and take up their United States bonds within ninety days from public notice given of going into liquidation would prove a sufficient remedy. I think I have already made it clear that no bank has ever been made a depository of Government money or of United States disbursing officers after it had become insolvent or gone into liquidation. I am quite sure such is the fact, but the Treasurer of the United States will be able to give you positive information upon that point.

I have the honor to be, very respectfully, yours,
H. R. HULBURD,
Comptroller.

HON. SAMUEL J. RANDALL,
House of Representatives, Washington, D. C.

TREASURY OF THE UNITED STATES,
WASHINGTON, January 27, 1869.

SIR: Your letter of the 25th instant has been received. The resolution of the House of Representatives, passed December 18, 1868, is herewith returned you as you requested. I answer it and your letter that the National Bank of the Metropolis of Washington was designated as a depository of public money and a financial agent of the Government as early as October 12, 1864. There never has been any other designation of this bank for any purpose whatever. From the day of its designation until the 11th of September, 1868—being nearly two years—it had promptly responded to all requirements and had paid all orders and drafts for money made upon it by this office. On the day last named it failed to comply with my order to deposit \$25,000 in the Treasury of the United States. Previous to this time this bank was employed by and did a heavy collecting business for the Treasury in the States then lately in insurrection against the Government of the United States, and in consequence thereof received and at times held large sums belonging to the Treasury of the United States. It held still larger sums of money to the credit of disbursing officers of the Government. The Merchants' National Bank of Washington failed early in May, 1868. This created a panic. The Secretary of War and other officers immediately thereupon ordered all disbursing officers to withdraw their balances from all banks, and to place them in the Treasury. At this time the National Bank of the Metropolis held public moneys as follows:

To the credit of disbursing officers.....	\$923,499 99
To the credit of the Treasurer of the United States.....	757,158 31

Total amount of public money in the bank.....\$1,685,658 30

Every dollar of these large amounts has since been paid. I have never received any official notice that the bank was in liquidation. The Attorney has all along insisted that it had an office in the city for the transaction of banking business. But the fact that it did not respond to my order to deposit \$25,000 in the Treasury in September, 1868, was proof sufficient to satisfy me that the bank deserved to be wound up; yet, for want of legal authority, I was powerless to bring about that result.

The bank was placed in the hands of an attorney, and it was claimed that the interest of the Government would thus be better protected than it would be by the appointment of a receiver. That the whole nominal amount of its indebtedness to the United States has since been paid into the Treasury is pretty strong evidence of the correctness of the course that was pursued in order to secure the payment of this large sum of money. The semi-annual duty levied upon the bank in lieu of taxes has been regularly paid. For the half year ending with 30th June last it paid into the Treasury on this account \$959 05. There was a duty due on the 1st instant that will probably amount to about the like sum. This will be retained from the interest that falls due on the 1st of March next on a part of \$202,000 of United States stocks still in my hands to secure the redemption of \$180,000 of its outstanding circulating notes.

On application I have declined to surrender these stocks, and have stated that should a tender be made of lawful money for the whole amount of outstanding circulation I would refuse to accept it, and deliver the stocks to the bank, because I have made a claim upon the bank for interest that accrued on the average balance due from the bank to the Government from the day that it failed to comply with my order to deposit the \$25,000 in the Treasury until the day on which the whole balance was fully paid, which, at six per cent., amounts to \$72,590 39.

My statement of this claim and the answer of the bank thereto have been referred by the Secretary of the Treasury to the Attorney General. As yet that officer has not given his opinion in the case.

Very respectfully, yours,

F. E. SPINNER.

Treasurer of the United States.

HON. SAMUEL J. RANDALL,
House of Representatives, Washington, D. C.
WELLS, FARGO AND COMPANY.

Mr. ELA. I move to reconsider the order for printing the evidence taken in the investigation of the contract with Wells, Fargo & Co. The cost will be some sixteen hundred dollars, and inasmuch as all the material facts have been made known in the public press, and as the

committee have come to no conclusion in the matter, I think it unnecessary to print the evidence.

The SPEAKER. The motion will be entered on the Journal.

PURCHASE OF ALASKA.

Mr. ELA. I make the same motion in regard to the evidence taken in the Alaska matter. The cost of printing will be \$3,000, and as it has gone abroad pretty fully through the Associated Press, I deem it unnecessary to print it.

Mr. MUNGEN. Mr. Speaker, I think in this investigation there has been a great deal of smoke and very little fire. Now, I want the order to be executed to show how utterly absurd this whole proceeding has been.

The SPEAKER. Under the rule (page 162 of the Digest) it is in order at any time, even when a member is on the floor, to move to reconsider a vote and have it entered; but it cannot be taken up and considered while any question is before the House. This order to print was made on Saturday, and it is in order to make the motion to-day (Monday) to reconsider it.

Mr. BROOMALL. It is only the order to print the evidence that is moved to be reconsidered.

The SPEAKER. That is all. The motion will be entered.

APPOINTMENT OF MIDSHIPMEN.

Mr. NEWSHAM. I ask unanimous consent to introduce for present action a joint resolution (H. R. No. 472) providing for the filling of vacancies in the Naval Academy from the State of Louisiana.

The joint resolution was read a first and second time. It authorizes the Secretary of the Navy to appoint to present existing vacancies on or before the 1st of July, 1869, midshipmen to the United States Naval Academy from the State of Louisiana, on the nomination thereof by the members from Louisiana in the present Congress.

Mr. BROOKS. I do not know whether to object or not.

Mr. GARFIELD. It only allows the members of Congress from Louisiana to fill the vacancies now existing.

Mr. BROOKS. I do not object.

The joint resolution was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. NEWSHAM moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

Th latter motion was agreed to.

MISCELLANEOUS APPROPRIATION BILL.

Mr. SPALDING. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union to proceed to the consideration of the miscellaneous appropriation bill, and pending that motion I move that all debate be closed on the pending paragraph in one minute.

The question being put on the latter motion, there were—ayes 66, noes 26; no quorum voting.

Tellers were ordered; and Messrs. SPALDING and RANDALL were appointed.

The House divided; and the tellers reported—ayes 95, noes 24.

So the motion was agreed to.

Mr. SCHENCK. I ask unanimous consent to take up from the Speaker's table the amendments of the Senate to the bill to strengthen the public credit, for the purpose of non-concurring in the same and asking for a committee of conference. The amendments may or may not be modified upon further consideration.

Mr. BUTLER, of Massachusetts. I object.

Mr. SCHENCK. I move to suspend the rules for that purpose.

Mr. SPALDING. I cannot yield for that purpose.

Mr. SCHENCK. Then, be it understood

that upon the objection of the gentleman from Massachusetts we cannot get at that bill.

Mr. BUTLER, of Massachusetts. Be it understood that you cannot get at that swindling brokers' bill because of the objection of the gentleman from Massachusetts.

The question being put on the motion of Mr. SPALDING that the House resolve itself into the Committee of the Whole, there were—ayes 69, noes 29; no quorum voting.

Tellers were ordered; and Mr. SCHENCK, and Mr. BUTLER of Massachusetts were appointed.

The House divided; and the tellers reported—ayes 88, noes 28.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the bill (H. R. No. 2007) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, and for other purposes.

The CHAIRMAN. When the committee was in session before the recess the gentleman from Iowa [Mr. WILSON] had offered the following amendment:

Page 9, after line two hundred and eleven, insert: For reimbursing the State of Iowa for expenses incurred and payments made during the rebellion, as examined, audited and found due the State by General Robert C. Buchanan's commission, under the act of Congress, approved July 25, 1866, \$220,848: Provided, That an amount be appropriated from the Treasury to pay the war claims of the rebellion from all the States which have been reported upon favorably by commissions appointed by Congress.

The gentleman from Kansas [Mr. CLARKE] moved to amend the amendment by adding thereto the following:

To reimburse the State of Kansas for the services and supply of the militia called out by the Governor of Kansas upon the requisition of Major General Curtis to repel the invasion of General Price, \$250,000.

The question is on the amendment to the amendment; and all debate is closed by order of the House in one minute.

Mr. CLARKE, of Kansas. I was stating to the House when arrested by the recess that this claim of the State of Kansas stands on precisely the same footing as the claim of the State of Iowa. I have no opposition to make to the claim of the State of Iowa, because I believe, notwithstanding the principle of economy which prevails here, that the Government of the United States can always afford to pay its honest debts. But, sir, by the action of the House, as stated by the gentleman from New York, [Mr. WOOD,] this claim of the State of Iowa was sent to the Committee on Military Affairs with definite instructions to that committee to report, not the claim of the State of Iowa separately for the consideration of the House, but to report the just claims of all the States.

[Here the hammer fell.]

The amendment to the amendment was rejected.

The question recurred on the amendment offered by Mr. WILSON, of Iowa; and being put, there were—ayes 35, noes 53; no quorum voting.

Tellers were ordered; and Mr. ALLISON, and Mr. JONES of Kentucky, were appointed.

The committee divided; and the tellers reported—ayes 60, noes 58.

So the amendment was agreed to.

Mr. LOGAN. I offer the following amendment, to come in at the end of line two hundred and thirty-one:

For geological surveys of the Territories of Colorado and New Mexico, \$10,000; to be prosecuted under the direction of the Secretary of the Interior.

Mr. CLARKE, of Kansas. I move to amend the amendment by inserting after the words "New Mexico" the words "and that part of the State of Kansas west of the one hundredth meridian of longitude."

Mr. LOGAN. If the gentleman will hear me a moment I think he will be satisfied with the amendment and let it stand on its own basis. By reading the report of the Commissioner of the General Land Office gentlemen will see the necessity for this appropriation for the

development of these Territories. Nothing tends so much to promote the development of the Territories as these geological surveys. No estimate was made for surveys of these two Territories for some reason that I do not know, and therefore the Committee on Appropriations did not report this item. I understand, however, from those members of that committee with whom I have spoken on the subject that they think this appropriation ought to be made. We make large appropriations for the coast survey and for Army surveys, and no surveys which can be made are more valuable to the country than these geological surveys of the Territories. I hope the amendment will be adopted without any additions to it.

Mr. CLARKE, of Kansas. The amendment which I have proposed to the amendment of the gentleman from Illinois [Mr. LOGAN] does not in any way interfere with the purpose which he proposes to accomplish by his amendment.

I agree with him that there exists a great necessity for a geological survey and exploration of the Territories of Colorado and New Mexico. But there is an equal necessity for the geological survey and exploration of that most interesting section of country comprised between the one hundredth meridian of longitude and the eastern borders of the Territory of Colorado. It is not a great many years since that most interesting portion of the American continent was laid down on the maps as "the great American desert."

Yet this country has been entered by miners and others, the railroad has been extended into the very heart of that "desert," and explorations have developed the fact that that portion of the American continent promises to become most valuable and interesting. Indeed, during the last year this portion of our country has been visited by some of our most distinguished scientific men, and discoveries have been made in the extent and character of our national resources which promise the most interesting results to our national prosperity in the future. At this moment it is comparatively an undeveloped, and but for the railroad which penetrates it I might say an almost undiscovered country, over which roam vast numbers of buffaloes, elk, antelopes, and other wild animals. In that unexplored region there are vast deposits of salt, iron, lead, copper, tin, and other minerals.

Now, if \$10,000 are expended in the geological survey of the country immediately adjoining, I do not think the purpose indicated by the gentleman from Illinois [Mr. LOGAN] would be in any way affected injuriously by allowing this geological surveying party to go over the western borders of Kansas and inform the country of the resources there.

Mr. LOGAN. Will the gentleman allow me to make a suggestion right here?

Mr. CLARKE, of Kansas. Certainly.

Mr. LOGAN. My suggestion is that geological surveys of the States are made by the States themselves. The Government of the United States never appropriates money for the geological survey of a State, or of any part of a State. The Government of the United States makes appropriations for surveys of Territories only.

Mr. CLARKE, of Kansas. I have noticed since I have been in Congress that the Government of the United States, and the Congress of the United States especially, occasionally does a new thing. And I think there is no more proper thing to do, nothing that would bring a better return for the amount expended than to let this scientific commission which the gentleman proposes to organize for the exploration of the Territories of Colorado and New Mexico—than to let that commission go over into this interesting portion of Kansas, west of the one hundredth meridian of longitude, and give us the result of their scientific exploration of that region. As I said before, this would in no way defeat the purpose indicated by the gentleman from Illinois. And inasmuch as it will not defeat the object he has in view,

I hope he will not object to the slight amendment I have moved.

Mr. LOGAN. I certainly would interpose no objection to the amendment of the gentleman from Kansas [Mr. CLARKE] but for the fact that every State in the Union to-day that desires a geological survey has it done by appropriations made by their own Legislatures. This certainly would be a new kind of legislation, and therefore I hope the amendment will not be adopted.

Mr. RAUM. I think that members may well examine and consider the proposition of my colleague from the State at large [Mr. LOGAN] before they agree to adopt it, and you must bear in mind that if you commence this work you will probably have to appropriate \$500,000 in time to perfect these surveys. Ten thousand dollars will not amount to much in a geological survey.

Mr. LOGAN. A moment for explanation which will probably satisfy the gentleman. These surveys in the other Territories have been going on for fifteen years. In Kansas and Nebraska and in many of the Territories there have been surveys, and it is usual to appropriate \$5,000 for the survey of a Territory. It is supposed that this will be sufficient to make such a survey as will indicate the general geological characteristics of the Territory. It is all that has been asked heretofore and it is all that is asked now. I say that after \$5,000 have been expended in this way in a Territory during its territorial condition, it should when it becomes a State be permitted to take care of such matters for itself.

Mr. RAUM. Let me say that for the purposes of a geological survey the sum of \$5,000 scarcely amounts to anything. It might be sufficient for the making of a cursory geological examination and a slight report on the geological characteristics of the Territory, but a regular geological survey of one of these Territories would cost at least \$250,000.

Mr. LOGAN. The gentleman will allow me to correct him. If he will read the report of the Commissioner of the General Land Office he will find there a full account of the mineral resources, &c., of Nebraska, which was surveyed by Professor Hayden, only \$5,000 having been appropriated for that work. This is all that has ever been asked and all that is asked now.

Mr. RAUM. I suggest, then, that the gentleman add to his amendment the words "and no more."

The amendment to the amendment was not agreed to.

The question recurred on agreeing to the amendment of Mr. LOGAN.

Mr. CAVANAUGH. I move to amend the amendment by striking out "\$10,000" and inserting "\$15,000," and by inserting after the words "New Mexico" the word "Montana;" so as to make an additional appropriation of \$5,000 for a geological survey of the Territory of Montana.

Mr. Chairman, I desire in a few words to call the attention of this committee to the claims of Montana to an appropriation for this purpose. The gentleman from Illinois [Mr. LOGAN] says that according to the policy heretofore adopted each of the Territories is entitled to an appropriation of \$5,000 for a geological survey. Now, if there be any Territory where such an expenditure should be made it is the Territory of Montana. I beg leave to refer the gentleman from Illinois and other members of this House to the figures exhibited by our official reports in regard to the mineral resources of that Territory. I affirm that Montana has within the last five years contributed more gold and silver, five times over, to the wealth of the nation than has been contributed by the Territories of Colorado and New Mexico combined. In proof of this I refer to the report of J. Ross Browne, made last year. Such being the mineral wealth of Montana I cannot see why she is not entitled to an appropriation of at least \$5,000 for a geological survey.

Mr. SPALDING. Mr. Chairman, the Committee on Appropriations have had this subject before them; and while they approve very highly of the efforts of Professor Hayden in his geological explorations, they think that perhaps at this time the Government had better keep the money in the Treasury to meet the interest upon its debt than pay it out to continue what we have been doing heretofore in the way of exploring the mineral resources of those Territories. They thought also that if they should commence with these two Territories of Colorado and New Mexico the others would of course ask, as they are asking, that similar appropriations shall be made for them. I have no particular objection to the proposition of the gentleman from Illinois, if it can be limited to the two Territories which he names; but I think we ought not to go any further.

[Here the hammer fell.]

The CHAIRMAN. Debate is exhausted.

Mr. CAVANAUGH's amendment to the amendment was not agreed to.

On agreeing to the amendment of Mr. LOGAN there were—ayes eighteen, noes not counted.

Mr. LOGAN. I call for tellers.

Tellers were not ordered.

So the amendment was not agreed to.

The Clerk read as follows:

For fuel and quarters for officers of the Army serving on light-house duty, the payment of which is not made or provided for by the quartermaster's department, \$10,000.

Mr. LYNCH. I move to amend by inserting after the paragraph just read the following:

For a light-house on Half-way Rock, Casco bay, Maine, \$50,000.

I wish to say that this is one of the most important points on the Atlantic coast. This appropriation was made by the Senate at its last session and was reported in the estimates for the present session. I understand the amendment is assented to by the Committee on Appropriations. I suppose it was omitted through inadvertence.

Mr. SPALDING. It was an oversight, and the amendment ought to be adopted.

The amendment was adopted.

The Clerk read as follows:

For range lights to mark the channel into Presque Isle harbor, Lake Huron, \$7,500.

Mr. CHURCHILL. I move the following amendment:

For building light-house on Spectacle reef, Lake Huron, \$100,000.

Mr. Chairman, I ask the attention of the gentlemen interested in the commerce of the lakes to a consideration of this amendment. They are aware that the commerce between Lake Huron and Lake Michigan has to pass through the Straits of Mackinaw. Where that narrows lies this Spectacle reef, which is more dreaded by the navigators of those lakes than any other unmarked point. The construction of this light-house is not merely a question of the preservation of property, but a question of the safety of life. These lakes in May and June and October and November, when the commerce on them is the greatest, are swept with continuous storms, and it is necessary that this country, which depends so much for its prosperity upon these navigators, should make ample provision for their safety. I will ask the Clerk to read an extract from a report on the Light-House Board.

The Clerk read as follows:

"Spectacle reef is a very dangerous shoal in Lake Huron, ten miles to the eastward of Bois Blanc light-house. It is in the way of all vessels beating through Lake Huron, and is probably more dreaded by navigators than any other danger now unmarked throughout the entire chain of lakes, and a light-house there would be scarcely second in importance to Waquoitance. The board has recently authorized placing a buoy of the first-class upon it. But this, of course, is of use only in the daytime. The reef is composed of boulders and is exposed to the whole sweep of Lake Huron; therefore the construction of a light-house upon it would be both difficult and expensive. It would cost probably not less than \$300,000 to build a proper structure. Large as this sum is the wreck upon it last fall of two vessels at one time involved a loss greater than required to mark the danger, and it is not unlikely that the aggregate of all the losses which have occurred here would build several such

light-houses. In view of the great commerce upon the lakes and its prospective increase the board feel that they are justified in now bringing the matter to the attention of Congress, and in submitting an estimate for an appropriation to begin the work."

Mr. BUTLER, of Massachusetts. I am instructed by the Committee on Appropriations to oppose any appropriations of this sort. You will observe that the theory of the bill is not to start any new light-houses, except where they have already been built and have been destroyed during the rebellion; as, for instance, the light-house at Cape Hatteras and some in the Gulf of Mexico. One or two had to be rebuilt where they had been for a long time. It was thought to be good economy to prevent what was left of the structure going to destruction. If you allow this one you would have to allow others for which there are calls as loud to the extent of \$1,500,000. If we yield to this one I do not see why we should not yield to the others. I agree there is no place among those to which I allude where a light-house is more needed than at this; but under the present circumstances, after a great deal of examination, for this was a subject as you must see which called for great circumspection, the committee came to the conclusion not to make an appropriation for any of these new light-houses. Such were the unanimous instructions of the committee.

The amendment was rejected.

The Clerk read as follows:

Construction branch of the Treasury Department:

For completing main stairway west wing, \$8,500.
For fencing and approaches to south front, \$20,000.

Mr. SPALDING. I move to add the following proviso:

Provided, The moneys appropriated for the extension of the Treasury buildings shall be disbursed only by one of the regular disbursing clerks of the Treasury Department, who shall receive no extra compensation for his services.

The amendment was agreed to.

Mr. UPSON. I move to strike out the appropriation of \$20,000 for fencing, and I should like to have some explanation of the gentleman from Ohio. I supposed that fencing had already been provided for, and I do not see where this money is to be expended.

Mr. SPALDING. The approaches to the Treasury Department on the south end have never been finished, and this sum was requested for that purpose. It was estimated for and required by the Secretary of the Treasury. The architect of the Treasury was before us this morning, and he states that this is indispensably necessary to complete that part of the building.

Mr. UPSON. Is it intended to pay for putting a curb-stone on the line of the circular road that has been laid out on the south of the President's grounds leading to the Treasury?

Mr. SPALDING. Really I cannot go into the particulars. The matter was explained to the satisfaction of the committee.

Mr. UPSON. I withdraw the amendment.

The Clerk read as follows:

For laying the foundation and commencing the building for the post office and sub-Treasury in Boston, Massachusetts, \$200,000.

Mr. BROOKS. I desire to suggest a point of order for a future purpose. Is this appropriation in order? Under what existing law is it recommended?

Mr. BUTLER, of Massachusetts. I will state that at the last session the Committee on the Post Office and Post Roads reported a bill to buy a site for an office in Boston; and we paid \$453,000 for it. The city of Boston, in order that the approaches might be convenient to it, laid out in paving and widening the streets—for they are not very wide in that city—\$400,000 more, without any expense to the United States. They also raised the grades and cut down buildings. The consequence is that when the building came to be commenced it was necessary to arrange the grade of the streets to put in the foundations or else it would cost the city some one hundred thousand dollars more and the United States about fifty thou-

sand dollars more to do the work after the grade was altered. Besides, we are laying out of our entire investment in the mean time. Now there was an estimate from the Department of \$400,000. The Committee on Appropriations appealed to me not to press it, and although I believe it would be economy to expend that sum, yet in order that we might keep on with this rigid economy which we have tried to bring before the House I consented to have it cut down to the amount contained in the bill.

Mr. BROOKS. Having settled the precedent I withdraw the point of order, and I now propose to amend by inserting the following:

For laying the foundations and commencing the building for the post office in New York, \$200,000.

Mr. CHURCHILL. I insist upon the point of order, and desire a ruling upon it.

The CHAIRMAN. The Chair understands it to be in order on the statement of the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BROOKS. I desire to state that the Federal Government has paid \$500,000 for the converging point of the City Hall Park in New York city, property worth \$1,000,000, and now I propose to go on with the building just as they have done at Boston. It is exactly a parallel case.

Mr. BENJAMIN. Does the gentleman state that there is an existing law for this post office in the city of New York?

Mr. BROOKS. There is an appropriation for it.

Mr. BENJAMIN. I did not understand that the act we passed last year appropriating money to buy a piece of ground in New York authorized the building of a post office there, but only for the purchase of the ground.

Mr. BROOKS. For the post office.

Mr. BENJAMIN. Perhaps it did so. Appropriating for the purpose of a post office and for building a post office are different things.

The CHAIRMAN. The Chair overrules the point of order.

Mr. BROOKS. The city of New York sold property to the Government for \$500,000 which is worth over a million, solely and especially for the purpose of a post office. Certainly everybody who has ever been in the city of New York knows that there is need of a new post office there. This is not a post office for the city of New York alone. It is a post office for the whole United States, and not alone for the United States, but it is a post office for the whole world. The foreign mails center there, and it is utterly impossible in the present condition of the existing building to perform the necessary work for the Government. The mails are unsafe. The building is not fire-proof. The business cannot be done there with facility. And if ever the country needed to have a proper post office at that great commercial emporium, it is quite time to commence it now. If a post office is not to be erected there the city will soon claim that that property which was sold for \$500,000, and is worth \$1,000,000, shall revert to it.

Mr. SPALDING. The difference between New York and Boston is this: the United States purchased at both places a site for a post office. In Boston the people are satisfied with the lot purchased and are ready and anxious to go on with the construction of the building. In New York, I am informed, they are not satisfied.

Mr. BROOKS. Who?

Mr. SPALDING. The people of New York; the citizens are not satisfied to have the post office erected in the park, where the Government has purchased a site.

Mr. BROOKS. Here are six Representatives of the city who do not object.

Mr. SPALDING. The Government did not pay that money with a view to speculation, and if the city of New York wants the lot back again unquestionably they can have it. But I am here to say in behalf of the Committee on Appropriations that if they had been prepared to commence the post office in the city of New York they would have got an equal appropria-

tion, if not a larger one, than that now given to Boston. No one objects to giving to New York at the proper time the necessary appropriation. But we have it from credible authority, from official authority, that they are not yet prepared to commence the post office there.

[Here the hammer fell.]

Mr. BUTLER, of Massachusetts. I was about to say exactly the same thing.

Mr. BENJAMIN. I move to reduce the appropriation \$1,000. I do it for the purpose of saying that in my judgment the condition of the Treasury of the United States is such as to forbid our entering at this time upon the expenditure of millions of dollars for new buildings. I understand that neither of these buildings is commenced. We have merely purchased sites for the buildings when we wish to use them for that purpose.

Now, here are two propositions before the committee asking for an appropriation of some four or five hundred thousand dollars at this time. That, we all know, is but the entering wedge for an expenditure of millions of dollars. These, I believe, are the only cases in which the committee ask for appropriations to commence new public buildings. It has been urged here that we have already expended money upon buildings, and that economy requires that we should go on and complete them. To that the House has assented, and voted sums of money for the completion of various buildings. But this is a case of a different character. These appropriations can be postponed. The post office facilities are just as good in the cities of Boston and New York now as they were twelve months ago. I think we should wait until we are in a better financial condition before we enter upon these works. The public debt statements show an increase of indebtedness every month. The debt is growing to giant proportions, and here is a proposition before us to expend millions and millions more for this purpose. I hope the amendment of the gentleman from New York will be rejected, and then I shall move to strike out the original paragraph. I withdraw the amendment to the amendment.

Mr. BROOKS. I move to amend the amendment by increasing the amount \$1,000. The gentleman from Missouri can have no idea of the amount of rent paid by the Federal Government for rent for court-rooms and offices for the Federal officers, marshal, deputy marshals, district attorney, and others in the city of New York. It is over twenty-five thousand dollars a year. The building at present occupied as a post office is so inconvenient that more than one third more clerks are needed than would be required in a properly arranged post office. There is no light in the office; gas has to be used all the time. It is an old church, perhaps a hundred years old.

Mr. BENJAMIN. How much does the gentleman estimate that this building will cost?

Mr. BROOKS. I do not know. It must be built some time or other, let the cost be what it may.

Mr. BENJAMIN. I suppose the cost of the building will be two or three million dollars. The gentleman can estimate the interest on that amount and see what it will amount to.

Mr. BROOKS. It must be built some time or other. As the Government is now provided there, there is not a foreign letter that comes through the office that is safe from fire, robbery, and burglary. I do not care anything about this matter simply on account of the city of New York. It is not a New York city post office, but a Federal post office; and the gentleman from Missouri [Mr. BENJAMIN] is as much interested in this post office as I am, except that I am a Representative of a portion of the city of New York. I withdraw my amendment to the amendment.

The question was then taken on the amendment of Mr. Brooks; and on a division there were—ayes 37, noes 37; no quorum voting.

Tellers were appointed; and Mr. BENJAMIN and Mr. Brooks were appointed.

The committee again divided; and the tellers reported that there were—ayes 78, noes 42.

So the amendment was agreed to.

The committee rose informally; and the Speaker resumed the chair.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had agreed to the amendments of the House to Senate bill No. 941, granting a pension to Benjamin C. Stone.

The message further announced that the Senate had disagreed to the amendments of the House to Senate bill No. 900, granting a pension to William B. Looney, of Alabama, and ask a committee of conference upon the disagreeing votes of the two Houses thereon, and had appointed Mr. VAN WINKLE and Mr. WARNER as the conferees on the part of the Senate.

The message further announced that the Senate had passed, with amendments, in which the concurrence of the House was requested, bills of the House of the following titles:

A bill (H. R. No. 1867) for the relief of the Illinois Iron and Bolt Company; and

A bill (H. R. No. 1989) for the relief of Peter McGough, collector of internal revenue and disbursing agent, twentieth district of Pennsylvania.

The message further announced that the Senate had passed a joint resolution, in which the concurrence of the House was requested, of the following title:

A joint resolution (S. R. No. 208) authorizing Commander Charles B. Baldwin, United States Navy, to accept a gold medal from the king of the Netherlands.

MISCELLANEOUS APPROPRIATION BILL.

The Committee of the Whole resumed its session and the consideration of the miscellaneous appropriation bill.

Mr. SPALDING. I move to insert, after the amendment last adopted, the following:

For removing the hydraulic weights and for construction of the northwest stairway in the Treasury building, \$10,000.

The amendment was agreed to.

The Clerk read as follows:

For custom-house in Bangor, Maine, \$15,000.

Mr. PETERS. I move to amend the clause just read by striking out "\$15,000" and inserting "\$25,000." I wish to say to the Committee of the Whole that the estimate calls for the amount I have named. I hold in my hand a dispatch from the resident architect, who is a perfectly reliable gentleman. He says:

I have received your letter. It is impossible to pay existing bills and finish the work for \$15,000. Must have amount asked for, which is \$25,000; and I will have to exercise great prudence to make that answer. Can prove by figures that I am right.

I wish to say further that the buildings for which this appropriation is asked are the extension and completion of the custom-house, court-house, post office, and offices for the officers of the internal revenue. This amount of \$25,000 is the sum required by the estimates to make this completion, and if we do not have that amount now the whole work of all of those offices will go uncompleted until another year.

I supposed from what my colleague, who is on the committee, [Mr. BLAINE,] told me that the Committee on Appropriations had agreed to make the appropriation asked for of \$25,000. Now, I have letters from the postmaster of that city, I have been called upon by custom-house officers, I have had all kinds of appeals from the citizens, asking that we shall have now this sum, which is necessary for the completion of this building, appropriated at this time and have an end of the matter. I know, if human testimony can be relied on, that the last dollar of this \$25,000 is necessary.

As my colleague [Mr. BLAINE] is well informed with reference to this matter I yield to him the residue of my time.

Mr. BLAINE. I desire to say simply that \$25,000 is the amount stated in the estimates for this work. This estimate was made in the

belief, as has been stated by my colleague, [Mr. PETERS,] that this amount will finish the building, which is now advanced about seven eighths toward completion. It appears to me it would be very poor economy to dribble out this appropriation of \$25,000 between two years. Such a course would only tend to cause delay and would possibly lead to the dilapidation of the building which \$25,000 appropriated now will finish at once. I hope the committee will have no hesitation in adopting this amendment.

Mr. SPALDING. I wish to say that the Committee on Appropriations did not feel as if the country were now in a condition to justify us in making appropriations for these custom-houses according to the amounts named in the estimates. Hence they acted as the Committee of the Whole did the other evening in considering the deficiency bill; they concluded that one half the estimated amounts would serve the purpose for the present. Hence, for the custom-house at Bangor they propose to appropriate \$15,000 instead of \$25,000. Then again, in the next appropriation for the custom-house at Cairo, Illinois, we have named \$30,000 instead of \$60,000, as proposed in the estimates. Again, in the appropriation for the custom-house at Portland, Maine, which we shall reach very soon, we have fixed the amount at \$60,000, while the estimates propose an expenditure of \$120,000. Now, if the Committee of the Whole are prepared to double in every instance the appropriations proposed in this bill for custom-houses and court-houses be it so; but the Committee on Appropriations had supposed that this could not well be done at the present time; that these public works could afford to wait for another year before receiving the full amounts estimated, thereby relieving the Treasury in the meanwhile. I hope the committee will not adopt the amendment.

Mr. BLAINE. I beg to say, in answer to my colleague on the Committee on Appropriations, [Mr. SPALDING,] that the case of the custom-house in Bangor, Maine, is entirely different from the other cases which he has named, because in this instance the \$25,000 asked for will assuredly complete all that the Government set out to do; while the others are cases of continuous appropriations, which are not expected this year to complete the respective buildings.

Mr. SPALDING. I ask my colleague on the committee whether he did not agree in committee to the amount reported in the bill?

Mr. BLAINE. I agreed to take all that I could get, and was undoubtedly glad to get what the committee propose to appropriate.

Mr. WASHBURN, of Wisconsin. I wish to ask the gentleman from Maine [Mr. BLAINE] and his colleague [Mr. PETERS] whether they will pledge themselves never to ask another dollar for Bangor if we make the appropriation now asked? [Laughter.]

Mr. PETERS. Well, as people say when they are taken into church, "I will." [Laughter.]

Mr. BLAINE. I suppose that the pledge of my colleague is so good that nothing additional is required from me. [Laughter.]

[Here the hammer fell.]

The CHAIRMAN. Debate is exhausted. The amendment was adopted.

The Clerk read as follows:

For court-house and post office, Madison, Wisconsin, \$50,000.

Mr. MAYNARD. I move to amend by inserting after the paragraph just read the following:

For the completion of the custom-house, court-house, and post office building at Nashville, Tennessee, in addition to former appropriations, \$5,000.

This is a small appropriation, and very necessary. I hope the committee will not hesitate to grant it.

The amendment was adopted.

The Clerk read as follows:

For appraisers' stores, Philadelphia, \$25,000.

Mr. HOLMAN. For the purpose of eliciting an explanation, I move to amend by striking

out the paragraph just read. I had supposed that the deficiency bill lately passed contained appropriations for all these works.

Mr. SPALDING. The deficiency bill contained appropriations to supply deficiencies for the present fiscal year. The appropriations in this bill are for the same works for the next fiscal year.

Mr. HOLMAN. I withdraw the motion.

Mr. AXTELL. I move to amend by inserting after the paragraph just read the following:

For branch mint at San Francisco, California, \$250,000.

I desire to state to the committee that this work has been appropriated for heretofore and is considered very necessary for the public service; that this sum is the sum estimated for; that the building now occupied is insufficient; that the United States is paying rent at the rate of more than twelve thousand dollars a year as accommodation for the branch mint; that the supervising architect is unwilling to go forward and put up the walls; that although a fine lot was bought some three years ago, and although a small sum of money is on hand, probably enough to quarry the stone, yet the supervising architect is unwilling to go forward and put up the work without this additional sum. I stated on the deficiency bill these facts at some length, showing that the branch mint at San Francisco had coined some fifteen or sixteen million dollars in gold, while the parent Mint at Philadelphia had coined only \$4,000,000.

I wish to say a word in regard to the fairness of these appropriations. We have no public buildings at San Francisco and the United States is paying rent all over the city. I desire to say on the score of economy that a public building is as much the property of the United States situated in San Francisco as in the city of Washington. You appropriate twenty and thirty thousand dollars for building fences in the city of Washington or in decorating public buildings here, as if they were any more public buildings of the United States because they were in the city of Washington than if situated in New York, Boston, or San Francisco.

In my judgment, Mr. Chairman, it is poor economy on the part of the United States to pay rent when it is able to build. It is poor economy on the part of the United States to continue buildings during five or six years when they could be completed in one year. If we build them at once we do away with the necessity of keeping up architects and superintendents at very high salaries from year to year. The Government paid \$100,000 in gold for a lot in San Francisco for the United States branch mint, and an appropriation of \$100,000 was made to commence the work, which amount is still on hand. You are lying out of the interest of your money paid for the lot and the interest of the money which you have, while at the same time you are paying rent for the use of the buildings there. Now, sir, what is good economy in an individual is good economy in the Government. We ought to have a building of our own, and I think that a liberal and just Government requires the expenditure of this money.

[Here the hammer fell.]

The committee divided; and there were—ayes twenty, noes not counted.

So the amendment was disagreed to.

Mr. HIGBY. I renew the amendment, making the appropriation \$200,000.

Mr. Chairman, I am aware of the difficulty we have in struggling to secure any of these appropriations. My colleague, who more immediately represents the city of San Francisco, cannot feel a deeper interest in this matter than I do myself. A public building there which is necessary to do the Government work not only belongs as a matter of interest to that State, but to the General Government.

As my colleague has stated, the Government to-day is paying a rent for this branch mint of \$12,000. It is a small building and entirely inadequate for mint purposes. If the Govern-

ment constructs a building of its own it will save this \$12,000, which is the interest on \$200,000, the same interest which we pay on our five-twenty bonds and in reference to which there is so much complaint. We will not only save this interest or rent, but we will also save the interest on the money which we have already appropriated provided we go on and complete this branch mint. There is a lot there owned by the Government which may be sold and will probably bring eighty or one hundred thousand dollars, which may go toward defraying the expense of this building when the branch mint is removed from its present location.

I have no doubt it costs at least \$20,000 a year to cover all the expenses, which would not be incurred if the Government had a proper building there. It is a wise economy on our part to go on with this work and complete it at the earliest practicable moment. It is a fact that we are expending yearly in rent more than the interest of the money which would complete the construction of the work.

The present building is entirely inadequate. The labor done there is done at a great disadvantage. I know that it costs more than it should, but that is because the building is not fitted for the purpose. It has not the conveniences and accommodations which are necessary.

Why are such appropriations put in here? Because the Government is paying large amounts of money for the hire of buildings. The expenses on this side of the country are the same as they would be there, with this slight difference that the rate of interest and rents are higher in San Francisco than in Boston when we take into consideration the difference between paper and gold. For that reason it would be economy for the Government to make this appropriation.

The question being put on the amendment of Mr. HIGBY, there were—ayes 19, noes 40; no quorum voting.

Tellers were ordered; and Messrs. AXTELL and SPALDING were appointed.

The committee divided; and the tellers reported—ayes 51, noes 63.

So the amendment was disagreed to.

Mr. AXTELL. I now move to amend by inserting the following:

For branch mint at San Francisco, \$150,000.

I desire to say in regard to the amendments that have been passed for buildings at Madison and Springfield and other points, that were moved to the deficiency bill, gentlemen came in and sustained the appropriations for one half the amount of the estimates.

Mr. SCOFIELD. I ask the gentleman if there is not an appropriation now unexpended of \$150,000 for San Francisco? I believe it is the fact and I suppose the gentleman is aware of it. It is probably more than they will need till another appropriation bill is passed.

Mr. AXTELL. The gentleman from Pennsylvania had charge of the deficiency bill, and this appropriation was defeated in the same shape that is now presented here; and I understood him to assure me and others that we should have the money for our mint, but not in that bill. It is true there is a sum of money unexpended in this case, I do not know exactly how much, but I think about one hundred thousand dollars.

Mr. SCOFIELD. One hundred and fifty thousand dollars.

Mr. AXTELL. But it is also true that we have paid \$100,000 for the lot and that there is not sufficient money left to go on with the work of building the walls. The lot was purchased in 1866. We are now quarrying the stone and laying out money for superintendence and making preparation for building, but we dare not go on and put up the walls lest we should not be able to inclose them.

Now, sir, I say to the gentlemen on the Republican side of the House that they are not dealing in the spirit of justice with the city of San Francisco. You have given to Boston and to New York liberally in this bill. I am glad of it. You make appropriations for your

harbors and rivers, to erect light-houses and remove bars, to erect public buildings in various places, but we on the Pacific cannot obtain a dollar for our harbors and our public works because we are represented by only three members. You combine and carry appropriations for your side because you are strong, but you permit ours to be lost because we are weak. New England obtains all she asks for; her members work well together. Now, sir, let her be fair to San Francisco, whose commerce outranks that of Boston. She pays more money into the Treasury than Boston. You look to our coast for the coin to pay the interest on your public debt. You look there for your revenue to enable you to meet your obligations, and you should not deal with us in a niggardly spirit.

And you men of the Northwest, with your combinations here, are able to get through your appropriations for your buildings and your improvements. Now, the same buildings are required in San Francisco that you require. I assure you we have no post office and no custom-house building, and the Department of War on our coast has no buildings. The Government is renting rooms in various parts of the city. I beg gentlemen to give us this appropriation.

[Here the hammer fell.]

Mr. SPALDING. I ask for a vote on the amendment.

The question was put; and there were—ayes 29, noes 42; no quorum voting.

Tellers were ordered; and Mr. AXTELL and Mr. SPALDING were appointed.

The committee divided; and the tellers reported—ayes 61, noes 54.

So the amendment was agreed to.

Mr. CLARKE, of Kansas. I move to add to the amendment just adopted the following:

For court-house and post office at Topeka, Kansas, \$50,000, to be expended under the direction of the Secretary of the Treasury.

Mr. HOLMAN. I raise the point of order that this is independent legislation, an original proposition to expend money.

The CHAIRMAN. Will the gentleman from Kansas state if there is any law providing for the erection of this building?

Mr. CLARKE, of Kansas. The amendment speaks for itself.

Mr. SPALDING. There is no law for it.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read the following paragraph:

For court-house, Springfield, Illinois, \$25,000: *Provided*, That the Secretary of the Treasury may, at his discretion, designate any officer of the United States who has given bonds for the faithful performance of his duties, as disbursing agent for the payment of all moneys that are or may be appropriated for the construction of public buildings authorized by law in their respective districts.

Mr. HOLMAN. I move to strike out that paragraph. My motive in making that motion is this: when the deficiency bill was pending an appropriation of \$25,000 was inserted in that bill for this purpose, and I certainly understood the gentleman from Illinois [Mr. CULLOM] who offered the amendment to say that \$25,000 was all that was necessary to complete this building.

Mr. CULLOM. The gentleman misunderstood me. I meant to say that I supposed the amount that was in the regular bill with what I finally succeeded in getting put in the deficiency bill would finish the building, and I hope it will. I knew at the time I offered the amendment that the Committee on Appropriations had allowed \$25,000 in this bill, and I believed that if I could get \$25,000 more in the deficiency bill the Government might be able to complete the building with that amount. I did not intend to represent that the \$25,000 put in the deficiency bill would complete the building.

Mr. SPALDING. Will the gentleman be content with what is in the estimate? The estimate is only \$5,000.

Mr. CULLOM. That is for another purpose. The Secretary estimates for \$5,000 for the

approaches to the building, but that is not reported by the committee.

Mr. HOLMAN. I understand, then, that the amount already appropriated in the deficiency bill is the sum estimated for the completion of the building.

Mr. CULLOM. The amount estimated to complete the building is \$50,000. Twenty-five thousand dollars has already been put in the deficiency bill, and this is \$25,000 in the regular bill for next year.

Mr. HOLMAN. I withdraw the amendment.

Mr. MULLINS. I offer the following amendment:

For post office and custom-house at Nashville, Tennessee, \$20,000.

Mr. Chairman, I gave the committee the other night all the arguments and all the evidences touching the propriety of this amendment. I merely desire to add now a statement of interest lost which I have hastily summed up. You appropriated \$100,000 for this purpose in 1852 or 1853. I put it at fifteen years, although that would make it seventeen. You have lost every dime of interest on that \$100,000, which would amount to \$90,000 in fifteen years, and in addition to that you have been paying on an average \$1,500 a year in rent for buildings for those fifteen years, which would make nearly one hundred thousand dollars in all. We never had a building of this character in the city of Nashville. I do not represent that district directly, but I claim that I represent the State and the United States in part, and I am for doing justice to all parts of it. I cannot, under my oath, stand here and say that I am for an appropriation for one spot and against appropriations for others.

And I ask if the Government does not need an office in the city of Nashville as much as it does at any other point that has no more inhabitants than the State of Tennessee? Nashville is one of the great central points of the State. It is located on the banks of a navigable stream; of a stream that for nine or ten months of the year has not its equal there in point of its length, being some ten or twelve hundred miles long. Then there are railroads centering at that city which carry the mails there, and from there all through the South. And yet, my dear sir, there is not a public building in the shape of a post office or custom-house in that city. In addition to that they pay a rent of \$1,000 a year for a revenue office and \$1,500 a year for a post office, making \$2,500 a year the Government is paying out there. I now leave the matter to the House.

The question was taken upon the amendment of Mr. MULLINS; and upon a division there were—ayes ten, noes not counted.

Before the result of the vote was announced, Mr. MULLINS called for tellers.

The question was taken upon ordering tellers; and there were seven in the affirmative.

So (the affirmative not being one fifth of a quorum) tellers were not ordered.

Accordingly the amendment of Mr. MULLINS was not agreed to.

The Clerk read as follows:

INTERIOR DEPARTMENT.

Rent of office for surveyors general:
For rent of surveyor general's office in the Territory of Dakota, fuel, books, stationery, and other incidental expenses, \$2,000.

Mr. LOGAN. I move, with the consent and approval of the Committee on Appropriations, to insert the following after the paragraph last read:

For the continuance of the geological survey of the Territories of the United States by Professor Hayden, under the direction of the Secretary of the Interior, \$10,000.

I have drawn this amendment so that there can be no objection to it on the part of any of the territorial Delegates, as it applies to all the Territories. I have but one other remark to make. Not more than half an hour ago we voted to appropriate, according to a calculation I have made, the sum of \$450,000 for a continuation of the Coast Survey.

The amendment of Mr. LOGAN was agreed to.

The Clerk read as follows:

For finishing the work on the north front of the Patent Office building, and for improving G street from Seventh to Ninth street, \$10,000: *Provided*, That the corporation of Washington city cause the north half of G street, between Seventh and Ninth streets, to be paved at the same time, the cost thereof to be assessed against the private property fronting thereupon in the manner usual in cases of such improvements.

Mr. SPALDING. I move to amend this paragraph by striking out "\$10,000" and inserting "\$8,500;" that is sufficient.

The amendment was agreed to.

The Clerk read as follows:

Smithsonian Institution:

For the preservation of the collections of the exploring and surveying expeditions of the Government, \$4,000.

Mr. GARFIELD. I move to amend this paragraph by striking out "\$4,000" and inserting "\$10,000." And I wish briefly to call the attention of the Committee of the Whole to the facts upon which I base my motion.

In 1846, when the Smithsonian Institution was founded, the Government of the United States, by a law of Congress, transferred to that institution all the articles now belonging to the museum which the Government then owned. At that time it was costing \$4,000 a year to take care of and preserve those articles. Since then a great number of exploring expeditions have been sent out by the Government, and large additions have been made to the museum. And the actual cost of taking care of and keeping the articles which the Government now owns amounts to more than \$10,000 a year. Having imposed this duty upon the Smithsonian Institution, it is wrong for the Government to ask that institution to pay \$6,000 out of its own fund—donated by a foreigner to the cause of science in this country—for the care, preservation, and custody of Government property, to say nothing of the use of the building for that purpose.

Mr. MAYNARD. What are the items of the expenditure for that purpose? It certainly is not all for personal supervision.

Mr. GARFIELD. Only so far as the Board of Regents have to employ persons to take care of and watch that these things are properly guarded. I have here a memorial of the Board of Regents, of which I am a member. It is signed by the chancellor of the institution, Chief Justice Chase, and by the secretary of the institution, Professor Henry. Accompanying that is a detailed statement of the expenses of the National Museum for the year 1868. I ask the attention of members to these papers, which are as follows:

To the honorable the Senate and House of Representatives in Congress assembled:

In behalf of the Board of Regents of the Smithsonian Institution the undersigned beg leave respectfully to submit to your honorable body the following statement, and to solicit such action in regard to it as may be deemed just and proper:

The act of Congress organizing the institution ordered the erection of a building which should accommodate on a liberal scale, besides a library and a gallery of art, a museum consisting of all the specimens of natural history, geology, and art, which then belonged to the Government, or which might thereafter come into its possession by exchange or otherwise. Although the majority of the regents did not consider the maintenance of these objects to be in accordance with the intention of Smithson, as inferred from a strict interpretation of the terms of his will, yet in obedience to the commands of Congress they proceeded to erect a building of the necessary dimensions, and to take charge of the Government collections.

The erection and maintenance of so large and expensive an edifice, involving an outlay of \$450,000, and the charge of the Government museum, have proved a grievous burden on the institution, increasing from year to year, which, had not its effects been counteracted by a judicious management of the funds, would have paralyzed the legitimate operations of the establishment and frustrated the evident intention of Smithson.

It is true that Congress at the time the specimens were transferred to the institution granted an appropriation of \$4,000 for their care and preservation, that being the equivalent of the estimated cost of the maintenance of these collections in the Patent Office where they had previously been exhibited. But this sum, from the rise in prices and the expansion of the museum by the specimens obtained from about fifty exploring expeditions ordered by Congress, scarcely more than defrays, at the present time, one third of the annual expense. In this estimate no account is taken of the rent of the part of the building devoted to the museum of the Government, which at a moderate estimate would be \$20,000 per annum.

Besides the large expenditure which has already been made on the building, at least \$50,000 more will be required to finish the large hall in the second story necessary for the full display of the specimens of the Government. But the regents do not think it judicious further to embarrass the active operations for several years to come by devoting a large part of the income to this object, and have therefore concluded to allow this room to remain unfinished until other means are provided for completing it.

It is not by its castellated building nor the exhibition of the museum of the Government that the institution has achieved its present reputation, nor by the collection and display of material objects of any kind that it has vindicated the intelligence and good faith of the Government in the administration of the trust; it is by its explorations, its researches, its publications, its distribution of specimens, and its exchanges, constituting it an active, living organization, that it has rendered itself favorably known in every part of the civilized world, has made contributions to almost every branch of science, and brought more than ever before into intimate and friendly relations the Old and the New Worlds.

A central museum for a complete representation of the natural products of America, with such foreign specimens as may be required for comparison and generalization, is of great importance, particularly as a means of developing and illustrating our industrial resources, as well as of facilitating the study of the relations of our geology, mineralogy, flora and fauna, to those of the Old World. But the benefit of such an establishment is principally confined to this country, and does not partake of the cosmopolitan character of an institution such as Smithson intended to found, and therefore ought not to be supported from his bequest.

The Board of Regents are confident that upon a full consideration of the case your honorable body will grant an adequate support for the collections of the Government, and also an appropriation for finishing the repairs of the building, and eventually, when the financial condition of the country will permit, for the independent maintenance of a national museum.

It may not be improper in addition to what has been said to recall the fact that the Smithsonian Institution has transferred, without cost, to the library of Congress, one of the most valuable and complete collections of the transactions of scientific and learned societies and serial publications in existence, consisting of at least fifty thousand works, which, with the annual continuations of the same series, must render Washington a center of scientific knowledge, and the library itself worthy of the nation; and that it has also presented to the Government its valuable collection of specimens of art, illustrating the history of engraving from the earliest periods. It is prepared to render a similar service to a National Museum, by the exchanges from foreign museums to which it has been a liberal contributor, and which may be obtained as soon as means are provided for their transportation and accommodation.

It may also be mentioned that the Institution has rendered important service to the Government through the scientific investigations it has made in connection with the operations of the different Departments, and it is not too much to say that through the labors of its officers it has been the means of saving millions of dollars to the national Treasury.

In conclusion your memorialists beg leave to represent on behalf of the Board of Regents that the usual annual appropriation of \$4,000 is wholly inadequate to the cost of preparing, preserving, and exhibiting the specimens, the actual expenditure for that purpose in 1867 having been over twelve thousand dollars; and they take the liberty of respectfully urging on your honorable body the expediency of increasing it to \$10,000, and that a further sum of \$25,000 be appropriated at this session of Congress toward the completion of the hall required for the Government collections.

And your memorialists will ever pray, &c., &c.

S. P. CHASE,
Chancellor Smithsonian Institution.
JOSEPH HENRY,
Secretary Smithsonian Institution.

The following is a statement of the expense of the National Museum for the year 1868:

Glass for cases.....	\$154 33
Carbolic acid, insect powder, and arsenic.....	72 85
Glass bottles and jars.....	96 68
Trays.....	180 01
Wrapping-paper.....	63 90
Benzine, paint, oil, varnish, putty, brushes	201 87
Sauces for nests and eggs.....	22 30
Stationery, index-books, and blanks.....	123 57
Labels for specimens.....	208 04
Locks, keys, handles, funnels, measures, tools, cans, &c.....	185 05
Paper and poison for plants.....	347 20
Numbers and labels for minerals.....	94 41
Examination, cleaning, assorting, and labeling shells.....	1,163 95
Books for proper labeling specimens.....	430 47
Tow for stuffing large animals (bears).....	24 90
Artificial eyes for birds, &c.....	35 95
Packing boxes.....	50 40
Alcohol.....	400 00
Mounting birds, beaver, &c.....	195 50
Freight on collections.....	1,200 00
Walnut cases for specimens.....	1,100 00
Heating room for collections.....	500 00
Assistants, one at \$2,500, one at \$600, one at \$500, and one at \$300.....	3,900 00
Laborers and watchmen, one at \$840, one one at \$600, one at \$600, one at \$312, and one at \$312.....	2,724 00
	\$13,480 38

In addition to the foregoing, \$125,000 have been expended since the fire in 1865 on that part of the building required for the accommodation of the museum, the interest on which at six per cent. would be \$7,500 annually.

The bequest to found this institution was from a foreigner who never visited the United States. He bequeathed his fortune with unreserved confidence to our Government for the advancement of science, to which he had devoted his own life. The sacredness of the trust is enhanced from the fact that it was accepted after the death of him by whom it was confided. The only indications of his intentions which we possess are expressed in the terms of his will. It therefore became of the first importance that the import of these terms should be critically analyzed and the logical inference from them faithfully observed. The whole is contained in these few and explicit words:

"To found at Washington, under the name of the Smithsonian Institution, an establishment for the increase and diffusion of knowledge among men."

These terms have a strictly scientific import, and are susceptible of a series of definite propositions.

First. The bequest is for the benefit of mankind; not to be confined to one country, to one race, but to all men of all complexions.

Second. The objects of the institution are primarily to increase, and secondly, to diffuse knowledge among men, and these objects should not be confounded with each other.

The will makes no restriction of any kind of knowledge, hence, every branch of science capable of advancement is entitled to a share of attention.

Though the terms of the will are explicit and convey precise scientific ideas to those who are acquainted with their technical significance, yet to the public generally they might seem to admit of a greater latitude of construction than has been put upon them. It is, therefore, not surprising that at the commencement improper conceptions of the nature of the bequest should have been entertained or that Congress in the act of organization should direct the prosecution of objects incompatible with the strict interpretation of it or to impose burdens upon the institution tending materially to affect its usefulness.

The principal of such burdens was the direction to provide a building on an ample scale to make provision for the accommodation of the collections of Government, consisting of all the specimens of nature and art then in the city of Washington or that might thereafter become the property of the Government by exchange or otherwise.

Though the majority of the Board of Regents did not consider the expenditure of a large amount of the income on this subject in accordance with the will of Smithson, they could not refuse to obey the injunction of Congress and proceeded to erect an extended building and to take charge of the museum of the Government. The cost of this building, which at first was \$325,000, has been increased by the reparation of damages caused by the fire to \$450,000, the whole of which has been defrayed from the annual income. Notwithstanding this burden the institution has achieved a reputation as wide as the civilized world, has advanced almost every branch of knowledge, and presented books and specimens to hundreds of institutions and societies in this country and abroad.

It is not a mere statistical establishment, as many may suppose, supporting a corps of individuals whose only duty is the exhibition of the articles of the show museum; but a living, active organization that has by its publications, researches, explorations, distribution of specimens and exchanges, vindicated the intelligence and good faith of the Government in administering a fund intended for the good of the whole community of civilized men. It has at the same time collected a library, principally of the transactions and proceedings of learned societies, the most perfect one of the kind in the world, consisting of fifty

thousand works; also a collection of engravings illustrative of the progress and early history of the art, both of which it has transferred to the Library of Congress. It is not alone the present value of the books which it has placed in the possession of the Government, but also that of the perpetual continuation of the several series contained therein.

The institution has continued to render important service to the Government from its first organization until the present time by examining and reporting on scientific questions pertaining to the operations of the different Departments, and in this way, particularly during the war, it is not too much to say that it has saved the United States many millions of dollars.

Let me say one word more before leaving this subject. As I have shown, the real purpose of the donation of Smithsonian which the Board of Regents have tried to promote as well as they could was to extend and circulate means of scientific information; and the management of the institution has always resisted the tendency to keep up and increase this museum at the expense of this fund.

Recently the institution has given over to the Library of Congress a collection of fifty thousand volumes, constituting probably the most perfect scientific library in the world. But we are still charged as an institution with the cost of this rapidly-increasing museum. Now, the Regents would be glad if Congress would take this museum off their hands and provide otherwise for the care of it. It is a charge imposed upon the institution by law, a charge which it never sought and is not desirous to retain. At the time when this museum was first placed in the custody of the institution it cost but \$4,000 a year to keep it in the Patent Office. Now the care of that museum costs three times that amount. I hope therefore that the committee will vote \$10,000 instead of \$4,000 for this purpose.

Mr. SPALDING. Mr. Chairman, I am very sorry to find the Smithsonian Institution among the leeches that are all the while crying to the Treasury of the United States, "Give, give!" The Smithsonian is a wealthy institution. The Government of the United States is continually paying it gold interest on the large fund belonging to the institution; but the institution is not willing to bear this little additional expense, as it is called, from its own means, but wishes to obtain the money from the public Treasury. The men who pay the taxes must contribute this additional sum to this wealthy institution.

Sir, we have loaned to that institution the National Museum. We have paid the institution for a series of years \$4,000 annually in cash for taking care of that museum. The institution has been content with that sum heretofore; but now it comes in and asks an appropriation of \$10,000 for this purpose. Sir, we had better take away the museum from the care of that institution. I had almost said we had better throw it into the Potomac than be constantly paying these increased demands from the Smithsonian Institution. That is the light in which the committee have viewed the subject; and in that light they protest against this increase.

The amendment was not agreed to.

The Clerk read as follows:

For surveying the public lands in Dakota Territory, including the lands along the Red River of the North, at rates not exceeding ten dollars per mile for standard lines, seven dollars for township and six dollars for section lines, \$15,000.

Mr. SPALDING. I move to amend by striking out in the paragraph just read the words "including the lands along the Red river of the North."

The amendment was agreed to.

The Clerk read as follows:

For surveying the public lands in Nebraska Territory, at rates not exceeding ten dollars per lineal mile for standard lines, six dollars for township and five dollars for section lines, \$40,000.

Mr. SPALDING. I move to amend the

paragraph just read by striking out after the word "Nebraska" the word "Territory."

The amendment was agreed to.

Mr. TAFTE. I move to amend the paragraph by striking out the word "six" and inserting "seven," and by striking out "five" and inserting "six;" so that the paragraph will read as follows:

For surveying the public lands in Nebraska, at rates not exceeding ten dollars per lineal mile for standard lines, seven dollars for township and six dollars for section lines, \$40,000.

Mr. Chairman, I do not propose in this amendment that the aggregate amount appropriated for this surveying shall be increased. I simply propose that the rate of payments shall be increased so that the contracts can be let. I propose to allow the same rate that is allowed in Minnesota and in Dakota Territory. I am informed and believe that the surveyor general cannot let the contracts at the rates named in the paragraph.

The amendment was agreed to.

The Clerk read as follows:

For surveying the public lands in Colorado, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township and ten dollars for section lines, \$30,000.

Mr. CHILCOTT. I move to amend the paragraph just read by striking out "\$30,000" and inserting "\$60,000."

The amendment was not agreed to.

The Clerk read as follows:

For surveying the public lands in Idaho, at rates not exceeding fifteen dollars per mile for standard lines, twelve dollars for township and ten for section lines, \$15,000.

Mr. STOVER. I move to strike out "fifteen" and insert "twenty-five," so as to increase the appropriation to \$25,000.

I see, Mr. Chairman, that the appropriation for surveying the public lands in Montana Territory is \$25,000, and that the appropriation for surveying the public lands in Utah Territory is \$25,000. I think that Idaho equals in importance either of those Territories for which these appropriations are made. I do not see why the same sum should not be allowed to Idaho, and I have therefore moved the amendment.

The committee divided; and there were—ayes 27, noes 38, no quorum voting.

Mr. HOLBROOK demanded tellers.

Tellers were ordered; and Mr. STOVER, and Mr. BUTLER, of Massachusetts, were appointed. The committee again divided; and the tellers reported—ayes 63, noes 56.

So the amendment was agreed to.

The Clerk read as follows:

For surveying the public lands in Nevada Territory, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township and ten dollars for section lines, \$40,000.

Mr. SPALDING. I move to strike out the word "Territory."

The amendment was agreed to.

The Clerk read as follows:

For surveying the public lands in Oregon, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township and ten dollars for section lines, \$40,000.

Mr. SPALDING. I move to add the following:

Provided, That for surveying the timber lands lying west of the coast range of mountains the same pay may be allowed for township and section lines as is allowed for standard lines.

I am told that the nature of the country demands that.

The amendment was agreed to.

The Clerk read as follows:

For surveying the public lands in Utah Territory, at rates not exceeding fifteen dollars per mile for standard lines, twelve dollars for township and ten dollars for section lines, \$25,000.

Mr. SPALDING. By some mistake that appropriation has been printed \$25,000. It ought to be \$10,000, and I move to reduce it to that sum.

The amendment was agreed to.

The Clerk read as follows:

For surveying the public lands in the Territory of Wyoming, at rates not exceeding fifteen dollars per

mile for standard lines, twelve dollars for township and ten dollars for section lines, \$15,000.

Mr. DODGE. I move to increase that appropriation to \$25,000. There is not an acre of land, not a standard line or a township line yet surveyed in the Territory of Wyoming. This would not survey a single acre and put it in the market. A large number of settlers wish to enter their lands, but this amount would not run the base lines and the township lines. The other amount would subdivide some and allow the lands to be entered on the east base of the Black Hills.

The amendment was agreed to.

The Clerk read as follows:

For surveying that part of the eastern boundary of Colorado Territory which lies between the thirty-seventh and fortieth parallels of north latitude, estimated two hundred and ten miles, at rates not exceeding twelve dollars per mile, \$2,520.

Mr. CHILCOTT. I move to strike out all after the word "miles," in line five hundred and eighty, down to the word "dollars," in line five hundred and eighty-one, and in lieu thereof to insert "at rates not exceeding thirty dollars per mile, \$6,300."

Mr. Chairman, I presume the committee is aware that a boundary line cannot be made with the proper monuments for twelve dollars per mile. It cost the Government sixty dollars per mile to survey the line between New Mexico and Colorado, and I observe that the committee have reported twenty-five dollars per mile for the survey of the northern boundary of the State of Nevada, and it most certainly will cost as much to do the same work in Colorado.

The amendment was rejected.

Mr. CLARKE, of Kansas. I move to amend by making it twenty-five dollars per mile. I undertake to say, and I think my statement will be taken by any gentleman acquainted with surveying in that locality, that it will be absolutely impossible to run a proper boundary line for twelve dollars per mile. I therefore hope the committee will make this increase so as to have the survey done in a proper manner.

The amendment was agreed to.

The Clerk read as follows:

For surveying the northern boundary of Nevada, estimated three hundred and ten miles, at rates not exceeding twenty-five dollars per mile, \$7,750.

Mr. SPALDING. I am instructed by the committee to move to insert the following:

To complete the survey of the western boundary of Nebraska, \$3,200.

The amendment was agreed to.

The Clerk read as follows:

For lighting the Capitol and President's House and public grounds around them and around the executive offices, \$30,000.

Mr. WASHBURN, of Wisconsin. I move to add at the end of this paragraph the following:

And the act incorporating the Washington Gas-Light Company is hereby so amended as to prohibit said company after July 1, 1889, from receiving more than twenty-eight cents per hundred feet of gas furnished by it to the Government and thirty cents to other customers, subject to a discount of not less than ten per cent. on all bills for gas if paid at the office of said company within five days after the rendition thereof; and said company shall furnish gas of a quality equal to that consumed in the city of Philadelphia.

Mr. MYERS. I raise the point of order that this is independent legislation.

The CHAIRMAN. The Chair sustains the point of order.

Mr. WASHBURN, of Wisconsin. I then move to strike out the whole paragraph. I regret that the gentleman should make the point of order on the amendment.

Mr. MAYNARD. I understand the amendment just proposed and objected to merely directs the method of spending this appropriation contained in the paragraph to which it is proposed to be added.

The CHAIRMAN. The Chair understands the amendment proposes to amend the charter of the gas company.

Mr. MAYNARD. I did not understand it to have that effect.

Mr. WASHBURN, of Wisconsin. In 1860 this House made an amendment to an appropriation bill limiting the price of gas to \$3 35 per thousand feet. In 1862 Congress still further reduced the price to three dollars per thousand for the public and \$2 80 for the Government. Those amendments came in upon appropriation bills precisely, I suppose, as this does now. In 1864 the gas company came into Congress and said the price of coal had advanced so much, to wit, to \$13 88 per ton, as was asserted, that it was necessary they should have an advance in the price of their gas. Accordingly, a law was passed in January, 1865, authorizing them to charge four dollars per thousand feet to the public and a trifle less to the Government. Now, sir, that reason no longer exists. Instead of coal costing them \$13 88, as was then claimed, it can be had here now for less than five dollars a ton; so it will be perceived that there is the greatest reason possible for this reduction. And, sir, there is justice in the complaint of the people of this city that an exorbitant price is charged for gas. And I will say further, that the gas in this city is the meanest that I know of in any city of the United States. Therefore, in the amendment I desired to offer, I proposed to reduce the price of gas to a reasonable figure, fixing the standard of the quality. I certainly hope a matter so just to the people of Washington will receive the favorable consideration of this House. The Government itself is now paying over one hundred thousand dollars a year for gas.

[Here the hammer fell.]

Mr. MYERS. I do not desire to discuss the merits of the proposition with my friend. I simply wish to state, although I did not think the point was debatable, that this is sprung here at a point where the parties interested are not able to meet it. It is not appropriate in a bill of this kind.

Mr. RANDALL. I make the point of order that this whole discussion is out of order.

Mr. MYERS. I think my colleague is right; but as the gentleman from Wisconsin [Mr. WASHBURN] was allowed to make a statement, I desire to give my reasons for raising the point of order. I am unprepared to combat what my friend from Wisconsin has said.

Mr. WASHBURN, of Wisconsin. I would ask the gentleman what is the price of gas in Philadelphia?

Mr. MYERS. The price is different in various places. In some places it is as high as four dollars per thousand feet, and here it is but \$3 40, with the Government tax of twenty-five cents off. But we are not prepared to discuss the question now. The parties struck at are not prepared, and the proposition is not in order on this bill.

Mr. WASHBURN, of Wisconsin. I withdraw my amendment.

Mr. LAWRENCE, of Ohio. I would ask if the Chair has ruled on the point of order?

The CHAIRMAN. The Chair sustained the point of order.

Mr. LAWRENCE, of Ohio. I move to strike out the whole clause. It is perfectly manifest from the remarks of the gentleman who has just taken his seat that the price of gas here is too high, and if the gentleman makes the point of order that we cannot legislate to do justice to the Government and protect the interests of the Government we can at least furnish a remedy by withholding all pay; for we are not bound to purchase gas or pay for it when we do not buy it. I hope the committee will strike out this provision until this gas company shall come to something like reasonable terms. The agents of the gas company are always ready to maintain its rights and its interests, and it is our duty to stand by the interests of the Government and see that the Government is not fleeced. I hope the committee will strike out the entire appropriation.

Mr. MYERS. I have only to say in reply that I believe the price of gas is lower here than it is in Philadelphia, and they have to pay freight upon the coal here. At all events

these matters are worthy of discussion. It is proper that we should know the facts. I myself am not fully in possession of them, and for that reason, and for that alone, I insisted on the point of order.

Mr. WASHBURN, of Wisconsin. I move to reduce the amount of the appropriation \$1,000; and I do it simply for the purpose of saying to the gentleman from Pennsylvania that gas can be manufactured cheaper here than in Philadelphia, and that the price in Philadelphia, New York, and Boston is only \$2 50 per thousand feet. Cumberland coal can be laid down in Washington cheaper than it can in Philadelphia, and some of the best gas coal in the country comes from the Cumberland mines.

Mr. MYERS. I ask my friend whether Cumberland coal is gas coal?

Mr. WASHBURN, of Wisconsin. Yes, sir. I withdraw the amendment.

Mr. BENJAMIN. I move to add to the paragraph the following proviso:

Provided, That no greater sum than \$2 80 per one thousand cubic feet shall be paid for the gas for which this appropriation is made.

Mr. WASHBURN, of Wisconsin. That is good as far as it goes, but it gives no relief to the people of Washington city.

Mr. BENJAMIN. I presume that amendment is in order. We certainly have a right to limit this appropriation, and if we cannot get at the root of the evil let us at least lop off as much as we can. There is no question that the Government is imposed upon by this gas company, and not only the Government, but the people of the city of Washington. There is no question about that, and if the gentleman makes the point of order and prevents our legislating so as to relieve the people, let us do what we can to protect the interests of the Government.

Mr. WASHBURN, of Wisconsin. If my friend will allow me I will move that the committee rise for the purpose of moving in the House to suspend the rules to enable me to offer the amendment which I proposed and which was ruled out of order.

Mr. BENJAMIN. It must be apparent to the gentleman that there is not a quorum in the House and a division would cause a breaking up of the committee. I hope we shall vote on this amendment.

Mr. KOONTZ. I rise to oppose the amendment offered by the gentleman from Missouri; and I do so for the purpose of stating that this whole question was before the Committee for the District of Columbia at the last session, and upon investigation we found that in forty of the principal cities of the United States the average cost of gas is \$3 83 per one thousand feet, and I believe that gas is now being manufactured and furnished here as cheaply as it can be considering the cost of transportation. That is all I have to say.

Mr. BENJAMIN'S amendment was agreed to.

Mr. LAWRENCE, of Ohio. I withdraw the motion to strike out the paragraph.

The Clerk read as follows:

For refurnishing the President's House, \$25,000.

Mr. MAYNARD. I move to amend the clause just read by striking out "\$25,000" and inserting "\$40,000." I make this motion for the purpose of inquiring of the gentleman who has charge of this bill why the amount appropriated for this purpose is limited to \$25,000? If I remember aright this sum was appropriated at the commencement of President Lincoln's administration, in 1861, for refitting and refurnishing the President's House. It was found, however, that that sum was not sufficient for the purpose, and another sum of an equal amount was appropriated, I believe. And also at the commencement of the present Administration a larger sum was found necessary for this purpose than is here proposed. I would inquire if a less sum is required for the incoming Administration than was required for the present and the last Administrations?

Mr. SPALDING. We have complied with the estimate. The usual estimate at the commencement of every quadrennial period is

\$25,000. At the commencement of the present Administration we were obliged, under peculiar circumstances, to appropriate for this purpose somewhere from sixty to eighty thousand dollars. But at the present time the house and the furniture are in a very fair condition; in a very good condition compared to what they were four years ago, and the Committee on Appropriations believe—they have no reason to believe to the contrary—that \$25,000 will be ample for this purpose at the present time.

Mr. MAYNARD. I withdraw my amendment.

Mr. LOGAN. I move to amend by inserting the following after the clause last read:

For the purchase of a portrait of the late President Abraham Lincoln, to be placed in the Executive Mansion, \$3,000, or so much thereof as may be necessary: *Provided, That said portrait shall be selected by the incoming President of the United States.*

I desire to say but one word in support of my amendment. I believe the late President, Abraham Lincoln, is the only one of all the Presidents of the United States whose portrait is not now in the White House. My amendment provides that the incoming President, General Grant, shall select such portrait of President Lincoln as he may deem proper, to be placed in the White House, provided it shall not cost over \$3,000.

The amendment of Mr. LOGAN was adopted.

Mr. SPALDING. I am instructed by the Committee on Appropriations to offer the following, to come in immediately after the amendment just adopted:

For the repair and preservation of the mansion of George Washington, now the property of the Mount Vernon Ladies' Association, to be expended under the direction of the officer in charge of the public buildings and grounds, \$7,000.

I suppose this amendment needs no explanation from me.

The question was taken upon the amendment of Mr. SPALDING; and on a division there were—ayes 35, noes 34; no quorum voting.

Tellers were ordered; and Mr. SPALDING and Mr. COBB were appointed.

The committee again divided; and the tellers reported that there were—ayes 56, noes 62. So the amendment was not agreed to.

Mr. PHELPS. I renew the amendment just offered by the gentleman from Ohio, [Mr. SPALDING,] except that I make the sum to be appropriated \$6,000.

Mr. PAINE. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. PAINE. My point of order is that the amendment of the gentleman from Maryland [Mr. PHELPS] involves new legislation and is not in order in an appropriation bill. There is no law authorizing any such appropriation as he proposes.

The CHAIRMAN. The Chair sustains the point of order. The Chair knows of no law that requires the maintenance of Mount Vernon by the Government of the United States. The Chair therefore rules the amendment out of order.

Mr. PHELPS. I appeal from the decision of the Chair.

The CHAIRMAN. An appeal having been taken, the question is, "Shall the decision of the Chair stand as the judgment of this committee?"

The question was taken; and the decision of the Chair was sustained.

The committee rose informally; and the Speaker resumed the chair.

ENROLLED BILLS SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 903) granting a pension to Horace Peck, of Charlton, Massachusetts;

An act (S. No. 904) granting a pension to Benjamin T. Raines, of Indiana;

An act (S. No. 906) granting a pension to Elizabeth Clarke;

An act (S. No. 910) granting a pension to the children of Martin N. Slocum, deceased;

An act (S. No. 941) granting a pension to Benjamin C. Stone;

An act (S. No. 942) granting a pension to Sarah E. Haines; and

An act (S. No. 949) granting a pension to Mrs. Lydia W. Ford.

MISCELLANEOUS APPROPRIATION BILL.

The Committee of the Whole resumed its session.

The Clerk read as follows:

For repairs and superintendence of the Washington aqueduct, \$25,000.

Mr. SPALDING. I move to amend by inserting after the paragraph just read the heading "Miscellaneous."

The amendment was agreed to.

The Clerk read as follows:

For national cemeteries, \$600,000.

Mr. CULLOM. I move to amend by inserting after the paragraph just read the following:

And the Secretary of War may, in his discretion, dispose of any condemned cannon or small-arms in aid of any monument erected or to be erected to the memory of any loyal officer or soldier who was slain or died in the service of the Government during the late rebellion.

I hope there will be no objection to this amendment.

Mr. ROSS. I raise the point of order that this amendment proposes new legislation.

Mr. CULLOM. It seems to me that my colleague ought not to object to this.

The CHAIRMAN. Does the gentleman from Illinois [Mr. Ross] insist on his point of order?

Mr. ROSS. I do.

The CHAIRMAN. The Chair is obliged to sustain the point of order.

The Clerk read as follows:

To enable the Secretary of the Interior to provide for the education and maintenance of such deaf and dumb of the District of Columbia as cannot command the means to secure an education, in some institution to be selected by him, \$15,000.

Mr. BENJAMIN. I move to amend by striking out the paragraph just read. I do not know any reason why we should tax our constituents to educate the deaf and dumb of the District of Columbia. We at home pay taxes for the education of this unfortunate class among ourselves. We have in nearly every State built asylums at very great expense, and we provide for taxing the people to educate those who are unable to educate themselves. Having done that, why should we further tax our people to raise money to be spent here in the education of the deaf and dumb of the District of Columbia, when the people of this District are just as able to make provision for this purpose as our constituents are to make similar provision for those within their respective States? If this class of people situated in the District of Columbia are to be educated, let the citizens of the District and the property of the District bear the expense, as the property in the various States is taxed to bear the expense of such education there. We expend large sums of money for the benefit of the people in the District of Columbia. We pay out here from the Federal Treasury every year \$10,000,000 to Government employes alone, which is expended mainly within this District. In addition to that we light the principal streets of the District; we maintain in large part the police force of the District, and we support various charitable institutions located here. We supply the court-houses of the District. We even provide the recorder's office here with the necessary furniture, and with the books in which are recorded the deeds conveying property from one individual to another. Now, sir, I object to this extravagant manner of expending the public money here, and for the benefit of the people of this District, who are almost exempt from taxation. We all know that in this city rents are higher and taxes are lower than in any city of the United States of equal population. And I cannot for my life see why we should tax our constituents for the benefit of the people of this District, as

is proposed in this paragraph. I hope, therefore, the paragraph will be stricken out.

Mr. SPALDING. Mr. Chairman, in reference to the amount of this appropriation the members of the Committee on Appropriations were about equally divided. About half the committee thought the appropriation should be \$75,000. I must confess that my friend from Missouri, [Mr. BENJAMIN,] in the remarks he has just made, "out-Herods Herod." To an intelligent audience like this committee I have nothing to say in reply to what he has advanced, and I desire the question to be taken.

The amendment of Mr. BENJAMIN was not agreed to.

The Clerk read as follows:

For the Government insane.

For the support, clothing, medical, and moral treatment of the insane of the Army and Navy, revenue-cutter, and volunteer service, and of the indigent insane of the District of Columbia in the Government Hospital for the Insane, including \$500 for books, stationery, and incidental expenses, \$90,500.

Mr. SPALDING. I move to amend by striking out the heading, "For the Government insane."

The amendment was agreed to.

Mr. BUTLER, of Massachusetts. I move to amend the paragraph last read by inserting after the words "volunteer service," the words "who may have become insane since their entry into the service of the United States." I presume there will be no objection to this amendment.

The amendment was agreed to.

The Clerk read as follows:

Columbia Hospital for Women and Lying-in Asylum.

For the support of the asylum, over and above the probable amount received for pay patients, \$15,000.

Mr. WELKER. I make the point of order on that appropriation. There is no law authorizing an appropriation of money to that private institution. It is a private enterprise and a private corporation.

Mr. SPALDING. It has been estimated for by the Secretary of the Interior in our book of estimates.

Mr. MAYNARD. Is there not the same appropriation for the present year?

Mr. SPALDING. Yes, sir; it is the same amount which has been appropriated for three years.

Mr. WELKER. In reply to that I will say I know it to be a private institution in this city. I had a good deal to do in getting it incorporated. I object to that private institution being fastened upon the Government in this way.

The CHAIRMAN. The Chair sustains the point of order, assuming the gentleman from Ohio to be correct in his statement of the law.

The Clerk read as follows:

For the care, support, and medical treatment of sixty transient paupers, medical and surgical patients, in some proper medical or charitable institution in the city of Washington, under a contract to be formed with such institution, \$12,000, or so much thereof as may be necessary: *Provided*, That said contract shall be made by the Surgeon General of the Army, who shall report to the December session of every Congress, stating with whom the said contract is made and the amount and nature thereof.

Mr. SPALDING. That is the end of the bill; and I move to add the following:

To increase the contingent fund of the House for the purpose of paying \$2,500 each to John D. Young and John A. Wimpy, contestants, \$5,000; and the Clerk of the House is hereby directed to pay the said amount to the individuals named.

Mr. BENJAMIN. I make the point that is not authorized by existing law.

The CHAIRMAN. The Chair overrules the point of order.

Mr. KERR. I ask the gentleman from Ohio to allow me to move an amendment, to add the name of John H. Christie.

Mr. SPALDING. I cannot yield for that purpose.

Mr. BUTLER, of Massachusetts. Mr. Chairman, this appropriation to pay John D. Young was put in under the resolution passed by this House. Mr. Wimpy came here to present his right to a seat fairly and justly, but because

the committee took into consideration whether they would allow any representation from Georgia at all he could not get his right to a seat fairly decided. He has never been rejected, but in the present condition of the public business he can never have the judgment of the House on his claim. Under the circumstances we have made an appropriation to pay him precisely as John D. Young, who had the judgment of the House in favor of his compensation. The contestant of Wimpy, Mr. Christie, was found by the committee and the House not to have any claim at all, and that knowing himself to be ineligible he came here to make this claim.

Mr. MULLINS. I move to strike out Mr. Young's name. I am at a loss to understand how his case has come in here, for I understand this House decided against his right by a large vote. I do not see any reason why he should be allowed this pay. I therefore move to strike it out.

Mr. RANDALL. He has been voted out of his seat.

Mr. MULLINS. I am told he is out of the House. It was right to refuse to let him take a seat here. Perhaps there are others who ought to be treated in the same way. I hope the House will not pass this and get itself into a muddle by paying the man whom they said had no right here. If we pay one we must pay all.

Mr. BECK. I desire to say, in reference to John D. Young, that he had the certificate of the Governor of Kentucky, and came here with a majority of about 1,500. He claimed his seat, but on the proof taken the majority of this House decided that he could not take the oath required by the act of 1862. The House has since determined by a very large majority that he was entitled to receive \$2,500 as contestant. The resolution providing for paying him was in the usual form and went to the Committee on Accounts, who refused to audit it, although all the members of the committee declared it ought to be paid. It was one of the strongest cases ever presented to the House.

Mr. SPALDING. I hope debate will cease and the vote will be taken.

Mr. MULLINS. I withdraw my amendment.

Mr. HOLMAN. I move to insert the name of James C. Birch, of Missouri.

Mr. SPALDING. With the leave of the House I will withdraw the amendment.

Mr. CULLOM. We want to get this bill through.

Mr. HOLMAN. I desire to say one word on the amendment I have offered. The House is aware that Mr. Birch was here during a very considerable portion of the present Congress contesting his seat, and at that contest some very important questions of public concern were raised. The Committee of Elections have certainly reported twice in favor of paying him the usual expenses, \$2,500, I think.

Mr. BENJAMIN. What did the House do?

Mr. HOLMAN. The House declined to sustain the views of the committee, who from the nature of their duty were better informed in regard to the case, which was judicial in its character, than other members of the House would be.

Mr. BENJAMIN. What did the House do with the recommendation of the committee?

Mr. HOLMAN. It did not concur in the views of the committee; but I insist, as a general proposition, that the Committee of Elections are better informed as to whether a case is fairly brought or not, and hence that their views ought to have some weight with the House. If a party comes here demanding a seat, but with no case at all, I think he should receive no consideration; he ought not to have his expenses paid. But if he comes here in good faith upon a reasonable and fair case, representing a great public interest, he ought not to be compelled to pay the expenses himself.

Now, sir, Mr. Birch was here in good faith contesting his seat. The views of the Com-

mittee of Elections differed upon the single question with reference to the mode of registration in that State. But for that he would have taken his seat instead of his competitor. Now, sir, after the action of the House yesterday in paying three different contestants for the same seat in this House it does seem to me remarkable that the claim of this person should be overlooked.

Mr. KERR. I move to amend the amendment by adding the name of J. H. Christie, of Georgia. I desire to say that Mr. Christie came here with a regular certificate of election from General Meade, commanding in that military district at the time.

Mr. McKEE. Will the gentleman yield a moment?

Mr. KERR. I cannot yield now. Mr. Christie was duly elected, but he was unable to take the oath of office required by law as a member of this House. It is also true that at the same election Mr. Wimpy was voted for and was unable to take his seat. But he has since had his disabilities removed, and he is now able to take the oath of office. He was not eligible at that time by his own confession on the records of this House. He was in the service of the confederate government for eighteen months. He was more of a rebel than ever Colonel Christie was. He did more to aid the cause of the rebellion. I do not state these facts for the purpose of showing that because he came here as a contestant of the seat of Colonel Christie he ought not to be paid, but I state them for the purpose of showing that Colonel Christie's claim is as good or better than the claim of Mr. Wimpy, and that therefore they ought to be put upon the same footing, and ought both to be paid or neither to be paid. I think, however, that upon the precedents established in this House recently and since I have been in Congress they ought both to be paid, and therefore I offer this amendment in good faith and hope it will be adopted.

Mr. BUTLER, of Massachusetts. The Committee on Appropriations agreed to provide for the case of John D. Young, although he was disqualified, because the House by a solemn vote had voted that he should be paid, but by some informality it could not be passed by the Committee on Accounts. The case of Mr. Wimpy is one of peculiar hardship. It is this: Mr. Wimpy had been, as he says by the force of conscription, in the confederate service; but he repented of it and had his disabilities removed, and became a truly loyal man. Mr. Christie did not go into the army; he was one of the men who stayed behind and edited newspapers and abused everybody on the side of the Union, calling them rascals and all sorts of hard names, and sustaining the confederate government. He never has repented down to this day. His paper is as rebel now as it ever was. He never could have taken the oath honestly. If we took off his disabilities a thousand times over he could not take it. When Mr. Wimpy's case came up the House voted that it could not be considered because the rebel associates of Christie in the Legislature of Georgia had acted so badly that it was thought Georgia had lost her right to representation here. It was not Mr. Wimpy's fault. He came here with the law of Georgia on his side, with his disabilities removed, a truly loyal man, one of those whom I am always ready to deal with and to extend the hand to; who having once erred have repented and come back to true allegiance to the flag of the country. It was not his fault that his case could not be heard. It was for something done by those whom he despises for the meanness of their action; for if there ever was a mean thing done on earth it was for men to take the votes of negroes to get into the Georgia Legislature, and then to vote the negroes out. It was meaner than stealing sheep. [Laughter.]

[Here the hammer fell.]

Mr. KERR. I withdraw my amendment. Mr. BROOKS. I renew it. I am sorry the gentleman from Massachusetts [Mr. BUTLER]

exhibits so much feeling upon this subject. I know very well the reason why he does it. He is very unforgiving. Mr. Christie is opposed to him in politics, has the same politics that I have, and as the editor of a paper has spoken unkindly of the gentleman. I should have thought the gentleman from Massachusetts had been so much abused that he would have got used to it and would not seek to avenge his own personal wrongs here on the floor of this House, but would look at this as a matter of equity, and only as a matter of equity. That which inspires so much eloquence and excites so much feeling on his part is a determination to punish a brother editor of mine who does not think as well of him as perhaps he ought to do in the gentleman's estimation. That is the secret of the feeling which he exhibits.

Now, what are the facts? Colonel Christie holds the certificate of General Meade, having been elected by six or seven hundred majority. He was an original Union man. He fought secession to the very last, till his State was carried into secession, and then he went with the government of Georgia, the government *de facto*. He is now as much a reconstructed rebel as any rebel who has been reconstructed; much more so than Wimpy is, for his hands were never dyed with the blood of Union men as were the hands of Wimpy. Do let us forget the past; let us forget the political associations of the past. Why not receive both parties, Wimpy and Christie, as repentant men, both now faithful to the Union, the one a Democrat, the other a Republican; both obedient to the laws of the country? Why fight these battles over and over again on this floor as the gentleman from Massachusetts [Mr. BUTLER] proposes?

I repeat, Christie holds the certificate of election from General Meade, having received from six to seven hundred majority. The contestant was never elected by the people. Yet we on this side of the House are willing to vote to pay both Wimpy and Christie.

[Here the hammer fell.]

Mr. SCHENCK. I do not myself feel disposed to go into the question whether one of these men is a Republican and the other a Democrat or not. I do not think that the fact that a man being a Republican or a Democrat ought to be any reason why he should take \$2,500 out of the Treasury of the United States.

I thank the Committee on Appropriations for having brought this matter before the House in this way, for it has given us an opportunity of looking in the face an abuse which has prevailed here until it has become odious, to me at least, whatever other gentlemen may think about it.

Many years ago, I will not say exactly how many, but something like a quarter of a century, I was in Congress and served for some years on the Committee of Elections. At that time the rule was well settled, and such was the practice, that a contestant was never paid unless he established his claim to a seat, or unless he satisfied the Committee of Elections and the House that he had reasonable and good ground for a contest and had reason to expect that he would obtain the seat. But that practice seems to have been abandoned entirely. And for the last two or three years this House has gone to such an extent in paying such persons that sometimes I have been tempted to resign my seat as a member here and to resort to contesting the seats of others for a living, for nothing seems to be more profitable. Every man who chooses to contest the seat of a member of this House, be he loyal or disloyal, Republican or Democrat, whatever may be the nature of his contest, has only to stay about here a few months, and at the end of that time he receives an appropriation of from two thousand five hundred to five thousand dollars.

As I have already said, I thank the Committee on Appropriations for having introduced this matter into this bill, because it at least gives an opportunity to call the attention of the country to this subject. That has never before been possible, and why? Because usually the res-

olution for this purpose has been introduced some Monday morning, the friends of the party having been duly apprised of what was coming, the previous question has been called and sustained, and without any opportunity for remark or debate the resolution has been passed and the allowance paid. That, however, cannot be done when it is brought forward in this way in an appropriation bill. And I now take occasion to protest against this whole matter.

Here was this John D. Young, of Kentucky, who, if he was rightly refused a seat here, was refused it upon the ground that he never ought to have been a candidate at all for a seat in this House on account of his lacking the prerequisite qualification of loyalty. And yet, although the House so decided, it is asked to turn around and pay him for coming here and insisting upon taking a seat for which he ought never to have been a candidate. And so in regard to the Georgia case. You decide in regard to one of the claimants that he has no right to a seat here; then you decide that for the time being another man cannot hold it; and then you are asked to pay one of them for contesting a seat, although if he had come here claiming the seat and there had been no one contesting his claim he could not have been admitted, and would not have received any pay at all. But if he comes as a contestant he gets the pay, thus proving that it is better to be a contestant than to be regularly elected with nobody disputing the right or title to the seat.

Mr. MAYNARD. I would suggest to the gentleman from Ohio [Mr. SCHENCK] that Mr. Wimpy came here with a certificate of the Governor that he had been entitled to the seat.

The CHAIRMAN, (Mr. SCOFFIELD.) The time of the gentleman from Ohio has expired.

Mr. DAWES. I ask the gentleman from Indiana [Mr. KERR] to withdraw his amendment that I may renew it.

Mr. KERR. Certainly; I will withdraw it with that understanding.

Mr. DAWES. I renew the amendment for the purpose of saying a few words on this subject. No doubt, Mr. Chairman, a great evil has grown up in reference to this matter of compensation to contestants; but it is not an easy matter to settle the difficulties of the question. The matter has been considered very much in the Committee of Elections for several years past; and I have had in my desk a bill, which I was prepared to offer whenever a suitable opportunity might occur, providing that in any contested election no money shall be paid pending the contest to either the sitting member or the contestant, but that when the case has been decided the pay shall be given in accordance with the result of the contest. I have had no opportunity to bring that bill forward. It is just as bad, Mr. Chairman, for a man holding a certificate to draw pay when he is not entitled to the seat as for a contestant to receive pay when he has failed to sustain the contest. We witnessed a short time since in this House a case where a man holding a certificate was voted out at the end of a Congress after drawing \$10,000 as pay. There have been many cases of that kind. In one instance a man came here from Oregon, got his name put on the roll, sat in the House six months, and then was voted out by the House as not entitled to the seat. He retired, taking with him \$7,000, though in the opinion of the Committee of Elections he had no more right to the seat as a Representative from Oregon than I had.

I know no better way of meeting this question than to pass a law providing that the compensation of both the sitting member and the contestant shall abide the result of the contest. Yet there is some difficulty attending such a provision, for if that be enacted as the law few men will be likely to come here at all to contest; for the carrying on of these contests is attended with great expense, and if it be proclaimed that by whatever fraud or device or legerdemain a certificate may be obtained the man holding it can compel anybody else to contest at his own expense the tempt-

ation to fraud and to the obtaining of certificates by fraud will be very greatly increased. But, sir, after a great deal of examination of this subject I, for one, feel that the abuse which has grown up is so great that there is probably no better remedy than that which would be provided by a bill of the character I have indicated.

But now at the end of a Congress, after we have had as many as fifteen cases of contested elections, I do think that it is wrong to treat one man in a different way from that in which we treat another. It has been the opinion of the Committee of Elections that so long as the law stands as it is, until some new law shall be enacted providing a different rule, all men coming here and prosecuting in good faith their claims to seats should be paid if any contestants are paid. I do not think it right to make "fish of one and fowl of another." Hence it is that, as the organ of the Committee of Elections, I have reported resolutions for the pay of contestants whenever the committee have believed that the contest has been conducted in good faith. But I hope that at the beginning of the next Congress those who may have this matter in charge will feel it their duty to urge the adoption of some such enactment as I have indicated to get rid of the abuse which is growing up. I understand that in the next Congress there will be thirty cases of contested elections.

[Here the hammer fell.]

Mr. SPALDING. I move that the committee rise for the purpose of closing debate on the amendment, unless unanimous consent be given for that purpose.

The CHAIRMAN, (Mr. SCOFIELD.) Will the committee give unanimous consent that debate on the pending amendment be closed?

Mr. ELDRIDGE. Mr. Chairman, I think there is no quorum here, and—

The CHAIRMAN. The Chair hears no objection to the proposition of the gentleman from Ohio, [Mr. SPALDING,] and it is agreed to.

Mr. ELDRIDGE. I was objecting.

The CHAIRMAN. It took the gentleman along while to pronounce his objection. [Laughter.] The question is upon the amendment of the gentleman from Indiana, [Mr. KERR,] as renewed by the gentleman from Massachusetts, [Mr. DAWES.]

Mr. HOLMAN accepted Mr. KERR's amendment, as renewed by Mr. DAWES.

Mr. ROSS. I move to strike out "\$2,500" and insert "\$1,500" for each one.

The committee divided; and there were—ayes 20, noes 76.

Mr. ROSS demanded tellers.

Tellers were ordered; and Mr. CLARKE, of Kansas, and Mr. ELDRIDGE were appointed.

The committee again divided; and the tellers reported—ayes 28, noes 83.

The Chairman voted in the negative.

So the amendment to the amendment was disagreed to.

Mr. HOLMAN. I withdraw my amendment on the understanding that it shall be voted on in the House.

Mr. SPALDING. That is the agreement. I now move that the committee rise and report the bill.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration House bill No. 2007, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, and for other purposes, and had directed him to report the same back to the House with sundry amendments.

Mr. HOLMAN. I offer the amendment which I withdrew just before the committee rose.

Mr. FARNSWORTH. I move to strike out the following:

For laying the foundation and commencing the building for the post office and sub-Treasury in Boston, Massachusetts, \$200,000.

For laying the foundation and commencing the building for the post office in New York city, \$200,000.

Mr. SPALDING. I now demand the previous question.

The previous question was seconded and the main question ordered.

STRENGTHENING THE PUBLIC CREDIT.

Mr. SCHENCK. I move to suspend the rules to take from the Speaker's table the amendment of the Senate to the bill of the House to strengthen the public credit.

Mr. BUTLER, of Massachusetts. I object.

And then, on motion of Mr. ROSS, (it being past eleven o'clock p. m.,) the House adjourned.

PETITION, ETC.

The following petition, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BLACKBURN: The memorial of Robert Emmett Rankin, jr., of Shreveport, Louisiana, praying for relief from legal and political disabilities.

By Mr. FOX: A memorial of the special committee of the common council of New York city, in relation to the payment of money due the corporation of said city.

By Mr. MORRELL: The petition of Harper, Gutman & Co. and 42 other firms and individuals, wagon-makers and blacksmiths, citizens of Alleghany City, Pennsylvania, praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

IN SENATE.

TUESDAY, March 2, 1869.

Prayer by Rev. W. MORLEY PUNSHON, of Toronto, Canada.

On motion of Mr. NYE, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

PERSONAL EXPLANATION.

Mr. NYE. Mr. President, I desire to make a personal explanation. In speaking yesterday upon the question of the removal of the disabilities of Mr. Rogers, of Richmond, it will be remembered that I inquired if he held the position of auditor of the State, to which inquiry the answer was that he did. I fell into an error, therefore, by saying that feeling was manifested against him on account of certain movements on foot in regard to the railroads of Virginia, by presuming that he held the office of auditor. The auditor's name is Taylor instead of Rogers, and this man is his assistant, or second auditor. I have a letter from him stating that fact, in which he says that though he thinks he is entitled to have his disabilities removed, yet he cannot afford to have them removed by anything like a wrong being said or done to others. It is a letter fully stating his position. I ought to state, perhaps, that in this letter of Mr. Rogers he says he regards Governor Wells as his friend, and he never heard that he made any opposition to him. I have other letters from different individuals there reporting the same thing, and likewise stating that the suggestion that I made in relation to the effort made to sell these public works is entirely erroneous. I leave that for them to settle among themselves. I desire to make this explanation so that I shall not do injustice, as I certainly did not intend to do, to any person connected therewith. The error arose from assuming that Mr. Rogers occupied the position of auditor.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a copy of a convention between the United States and the Mexican republic, providing for the adjustment of the claims of citizens of either country against each other, signed on the 4th day of July last, and the ratifications of which were

exchanged on the 1st instant; which was referred to the Committee on Foreign Relations, and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the General Assembly of the State of Missouri, praying for a grant of land for the construction of a railroad from the Atlantic and Pacific railroad to Batesville and Little Rock, called the St. James and Little Rock railroad; which was referred to the Committee on the Pacific Railroad.

He also presented the memorial of the executive committee of the United States Indian commission, in favor of the rejection of the Osage Indian treaty and of the protection of the rights and interests of the Indians; which was referred to the Committee on Indian Affairs.

He also presented the petition of business men of New York, Boston, Philadelphia, and Chicago, praying that purchases or sales of loans and bonds on account of the United States shall be hereafter made by inviting public competition through advertisements for proposals, and that sales of gold be made at public auction; which was referred to the Committee on Finance.

Mr. POMEROY presented a petition of citizens of Indiana, three petitions of citizens of Michigan, a petition of citizens of New York, and a petition of citizens of Wisconsin, praying that in any change or amendment of the Constitution that Congress may propose to extend or regulate suffrage there shall be no distinction between men and women; which were ordered to lie on the table.

Mr. CONKLING presented two petitions of citizens of New York, praying for such an amendment of the Constitution of the United States as will fully recognize the obligations of the Christian religion; which were referred to the Committee on the Judiciary.

He also presented a memorial of citizens of Utica, New York, remonstrating against an amendment to the patent laws whereby foreign patents not patented in the United States shall be considered in deciding cases in which the validity of a patent is in question; which was referred to the Committee on Patents.

PROPOSED EXECUTIVE SESSION.

Mr. SUMNER. I have occasion to make two reports in executive session. It will take only a moment or two, and I will now move—

The PRESIDENT *pro tempore*. If there be no further petitions, reports from committees are in order.

Mr. SUMNER. I now move that the Senate proceed to the consideration of executive business. This is the best hour for that purpose.

Mr. POMEROY. That motion is not in order.

Mr. MORTON. I hope we shall not go into executive session.

Mr. SUMNER. There are not a sufficient number of Senators present for the proper transaction of business in executive session, but we may proceed with reports. I move that the Senate proceed to the consideration of executive business.

Mr. HENDRICKS. I think that is very unusual during the morning hour.

The PRESIDENT *pro tempore*. It is not a debatable proposition. The question is on the motion of the Senator from Massachusetts.

The motion was not agreed to.

PAY OF SOUTHERN SENATORS.

Mr. MORTON. I move to take up for consideration the resolution that was unfinished during the morning hour the other day, in regard to the pay of Senators from the reconstructed States. It was passed over with a distinct understanding that as soon as the measure which superseded it should be disposed of it should be taken up. It is due to those Senators that it should be disposed of. I think we can take a vote without further debate.

The PRESIDENT *pro tempore*. The Senator from Indiana asks the unanimous consent

of the Senate to take up the resolution indicated by him.

Mr. TRUMBULL. I think we ought not to take up that resolution and cut off the business of the morning hour at this stage of the session.

Mr. MORTON. I do not think it will take any time. It is due to those Senators that it should be disposed of.

The PRESIDENT *pro tempore*. Is there any objection to taking it up?

Mr. TRUMBULL. Yes, sir; I object.

The PRESIDENT *pro tempore*. Then it goes ever.

STURGEON BAY SHIP-CANAL.

Mr. HOWE. I ask the unanimous consent of the Senate to consider Senate bill No. 707, reported from the Committee on Public Lands, which will take perhaps three minutes, just long enough to read it.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 707) granting lands to the State of Wisconsin to aid in the construction of a breakwater and harbor and ship-canal at the head of Sturgeon bay, in the county of Door, in said State, to connect the waters of Green bay and Lake Michigan, in said State. The bill proposes to grant to the State of Wisconsin to aid in the building of a breakwater and harbor and ship-canal at Sturgeon bay to connect the waters of Green bay with the waters of Lake Michigan, in addition to a former grant for that purpose, approved April 10, 1866, two hundred thousand acres of public lands within the State of Wisconsin, and from land to which the right of homestead or preëmption has not attached; but one hundred and fifty thousand acres of the lands are to be selected from alternate odd-numbered sections, and fifty thousand acres from even-numbered sections of the lands of the United States. This grant of lands is to inure to the use and benefit of the Sturgeon Bay and Lake Michigan Ship-Canal and Harbor Company, in accordance with an act of the Legislature of the State of Wisconsin, conferring the lands granted to the State by the act herein referred to on that company. The bill also extends the time allowed for the completion of the work and the right of reversion to the United States under the act of Congress approved April 10, 1866, three additional years; but no lands designated by the United States as "mineral" before the passage of this act are to be included within this grant.

The bill was reported from the Committee on Public Lands with amendments. The first amendment was in line ten, to strike out after the word "from" the words "land to which the right of homestead or preëmption has not attached" and to insert "and from surveyed lands and which are not mineral."

The amendment was agreed to.

The next amendment was in line twelve, to strike out the words "one hundred and fifty thousand acres of;" and in line fourteen, after the word "sections" to strike out the words "and fifty thousand acres from even-numbered sections;" so that the proviso will read:

Provided, That said lands shall be selected from alternate odd-numbered sections of the lands of the United States.

The amendment was agreed to.

The next amendment was in line twenty-five, to strike out the following proviso:

And provided further, That no lands designated by the United States as "mineral" before the passage of this act shall be included within this grant.

And to insert in lieu thereof the following:

And no lands shall vest in said State or company until said work is completed; nor shall patents issue for the same until the Secretary shall be satisfied that said work has been completed.

Mr. HARLAN. I will inquire of the honorable Senator who called this bill up what amount of land has been heretofore devoted by the Government to this work?

Mr. HOWE. Two hundred thousand acres have been appropriated to this canal and four hundred thousand to the canal across Keweenaw Point. This makes the grant just equal

to the grants made to Michigan for the canal across Keweenaw Point.

Mr. HARLAN. I did not observe the reading of the bill very minutely, but if I do comprehend it the land in this bill can be taken from the public domain anywhere.

Mr. HOWE. In that State.

Mr. HARLAN. I will inquire if there is any limitation in that respect.

Mr. HENDRICKS. I think the language of the bill is "within the State of Wisconsin." I have forgotten the exact phraseology, but I think those words are inserted. If they are not they ought to be.

The SECRETARY. The language of the bill is, "public lands within the State of Wisconsin."

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

REPRESENTATIVE REFORM.

Mr. WADE, from the select Committee on Representative Reform, to whom was referred the bill (S. No. 772) to amend the representation of the people in Congress, reported it without amendment.

Mr. BUCKALEW. I desire to make a written report from the select Committee on Representative Reform to accompany Senate bill No. 772, to amend the representation of the people in Congress. I desire an order to be entered to print the report.

The PRESIDENT *pro tempore*. That order will be made.

Mr. BUCKALEW. I also desire, for the purpose of reference, that a certain number of extra copies, say two thousand, be printed.

The PRESIDENT *pro tempore*. That motion will go to the Committee on Printing under the rules.

Mr. BUCKALEW. I desire also to say a word in regard to this report. It contains a large amount of valuable information in a condensed form on the subject of representation and representative reform drawn from American and British sources. I desire it to be understood that this document shall go into the Appendix of the Globe, so that it will be within the reach of gentlemen in Congress hereafter. The members of the committee have informally had an understanding that it should be printed in the Appendix. I mention this as an act of good faith to the Senate because it is not usual to print reports of this sort in the Globe.

[The report will be published in the Appendix.]

DISTRICT GAS COMPANY.

Mr. HARLAN. The Committee on the District of Columbia have had under consideration two Senate resolutions in relation to the business of the gas company in this District, and have instructed me to make the following report:

The Committee on the District of Columbia, to whom were referred Senate resolutions in relation to the price of gas and the business of the gas company in the District of Columbia, have had the same under consideration, and have elicited the information contained in the appended communication from said company; which is hereto attached and made a part of this report:

OFFICE OF WASHINGTON GAS-LIGHT COMPANY,
No. 472 TENTH STREET WEST,
CITY OF WASHINGTON, February 26, 1869.

SIR: I have the honor to acknowledge the receipt of two resolutions of the Senate of the United States concerning the management of the Washington Gas-Light Company, passed on the 4th and 16th days of February, 1869, respectively.

In reply to the same I beg leave to make the following statement:

The resolution of February 4 relates to the price of gas furnished by this company to its consumers.

The price has been at three different times fixed or limited by Congress, namely: June 25, 1860, July 11, 1862, and January 30, 1865. Under the law last named the company are now acting in the following manner: the law fixes the price at four dollars per one thousand feet, subject to a discount of ten per cent. to the United States and of five per cent. to citizens, being a net price of \$3 60 to the United States and \$3 80 to citizens; to both of which the United States tax of twenty-five cents per one thousand feet must be added, making the price of \$3 85 to the United States and \$4 05 to citizens.

The Gas-Light Company voluntarily, on the 1st day of July, 1866, reduced the price to \$3 70 to citizens,

and, on the 1st day of July, 1867, to \$3 50 to citizens and the United States alike; and on the 1st day of July, 1868, to \$3 40. Since the 1st of July, 1866, the company has assumed the United States internal revenue tax of twenty-five cents per one thousand cubic feet, amounting in the aggregate to over \$31,000 per annum, and has not since that date charged the tax to consumers as authorized by the ninety-fourth section of the act of July 13, 1866.

After deducting this tax from \$3 40, the price charged, there remains for the company \$3 15 per one thousand feet; and whenever the internal revenue tax is removed or reduced a corresponding reduction will be made to the consumers unless an increased cost of labor or coal shall intervene to prevent it.

Accompanying this statement is a schedule of prices furnished by the Gas-Light Journal, of New York city, which I make as a part of this statement, as I believe it reliable. By this schedule it will be seen that the average price of the one hundred and thirty-six companies is \$4 45 per one thousand feet; showing that the price in this city is \$1 05 below the average.

Inasmuch as Congress cannot regulate by law the price of coal, labor, or any other material entering into the manufacture of illuminating gas, the Gas-Light Company has so conducted its business as to avoid the necessity of legislation on the subject by frequent voluntary reductions of price. I would further state that gas is now being furnished to citizens at sixty-five cents and to the United States at forty-five cents per one thousand feet less than the price fixed by law.

In answer to the first clause of the resolution of February 16, I have to say that the capital stock of the Gas-Light Company was increased to \$1,000,000, by virtue of an act of Congress passed the 24th day of May, 1866; that certificates of stock have been issued for that amount and no more; that the actual cost of the land, buildings, gas apparatus, gas-holders, street mains, meters, &c., belonging to the company has been \$1,041,487; that since the passage of the law alluded to a large gas-holder has been erected near the Capitol, eighteen miles of street mains have been laid, and six more contracted for to be put down the coming season; that twenty-five hundred feet of street main, extending beyond the city limits to the Howard University, and six thousand to the Deaf-Mute College have been laid; this has been done without the prospect of immediate profit, but with a view to benefit the public institutions located at those remote points.

By a contract between the corporation of the city and the Gas-Light Company, the latter obligate themselves to lay street mains when and where required.

With regard to the final clause of the resolution of February 16, 1869, I most respectfully submit that it is impossible to give the amount of gas consumed, as contemplated by the resolution; that no separate record has been kept during the period named in said resolution. I would, however, say that the discrepancy between the amount of gas manufactured and the amount sold and used by the company at their works and offices goes into the leakage account, which account embraces all waste, loss by condensation, gas used by employes and others without pay, as well as the actual leakage. The amount of this leakage account for the past three years is but eight and sixty-three hundredths per cent. of the gas made, being much less than at many other works known to me.

That gas and coke have been given away, many acts of liberality and charity done, I do not deny. But I have yet to hear of the first complaint from any stockholder of this company on that account. On the contrary the present board of directors were unanimously reflected at the annual meeting on the first Monday of the present month.

It may not be out of place in this report to state that the whole number of consumers on the books of the company now actually taking gas is over five thousand three hundred, and that the monthly bills for the past year exceeded sixty thousand, and yet the number of complaints made at the office of large gas bills during the year was but one hundred and seventy. In conclusion I will say that no act of Congress has been violated by the company, neither has it any necessity or disposition to evade any law whatsoever. Trusting that this statement will be acceptable, I have the honor to be,

Very respectfully, your obedient servant,

B. H. BARTOL,

President of Gas-Light Company.

Hon. JAMES HARLAN, Chairman of the Committee on the District of Columbia, United States Senate.

DISTRICT OF COLUMBIA, County of Washington, ss:

On this 26th day of February, in the year of our Lord 1869, before me the subscriber, a justice of the peace in and for the district and county aforesaid, personally appeared Barnaby H. Bartol, who being duly sworn according to law deposes and says that he is the president of the Washington City Gas-Light Company, and as such fully acquainted with the affairs of said company, and that the above annexed statement is in every particular true to the best of his knowledge and belief.

Sworn to and subscribed before me this 26th day of February, A. D. 1869.

[L. s.] ARTHUR SHEPHERD.

Price per one thousand cubic feet of gas charged consumers in the different cities and towns of the United States.

1. Ensley Gas-Light Company, Pennsylvania..... \$3 50
2. Lewisburg Gas-Light Company, Pennsylvania, Union County..... 4 50

Amount carried forward..... \$8 00

Amount brought forward.....	\$8 00
3. Newbern Gas-Light Company, North Carolina.....	8 00
4. Zanesville Gas-Light Company, Ohio.....	3 75
5. Lawrence Gas-Light Company, Massachusetts.....	3 80
6. Newark Gas-Light Company, New Jersey.....	3 50
7. Harlem Gas-Light Company, New York city.....	4 00
8. Haverhill Gas-Light Company, Massachusetts.....	4 50
9. Brattleboro' Gas-Light Company, Vermont.....	5 00
10. Clinton Gas-Light Company, Massachusetts.....	4 00
11. Albion Gas-Light Company, New York.....	5 00
12. Pittsfield Gas-Light Company, Massachusetts.....	4 50
13. Williamsburg Gas-Light Company, New York.....	4 00
14. Trenton Gas-Light Company, New Jersey.....	4 00
15. Manchester Gas-Light Company, New Hampshire.....	3 75
16. Washington Gas-Light Company, District of Columbia.....	3 40
17. Piqua Gas-Light Company, Ohio.....	4 00
18. Columbia Gas-Light Company, Pennsylvania.....	4 00
19. Westchester Gas-Light Company, New York.....	4 00
20. Grand Rapids Gas-Light Company, Michigan.....	4 00
21. Pawtucket Gas-Light Company, Rhode Island.....	4 00
22. Charlestown Gas-Light Company, Virginia.....	8 00
23. Portsmouth Gas-Light Company, Virginia.....	6 00
24. Reading Gas-Light Company, Pennsylvania.....	3 50
25. Annapolis Gas-Light Company, Maryland.....	4 25
26. Portsmouth Gas-Light Company, Ohio.....	4 00
27. Chicago Gas-Light Company, Illinois.....	3 75
28. Coldwater Gas-Light Company, Michigan.....	4 50
29. Hamilton Gas-Light Company, Ohio.....	5 00
30. Pittsburgh Gas-Light Company, Pennsylvania.....	1 85
31. Peoria Gas-Light Company, Illinois.....	3 50
32. Paterson Gas-Light Company, New Jersey.....	5 00
33. Madison Gas-Light Company, Indiana.....	4 75
34. Waterford Gas-Light Company, New York.....	7 20
35. Petersburg Gas-Light Company, Virginia.....	5 00
36. Springfield Gas-Light Company, Ohio.....	3 25
37. East Boston Gas-Light Company, Massachusetts.....	4 20
38. Rondout and Kingston Gas-Light Company, New York.....	5 00
39. Montpelier Gas-Light Company, Vermont.....	6 50
40. Belleville Gas-Light Company, Illinois.....	4 50
41. Salem Gas-Light Company, Massachusetts.....	4 00
42. Auburn Gas-Light Company, New York.....	4 30
43. Ilexia Gas-Light Company, Ohio.....	4 00
44. Salem Gas-Light Company, Ohio.....	3 25
45. Scranton Water and Gas-Light Company, Pennsylvania.....	4 50
46. St. Catharines and Welland Canal Gas-Light Company, Canada.....	3 50
47. Elizabethtown Gas-Light Company, New Jersey.....	4 50
48. Troy Gas-Light Company, New York.....	3 75
49. Union Gas-Light Company, Lansingburg, New York.....	5 00
50. Albany Gas-Light Company, New York.....	3 75
51. Meriden Gas-Light Company, Connecticut.....	4 50
52. Plymouth Gas-Light Company, Massachusetts.....	5 00
53. Manufacturers' Gas-Light Company, Fall River, Massachusetts.....	3 25
54. Dayton Gas-Light Company, Ohio.....	3 75
55. Middletown Gas-Light Company, Connecticut.....	4 50
56. Bloomington Gas-Light Company, Illinois.....	5 00
57. Washington Gas-Light Company, North Carolina.....	6 00
58. Le Roy Gas-Light Company, New York.....	4 00
59. Stamford Gas-Light Company, Connecticut.....	4 50
60. Woodstock Gas-Light Company, Vermont.....	8 00
61. Portland Gas-Light Company, Maine.....	3 60
62. Williamsport Gas-Light Company, Pennsylvania.....	4 00
63. Port Jervis Gas-Light Company, New York.....	5 00
64. Jackson Gas-Light Company, Mississippi.....	3 65
65. Ithaca Gas-Light Company, New York.....	5 00
66. Tarrytown and Irvington Gas-Light Company, New York.....	5 00
67. Lancaster Gas-Light Company, Ohio.....	3 60
68. Mobile Gas-Light Company, Alabama.....	5 00
69. Utica Gas-Light Company, New York.....	4 00
70. Syracuse Gas-Light Company, New York.....	3 75
71. Batavia Gas-Light Company, New York.....	4 00
72. Mount Holly Gas-Light Company, New Jersey.....	5 00
73. Omaha Gas-Light Company, Nebraska.....	3 72½
Amount carried forward.....	\$323 30½

Amount brought forward.....	\$323 30½
74. Union Gas-Light Company, Attleboro', Massachusetts.....	6 00
75. Lynchburg Gas-Light Company, Virginia.....	5 00
76. Ogdensburg Gas-Light Company, New York.....	5 00
77. Seneca Falls and Waterloo Gas-Light Company, New York.....	4 00
78. Wilkesbarre Gas-Light Company, Pennsylvania.....	5 00
79. Taunton Gas-Light Company, Massachusetts.....	4 40
80. Oberlin Gas-Light Company, Ohio.....	5 00
81. Henderson Gas-Light Company, Kentucky.....	4 00
82. Lewistown Gas-Light Company, Pennsylvania.....	4 50
83. Manhattan Gas-Light Company, New York city.....	3 50
84. New York Gas-Light Company, New York city.....	3 50
85. Metropolitan Gas-Light Company, New York city.....	3 50
86. Brooklyn Gas-Light Company, New York.....	3 25
87. Newport Gas-Light Company, Rhode Island.....	4 00
88. Hampstead Gas-Light Company, New York.....	5 00
89. Marion Gas-Light Company, Ohio.....	5 00
90. Niagara Falls Gas-Light Company, New York.....	4 50
91. Yonkers Gas-Light Company, New York.....	5 00
92. Hudson Gas-Light Company, New York.....	5 00
93. Adria Gas-Light Company, Michigan.....	4 00
94. Concord Gas-Light Company, New Hampshire.....	4 00
95. Galton Gas-Light Company, Ohio.....	5 00
96. Abbottsford Gas-Light Company, New York.....	5 00
97. Johnstown Water and Gas-Light Company, Pennsylvania.....	4 00
98. Cumberland Gas-Light Company, Maryland.....	4 00
99. North Bridgewater Gas-Light Company, Massachusetts.....	6 00
100. Fitchburg Gas-Light Company, Massachusetts.....	5 00
101. Individual Gas-Light Company, Grafton, West Virginia.....	3 00
102. Fredonia Natural Gas-Light Company, New York.....	4 75
103. Saratoga Gas-Light Company, New York.....	4 50
104. Roxbury Gas-Light Company, Massachusetts.....	3 75
105. Erie Gas-Light Company, Pennsylvania.....	4 00
106. Corning Gas-Light Company, New York.....	5 00
107. Mauch Chunk Gas-Light Company, Pennsylvania.....	4 50
108. Norfolk Gas-Light Company, Virginia.....	4 50
109. Bath Gas-Light Company, Maine.....	4 50
110. Racine Gas-Light Company, Wisconsin.....	4 50
111. Detroit Gas-Light Company, Michigan.....	3 50
112. Belfast Gas-Light Company, Maine.....	4 50
113. Roxford Gas-Light Company, Illinois.....	5 00
114. Fort Wayne Gas-Light Company, Indiana.....	4 50
115. Galena Gas-Light Company, Illinois.....	5 00
116. Toledo Gas-Light Company, Ohio.....	3 45
117. Cleveland Gas-Light Company, Ohio.....	2 75
118. West Chester Gas-Light Company, Pennsylvania.....	4 00
119. Wooster Gas-Light Company, Ohio.....	4 00
120. Norristown Gas-Light Company, Pennsylvania.....	4 50
121. South Boston Gas-Light Company, Massachusetts.....	4 50
122. North Attleboro' Gas-Light Company, Massachusetts.....	4 50
123. Virginia City Gas-Light Company, Nevada.....	15 00
124. Rochester Gas-Light Company, New York.....	3 50
125. New Haven Gas-Light Company, Connecticut.....	3 33
126. Buffalo Gas-Light Company, New York.....	3 75
127. Lynn Gas-Light Company, Massachusetts.....	4 50
128. New Britain Gas-Light Company, Connecticut.....	5 00
129. Charlestown Gas-Light Company, Massachusetts.....	3 70
130. Ann Arbor Gas-Light Company, Michigan.....	4 00
131. Rock Island Gas-Light Company, Illinois.....	4 50
132. Lowell Gas-Light Company, Massachusetts.....	4 00
133. Portsmouth Gas-Light Company, New Hampshire.....	5 10
134. Marietta Gas-Light Company, Ohio.....	4 00
135. Citizens' Gas-Light Company, New York.....	3 25
136. Baltimore Gas-Light Company, Maryland.....	3 25
136 605 26½ (4 45 3-68)	\$605 26½
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6	

B. H. BARTOL,
President of Gas-Light Company.

WASHINGTON, D. C., February 26, 1869.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill and joint resolutions:

A bill (S. No. 871) to authorize the transfer of lands granted to the Union Pacific Railway Company, eastern division, to the Denver Pacific Railway and Telegraph Company, and to expedite the completion of railroads to Denver, in the Territory of Colorado;

A joint resolution (S. R. No. 219) giving the assent of the United States to the construction of the Newport and Cincinnati bridge; and

A joint resolution (S. R. No. 231) providing for the reporting and publication of the debates in Congress.

The message also announced that the House had passed a bill (H. R. No. 2020) relating to the operations of the pension laws, and for other purposes; in which it requested the concurrence of the Senate.

WALLA-WALLA RAILROAD.

Mr. WILLIAMS. The Committee on Public Lands, to whom was referred the bill (H. R. No. 1041) granting the right of way to the Walla-Walla and Columbia River Railroad Company, and for other purposes, have instructed me to report it back without amendment; and as this is a little bill to which there can be no objection I ask to have it put upon its passage. It will only take a moment.

The PRESIDENT *pro tempore*. The Senator asks the unanimous consent of the Senate to consider the bill at this time. Does any Senator object?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to grant the right of way through the public lands to the Walla-Walla and Columbia River Railroad Company, a corporation existing under the laws of the Territory of Washington and duly incorporated, for the purpose of constructing a railroad from the town of Walla-Walla to some eligible point on the navigable waters of Columbia river in the Territory; the right of way granted is to the extent of one hundred feet in width on each side of the road where it may pass over the public lands; also all necessary ground, not to exceed five acres at each station, for station-buildings, workshops, depots, machine-shops, switches, side-tracks, turn-tables, and water-stations.

The second section authorizes the county commissioners of the county of Walla-Walla, in the Territory of Washington, to aid in the construction of the Walla-Walla and Columbia River railroad by subscribing to the capital stock of the company in the name and on behalf of the county of Walla-Walla, and by issuing bonds of the county payable at such time as the commissioners shall think proper, and bearing interest of not more than eight per cent. per annum, in payment for the stock so by them taken in the railroad company, or by issuing bonds bearing interest as a loan to the company to be used in the construction of the road, or to aid the company in the construction of the road by the credit of the county in any other manner the commissioners may think proper; but the subscription, loan, or other aid so given by the commissioners to the company is in no case to exceed the sum of \$300,000; and the subscription, loan, or other aid is to be submitted to the people of the county and voted for by three fourths of the legal vote cast at an election held for that purpose; and if the vote be taken at a special election the notice is to be the same as provided by the laws of the Territory for general elections.

The third section authorizes the county commissioners of the county of Walla-Walla, in the Territory of Washington, to hold a special election, at such times as they may designate, after twenty days' public notice, which election shall be governed by the general laws of the Territory upon the subject of elections, at which election the aid to be given by the county to the Walla-Walla and Columbia River Railroad Company, either by subscriptions to stock or

otherwise, shall be submitted to and be voted upon by the legal voters of the county in such manner as the commissioners may designate; but this grant is made upon the express condition that any effort by the company hereafter to obtain any land grant, subsidy, or pecuniary aid from the United States Government shall work a forfeiture of this grant.

Mr. GRIMES. I call the attention of the Senate to the last section of the bill. If I understand it aright it authorizes a county in one of the Territories of the United States by a vote to impose a large tax upon the property of the people of the county in order to build a railroad—a very questionable policy, even in a rich and old-settled country.

Mr. WILLIAMS. I will simply state that this is a road about thirty miles long in Walla-Walla county, running from the town of Walla-Walla up the Columbia river. This bill only grants the right of way, and it simply authorizes the people of the county, if they are so disposed, to contribute to the construction of the road. In that country there is no capital with which to build these roads or very little. The people of the county have petitioned to be allowed to do this. The bill has passed the House of Representatives and the Delegate is very anxious to have it passed in this form. Otherwise it will fail at this session. The bill does not put any obligation upon the Government, and there is an express provision in it that if any application is made to the Government for subsidies in land or money all rights under this bill shall be forfeited. I am sure there can be no harm in it. Nobody is injured by it, and the people are satisfied with it.

Mr. POMEROY. I voted in committee to give this company the right of way; but I did not understand that we were to legislate in regard to any subscription by a county. I desired them to have the right of way, and I thought that was all there was in the bill; but it is very doubtful whether we ought to allow the people of a county in a Territory to assess a tax upon themselves that is to be paid hereafter by those who may come after them. If they were a State and had a Legislature, and the Legislature should authorize it, it would be well enough. I do not object to that. But I did not agree in committee that Congress should authorize a county in a Territory to tax the people of that county for a railroad. I am willing that they should have the right of way and desire them to have it; and I thought that was all there was in the bill.

Mr. GRIMES. I move to strike out that section.

Mr. WILLIAMS. The second and third sections embrace that provision.

Mr. GRIMES. Then I move to strike out both these sections.

Mr. HENDRICKS. I wish to ask the Senator from Oregon whether this bill in all its details is in accordance with the provisions that have been adopted by the Committee on Public Lands?

Mr. WILLIAMS. This only grants the right of way one hundred feet wide for about thirty miles in one county. There is no subsidy of lands.

Mr. HENDRICKS. No grant of lands?

Mr. WILLIAMS. No grant of lands at all; and the bill expressly provides that if any application is made for a grant of lands or a subsidy all rights under this bill shall be forfeited. It simply enables the people of that county to build this road if they are so disposed. It is all to be left to the vote of the people.

The PRESIDENT *pro tempore*. This question is on striking out the second and third sections of the bill.

Mr. GRIMES. I think this is too important a question for us to decide without having a yea and nay vote upon it. It is simply this: whether the Congress of the United States will authorize the sparse population in a county in one of the Territories to impose a tax for the purpose of building a railroad through that county. The State of Iowa, and especially the county in which the Senator from Oregon

lived, is experiencing at this time the evil effects of such an authority conferred upon several counties of that State by the Legislative Assembly of the State, producing almost an insurrection; and although I would not attempt to impose any restraint upon the legislative authorities of the Territory I am unwilling, for one, to give my assent to any such authority being bestowed upon the people of a county.

Mr. TRUMBULL. Without expressing any opinion upon the merits of this bill, about which I am not prepared to express an opinion, I appeal to the Senator from Oregon not to press it, if it is to be discussed, and divide the Senate. It does seem to me that we ought to devote every moment of our time to the appropriation bills, and lay aside all measures about which there is likely to be controversy.

Mr. WILLIAMS. I do not propose to take up any time upon it. This bill has passed the House, and the Delegate from the Territory is greatly interested in it. It is a little railroad, thirty miles long, and there is more fuss made about it than there would be if we asked an appropriation of \$1,000,000.

Mr. TRUMBULL. The Senator from Oregon will not understand me as opposing it; but others do, and there is likely to be a contest over it.

Mr. CONNESS. Let us vote upon it.

Mr. TRUMBULL. Why not lay it aside and go on with the appropriation bills?

The PRESIDENT *pro tempore*. The question is on striking out the second and third sections of the bill.

The motion to strike out was not agreed to. The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HOUSE BILL REFERRED.

The bill (H. R. No. 2020) relating to the operations of the pension laws, and for other purposes, was read twice by its title, and referred to the Committee on Pensions.

FUR-SEAL IN ALASKA.

Mr. CHANDLER, from the Committee on Commerce, reported a bill (S. No. 980) more efficiently to protect the fur-seal in Alaska; which was read, and passed to a second reading.

Mr. CHANDLER. I ask unanimous consent of the Senate to take up and pass Senate joint resolution No. 239, reported by the Committee on Commerce, declaring the Islands of St. Paul and St. George, in Alaska, Government reservations, for the sake of protecting the fur-bearing animals in case the bill which passed the Senate does not pass the House; but if it does pass the House this resolution will not interfere with it. I ask the unanimous consent of the Senate to proceed with that resolution.

Mr. MORRILL, of Maine. I object.

The PRESIDENT *pro tempore*. Objection being made, the motion cannot be entertained at this time.

HENRY BARRICKLOW.

Mr. MORRILL, of Maine. I move that the Senate proceed to the consideration of the Army appropriation bill.

Mr. SUMNER. I appeal to my friend, had we not better take another half hour until twelve o'clock on some of these other bills?

Mr. MORRILL, of Maine. I think we have got but a short time in which to pass the appropriation bills.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine to proceed to the consideration of the Army appropriation bill, the unfinished business of yesterday.

The motion was agreed to.

Mr. HENDRICKS. I ask the Senator from Maine to allow me to call up a private claim in regard to some land warrants, the assignment of which has to be corrected by an act. It is a House bill of a good deal of importance to the party and about which there is no question.

Mr. MORRILL, of Maine. If it occupies no time, I will not object.

Mr. HENDRICKS. If it occupies two minutes I will withdraw it. It is House bill No. 1063.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1063) for the relief of Henry Barricklow. The preamble recites that on the 28th of March, 1859, by the sinking of the steamboat Nat. Holmes in the Ohio river, near the city of Aurora, Indiana, Henry Barricklow lost twenty-three land warrants, which are described by their numbers, each for one hundred and sixty acres; and duplicates of the warrants have been issued by the Commissioner of Pensions and delivered to him; the bill therefore authorizes Henry Barricklow to locate or sell and assign the duplicate land warrants in the same manner as if they had been issued in his name, and patents are to be issued by the Commissioner of the General Land Office on the location of the duplicate warrants, as in case of other land warrants.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SECRET SALES OF GOLD.

Mr. MORGAN. I ask the unanimous consent of the Senate to take up Senate bill No. 821, upon which I think there will be no debate, to prohibit secret sales or purchases of gold or bonds on account of the United States, and for other purposes. It is a very important bill. You, sir, have presented a petition for it this morning from many of the business men of the country.

The PRESIDENT *pro tempore*. As there is a bill pending it requires unanimous consent to consider the bill indicated by the Senator from New York. Does any Senator object? No objection being made, it will be read.

Mr. MORGAN. I think there will be no debate upon it. It is a bill to prohibit secret sales of gold; a bill which has been called for by the whole country.

Mr. MORRILL, of Maine. I hope the Senator will not press that motion. I am appealed to on all sides to go on with the appropriation bill.

The PRESIDENT *pro tempore*. If there be no objection the bill will be read.

Mr. MORRILL, of Maine. I must object. The PRESIDENT *pro tempore*. Objection being made, it goes over.

Mr. CONKLING. I appeal to the honorable Senator to let us see whether it cannot pass without debate. It is a very important bill. I do not think there will be any debate upon it.

Mr. MORRILL, of Maine. There are other Senators who appeal to me to go on with the appropriation bill.

Mr. CONKLING. My honorable friend yielded to a private bill a moment ago, and this bill in his estimation I am sure, as in the estimation of the rest of us, is more important than almost any other that is before us. I do not think it will lead to debate. Let us try it and see if we cannot pass it.

The PRESIDENT *pro tempore*. Does the Senator from Maine object?

Mr. MORRILL, of Maine. Yes, sir.

Mr. SHERMAN. In regard to the bill now proposed to be taken up I shall feel it my duty to move to strike out the second section. If that is done I shall have nothing to say upon it. I have no desire to debate it at any length.

Mr. MORGAN. It is a bill of a great deal of importance. Every Senator will find upon his desk a petition of the business men of nearly all the cities of the Union in favor of this measure.

Mr. MORRILL, of Maine. Will the Senator yield to an amendment to strike out the second section?

Mr. MORGAN. I should prefer to pass it in that shape rather than not pass it at all.

Mr. MORRILL, of Maine. I think it will lead to discussion. I am informed that it cannot pass without debate.

The PRESIDENT *pro tempore*. Objection

is made, and it goes over. The Army appropriation bill is before the Senate.

Mr. MORGAN. I desire to make an appeal to the Senator from Maine. I will consent to the striking out of the second section so that there may be no debate upon it, and we may pass the other two.

The PRESIDENT *pro tempore*. We must proceed with the bill regularly before us or nothing will be done.

Mr. CAMERON. I hope the Senator from Maine will allow me to say one word in behalf of bringing up this bill. I think it is one of the most important bills that has been offered in the Senate during the present session.

Mr. WARNER. I ask the Senator from Maine to yield to me to allow me to take up a bill which will lead to no debate.

The PRESIDENT *pro tempore*. The Army appropriation bill is insisted upon, and must be proceeded with.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 1744) to strengthen the public credit and relating to contracts for the payment of coin, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. ROBERT C. SCHENCK of Ohio, Mr. WILLIAM B. ALLISON of Iowa, and Mr. WILLIAM E. NIBLACK of Indiana, managers at the same on its part.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 1804) to establish a bridge across the East river, between the cities of Brooklyn and New York, in the State of New York, a post road.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 871) to authorize the transfer of lands granted to the Union Pacific Railway Company, eastern division, between Denver and the point of its connection with the Union Pacific railroad, to the Denver Pacific Railway and Telegraph Company, and to expedite the completion of railroads to Denver, in the Territory of Colorado;

A bill (H. R. No. 1804) to establish a bridge across the East river, between the cities of Brooklyn and New York, in the State of New York, a post road;

A joint resolution (S. R. No. 219) to drop from the rolls of the Army officers absent without leave; and

A joint resolution (S. R. No. 231) providing for the reporting and publication of the debates in Congress.

THE PUBLIC CREDIT.

The Senate proceeded to consider its amendments to the bill (H. R. No. 1744) to strengthen the public credit and relating to contracts for the payment of coin, disagreed to by the House.

Mr. SHERMAN. I move that the Senate insist on its amendments disagreed to by the House, and agree to the conference asked for by the House.

Mr. HENDRICKS. I do not think that proposition ought to be considered in such hot haste; and unless it be in order for the Senator to make that motion I object.

Mr. SHERMAN. I think it is in order. The Senate have proposed certain amendments to that bill to strengthen the public credit, to which the House have disagreed and asked a committee of conference; and it is always in order, as I understand the rules of the Senate, to move to agree to a conference asked for by the House.

Mr. HENDRICKS. That is a question for the Chair to decide. I believe, however, that the Chair so decided the other day.

The PRESIDENT *pro tempore*. The Chair held that it was a privileged motion before.

Mr. HENDRICKS. Then my objection cannot serve any purpose.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio. The motion was agreed to.

The PRESIDENT *pro tempore*. How shall the committee of conference be appointed?

Mr. SHERMAN. By the Chair.

The PRESIDENT *pro tempore*. That will be considered to be the sense of the Senate if there be no objection, and the Chair will appoint Mr. SHERMAN, Mr. WILLIAMS, and Mr. MORTON as the committee on the part of the Senate.

ARMY APPROPRIATION BILL.

The Senate resumed the consideration of the bill (H. R. No. 1803) making appropriations for the support of the Army for the year ending June 30, 1870, and for other purposes.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Iowa [Mr. GRIMES] to the amendment offered by the Senator from Massachusetts, [Mr. SUMNER.]

Mr. CONKLING. What is the amendment to the amendment?

The PRESIDENT *pro tempore*. Let it be read. It has been debated for three days.

Mr. DRAKE. I understood that the honorable Senator from Massachusetts accepted that as an amendment to his amendment.

The PRESIDENT *pro tempore*. Let it be read.

The Chief Clerk read it, as follows:

But interest shall be allowed to the States of Massachusetts and Maine on such sums only on which the said States of Massachusetts and Maine either paid interest or lost interest by the transfer of an interest-bearing fund.

Mr. SUMNER. There was another form for that amendment which I read to the Senator from Iowa, but which is now out of my hands and in the hands of another Senator, which I propose as a substitute.

Mr. CONNESS. You cannot do that. That will not be in order. Let us have a vote on the amendment to the amendment.

Mr. SUMNER. Will the Senator from Maine be good enough to hand me the manuscript of the amendment which I propose as a substitute?

The PRESIDENT *pro tempore*. It would not be in order now if the Senator had it. This is an amendment to an amendment.

Mr. SUMNER. I beg the President's pardon. The Senator from Iowa proposed to me last night to withdraw his proposition and to allow the substitute to be moved.

Mr. GRIMES. That statement is not exactly accurate. The Senator from Massachusetts proposed it to me and I agreed to it.

The PRESIDENT *pro tempore*. Let the substitute for the amendment to the amendment be read.

Mr. SUMNER. I propose equivalent words, but which are clearer and refer to existing statutes.

The Secretary read the proposed amendment to the amendment, which was to insert after the words "six per cent. per annum" the words:

And according to the rules directed to be applied to the case of Maryland by the twelfth section of the act approved March 3, 1857, entitled, "An act making appropriations for certain civil expenses of the Government for the year ending June 30, 1858."

Mr. DRAKE. That does not cover, in my judgment, the very point that the amendment of the Senator from Iowa was designed to cover, to wit: that Massachusetts shall be paid no interest upon her disbursements except upon that which she paid interest upon or lost interest by the disposal of interest-bearing funds. That amendment now presented by the Senator from Massachusetts relates only to the rules of the computation of interest, not to the particular sum upon which the interest shall be allowed, and I call the attention of the Senate to that fact.

Mr. SUMNER. Now I call the attention of the Senator to the Maryland rule, as follows:

"Interest shall be calculated up to the time of any payment made. To this interest the payment shall

be first applied, and if it exceed the interest due the balance shall be applied to diminish the principal. If the payment fall short of the interest the balance of the interest shall not be added to the principal so as to produce interest. Second, interest shall be allowed to the State of Maryland on such sums only on which the said State either paid interest or lost interest by the transfer of an interest-bearing fund."

Now, all that we ask is that the whole Maryland rule shall be applied to Massachusetts.

Mr. DRAKE. I ask for the reading of the amendment to the amendment again.

The Secretary again read the amendment to the amendment.

Mr. DRAKE. I contend that under that amendment as framed now, in view of the very provision that the Senator from Massachusetts has just read, without this limitation of the moneys paid out by Maryland upon which Maryland should be allowed interest, would not be considered as included there.

Mr. SUMNER. Very well; let it be "under the rules and limitations." I will insert those words.

Mr. DRAKE. Why cannot it be expressed there that no interest is to be paid to Massachusetts and Maine but upon moneys which Massachusetts paid interest upon or to obtain which she disposed of interest-bearing bonds?

Mr. SUMNER. Is it not so expressed?

Mr. DRAKE. It is not so expressed in my judgment.

Mr. SUMNER. With great respect to the Senator I am bound to say that it is.

Mr. DRAKE. With great respect to the honorable Senator from Massachusetts, I am bound to say that it is not; and I say further, in this connection, that this is only swinging the matter around back again to the original form in which the Senator from Massachusetts presented this claim, to wit, that Massachusetts, if the amendment had been passed as he originally presented it, was to be paid interest upon every dollar that she disbursed, without regard to the question of her having paid interest upon it at all; and that is one of the features about this case that I do not like; that the attempt was made to ingraft upon the Army appropriation bill here, in the last hours of the session, a provision which would have allowed Massachusetts interest upon every dollar of her disbursements without reference to whether she had paid interest upon them or not. I protest against this thing. It is not what was done in the case of Maryland. Now, sir, if left in the shape in which the Senator from Massachusetts wishes to place it, I am of the opinion, with all respect to the honorable Senator, that it leaves it just where it was in his original amendment, that she is to be allowed interest on every dollar of her expenditures without reference to whether she paid interest on those expenditures or not.

Mr. SUMNER. The language of my amendment is "the rules and limitations." Now, what are the rules and limitations? I have read them.

Mr. CHANDLER. The Senator from Massachusetts insists upon the Maryland rule as applicable to the case of Massachusetts. Now, sir, the very thing that the Senate, if I understand its wishes, desires to avoid is the Maryland rule. In the first place, the Senator from Massachusetts makes a claim which never existed. The State of Massachusetts never had any claim, in law or in equity, as I shall show before I get through. In the next place, all that Massachusetts claims was paid to the last farthing, although she never had any real claim. She never had a just claim, but her demand was paid to the uttermost farthing. This I will show before I get through. No interest was ever dreamed of when the claim was first made, and yet the States demanded interest afterward, and although they never had any claim for principal or interest the sum which they demanded was paid. Then, the State of Maryland came in at a later day and demanded and obtained compound interest on a claim which never existed. She had been paid and obtained interest that she never had a right to demand.

Mr. MORRILL, of Vermont. With the permission of the Senator from Michigan, it is quite manifest that there are at least half a dozen set speeches more to be made on this bill. I move, therefore, that it be laid aside, and that we take up the bill (H. R. No. 1672) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1870. That is a bill containing over fifty pages. If we are to pass any of the appropriation bills it is quite manifest that this bill must be laid aside. I therefore make the motion.

Mr. POMEROY. I hope the Senator will let us finish this bill. I said last night it could not become a law, but I want to try to pass it.

Mr. MORRILL, of Maine. Is the motion to lay it aside informally?

Mr. MORRILL, of Vermont. I will make the motion in that form.

Mr. POMEROY. This same amendment can be moved on that bill.

Mr. TRUMBULL. If Senators do that they must take the responsibility.

The PRESIDENT *pro tempore*. The Senator from Vermont asks that the pending bill be laid aside informally with a view to take up the bill mentioned by him.

Mr. POMEROY. I object to that.

Mr. CONKLING. Then a motion to lay the bill on the table is in order.

Mr. MORRILL, of Vermont. Then I make a motion to postpone the bill for the purpose of taking up House bill No. 1672.

The motion was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. MORRILL, of Vermont. I now move to take up House bill No. 1672.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1672) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1870.

The PRESIDENT *pro tempore*. If no objection be made the amendments reported by the Committee on Appropriations will be acted upon as they are reached in the reading of the bill. No objection being made, that course will be pursued.

The first amendment of the Committee on Appropriations was in line fifty-eight, to strike out the words "for committees, five," and to insert the word "eight;" so that the clause will read:

For stationery, \$8,000.

The amendment was agreed to.

The next amendment was in line sixty-seven, to strike out the word "ten" and insert "twenty," so as to read:

For folding documents and materials, \$20,000.

The amendment was agreed to.

The next amendment was in line sixty-nine, to strike out the word "fifteen" and insert the word "thirty;" so that the clause will read:

For miscellaneous items, \$30,000.

The amendment was agreed to.

The next amendment was in line seventy, to strike out the words "and House of Representatives, \$3,000: *Provided*, That each Senator, Member, and Delegate shall be entitled to receive only the value of ten dollars in packing-boxes each year," and to insert "\$1,000;" so that the clause will read:

For packing-boxes for the Senate, \$1,000.

The amendment was agreed to.

The next amendment was after line one hundred and forty-six, to insert:

For packing-boxes for members of the House of Representatives, \$2,000.

The amendment was agreed to.

The next amendment was in line two hundred and fifty-three, to strike out "three" and insert "five;" so that the clause will read:

For compensation of five watchmen in reservation No. 2, \$5,000.

The amendment was agreed to.

The next amendment was to insert after line two hundred and sixty-three, in the appropriations for the Court of Claims, the following:

For stationery, books, fuel, laborers' hire, and other contingent and miscellaneous expenses, \$3,000.

The amendment was agreed to.

The next amendment was after line two hundred and sixty-eight, to strike out the following proviso on the appropriation for the payment of the judgments of the Court of Claims:

Provided, That no judgment of said court for any sum exceeding \$5,000 shall be paid out of this appropriation unless the same shall be confirmed by Congress.

The amendment was agreed to.

The next amendment was after line two hundred and ninety-two, to strike out the following proviso:

Provided, That the pay of any messenger in either of the departments (legislative, executive, or judicial) of the Government employed during the whole year shall be \$840 per annum, and no more; and the pay of any assistant messenger employed as aforesaid shall be \$700 per annum, and no more; and the pay of all laborers and watchmen (whether night or day) employed as aforesaid shall be \$700 per annum, and no more.

The amendment was agreed to.

The next amendment was in line three hundred and thirty-three, in the appropriations for the construction branch of the Treasury Department, to insert after the word "dollars" the words "chief clerk, \$2,000; photographer, \$2,500."

The amendment was agreed to.

The next amendment was in line three hundred and forty-one, to strike out "four" and insert "six;" in line three hundred and forty-two, to strike out "seven" and insert "ten;" and in the same line, to strike out "two" and insert "seven;" in line three hundred and forty-three, to strike out "four" and insert "eight;" and in line three hundred and forty-four, to strike out "six thousand four" and insert "twelve thousand eight;" in the same line, to strike out "five" and insert "ten;" in line three hundred and forty-five, to strike out "seven" and insert "fourteen;" and in line three hundred and forty-eight, to strike out the word "thirty" and to insert "forty-seven;" so that the clause will read:

For First Comptroller of the Treasury, \$3,500; for chief clerk, \$2,000; six clerks of class four, \$10,700; eight clerks of class three, \$12,800; ten clerks of class two, \$14,000; two clerks of class one, \$2,400; one messenger, \$840; and two laborers, \$1,200: in all, \$47,540.

The amendment was agreed to.

The next amendment was in line three hundred and eighty-three, to strike out the word "sixty" and insert the word "fifty;" so as to allow fifty-four clerks of class three in the office of the Second Auditor of the Treasury.

The amendment was agreed to.

Mr. GRIMES. I should like to inquire of the chairman of the committee, as he has examined this subject and I have not, whether or not the clerks in all these bureaus of the Treasury Department are not largely cut down by the House of Representatives?

Mr. MORRILL, of Maine. Yes, sir; largely.

Mr. GRIMES. I see that the First Comptroller is restored to something like his original position.

Mr. MORRILL, of Maine. What he had last year.

Mr. GRIMES. But the Second Comptroller is not.

Mr. MORRILL, of Maine. Yes, sir.

Mr. GRIMES. Why is that?

Mr. MORRILL, of Maine. I was obliged to adopt this rule: this bill came to the committee on Saturday night, and of course we could not get it printed so as to be examined by the committee until Monday. We were obliged to take the appropriations for these departments or bureaus as they came from the House, upon the presumption that they had examined the subject, except where we had communications from the departments or bureaus which authorized us to move amendments. In this case we had a communication

from the First Comptroller of the Treasury, Mr. Taylor, giving us a detailed statement of his force and the great necessity of maintaining the force as it was last year; and so we amended it according to that statement.

Mr. GRIMES. The result, I am afraid, is going to be that those bureaus where there is the most business are going to be cut down to such a condition that the dispatch of the public business will be very much retarded. For example, I think the business in the Second Comptroller's office has diminished comparatively little by the side of what it has in the First Comptroller's office; and so in some of the bureaus of the Auditors' offices.

Mr. MORRILL, of Maine. I think the Second Auditor's office is kept entire.

Mr. GRIMES. By the House?

Mr. MORRILL, of Maine. I think so.

Mr. GRIMES. There are some of the Auditors' offices that have to do with the closing up of the accounts of the Army and Navy that are cut down more than one half, I am told. The result would be that everybody who has any business with those offices will be delayed in its transaction.

Mr. MORRILL, of Maine. I can give you precisely the reduction in the Second Comptroller's office: four clerks of class four, four of class three, and nine of class one, out of about one hundred and twenty clerks.

Mr. GRIMES. What is it in the Fourth Auditor's office?

Mr. MORRILL, of Maine. The Fourth Auditor's office is reduced a great deal, but upon information that I have received this morning I intend to move to increase it.

The Secretary continued the reading of the bill down to the clause making appropriations for the Fourth Auditor's office.

Mr. MORRILL, of Maine. I propose to amend that clause, and perhaps I might as well do it now as we go along. In line four hundred and seven I move to strike out "fourteen" and insert "eighteen," and also to strike out "\$22,400" and insert "\$23,800;" in line four hundred and nine to strike out "ten" and insert "eleven;" in line four hundred and ten to strike out "\$12,000" and insert "\$13,200;" in line four hundred and twelve to strike out the words "one laborer, \$600," and to insert "five laborers, \$3,000;" and in line four hundred and thirteen to strike out "sixty" and insert "seventy;" so that the clause will read:

For the Fourth Auditor, \$3,000; chief clerk, \$2,000; five clerks of class four, \$9,000; eighteen clerks of class three, \$23,800; twelve clerks of class two, \$16,800; eleven clerks of class one, \$13,200; one messenger, \$340; one assistant messenger, \$700; and five laborers, \$3,000, employed in his office—\$77,340.

The amendment was agreed to.

The next amendment was in line four hundred and fifty-five, after the words "female clerks" to strike out the words "authorized by this section" and to insert the words "employed in the several Departments of the Government;" and in line four hundred and fifty-nine, after the words "clerks of such classes" to insert "and a sufficient sum to pay said increased compensation to female clerks is hereby appropriated;" so that the clause will read:

The compensation of the female clerks employed in the several Departments of the Government shall be the same as clerks of the first class, and where employed on work performed by the clerks of the higher classes they shall receive like compensation with the other clerks of such classes, and a sufficient sum to pay said increased compensation to female clerks is hereby appropriated.

Mr. MORRILL, of Vermont. Mr. President—

Mr. MORRILL, of Maine. If the Senator from Vermont will pardon me for one moment, I desire to perfect the section as agreed upon by the committee and omitted by a clerical error. After the word "class," in line four hundred and fifty-seven, I move to strike out the words "and where employed on work performed by clerks of the same classes they shall receive like compensation with the other clerks of such classes." I should like to have it read now as it will stand if amended.

The CHIEF CLERK. That portion of the section, if amended as proposed, will read:

The compensation of the female clerks employed in the several Departments of the Government shall be the same as clerks of the first class, and a sufficient sum to pay said increased compensation to female clerks is hereby appropriated.

The amendment, as modified, was agreed to.

Mr. MORRILL, of Vermont. I move to strike out after the word "dollars," in line four hundred and fifty-four, down to and including the word "appropriated," in line four hundred and sixty-one.

The PRESIDENT *pro tempore*. The words proposed to be stricken out will be reported.

The Chief Clerk read as follows:

The compensation of the female clerks employed in the several Departments of the Government shall be the same as clerks of the first class, and a sufficient sum to pay said increased compensation to female clerks is hereby appropriated.

The PRESIDENT *pro tempore*. The question is on striking out the words just read.

Mr. POMEROY. I hope those words will not be stricken out. I think the Committee on Appropriations have fixed this bill just as it should be in this respect. I cannot understand why the Senator wants to strike out that provision. I should like to hear some reason for it.

Mr. MORRILL, of Vermont. When we first began to employ female clerks the salary was fixed at \$600. The next year or so we raised it to \$720; soon after we raised it to \$900; and every member of Congress, whether in the House or in the Senate, will bear witness to the increased number of applications consequent upon the increase of the salary. I venture to predict that if this provision shall prevail it will end in the abandonment of the employment of female clerks in the Treasury or any other Department, for it is giving so much greater compensation than females can obtain at home that they will in large numbers seek employment here at Washington. Of those who are employed from my State I have no doubt I have five applicants for one that I am able to find a place for. There are numbers of females who are qualified to teach school in various States who receive no more than from one hundred and fifty to two hundred dollars a year, therefore it is a great object for them to come here. If we shall raise the salary up to the average of the salaries given to men there will be a throng of them here, and so great an anxiety to get the places that those who are here will have but a comparatively short term of service. I regret it as the entering measure for abolishing entirely any provision for the employment of female clerks.

Mr. POMEROY. I hope the Senator from Vermont will not insist upon the amendment that he has offered. Of course, if he does it will open a debate on this question which will be almost as endless as the debate upon the question which we have had under consideration for the last two or three days. The Senator from Vermont has undertaken to tell the Senate that labor performed by females ought to be discouraged because there are so many applicants that it will result in displacing them from the Departments entirely. Now, Mr. President, there can be no good reason in that. The Senator must know that where labor is performed the compensation should be according to the capacity and character of the labor; and if the same labor is performed by one person as by another, and the same amount of time in the day bestowed on it, why should not the compensation be the same? I know very well that there are female clerks in the Departments doing the work of \$1,800 clerks, and yet they cannot get the compensation. They do it day by day and month by month. In some few instances men have the clerkship, and then sub-let it to females who perform it for about half the pay. Men draw the whole salary, and get the work done by females for one-half and pocket the balance.

Mr. WILSON. I ask the Senator if he knows any case of that kind?

Mr. POMEROY. Such cases are reported

to me. I am not in the Departments and do not know positively about it; but such cases are reported to me. I might refer here, if I chose, to a source of information which the Senator from Massachusetts would not dispute himself. I do not choose in this debate to use any names or refer to any source of information that would give any unnecessary publicity to anything I might say; but I want the Senator from Vermont to show the Senate, if he can, any good reason why, if the same amount of labor during the day is performed by a female clerk that is performed by a man she should not have the same compensation; and the fact that several years ago when this experiment was first tried we found that we could employ females at \$600 a year is no reason why it should be continued. It is the labor performed that should be compensated, without regard to the fact whether it is performed by a male or a female.

The Senator objects because there are so many applicants; he can get this labor so cheap that from his own State he has five applicants where he can get employment for but one, I am sorry that is so; but what does it argue? It shows that the avenues of employment and labor are not open to this class in his State, or that he has more of this class than of the other.

By the last census you will see that in the New England States there is a disproportion. There are in Massachusetts perhaps twenty-five or thirty thousand more females than males. All this goes to show that it is a class of labor that we should secure and encourage, rather than discourage and discountenance. There is no reason why this labor, which is so industriously and patiently performed, should not be creditably paid for. No female can in Washington get board and clothing any cheaper than a male clerk. No avenues are open to them to lessen their expenses. They have, I may say, increased expenses; but I will admit, for the sake of this argument, that they have equal expenses here in Washington with male clerks, and why should they not be compensated as well? The objection to it is only a relic of that former barbarism which considered them as having no rights which men were bound to respect. We have been in the habit of paying them a mere pittance, and they have eked out an existence with great carefulness, because they have been restricted to a compensation perfectly disgraceful. Their patient labor, performed by day and by night, has not been compensated either by the Government or in the States as it ought to be.

The Senator says they are well qualified for school-teachers. Why are they not paid as reasonably and as liberally for teaching school as men are? Simply because of the fact which I think exists that they are so numerous, so many are unemployed, and competition is greater, and hence female school-teachers can be hired for less wages than males. But it is no good ground. It may be a misfortune to a class of persons to be more numerous, especially in certain States, and to be competitors for labor where there is more competition, but why should we work that misfortune when they come to perform labor for the Government into a discrimination against them? There is no good reason for it. I protest against being a party here in the Senate or anywhere else to discrimination against labor performed by female clerks. They have as many expenses; they are as industrious; they should be encouraged; labor should be as well paid when performed by them as by any other class.

I do not care to go into this whole question and discuss it on an appropriation bill. The fact is I deprecate anything that leads to protracted discussion on the appropriation bills. If it is the intention of the Senate to pass those bills, as I suppose it is, I hope the Senator from Vermont will withdraw his amendment. This is the first time in the history of this Senate when the avenues have been opened equally in all the Departments to male clerks and female clerks, and I do not want to be dis-

couraged and have the project defeated when it is first presented.

Mr. HARLAN. If I understand the nature of this amendment, I think it ought to be adopted to effect the purpose intended by the honorable Senator from Kansas. If the amendment should not be adopted the law will then stand: "The compensation of female clerks employed in the several Departments of the Government shall be the same as clerks of the first class." Under such a law no female could be employed to labor for less pay than \$1,200 a year and only on work for which more than \$1,200 a year is paid. This would operate, in females, for there is a vast amount of work in my opinion, deleteriously to the interests of styled clerical performed in the different Departments that is done by persons who can be employed for less than \$1,200 a year, if the heads of Departments are disposed to economize; but if you compel them if they employ females to pay \$1,200 they will in all human probability, having reference to the interests of the Government, employ boys and children to do that which ladies now do, such as counting notes, counting fractional currency, and services of that kind.

In my opinion this amendment ought to be adopted; and then, if the Senate desire to put ladies on the same footing with gentlemen there ought to be added to the bill a section running in about this way, "that nothing in this act or in any existing law shall prohibit the head of any Department from employing females at the same rate of salary with males for clerical service."

Mr. POMEROY. The Senator from Iowa would be entirely right if this clause did not confine the provision to clerks. It has no reference to anything else. "It is for the compensation of female clerks;" it does not touch the other form of labor performed.

Mr. HARLAN. Probably the Senator overlooks the fact that there are a great many persons employed out of the contingent fund on what is called the temporary list of clerks at a less compensation than \$1,200 a year.

Mr. POMEROY. They may be employed in labor.

Mr. TRUMBULL. I am sorry that this proposition before the Senate should be embarrassed in its details by any suggestion such as is made by the Senator from Iowa. It seems to me so eminently just and proper that females employed in the public service should have the same pay, the same compensation for doing the same work, that males receive that I do not see upon what ground the Senator from Vermont makes his motion to strike it out. Why females who are now introduced into the various Departments of the Government to perform clerical services, to write up the records and write letters and copy papers, should be paid less for furnishing the copy than males I cannot conceive. It seems to me eminently proper that this provision recommended by the Committee on Appropriations, and which has already passed the House, should be retained in the bill.

Now, sir, I am not in the situation of the Senator from Vermont, who seems to be troubled with having a great many applications from ladies for places in the Departments, or have a great many persons in the Departments whom he may have recommended. I am not aware that there is a single female in any Department of this Government who owes her place to any recommendation of mine. It is possible there may be one. If so it is a case that occurred some half dozen years ago, and I do not know whether that person is in the Department now or not. So that, as far as I am concerned, I can speak indifferently in reference to this matter in regard to any of the employes at the present time.

I think the time has come when, if we are to have ladies in the Departments performing clerical duties there, we should pay them for those duties the same that we pay gentlemen. Upon what principle is it? Why does the Senator from Vermont object to it and ask to

strike it out? Why, he says, you can get females to work for less. Is that the principle upon which payment is to be made for services rendered to the Government? Doubtless you could find persons who would agree to occupy the seats upon the bench of the Supreme Court of the United States for salaries less than are paid to the gentlemen who sit there. The Senator from Missouri reminds me that we could find plenty of persons willing to occupy these seats for less than \$5,000 a year. That is no criterion by which to test the amount of salary that should be paid to an individual. It should be a reasonable compensation.

But the question here is not as to what the compensation should be, but if you pay a male clerk \$1,200 to copy records, and they are furnished to you just as well by a female clerk, is she to have but \$900 and the man \$1,200? There is no principle in such a discrimination, and I hope this amendment will not prevail. I am sorry that the chairman of the committee has struck out several words in the section as it passed, and I shall move to reconsider the vote by which they were stricken out in case this motion fails.

Mr. POMEROY. I was going to move that. I am glad the Senator proposes it.

Mr. MORRILL, of Maine. That cannot be done until we get into the Senate.

Mr. TRUMBULL. I was not aware that these words were stricken out.

Mr. GRIMES. What words are they?

Mr. TRUMBULL. From line four hundred and fifty-seven to line four hundred and fifty-nine these words have been stricken out:

And where employed on work performed by the clerks of the higher classes they shall receive like compensation with the other clerks of such classes.

That clause has been stricken out on the motion of the chairman of the Committee on Appropriations.

Mr. GRIMES. When?

Mr. TRUMBULL. Here, as I understood, a few minutes ago.

Mr. MORRILL, of Maine. That was agreed to by the committee, as I stated, and was omitted by a clerical mistake in the printing of the amended bill.

Mr. TRUMBULL. I am very sorry it has been stricken out. It ought not to have been stricken out.

Mr. MORRILL, of Maine. The Senator can move it again in the Senate.

Mr. CONNESS. The Senator from Connecticut [Mr. FERRY] is preparing an amendment, which will be ready in a moment, that meets the views of the Senator from Illinois, and I want him to hear it.

Mr. TRUMBULL. I will give way.

Mr. FERRY. The amendment which I propose is to insert in line four hundred and fifty-six, after the word "as" the word "male;" and in line four hundred and fifty-seven to strike out the words "first class" and insert "same grade;" in lines four hundred and fifty-seven, four hundred and fifty-eight, and four hundred and fifty-nine to strike out from the word "and" to the word "classes;" so that the clause will read, if thus amended,

The compensation of the female clerks employed in the several Departments of the Government shall be the same as male clerks of the same grade.

Mr. FESSENDEN. Let me suggest to my friend that that will make it very uncertain. The grades are established by law. You will find on looking at the statutes that there are so many clerks of the first class, so many of the second, so many of the third, and so many of the fourth. Now, if you put in the words "same grade" you cannot tell where they belong, unless you say that there shall be so many female clerks of the first class, so many of the second, so many of the third, and so many of the fourth. The grades depend upon the numbers as established by law. They are not graded by the kind of labor they perform.

Mr. FERRY. But my object is to let the head of the Department or the bureau employ their male or female clerks according to the exigencies of his Department, in any grade or

class, and pay to either, irrespective of sex, the sum which the law appropriates for the payment of services thus rendered. If the word "grade" is the wrong one I am willing to insert "class." I made inquiry of a Senator who was formerly at the head of a Department, and he thought "grade" was the proper word to employ.

Mr. FESSENDEN. That is a proper word to employ, but Senators will observe that the law says how many clerks there shall be of each grade in a Department. It says there shall be so many clerks of the first class, so many of the second class, so many of the third class, and so many of the fourth class. Now, if you say that female clerks may be employed instead of male clerks among that number, in that specific number thus fixed, you can do it; but you must alter the whole frame of your bill throughout, because the bill says "so many clerks of the first class, so many of the second class, so many of the third class, so many of the fourth class, and in addition thereto so many female clerks." They are "in addition thereto." That would not be consistent with the proposition the Senator makes, because if you take a portion of these and put them in the place of male clerks in these several grades you do not at the same time furnish the number requisite in addition to those provided for by the statute.

Mr. CONNESS. I understand that in the matter of appointment that point is entirely taken care of and fixed. When a clerk shall be appointed of either sex under this provision he or she will be appointed a first, second, third, or fourth class clerk. The law provides how many first class, how many second, how many third, how many fourth class clerks there shall be. The female, if appointed in either of those classes, makes up one of that number. The class can only have so many; it may be composed of one sex or of the other exclusively, or of both.

Mr. GRIMES. I do not believe this bill can be improved much as it is printed.

Mr. POMEROY. It is precisely right as printed.

Mr. GRIMES. It is right with the exception of inserting after the word "on," in the four hundred and fifty-seventh line, the words "the same;" and then after the word "work" inserting "and," and inserting "performing the same duty as;" so as to read:

The compensation of the female clerks employed in the several Departments of the Government shall be the same as clerks of the first class, and where employed on the same work and performing the same duty as clerks of the higher classes they shall receive like compensation with other clerks of such classes.

Mr. CONNESS. They are both alike in their effect.

Mr. GRIMES. I move to reconsider the vote by which those words from line four hundred and fifty-seven to line four hundred and fifty-nine were stricken out of the bill.

Mr. NYE. Will the honorable Senator from Iowa allow me to suggest to him an amendment in his phraseology, and that is, "on the same or similar work." It cannot be the same work.

Mr. FERRY. I offer my amendment to perfect the clause which was proposed to be stricken out.

The PRESIDENT *pro tempore*. That is in order.

Mr. FERRY. And I should like to vote on that amendment before any other amendment is proposed.

Mr. GRIMES. The words have been stricken out; we must reconsider that vote.

Mr. WELCH. Mr. President, I wish to enter my protest against a distinction being made between male and female clerks as to the value of labor. I have this morning returned from a visit to the Treasury office, and I have been informed there by those who have charge of the various departments that the female clerks are fully equal in the value of their labor to the male clerks, that they have all the accuracy and assiduity in labor that is necessary to success in their departments.

Now, sir, I believe in the payment of labor by male or female up to its full value, and I think the making of any distinction of sex in the payment of labor is the sheerest prejudice, unfounded in any genuine philosophy. I believe the time is coming, fast coming, when all the avenues of honorable distinction will be open to capacity without distinction of sex or color. I believe the time is coming when all men and all women will have free access to the higher walks of learning and literature and art and the higher professions, and it is an ignoble prejudice for men of the high standing that Senators have attained to here to make any distinction in the payment of labor simply because the laborer is a female. I would have all treated alike, and I am sorry that the word "male" or "female" has to be introduced into any bill whatever. I hope that the amendment of the Senator from Connecticut will prevail.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Connecticut.

Mr. FESSENDEN. It will be seen, I think, when the organization of the Departments is understood, that this amendment would be out of place. If you look at this section you will see that it authorizes so many clerks of the several classes, and in addition sixty female clerks. Now, if you take a female for one of the clerkships mentioned above you must take that from the number of sixty female clerks, and therefore you must make a provision in order to meet that contingency, because there can be only sixty female clerks in the office of the Treasurer according to this bill. If, therefore, you will fill up the upper grades you diminish the force of the Department just so much, because you cannot increase that number. The framework of the section is that there shall be so many male clerks of the several classes and so many female clerks.

Again, let me repeat to the Senate that nothing is arrived at by saying they shall receive the compensation of clerks who perform the same service or similar service. In the Departments similar service is performed by clerks of all the grades, first, second, third, and fourth class clerks. There are clerks of the first and second classes who perform similar service to clerks of the fourth class. How is the Secretary to grade them? He cannot tell anything about it. The classes of clerkships are formed by promotion. Men who have been there a certain time go up when a vacancy exists. They fill these places necessarily in that way according to the rules of the Department as a general thing. I suppose there are exceptions to it; and the work they do and the kind of labor they perform is such as is called for by the occasion. There is no specific labor for clerks of the first class, second class, third class, and fourth class. If therefore you make the amendment which is proposed in relation to that matter the Secretary has no rule to go by whatever. He might put them in any class he pleased. The service designates nothing. Therefore, as I said before, if you want to accomplish that purpose you must provide in the bill that there may be so many female clerks of the several classes, first, second, third, and fourth. That is the only way you can arrive at it.

Mr. HARLAN. I agree in part with what has been said by the honorable Senator from Maine, but I think he errs in overlooking this fact: while the bill does provide, for example, for fifteen clerks of class four, I know of no law compelling the head of the Department to appoint males to that class. He may appoint females to class four if he sees proper, the compensation of which is fixed by law, provided the head of the Department chooses to appoint a female clerk of that grade. But the Senator will remember that the accounting officers of the Treasury authorized the head of a Department to employ clerks of a less grade to fill out the number of those indicated of the higher grades. For example, every one of those fifteen may be filled with clerks of the first class, or of the third class, or of the second

class. What the Senator from Connecticut seeks to secure is, that if the head of a Department should appoint a female to any one of these grades, of class one, two, three, or four, she shall receive the same pay as a male clerk would receive if appointed to that grade, and that being his object it seems to me his amendment is right.

I do not perceive that the additional clause, providing for the employment of sixty females, changes the argument in the least, for that does not say they shall be of either of these grades. The language is: "sixty female clerks, \$72,000."

I suppose that that leaves it discretionary with the head of the Department whether he will employ clerks of the one or of the other grade, and he is not compelled to employ any one of them unless in his opinion the exigencies of the public service may require it; but if he should employ female clerks for any one of the classes named in the bill, the honorable Senator desires that the female shall receive the same pay as if a male clerk had been appointed to a position in that class.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Connecticut.

Mr. MORRILL, of Maine. I ask to have it reported.

The CHIEF CLERK. The amendment is to insert after the word "as" and before "clerks," in line four hundred and fifty-six, the word "male," and to strike out the word "first" in line four hundred and fifty-seven before "class" and insert "same;" so that if amended the clause will read:

The compensation of the female clerks employed in the several Departments of the Government shall be the same as male clerks of the same class.

Mr. FERRY. Then strike out down to the word "and" in the four hundred and fifty-ninth line.

The PRESIDENT *pro tempore*. That has been already stricken out.

Mr. MORRILL, of Maine. I desire to inquire of the Senator from Connecticut how extensive he understands that proposition to be? I suppose there are six or seven hundred females employed in the different Departments of the Government. Does he understand that this proposition will place all those females employed in any way upon the compensation of first-class clerks, or does he attach any importance to the word "clerks?"

Mr. FERRY. The object of this amendment is simply to provide that when females are employed in the several Departments as clerks, in whatever class they are employed, they shall receive the same compensation as males in the same class. If hitherto the female clerks employed in the several Departments of the Government have not been classified, I suppose that, under the operation of this bill, if passed as amended, they will be classified, and will simply receive the measure of justice of getting the same compensation with male clerks of the same class. That is my object.

Mr. MORRILL, of Maine. The Senator does not quite understand me. I understand that the law attaches a particular meaning to the word "clerk." "Clerk," as employed as relating to the public service in any of the Departments means an accountant, means a person employed in keeping accounts or records, implying the necessary skill to perform that service. So under the civil service bill they are classified as first, second, third, and fourth class, according to their skill in that business. Now, the Senator knows that there are five or six hundred females, more or less, who are employed in the public service, but not as clerks in any sense. They are employed in various ways; some of them as messengers, but the great bulk of them are simply employed in the registry and Treasury Department, simply counting money—nothing else. Does the Senator understand that his proposition covers that class? That is what I wish to know.

Mr. FERRY. If the females now employed

are clerks the amendment would reach them and provide for their compensation according to the class to which they belong. If those now employed or hereafter to be employed are not clerks, then the amendment would not affect them and would leave them precisely as they are.

Mr. CONNESS. And in addition I will say, with the permission of the Senator from Maine, that if the Secretary should see fit to take all these female employes who are not now classed as clerks, but employed in occupations other than clerical, and transpose or appoint them into any class of clerks, they would under this provision get the compensation to which the class to which they were appointed was entitled.

Mr. MORRILL, of Maine. Then, as I get the meaning more explicitly from the Senator from California, it is that the female employes as distinguished from clerks, those who are not employed in clerical duty, are not affected.

Mr. CONNESS. Not at all. It does not apply to them. It cannot in any way. If men have been employed to do the work they do, and called clerks, then of course it would change the case; but they are not.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Connecticut.

Mr. HOWE. "Fair play is a jewel." I do not see why the law is not already sufficient to-day to give female clerks the same pay that male clerks have.

Mr. CONNESS. They do not do it.

Mr. HOWE. The Senator from California says they do not do it. I do not know that they do not. So far as I understand the matter, every clerkship in every one of these Departments is wide open to the competition of both classes.

Mr. TRUMBULL. The law has fixed a different pay.

Mr. HOWE. The law has not fixed a different payment, but the law has done another thing; it has declared how many clerkships of these different classes there shall be, and thrown those open to the competition of both classes alike, as I conceive; but in addition to that it has created a certain number of employments which it holds to the exclusive use of the female sex and excludes from these employments all males. So far as the law is concerned, you cannot charge that with partiality toward the male sex, for it opens every opportunity to a female that it does to a male and opens hundreds of opportunities to females from which males are excluded. If females do not get as high pay in the Departments as males—and that is the fact, I suppose—it is because they are not appointed to these places, and not because any law excludes them. So if the object of this amendment be to open the path to preferment to these ladies it is unnecessary. There is no call for it. The path is open already. The simple proposition is, the practical effect of it will be just this, I take it, and no more: to raise the pay of all females now in the Departments from \$900 to \$1,200 a year. There will not be any more female clerks employed than there are now; there will not be any more clerks employed in both classes, because the number is limited by law.

Mr. TRUMBULL. Will the Senator from Wisconsin allow me to read him a statute which will show him that he is entirely mistaken in this respect, as I think? I have before me the statute passed March 14, 1864, which goes on to provide that in the various offices clerks may be employed; in the office of the Commissioner of Customs one clerk of class three, three of class two, and four of class one, providing for various clerks all through. Then comes this provision:

"And the heads of the several Departments are hereby authorized to employ females instead of any of the clerks hereinbefore designated, at an annual compensation not exceeding \$600 per year."

That has been changed to \$900, but the female clerks were instead of those clerks provided for in classes one, two, three, and four; it gave them the work without the pay. That was the law.

Mr. FESSENDEN. It has been changed entirely since.

Mr. TRUMBULL. Changed by increasing the salary.

Mr. HOWE. I think the Senator from Illinois, if he will trace our legislation through on this subject, will find that the law does not stand to-day as he reads it there; but I will not have any dispute with the Senator from Illinois as to how the law is. I will make him a fair proposition: that if the law does exclude females from any of these appointments I will agree to the amendment of it so that they shall be as eligible as men.

Mr. TRUMBULL. That is not the proposition.

Mr. HOWE. I know it is not. I say I will agree to that amendment. I will open the avenue to all.

Mr. CONNESS and Mr. FERRY. That is what this does.

Mr. HOWE. No, sir. I will open the avenue to all these employments as wide to females as to males; but the purpose and the end, I think, of the pending amendment is, as I said before, simply to raise the pay of the females who are now in the Government service from \$900 to \$1,200 a year. If the motive upon which it is urged is to prove our devotion to the sex, I have to say simply that I know of a better way of proving my devotion to them than to vote for this bill; and consequently if I wanted to prove my devotion to them by the offer of money, I would go a larger figure; \$300 a year is not enough. It does not measure my devotion to that sex.

If the object of this amendment is not this, but to benefit the Government and get a better class of service, a better kind of labor into the Departments, that is a motive which has not been yet avowed, and will not be avowed because no one will pretend that you will get any better female labor at \$1,200 than you do at \$900 a year.

Now, if it is urged (and that is the argument which has been so far made) that they do just as much labor as males and therefore ought to have just the same pay, I will not make any issue with any gentleman who asserts that they do the same amount of labor; but conceding it to be so I say the consequence does not follow. You may get at Mackinaw lake trout for two cents a pound, on which you can make just as good a meal as you can on the most delicate fish that are found anywhere in the world, and yet you know that at Mackinaw there are many kinds of fish that bring an enormous price. Mr. President, the simple truth is that female labor, as society is constituted, does not command so high a price as male labor. The Senator from Kansas says he regrets that. I am sorry for it, too. I will agree to an act of Congress reconstructing human society, and let the Senator from Kansas draw the act, though perhaps I should want to move some amendments. That is the way society stands to-day. The number of ladies who will be employed, whether you make the salary \$1,200 or \$2,500, is limited. Do you say you are doing justice by these ladies? You are doing injustice to all the rest of the sex as well as to the Government when you are taxing all the rest of the sex to confer a special benefit on the few who are thus employed. I do not think that is doing a favor to the sex at large. With the exception of the few who get the salary, the rest have to contribute to pay it, and I think they would rather pay \$900 than pay \$1,200 a year.

But, Mr. President, it is not so much the fault of the law after all, that female labor commands less than male labor. It is not the fault of the law that employments are not open to females. There are but very few employments under this Government, so far as I know, from which females are excluded by law. The professions are open to them; every department of industry is open to them that I know anything about, and I think that almost all the offices are open to them so far as the law goes. There is no law excluding them. I do not

know why they do not get into them. I suppose if the ballot was put into their hands they would get these offices; at least a great many ladies think they would, and I am not sure that they would not. I should hate to compete with them. Indeed, without the ballot I should hate to run against one of them for any office I know of. But the law is not to blame. They have the full privilege of going into any of these employments, but they do not go. Here and there one does engage in some of these pursuits. Some succeed, but others, as is the case with our own sex, do not succeed. I am unwilling to give a vote here or to say a word that will throw any impediment in the way of either any man or any woman who does not have a fair chance in the world's strife; but I do not think we are called upon or permitted to vote money out of the Treasury needlessly in order to indulge a mere sentiment of ours. There are better ways in which we can advance the interests of the female sex at large than this proposed now, simply voting an additional \$300 to the inconsiderable number of them who are employed in these Departments, and therefore I shall vote against this amendment.

Mr. TRUMBULL. It is usually easy when persons do not wish to do a thing to find difficulties in the way of accomplishing it. Now, various amendments are thrown in the way of accomplishing what seems to have been the desire on the part of the House and of some members of the Senate, and that is placing males and females on an equality so far as they perform the same service. The Senator from Wisconsin has trouble about it because he thinks the law is one way. Now, it is very easy to ascertain in any of these Departments whether a female is performing the same kind of service as a male clerk. The person at the head of a division knows if two clerks are put to copying papers, one of whom is a man and the other a woman, whether they are performing the same kind of service, and if they are performing the same kind of service and one does the same as the other, it is easy to pay them the same compensation. Now, what is the law? I wish to satisfy the Senator from Wisconsin that he is entirely mistaken as to what the statutes now are. I read when I was up before from the statute of March 14, 1864, which provides for a great number of clerks in the various offices of the Government, in the Comptroller's offices, all the various Auditor's offices, the Treasurer's office, the Register's office, the Commissioner of Customs's office, the office of the Secretary of the Navy, of the Adjutant General, &c., and after providing for these various clerks, amounting to hundreds, some of whom are in the first, some the second, some the third, and some the fourth class, the statute then declares:

"And the heads of the said several Departments are hereby authorized to employ females instead of any of the clerks hereinbefore designated, at an annual compensation not exceeding \$600 per year, whenever in their opinion the same can be done consistently with the interests of the public service."

By that statute of 1864 the female clerks were to be paid \$600 when employed instead of male clerks, not one of whom was to receive less than \$1,200, and many of whom were to receive \$1,800. That was the law of 1864. The pay of the female clerks has been raised since that, but has that statute been changed? I read now from a statute passed in 1866, raising the pay of the female clerks; and what does it say?

"That the female clerks and counters employed in the several Departments and bureaus whose appointments are made by the several heads of Departments under the provisions of law, and whose legal compensation has heretofore amounted to \$720 each per annum—

Twenty per cent. was added to \$600, making it \$720—

"and the female clerks employed at the Post Office Department shall, from and after the 30th day of June, 1866, receive in lieu of all other compensation an annual salary of \$900 each per annum; and the amount necessary to pay the increased salaries herein provided for is appropriated," &c.

It appears that when you put all these statutes together the law stands as it has been stated in the Senate. I think if we adopt the

amendment proposed by the Senator from Connecticut the heads of the Departments will find no difficulty in paying females the same compensation for labor that males receive for performing the same labor, and I hope the Senate will adopt it.

Mr. FESSENDEN. I do not feel disposed to interfere with this matter any further than to state what in my judgment is necessary. The Senate will notice that in this section and several of the sections females are described under the head of "copyists." Take the Third Auditor's office; they give him ten copyists. In the Second Comptroller's office they are called "copyists." Now, there are clerks, so to speak—those who do the proper business of a clerk in the office—and there are "copyists," females described as "copyists," and there are "counters;" and the law which the Senator from Illinois has just read speaks of "clerks" and "counters." If you have this provision simply saying that the female clerks employed in the several Departments shall be paid so and so, it is doubtful whether, taking the statutes together, copyists merely and counters would not be excluded.

Mr. TRUMBULL. Are there not male copyists and counters?

Mr. FESSENDEN. There are no male counters, but there are male copyists; there are clerks who do this labor. You will notice that in the Third Auditor's office there are so many copyists; females are not mentioned; so in the Fourth Auditor's room, so in the Second Comptroller's room, there are so many copyists authorized in addition to the clerks, and these are females; and then in General Spinner's office, where you give sixty female clerks, they are about all counters. In the Register's office they are all counters. Now, it depends upon what you mean. If you can confine this increased compensation to those who do the clerical duty, so to speak, it will apply to very few persons in the Departments. It would take all, probably, in the War Department; there are but about thirty; it would take a very small number in the Treasury Department. If you mean to cover the whole—and I see no reason why they should not all be put on the same ground, for they work equally hard, and the business of counters, if they do their duty well and are capable, requires a good deal of care and a great deal of skill also—I do not see why you should not put in after "clerks" the words "copyists and counters," so as to leave no doubt as to the true construction of the law. If, on the contrary, you mean simply to confine it to those who do clerical duty, then it stands well enough as it is now and would apply to a very few persons.

Mr. MORRILL, of Maine. I move to amend, if it is in order, the amendment offered by the Senator from Connecticut, by inserting after the word "Government" the words "and performing clerical duty;" so that it will read:

The compensation of the female clerks employed in the several Departments of the Government, and performing clerical duty, &c.

Mr. FERRY. I do not think those words ought to be inserted. If there be the distinction which has been suggested by the Senator from Maine, [Mr. FESSENDEN]—I am not sufficiently familiar with the Departments to judge myself whether that distinction actually exists or not—I then certainly would make no objection to the insertion of the words "copyists and counters" after "clerks," and put the three in. My sole object is to give those employed in the Departments of the Government, of either sex, the same compensation.

Mr. MORRILL, of Maine. Who do the same work.

Mr. FERRY. Certainly.

Mr. MORRILL, of Maine. But unless these words which I propose to put in are construed to be words of exclusion, and the Senator accepts them, I can see very well that it will apply to persons who are employed not as clerks who are there, and they will have the same pay with male clerks while they are in no sense clerks. My object, therefore, is to express a

distinction between those who are properly clerks and those who are doing other duty.

Mr. CONNESS. My answer to the suggestion of the Senator who has just spoken is this: if there be in a Department a man called or denominated a clerk or otherwise, or not denominated, who performs a given work which may be performed as well by a female, and the head of that Department sees fit to appoint a female to do that work, then this amendment gives the female the compensation for it that the male receives. Why not?

Mr. MORRILL, of Maine. I am willing to do that.

Mr. CONNESS. That is what the amendment provides. If there be employed there persons performing labor which has never been performed by any male clerk they are not affected by this amendment at all. No additional words are necessary to provide that they shall not be affected or included.

Mr. MORRILL, of Maine. What is the objection to it?

Mr. CONNESS. The objection that exists to all surplusage, to saying that no is no and yes is yes, when we already know the proposition.

Mr. MORRILL, of Maine. Everybody's vision may not be quite so clear as the honorable Senator's. I can see that the words of this amendment are inclusive, and they will include, and it will be insisted that they fairly include a class of persons who are not technically clerks, and therefore I submit to my honorable friend that as a doubt can fairly be raised it is safer to make it explicit by words of exclusion, and therefore I hope it will be acceptable to say "and performing clerical duties." If it is in order I make that motion.

The PRESIDENT *pro tempore*. It will not be in order until the amendment of the Senator from Connecticut is disposed of. The question is on the amendment of the Senator from Connecticut.

The amendment was agreed to.

Mr. MORRILL, of Maine. Now I move to insert after the word "government," in line four hundred and fifty-six, the words "and performing clerical duties."

The amendment was agreed to.

Mr. POMEROY. I suppose there cannot be any mistake about that. This means that this increased compensation shall be confined to those who do clerical labor. It does not affect those who are counting. That is what the Senator means. It does not affect those who count notes, and it does not affect those employed in any Department except in performing clerical labor.

Mr. FESSENDEN. It may cover about a dozen or a couple of dozen in the whole Treasury Department. That is the way it stands now.

Mr. TRUMBULL. It ought to include the counters and copyists undoubtedly. I thought the Senator from Connecticut was going to insert those words, "copyists and counters." Is there any objection to inserting them? If not, I move that they be inserted.

Mr. FERRY. The Senator from Illinois will permit me to state to him that I endeavored to frame an amendment after the manner which he has just suggested, and I found it confused the sentence. His object will be accomplished by adding after the word "class," in the amendment already adopted, the words "and female counters and copyists shall receive the same compensation as male counters and copyists."

Mr. POMEROY. There are no male counters.

Mr. FERRY. There may be at some future time. It will do no harm. That will cover the whole ground.

Mr. TRUMBULL. I will accept that.

The PRESIDENT *pro tempore*. The amendment to the amendment will be read.

The CHIEF CLERK. It is proposed, after the word "class," in line four hundred and fifty-seven, to insert "female counters and copyists shall receive the same compensation as male counters and copyists."

Mr. HENDRICKS. I wish to inquire of the chairman of the committee what will be the increased expenditure in the Departments if the compensation of the female employés be made the same as male employés, at \$1,200 a year?

Mr. MORRILL, of Maine. I suppose it will be an increase of about \$400 on the average of the entire body of female clerks, about six hundred probably.

Mr. HENDRICKS. That would be \$240,000.

Mr. MORRILL, of Maine. This is clearly a departure from the principle on which the honorable Senator from Connecticut and the honorable Senator from Illinois started. That was to place the female clerks on a par with the male clerks. That I agree to, that any female employed on the same work as a male and doing the same service is entitled to the same compensation. I think that is a clear proposition. The amendment proposed by the Senator from Connecticut was based on that idea clearly, and, as amended, I think makes it explicit that they are to have the same compensation; but now a new principle, I submit, is introduced. It is now extended to a class of persons who are in no sense clerks.

Mr. TRUMBULL. The copyists are clerks.

Mr. MORRILL, of Maine. There may be some copyists, it is true, but there are more counters. Counters of what? What does that word "counter" mean? There are counters of money and there are counters of coupons. To the counters of money there is some responsibility attached. There are some losses arising from accidents and the like.

Mr. TRUMBULL. The word "counters" is a statutory word, already introduced into the law.

Mr. MORRILL, of Maine. I know; but I mean to say, as a matter of fact, that it has a broad range in the practical affairs of the Departments. It applies as well to counting the coupons, which is a mere mechanical affair, as to the counting of money, about which there is responsibility; and I do not understand that there are any males employed upon that particular business. The Senator will see that between the nominal business of counting coupons and the duty of clerks to which this amendment of the Senator from Connecticut applies there is a very broad distinction. And now, sir, if this proposition carries, then you will have established a principle by which you pay female employés not of a skillful character a very different rate of compensation from what you pay men.

Mr. FERRY. Will the Senator allow me a moment to have the amendment reported as it now reads?

Mr. MORRILL, of Maine. Certainly.

The CHIEF CLERK. After the word "class" it is proposed to insert—

And female counters and copyists shall receive the same compensation as male counters and copyists doing the same class of service.

Mr. TRUMBULL. That is the same principle.

Mr. MORRILL, of Maine. Suppose there should happen to be a male copyist there, and suppose there should happen to be a first-class clerk detailed to count money, that would authorize, I suppose, under this amendment the same compensation for all the female counters.

Mr. FERRY. Evidently not.

Mr. MORRILL, of Maine. If this is passed the result of it will be throughout all these Departments that while you have a very large number of male messengers and male employés at from six to eight hundred dollars a year, and some as high as \$900, the counters will be put at \$1,200, and the male employés, it strikes me, will get but eight or nine hundred dollars.

Mr. CONNESS. The Senator evidently misapprehends the amendment entirely. As to the suggestion he makes as to what would be the case if a male were appointed a counter, I think I can answer that. There are no counters but females. I think if a male were appointed a counter and set into the room the females in that case would drive him out. I do not think

they would allow him. I think they would simply defend their employment against the intrusion. There is no danger of its coming to that in the Departments.

Mr. MORRILL, of Maine. Let me ask the honorable Senator, then, how it affects the price of labor at all.

Mr. CONNESS. It does not affect the price of this class, and that is well understood.

Mr. FESSENDEN. In my opinion you ought to fix the whole matter differently as to what the female should receive. The mistake that my friend from Connecticut makes, if he will permit me to say so, is in the expression of the same classes performing similar service. You cannot tell anything about that, and the statutes can never be construed in that way. You must designate the persons by the duties they perform in the Department or else there is utter confusion in the construction of the law. I have expressed no opinion about this matter of raising the pay of the females employed in the Departments; but if you do raise the pay of one class you ought to raise the pay of all the classes performing similar labor. I do not mean messengers; I do not mean all the persons employed in the Printing Bureau; but to draw the distinction that is drawn by the amendment proposed by my colleague and confine it to those performing clerical duty will confine the increase of compensation to a very few persons. If the Senator from Connecticut would simply leave out the words "grade" and "class" and "service," so that the females employed there, whether as clerks upon clerical duty or as counters or as copyists, as described in the several statutes, which recognize all three, shall receive the pay of clerks of the first class, and then provide further, if he pleases, that if appointed to a higher grade as clerk they shall receive the pay of that grade, he will cover all that he desires to accomplish and the thing will be definite. I was about to say that I object entirely to making a distinction. Of course there is a distinction, and a very wide one, between the capacity of individuals; but there is no distinction in the classes. Many of those called copyists, who are females, are as good copyists as there are in the Departments. Many of those who are employed merely as counters do work that requires great skill and care. The work itself is exceedingly laborious—trying to the eyes and trying to the health even of those who perform the duty of counting the coupons, which requires great accuracy and care; and they exercise it, and do very much better, I think, than men would do in the same position, and they are entitled to just as much pay as those who are employed on what might be called technically clerical duties. No distinction, in my judgment, ought to be made between them; if you raise the pay of one class you ought to raise the pay of the other.

But there is a still better idea if you could only carry it out, and that is the proposition that was made last year from some quarter to grade the counters themselves. If you raise them all up to \$1,200 there is no necessity for that. I think it is better to grade them, although that perhaps would make a good deal of difficulty in the Department itself on account of the rivalry that would exist among the different persons; but I object altogether to confining this \$1,200 pay to those who are employed on what is strictly clerical duty, when I know that many of the others not performing clerical duty, so called, deserve quite as much from their capacity and from the nature of the labor which they perform as the others do.

Mr. POMEROY. If the Senator will prepare an amendment covering precisely the ground he has taken I think the Senate will adopt it without opposition. I think we had better pass on with the bill and let an amendment be prepared by the Senator from Maine covering the ground he has indicated.

Mr. FERRY. We are now in committee. The principle of the amendment is obvious to all of us. What we intend to accomplish is to equalize compensation irrespective of sex. Let

the amendment be adopted in committee, and when we come in the Senate the corrections in phraseology suggested by the Senator from Maine can be made if necessary.

Mr. POMEROY. If the Senator from Maine will prepare an amendment such as he has suggested I have no objection. Let us go on with the bill and take no further vote on this question now. ["Question!" "Question!"]

Mr. HENDRICKS. I am not going to vote for this amendment, because I supposed there was not to be an effort at increased expenditures in the Departments at this time. I supposed it was understood that some degree of economy would be attempted. Now, there is an attempt at an increased expenditure, and, as I think, without any necessity, of a great many thousand dollars. I recollect very well a few years ago it was said that if females were employed in the Departments they would be glad to receive \$600 a year, and that it would be a service to them and an economical measure for the Government. That was the argument on which this system was adopted. Then it was proposed to increase the compensation, and I supposed that that was satisfactory. Now the same compensation is to be given to the female employés as to the male employés. Then the whole reason for the introduction of the system, so far as economy is concerned, has disappeared. I do not think it is called for by the history of this measure. Senators know very well that it was urged in the Senate four or five years ago as a measure of economy for the Government, as a measure of accommodation and benefit to the persons who might be appointed, that \$600 a year was a very handsome compensation for female labor. That was urged here, and it was a good compensation. Now, the compensation has gone up to \$900 a year, and that is not sufficient, and under professions of economy it is proposed now to add a great many thousand dollars to the expenditures in this direction. I shall not vote for it.

Mr. SHERMAN. I have but a word to say. The number of male clerks is limited by law, clearly defined for each Department. The number of female employés is without limit, and it was so left on the ground that it was impossible to limit it, and that they were called upon to perform new duties in the Treasury Department not required before the war. Female clerks were set to counting money growing out of the inauguration of the system of paper money. That class of clerks were not employed before the war, and there is no limit to the number employed.

Mr. FESSENDEN. Yes, there is.

Mr. SHERMAN. Hardly.

Mr. FESSENDEN. The law fixes in the several bureaus the number that may be employed. Then we have been in the habit and ought always to do it, although I see the House of Representatives has not done it this year, of giving the Secretary a sum of money for the payment of extra clerk hire. Out of that fund others have been from time to time appointed when they were needed.

Mr. SHERMAN. I shall postpone my remarks on this matter until the Senator from Maine draws up his amendment.

Mr. FESSENDEN. I do not propose to draw any. I understand the Senator from Illinois is drawing one.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Connecticut.

The amendment was agreed to.

Mr. MORRILL, of Vermont. Now, I suppose the question comes up on my motion to strike out.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from Vermont, to strike out the words which have been read, as amended.

Mr. MORRILL, of Maine. I suggest to the Senator from Vermont, inasmuch as there is time to amend it at a later stage, that he postpone his motion to strike out until the bill comes into the Senate.

Mr. MORRILL, of Vermont. I propose to have two chances at it. [Laughter.]

Mr. MORRILL, of Maine. Very well.

Mr. MORRILL, of Vermont. I cannot afford to remain under the charge of the Senator from Kansas and the Senator from Illinois, that I am hostile to the employment of female clerks. I am in favor of it, and it is because I believe this is a measure which will tend to do away with their employment that I made the motion. In relation to the employment of these clerks there is a greater difference in capacity than there is in the males. They ought, according to the suggestion of the Senator from Maine, [Mr. FESSENDEN,] to be graded. Some of them perform duties of four times the value of others. We have many very young girls there, say fourteen or fifteen years of age, and yet it is proposed here that we shall pay the same price for their services that we do for the most accomplished female clerks in the Departments.

I supposed that there was a little common sense in the United States Senate; but whenever the question of female clerks comes up, poetry and transcendentalism and sentiment all take predominance in the judgment of Senators. Even the sedate, calm, and astute chairman of the Judiciary Committee is taken right off his feet at the mention of female clerks. [Laughter.] He says he is not annoyed by the pressure that is brought to bear for fresh appointments. If we shall pass this bill I presume he will say that such pressure does not annoy him; but that he will have it I have no sort of doubt. [Laughter.]

Mr. President, does the Senator from Kansas, in carrying out his principles, pay his seamstress \$1,200 a year, or does he employ her at the average rate of wages? Does he pay his female domestics \$1,200 a year, and if not, why not? Simply because the supply exceeds the demand, and he can get the services of competent persons for less price. If this measure proposed to increase the number that we might employ there would be some sense in it, but it only proposes to give what we do employ, a very limited number, a gratuity of \$300 a year, and applies, say, to a thousand clerks employed in the Treasury Department, making an expenditure of \$300,000 simply for the purpose of allowing the Senator from Kansas and the Senator from Illinois to pay a very handsome compliment to these ladies now there employed; and by paying this compliment we make all the ladies that are equal in ability to perform the duties at home discontented; we create an aristocracy here for the benefit of female employes of the Treasury Department. When I see sober and substantial Senators like the Senator from Illinois and the Senator from Kansas going for this measure I expect that it will pass, but I prefer to have the vote of the Senate on the subject.

Mr. CRAGIN. Mr. President, I feel like saying a word on this question. I am utterly opposed to this measure. I am opposed to increasing salaries at this time. It will be my effort, so far as I have the power, to reduce the expenses of this Government—to reduce the expenses connected with this Senate. As I understand it there have been no applications, there has been no effort of any magnitude to bring about this increase of salary. It is only a few years ago that these clerks were paid \$600 a year. Their salaries were raised to \$900, and now an effort is being made to single out a few of them and to give them \$1,200 and more. To my mind this is extremely bad policy. It is bad policy for those who are to be benefited by this legislation, for if it is understood that the salaries of these places are raised to \$1,200 those who now occupy the places will be very liable to be crowded out.

We all know that there is a distinction between the compensation paid to females and males in all the departments of life. We know that the female school-teacher receives less compensation than the male school-teacher. I am not saying that this is right; but it is an existing fact and will be an existing fact; and

if we attempt here to place this class upon the same footing and to increase these salaries we shall have entered, in my judgment, upon a course of legislation which will lead to a very large increase of the expenditures, and will increase our troubles individually beyond measure. I hope, sir, that the Senate will defeat this proposition and let the matter stand as it does at present.

Mr. CONKLING. Is the motion to strike out the recommendation of the committee?

The PRESIDENT *pro tempore*. The question is on striking out the clause as amended.

Mr. CONKLING. I shall vote to strike it out. I shall do it upon two considerations which I will try briefly to state. Ordinarily the theory of value is that any matter, be it service or something else, is worth what it will bring—that it is regulated by the law of supply and demand. Take that and apply it to this case, and the employes of whom we are speaking receive recompense so large that the honorable Senator from Illinois will admit—although he does not know that any person now holds a place upon a recommendation—that great pursuit takes place the country over to obtain these places. Letters come, I should not be mistaken in saying to all of us, day by day of the most urgent character, inquiring whether for this, that, and the other person deemed to be especially meritorious an opportunity cannot be found to become one of these female clerks.

Mr. FERRY. I would like to ask the Senator from New York, with his permission, if more applications come for the places of female clerks than male clerks?

Mr. CONKLING. I am not sure that they do; I have no comparison of that sort in mind. I will admit the fact to be either way for the sake of the argument, my point being this, that it is untrue in the respect I stated that the compensation is inadequate. Be it a female clerk, be it the cashier of a bank, be it an attorney or counsellor at law, that sum is adequate as a business proposition which commands thorough and first-rate service. Has it turned out to be true that only women incompetent seek these places, and that other women fit to discharge their duties are deterred from applying on account of the inadequacy of the compensation which they receive? No, sir; that is not true. Therefore it is not true as a business proposition that more money need be appropriated in order to command these services.

But, secondly, we are told—I have read in petitions I have seen in the newspapers—that more compensation should be given for the reason that although hundreds claim and only tens can receive places, although they are desirable and are sought, nevertheless the compensation was such that a family could not be maintained upon the salary fixed for a clerk. Very well, sir; if that be an element in the calculation, which perhaps it would be difficult to establish by business logic, then I remind Senators that it at once establishes a distinction between male and female clerks. Why? Because as a rule men past a certain age are called upon to maintain families, they become the heads of families. This is true occasionally in the case of a woman maintaining herself by clerical labor, but it is the exception to the rule, and legislation proceeds not for the sake of the exception, but for the sake of the rule to which the exceptions exist.

Therefore, Mr. President, I conclude by saying that while I should be glad if the persons in whose behalf this legislation is proposed were more fortunate still in their estates, I cannot vote that the funds which we administer as trustees here shall be paid in greater sums than are necessary to obtain, and abundantly and certainly obtain, the service required. It seems to me that it is not right; and therefore, whatever may be the sentiment involved in the proposition, I cannot vote for it.

Mr. POMEROY. I do not like to prolong this discussion, but I wish to reply in a single word to the question pending, which is striking out of the bill all that relates to employing

at any extra compensation female clerks. I will not reply to the remarks of the honorable Senator from Vermont that related personally to myself, for I do not care anything about them; but I failed entirely to see what argument the Senator could assign for not making this compensation entirely equal when rendered by a male or a female clerk. It is clerical labor that we are talking about.

Ordinarily when we ask that avenues may be opened to females we are told it is out of their sphere; we are told that it is unladylike. When they are struggling for bread day by day we are told it will unsex them if they labor in this Department or in that. But here we have labor that is merely clerical, that is not out of their sphere, that will not unsex them, that can be performed as delicately and as faithfully by females as by males. Here I will say, in a word, that there is not such pressure brought to bear on any Senator to secure employment for females as for males. I have five men asking for influence to secure their employment where there is one female. I serve a notice now upon every able bodied man that he will seek my influence in vain; and if I could turn out all able-bodied men who are doing simply clerical labor I would do it. I would begin in every Department of this Government and turn them out, because every avenue is open to them; the public lands are open upon which they can make settlement, and the earth abideth as a resting place and as a means of support for a man when many avenues are not open and are not accessible to women. There are all sorts of employment adapted and suitable besides clerical that men can engage in; and I consider that it is the duty of legislators when they are providing for the payment of this class of service to open it to those who can perform it, even if it was to the exclusion of a class of persons that have other avenues open to them.

Mr. President, there is no reason why we should restrict this payment to \$600 a year when it is not adequate to support. All females have to live; they have mouths to feed; they must wear clothing; there is no house in Washington open to them any cheaper than to males. They have responsibilities, let me tell the Senator from New York; they have upon them responsibilities equal to what are placed upon men. I know females that have to support father and brother both by mere clerical labor and eating the bread of carefulness themselves, spending nothing for themselves, and are obliged to support parents and brothers, and here we propose to strike down those who perform that labor to a pittance of six or eight hundred dollars a year.

Mr. CONKLING. The honorable Senator will allow me, I do not dispute that, and I do not wish to be held to overlook the fact. My proposition, however, may be thus generally stated in a word: that as men bear a larger proportion of the burdens of society than women—I refer to expenses—so you can never obliterate the fact that the larger proportion of compensation for labor falls in the same direction. That is the rule.

Mr. POMEROY. The only difficulty between the Senator and myself is this: I do not believe that the burdens of society fall heavier on men than women. I say that the burdens of society fall heavier on those who have no avenues open to them, against whom employment is closed, and my sympathies are with those who have few opportunities and great responsibilities, and I protest against striking out this provision in the bill. I know that if we continue the discussion of this question we endanger even the passage of the bill. It is for no motive, only to secure in it what the committee themselves desired when they reported the bill.

Mr. MORRILL, of Maine. I appeal to Senators to allow us to have a vote. I was appealed to to lay aside the bill some time ago.

Mr. POMEROY. I shall call for the yeas and nays on the question of striking out.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont, to strike out the clause as amended.

Mr. CORBETT. I ask for the reading of the clause as amended.

The CHIEF CLERK. The words proposed to be stricken out are:

The compensation of the female clerks employed in the several Departments of the Government and performing clerical duties shall be the same as male clerks of the same class; and female counters and copyists shall receive the same compensation as male counters and copyists doing the same class of service; and a sufficient sum to pay such increased compensation to female clerks is hereby appropriated.

Mr. POMEROY. I hope that will not be stricken out.

Mr. MORRILL, of Vermont. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 33; as follows:

YEAS—Messrs. Conkling, Corbett, Cragin, Dixon, Harlan, Henderson, Howe, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Sawyer, Sherman, Sprague, and Williams—15.

NAYS—Messrs. Abbott, Anthony, Buckalew, Cole, Connors, Davis, Drake, Ferry, Fowler, Harris, Howard, Kellogg, Morton, Osborn, Patterson of Tennessee, Pomeroy, Pool, Ramsey, Rice, Robertson, Ross, Spencer, Sumner, Tipton, Trumbull, Van Winkle, Vickers, Wade, Warner, Welch, Whyte, Wiley, and Wilson—33.

ABSENT—Messrs. Bayard, Cameron, Cattell, Chandler, Doolittle, Edmunds, Fessenden, Frelinghuysen, Grimes, Hendricks, McDonald, Norton, Nye, Patterson of New Hampshire, Saulsbury, Stewart, Thayer, and Yates—18.

So the motion to strike out did not prevail.

The next amendment was in line four hundred and sixty-one after the word "appropriated" to insert the following proviso:

Provided, That the annual salary of the Treasurer of the United States shall be \$8,000, and an amount sufficient to pay said increased compensation for the fiscal year ending June 30, 1869, and for the year ending June 30, 1870, is hereby appropriated.

Mr. MORRILL, of Maine. I will state in one word why this is recommended. The salary of the Assistant Treasurer at New York is \$8,000, while the salary of the Treasurer who has all the duties of the Assistant Treasurer at New York in one sense, that is in the sense that he supervises all he does and has a good deal of duty besides, is \$6,500. The committee did not see why that distinction should be made.

Mr. GRIMES. How much does the Commissioner of Internal Revenue get?

Mr. MORRILL, of Maine. \$6,000? Certainly there should not be that discrepancy or difference between the Treasurer and the Assistant Treasurer. It seems to me it is obvious enough the one should come down or the other go up, and this officer has been, I believe, a very laborious and acceptable officer.

Mr. RAMSEY. Who is the Assistant Treasurer?

Mr. MORRILL, of Maine. I do not know.

Mr. FESSENDEN. Mr. Van Dyck.

Mr. TRUMBULL. He is in the city of New York. I suppose on the same principle the Commissioner of Customs here who has a salary of \$3,000 a year I think, must be paid as much as the collector of customs in the city of New York, who probably gets \$50,000 a year.

Mr. MORRILL, of Maine. I suppose that case would be analogous.

Mr. TRUMBULL. The Treasurer of the United States is a gentleman for whom I have the highest respect and who I know is a very laborious man and who performs a great deal of service; but why his salary should be that of a Cabinet officer, \$8,000 a year, while the heads of all the other bureaus receive only three or four thousand dollars I cannot conceive. It seems to me there is no propriety in putting up his salary to \$8,000 unless you raise the salaries of the Auditors, the Commissioner of the Land Office, and various other officers here who have great labors to perform, are constantly occupied, and diligent, worthy, honorable, honest, and efficient men. It seems to me there is no propriety in it.

Mr. WILSON. General Spinner was appointed eight years ago into this very responsible office. During these eight years I believe he has worked more hours and done more drudgery than any man employed in the service of the United States, civil or military. The responsibilities of his office are very great, and

the labor in it is very much larger than the responsibility or the labor in New York. I think as a tribute to a public servant who has rendered eminent service to the country we ought to put him at least on an equality with the Assistant Treasurer in New York.

Mr. FESSENDEN. The difference between this case and the case spoken of by one Senator who inquired as to the Internal Revenue Commissioner is this: the Treasurer receives and is responsible for the money, and he gives a very heavy bond; the Commissioner of Internal Revenue has no such responsibility on him; and it has always been considered that men should be paid according in some degree to their responsibility. The Assistant Treasurer at New York receives \$8,000. It is little enough. It is hardly what men connected with banks there receive, who do not perform anything like his duties.

Mr. TRUMBULL. Does he not have charge of a great deal more money than the Treasurer here?

Mr. FESSENDEN. Not at all. All the money comes to the Treasury here and goes back. The money all passes through the Treasury here.

Mr. TRUMBULL. The money collected in New York is deposited in New York, is it not?

Mr. FESSENDEN. A great deal of it is deposited in New York.

Mr. TRUMBULL. It never comes here except for disbursement.

Mr. FESSENDEN. That is the gold received from customs; but the paper money all passes through the hands of the Treasurer here.

Mr. TRUMBULL. The Senator does not mean to say that the money collected from internal revenue comes into the Treasury here in Washington? I know it is finally accounted for here.

Mr. FESSENDEN. It finally comes back here and goes out here. The Treasurer of the United States handles a great deal more money than the cashiers of the Bank of England and Bank of France combined. The responsibility is altogether upon him if the money is lost. He has to keep a very much larger force than is kept at the sub-Treasury in New York and his responsibilities are consequently very much greater. They are both very great. Now, sir, with regard to that matter, it was always my opinion that the pay of the sub-Treasurer at New York ought to be raised and that the pay of the Treasurer here ought to be raised. But Congress has never decided to raise the pay of the Assistant Treasurer at New York. I know at one time that office was vacant; it was vacant or was about to become vacant when I went into the Treasury Department. I had great difficulty in getting the right kind of men to take the office. Why? Because I could find no such man unless he was a man of very large fortune, who would not take the labor, or else a man who could receive more pay in other positions. I finally persuaded a gentleman to take the office who gave up a larger pay, which he could ill afford to do, feeling it his duty at that time to serve his country in the position in which I put him. When I resigned he resigned and left the office.

Now, with regard to the Treasury here, I do not know a man in the Government who ought to receive a higher pay; I mean in any of what may be called not the very highest positions in the Government. It costs him as much to live as it costs anybody. He has never been able on his salary to keep his family here together. I have constantly endeavored to raise his pay. I got it up finally to \$6,500; I wanted to get it up to \$8,000 at that time on account of his responsible labor and his great capacity; and you must have in that place a man of great capacity and of tried integrity always. He has been very fortunate; no money has been lost; and it is a wonder that so much money has passed through his hands and no losses have occurred.

I believe that the salaries of several leading officers of the Government ought to be raised, and this is one of them; and I see no propriety

in keeping him below the Assistant Treasurer in New York. I do not know that it costs more to live there than it does here. I know it costs very much to live here, so that nobody can live on any pay he gets without extreme economy and difficulty.

Mr. ANTHONY. It is within my knowledge within two years that men have been here from New York with a proposition to the present Treasurer to accept a position there at a salary of \$10,000 a year, a very honorable position and a very responsible one, at the head of an insurance office in that city. I have no doubt that there are a great many men who would take this office at a less price. I suppose you could find in any of the Departments messengers who would accept this office without any increase of their present compensation; but such men as General Spinner are very rare to be found and very rare in the public service. I think he is worth a great deal more to the Government above any ordinary first-class man than his salary every month he stays there.

Mr. TRUMBULL. Mr. President, we are fixing a salary, I would remind my friend from Rhode Island, for the Treasurer of the United States and not for any individual; and if the salary is fixed at this sum it will be paid to whoever may occupy that place. No one entertains a higher opinion of the present Treasurer of the United States than I do. I know the great labors he has performed, the great integrity and the care with which he has presided over that branch of the Government to which he has been assigned. He is a valuable man, but the salary that is paid him is out of proportion to the salaries we are paying officers here in the city of Washington. I agree with the Senator from Maine that the salaries are not what they ought to be. I think they ought to be higher, but it seems to me that this salary is already out of proportion to the others.

The salaries paid the heads of Departments—the Secretary of State, the Secretary of the Treasury, &c.—are but \$8,000 a year; and the salaries that are paid to the heads of bureaus, who also are men that perform a great deal of labor—very important and very responsible offices are filled by them—and yet none of them are more than \$4,000, and some of them not more than \$3,000. Now, why should you raise the salary of the Treasurer, saying nothing about the present incumbent, to \$8,000, and pay your Auditors, your Commissioner of Customs, your Commissioners of Pensions, your Commissioner of Patents, and your Commissioner of the General Land Office, and these various other officers not half that sum? Is there any propriety in that?

But the Senator from Rhode Island says he knows the fact that the Treasurer of the United States could make more money by going to the city of New York, or has been offered more. Is that the test? How many men could make more money out of the offices they hold than is paid them as salary? Does the Senator from Rhode Island suppose that the Attorney General of the United States could not make more money practicing his profession? Does he not suppose that large corporations in this country would be glad to retain him at a salary double or treble that which he receives as Attorney General for his services? Is that any reason why we should put his salary up to the amount that he could make by his profession if he were practicing it? It is possible that even some members of the Senate might make more money; and the Senator from Rhode Island, I am sure, could make a great deal more pursuing his profession than he can make as a member of this body. That does not seem to me to be a reason. The objection I have to this is that it is out of proportion to the other salaries paid here in Washington. I think the salary of the Treasurer of the United States should not be the same as that paid to the heads of Departments while the salaries of other officers inferior to the heads of Departments, subordinate officers, are kept at the present sums.

Mr. NYE. I should like to ask the honor-

able Senator from Illinois a question: if there is any office where the pecuniary responsibility is as great as that of the Treasurer of the United States?

Mr. TRUMBULL. I suppose there are many where it is quite as great. I do not see how his responsibility is greater than that of many other officers in the country. It is not by any means true that all the money of the Government passes through the Treasury of the United States. The accounts are returned there.

Mr. NYE. I supposed that was true.

Mr. TRUMBULL. It is by no means true, let me inform the Senator from Nevada. I can tell him, if he is not already advised of it, that of the hundreds of millions of dollars collected from customs in the city of New York never a dollar sees the vault in the Treasury Department here, though it is all accounted for here; and now of the hundreds of millions of gold lying idle in the Treasury of the United States—and it has been lying idle there for the last three or four years, wrongfully I think—he will find very little here in this Treasury building; but if the Senator will go to New York, and go into the sub-Treasury there, he will find the vaults full of gold; he will find very little of it here. And the money that is collected from internal revenue which is collected in Nevada and in Montana, the identical dollars that are collected, are not sent here to the Treasury of the United States, but are deposited with some sub-Treasurer, either in Chicago or in Montana, or in some bank authorized to receive deposits; the account is returned here and a draft is drawn in favor of some creditor of the Government. The money never sees the Treasury of the United States in fact; it is accounted for there. I suppose that ten times as much money passes through the hands and is received into the office of the sub-Treasurer in New York as is received here during the same period of time.

Mr. NYE. The honorable Senator has quite startled me with his statement that there is hardly any responsibility on the Treasurer of the United States.

Mr. TRUMBULL. I did not say that.

Mr. NYE. Well, that it was apparently small; that the responsibility of the sub-Treasurer at New York, for instance, is infinitely greater. I have understood—a person near me who knows will correct me if that is not the fact—that a large portion of the money paid in New York is transferred to the Treasury of the United States at Washington. Whether the coin is sent or not I am not able to say, but the average I believe is about eighty or one hundred million dollars. Certain it is that the Treasurer of the United States is responsible for all this immense amount of banking capital in the Department.

Mr. TRUMBULL. How is he responsible?

Mr. NYE. He is held responsible the moment those bonds are deposited in the Department, and they have amounted to a great many hundreds of millions. I have often wondered how any gentleman in the United States of sufficient capacity to discharge the duties of that office would take it with its countless responsibilities on the salary that the Treasurer receives. It is, I believe, but about two thousand dollars more than some of the chief clerks or heads of bureaus who have no pecuniary responsibility at all receive. It is well known that the present incumbent of the office is a most excellent officer. My friend says he may be changed. I hope the Government will never get a person less qualified for the place. He regards it as so responsible that he sleeps at the very door of the Treasury Department, at the very door of the safe of that Department, every night in his life. I desire to say, for one, that I think the Treasury of this nation will be better managed if we pay a respectable salary, a salary at least equal to that of the cashier of a bank of many of the cities of this nation, than it will be to put the salary at that point that it must of necessity command inferior talent to discharge such responsible duties.

Mr. GRIMES. I am entitled to none of the

credit for courage which the Senator from Maine [Mr. FESSENDEN] bestowed upon the Committee on Appropriations for reporting this amendment. I was not aware—it is my own fault to be sure, because I did not happen to be present at the committee meeting yesterday morning—until I read it in the bill that such a proposition was before the Senate emanating from that committee. Had I been present at the meeting of the committee I should have voted against it, as I shall now do in the Senate.

Mr. President, it is not true in the history of this country that the salaries of officers have been graduated according to the pecuniary liabilities they might incur, or according to the amount of the bond they have been required to give. When I became a member of this body the Treasurer of the United States received \$3,000 a year. Then hundreds of millions passed through his hands and he did not receive a dollar more than any other bureau officer of the Government; but upon the pretense—I will not say the pretense; but upon the argument—that General Spinner incurred extraordinary responsibilities because of his bond we have been urged from time to time, indeed I might say every session, to increase his salary until at last we have got it up much larger than that of any other bureau officer of the Government. It is now, I believe, \$6,000.

Mr. TRUMBULL. Six thousand five hundred dollars.

Mr. GRIMES. Six thousand five hundred dollars, while the next below him is only \$5,000.

Mr. FESSENDEN. I think the Commissioner of Internal Revenue gets \$6,000.

Mr. GRIMES. Now, what does this pecuniary responsibility amount to? General Spinner himself does not receive a dollar of the public money. All the financial affairs of the country are carried on through his subordinates either in the Treasury Department or at the sub-Treasuries in the United States. If a defalcation occurs through the maladministration or misconduct of any of those subordinates it is traced to that subordinate; and do we hold General Spinner responsible? Not at all. We never have done so; it never has been attempted to do anything of the kind. If such a thing occurred he would come here to Congress and prefer a claim to relief, and say, "the Government has been defrauded through some misconduct of some subordinate officer of the sub-Treasury at New York," or Philadelphia, or elsewhere, wherever it may have occurred, and we would pass a bill relieving him. We do not, therefore, hold General Spinner responsible upon his bond. All this argument in favor of increasing his salary because of the magnitude of the security that is required of him is utterly fallacious.

Now, Mr. President, it costs the sub-Treasurer in New York a great deal more than it costs an officer here to live in this city, and I undertake to say that more real, actual money passes through the sub-Treasurer's hands at New York than there is here at Washington.

Mr. NYE. That is impossible.

Mr. GRIMES. No, it is not impossible. Money is received at the various places of deposit and it is credited to the Government of the United States. If you call that money which consists in drawing a draft in favor of some officeholder or some contractor in Chicago or Detroit or elsewhere, and which is sent off for a liability of the Government, then it is true that General Spinner handles more money than anybody else.

Mr. NYE. Is there not a large banking department there that he has charge of?

Mr. GRIMES. No, sir; he has nothing to do with the banking department except a certain amount of the bonds there.

Mr. NYE. If the honorable Senator will excuse me, he has nothing to do with the banking department save to see that it is properly and carefully managed, and he is held responsible for his subaltern officers.

Mr. GRIMES. The Comptroller of the Currency is in no manner responsible to the Treasurer of the United States. He is not a

subordinate of his. The Treasurer keeps in his vaults the original bonds that belong to the banks throughout the United States. That is all there is of it, and all the responsibility he has connected with the banks.

Mr. FESSENDEN. The Senator is mistaken about that. Every dollar of bank paper that is issued comes from this office in the first place and goes through the Treasury Department. Every dollar of paper that is issued by the Government comes from the Treasurer's Department, and large sums are continually being returned there; some because it is worn and to be destroyed, and some to be paid out again, and some to be renewed. It all comes back to the Treasury and is in the hands of the Treasurer, and he is responsible for it while it is in his hands.

Mr. MORRILL, of Maine. I will ask my colleague whether it is not true, in addition to that, that all the revenues of the country are credited to him?

Mr. FESSENDEN. Of course they are credited to the Treasury of the United States. But then, as the Senator from Iowa says, if there is a defalcation in any of the banks which are banks of deposit, out of the city, I do not suppose the Treasurer would be held responsible for that because he transfers it by drafts.

Mr. GRIMES. Or anywhere else.

Mr. FESSENDEN. He would be here. He is responsible in this city for every dollar that is lost or stolen.

The PRESIDING OFFICER, (Mr. FERRY in the chair.) The question is on the amendment reported by the Committee on Appropriations.

Mr. GRIMES called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 19, nays 26; as follows:

YEAS—Messrs. Anthony, Cattell, Cole, Corbett, Drake, Ferry, Fessenden, McDonald, Morrill of Maine, Morton, Norton, Nye, Osborn, Pomeroy, Rice, Sumner, Van Winkle, Welch, and Wilson—19.

NAYS—Messrs. Abbott, Buckalew, Cameron, Chandler, Conkling, Cragin, Davis, Dixon, Fowler, Grimes, Harlan, Harris, Henderson, Howard, McCreery, Morgan, Pool, Robertson, Ross, Sherman, Sprague, Stewart, Trumbull, Warner, Whyte, and Williams—26.

ABSENT—Messrs. Bayard, Conness, Doolittle, Edmunds, Frelinghuysen, Hendricks, Howe, Kellogg, Morrill of Vermont, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Saulsbury, Sawyer, Spencer, Thayer, Tipton, Vickers, Wade, Willey, and Yates—21.

So the amendment was rejected.

Mr. MORRILL, of Maine. I move that the Senate at half past four o'clock take a recess until half past seven o'clock this evening.

Mr. SPRAGUE. Say seven o'clock.

Mr. MORRILL, of Maine. It is suggested to take a recess from four and a half o'clock to seven o'clock. I modify my motion in that way.

The motion was agreed to.

The Secretary continued the reading of the bill.

The next amendment was in line five hundred and thirteen to strike out "four" and insert "five," so as to make the salary of the Solicitor in the Internal Revenue Bureau \$5,000.

The amendment was agreed to.

Mr. SHERMAN. With the consent of the Senator from Maine, I will offer an amendment, to add at the end of that line the clause making appropriations for the Internal Revenue Bureau the following words.

And the Commissioner of Internal Revenue shall not be required to give bond.

Under the old law the Commissioner of Internal Revenue received money, but under the law as it now stands he receives not one dollar, and therefore he stands like any other mere executive officer.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was in line five hundred and thirty-six to strike out "\$6,000,000" and insert "\$8,000,000;" so that the clause will read:

For salaries and expenses of collectors, assessors, assistant assessors, revenue agents, inspectors, and superintendents of exports and drawbacks, together with the expense of carrying into effect the various

provisions of the several acts providing internal revenue, excepting items otherwise estimated for, \$8,000.00.

The amendment was agreed to.

The next amendment was after line six hundred and thirty-eight, to insert:

To enable the Secretary of the Interior to fulfill a contract made by him under the provisions of a joint resolution authorizing a contract with Winnie Ream for a statue of the late Abraham Lincoln, \$5,000.

Mr. SUMNER. I should like to inquire of the chairman how much has been paid for that statue?

Mr. MORRILL, of Maine. Not anything.

Mr. SUMNER. There has certainly been one payment. I wish to know whether there has not been even more than that?

Mr. MORRILL, of Maine. The committee are not aware that anything has been paid. We have no information that anything has been paid. I will state to the Senator how I understand the facts to be. By a joint resolution of Congress, passed in 1866, the Secretary of the Interior was directed to contract with this lady for a statue of President Lincoln for the sum of \$10,000, \$5,000 of which was to be paid when the model in clay was perfected, and the balance when the statue was finished in marble. Now, we have a communication from the Secretary of the Interior communicating to us a copy of the contract under that resolution, and also stating in his communication that the first part of the contract has been completed to his satisfaction, and asking for this appropriation, so that the committee found, as a matter of law and contract, that she was entitled to have the first installment of \$5,000.

Mr. SUMNER. How much more is to be paid?

Mr. MORRILL, of Maine. Five thousand dollars when the statue is in marble.

Mr. SUMNER. Making \$10,000.

Mr. MORRILL, of Maine. Making \$10,000, under the law of Congress and under the contract with her by the Secretary of the Interior. The committee had no doubt that it was an obligation of law and contract.

Mr. SUMNER. I inquire of the chairman if there is no way of obtaining a release from that contract by paying this \$5,000 now, so that we need not be obliged to pay an additional \$5,000 for a statue which in all probability we shall not be willing to place in the Capitol?

Mr. MORRILL, of Maine. I have no information on that subject. I will answer the Senator very frankly. The best I think I can do would be to refer the Senator to the artist upon that subject.

Mr. HOWARD. I beg to inquire of the honorable chairman of the committee whether the United States is bound to pay this \$5,000 at this time? Is there not some condition in the contract by which the model may be examined before we proceed to its final completion and pay for it?

Mr. MORRILL, of Maine. It is to be done to the acceptance of the Secretary of the Interior.

Mr. HOWARD. What is to be done, the model or the statue itself?

Mr. MORRILL, of Maine. The model. When the model in clay has been finished to the acceptance of the Secretary of the Interior, then the Secretary of the Interior is entitled to pay her the first installment.

Mr. HOWARD. If the Senator from Maine will allow me I will read the joint resolution under which this lady was employed:

"Resolved, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to contract with Miss Winnie Ream for a life-size model and statue of the late President Abraham Lincoln, to be executed by her at a price not exceeding \$10,000, one half payable on the completion of the model in plaster, and the remaining half on the completion of the statue in marble to his acceptance."

I suppose the discretion of the Secretary extends both to the model and to the completed statue whenever it shall be completed. I should suppose that to be the fair and liberal con-

struction to be given to that joint resolution. I wish to say in this connection that I have briefly and cursorily examined the model which the lady had prepared of the contemplated statue of Mr. Lincoln, and although I profess not to be a judge in such matters, and by no means a connoisseur, I, for one, am very much dissatisfied with the model which she has already prepared. I do not think it brings out the features or the person of President Lincoln. I think the whole thing is at present a failure, just as I predicted when the original proposition was before the Senate. I think the country will be dissatisfied with this statue if it is completed upon the model which has been exhibited here in the Capitol. And unless we are bound absolutely to appropriate this \$5,000 at this time in part payment of the statue I think we had better let the matter stand open until the Secretary of the Interior shall have time to examine thoroughly the statue when it shall be completed.

Mr. MORRILL, of Maine. But the information is that the Secretary of the Interior has examined it, and he makes us a formal communication to that effect, that he has examined the statue, is satisfied with it, and asks that an appropriation be made. He sends the contract to the committee, refers us to the law and the contract, declares his satisfaction with the model upon examination, and requests that this appropriation be made in conformity with the contract.

Mr. HOWARD. I dislike to occupy the time of the Senate on this small matter unnecessarily; but I should like very much to hear the communication of the Secretary of the Interior on this subject read, or so much of it as relates to the point in consideration, if it is convenient to produce it.

Mr. MORRILL, of Maine. If the Senator desires to have it read I will send for it; and in the mean time this amendment can be passed over.

Mr. HOWARD. Very well.

The PRESIDENT *pro tempore*. The Chair will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the bill (H. R. No. 1570) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1870, and for other purposes.

The message further announced that the House had passed a bill (H. R. No. 2007) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, and for other purposes; and a bill (H. R. No. 2021) for the relief of Norman Wiard, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 596) granting a pension to Mary A. Davis, widow of William P. Davis, a private in the eighteenth regiment of Indiana volunteers in the war of 1861, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House insisted upon its amendment to the bill of the Senate (S. No. 900) granting a pension to William B. Looney, of Alabama, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. SIDNEY PERHAM of Maine, Mr. H. VAN AERNAM of New York, and Mr. A. G. BURR of Illinois, managers at the same on its part.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 1738) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1870, asked

a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. BENJAMIN F. BUTLER of Massachusetts, Mr. G. W. SCOFIELD of Pennsylvania, and Mr. WILLIAM WINDOM of Minnesota, managers on its part.

The message further announced that the House had also disagreed to the amendments of the Senate to the bill (H. R. No. 1746) for the removal of certain disabilities from the persons therein named, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. J. B. BECK of Kentucky, Mr. J. F. FARNSWORTH of Illinois, and Mr. B. W. NORRIS of Alabama, managers at the same on its part.

The message also announced that the House had agreed to the concurrent resolution of the Senate requesting the President of the United States to transmit to the Executives of the several States copies of the amendment to the Constitution of the United States proposed by Congress to the Legislatures of the several States by resolution of February 26, 1869.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 1967) to compensate the officers and crew of the United States steamer Kearsarge for the destruction of the rebel piratical vessel Alabama, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. F. A. PIKE of Maine, Mr. G. TWITCHELL of Massachusetts, and Mr. CHARLES HAIGHT of New Jersey, managers at the same on its part.

The message also announced that the House of Representatives had disagreed to the amendments of the Senate to the bill (H. R. No. 1881) regulating the reports of national banking associations, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. S. J. RANDALL of Pennsylvania, Mr. T. M. POMEROY of New York, and Mr. JOHN LYNCH of Maine managers at the same on its part.

The message further announced that the House insisted upon its amendments to the bill (S. No. 440) supplementary to an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. J. COBURN of Indiana, Mr. N. B. JUDD of Illinois, and Mr. SAMUEL HOOPER of Massachusetts, managers at the same on its part.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 375) to repeal an act approved March 2, 1867, entitled "An act to regulate the disposition of fines, penalties, and forfeitures received under the laws relating to the customs, and for other purposes," and to amend certain acts for the prevention and punishment of frauds on the revenue, and for the prevention of smuggling, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. THOMAS D. ELIOT of Massachusetts, Mr. CHARLES O'NEILL of Pennsylvania, and Mr. J. M. HUMPHREY of New York, managers at the same on its part.

The message further announced that the House had concurred in the amendments of the Senate to the following bills and joint resolutions:

A bill (H. R. No. 112) relating to captures made by Admiral Farragut's fleet in the Mississippi river in May, 1862;

A bill (H. R. No. 425) for the relief of Mary A. Filler;

A bill (H. R. No. 1279) in relation to additional bounties, and for other purposes;

A bill (H. R. No. 1327) to amend an act entitled "An act to exempt certain manufactures from internal tax, and for other purposes," approved May 31, 1868;

A bill (H. R. No. 1867) for the relief of the Illinois Iron and Bolt Company;

A bill (H. R. No. 1879) for the relief of cer-

tain companies of scouts and guides organized in Alabama;

A bill (H. R. No. 1973) in reference to certifying checks on national banks;

A bill (H. R. No. 1989) for the relief of Peter McGough, collector of internal revenue and disbursing agent, twentieth district Pennsylvania;

A bill (H. No. 1344) to confirm certain private land claims in the Territory of New Mexico;

A bill (H. R. No. 1487) to declare and fix the status of the corps of judge advocates of the Army;

A bill (H. R. No. 1928) granting a pension to Lemuel Barthalow;

A bill (H. R. No. 1930) granting a pension to Madge K. Guthrie and Robert B. Guthrie;

A joint resolution (H. R. No. 438) relative to certain purchases by the Interior Department; and

A joint resolution (H. R. No. 211) for the relief of Henry S. Gibbons, late postmaster at St. Johns, Michigan.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 1041) granting the right of way to the Walla-Walla and Columbia River Railroad Company, and for other purposes; and

A bill (H. R. No. 1063) for the relief of Henry Barrieklow.

HOUSE BILLS REFERRED.

On motion of Mr. MORRILL, of Maine, the bill (H. R. No. 2007) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

The bill (H. R. No. 2021) for the relief of Norman Wiard was read twice by its title, and ordered to lie on the table.

INDIAN APPROPRIATION BILL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 1738) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations, disagreed to by the House; and

On motion of Mr. MORRILL, of Maine, it was

Resolved, That the Senate insist upon its amendments to the said bill, disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore* of the Senate.

The PRESIDENT *pro tempore* appointed Mr. HARLAN, Mr. THAYER, and Mr. CORBETT.

REMOVAL OF DISABILITIES.

The Senate proceeded to consider its amendment to the bill (H. R. No. 1746) for the removal of certain disabilities from the persons therein named, disagreed to by the House; and

On motion of Mr. STEWART, it was

Resolved, That the Senate insist upon its amendment to the said bill, disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore* of the Senate.

The PRESIDENT *pro tempore* appointed Mr. STEWART, Mr. TRUMBULL, and Mr. HENDRICKS.

REPORTS OF NATIONAL BANKS.

The Senate proceeded to consider its amendments to the bill (H. R. No. 1881) regulating the reports of national banking associations, disagreed to by the House; and

On motion of Mr. SHERMAN, it was

Resolved, That the Senate insist upon its amendments to the said bill, disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore* of the Senate.

The PRESIDENT *pro tempore* appointed Mr. CATTELL, Mr. WILLIAMS, and Mr. CONNESS.

STEAMER KEARSARGE.

The Senate proceeded to consider its amendments, disagreed to by the House of Representatives, to the bill (H. R. No. 1967) to compensate the officers and crew of the United States steamer Kearsarge for the destruction of the rebel piratical vessel Alabama; and

On motion of Mr. GRIMES, it was

Resolved, That the Senate insist upon its amendments to the said bill, disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore* of the Senate.

The PRESIDENT *pro tempore* appointed Mr. GRIMES, Mr. CONKLING, and Mr. DRAKE.

CONSULAR AND DIPLOMATIC BILL.

Mr. SUMNER. With the consent of the Senator from Maine, I desire to make a report from the conference committee on the disagreeing votes of the two Houses on the bill known as the consular and diplomatic bill. I ask that the report be read and acted upon at once.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 1570) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1870, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from their amendments numbered 27, 30 and 31.

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 1, 6, 7, 13, 14, 22, 32, and 33, and agree to the same.

That the House recede from their disagreement to the second amendment of the Senate, and agree to the same with an amendment as follows: at the end of said amendment add the following words: "and to continue while acting as minister to Uruguay."

That the House of Representatives recede from their disagreement to the twenty-eighth amendment of the Senate, and agree to the same with the following amendment: strike out all of said amendment, being the fourth section of the bill, and insert in lieu the following:

Sec. 4. *And be it further enacted*, That the President is authorized, on the recommendation of the Secretary of the Treasury, to cause examinations to be made into the accounts of the consular officers of the United States, and into all matters connected with the business of their said offices, and to that end he may appoint such agent or agents as may be necessary for that purpose; and any agent whom so appointed shall, for the purpose of making said examinations, have authority to administer oaths and take testimony, and shall have access to all the books and papers of all consular officers. And any agent appointed in this behalf shall be paid for his services a just and reasonable compensation, not exceeding five dollars per day for the time necessarily employed, in addition to his actual necessary expenses, the same to be paid out of the sum appropriated for expenses of collecting the revenue; but no greater sum than \$5,000 shall be expended as compensation of such agent or agents in any one year. And the President shall communicate to Congress, at the commencement of every December session, the names of the agents so appointed and the amount paid to each, together with the reports of such agents.

And the Senate agree to the same.

CHARLES SUMNER,
F. T. FRELINGHUYSEN,
W. PINKNEY WHYTE,
Managers on the part of the Senate.
GODLOVE S. ORTELL,
SAMUEL B. AXTELL,
Managers on the part of the House.

The report was concurred in.

PROPOSED AMENDMENTS.

Mr. POMEROY submitted two amendments intended to be proposed to the bill (H. R. No. 1911) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes; which were referred to the Committee on Appropriations.

Mr. SPRAGUE, Mr. FESSENDEN, Mr. RAMSEY, and Mr. ROBERTSON submitted amendments intended to be proposed to the bill (H. R. No. 2007) making appropriations for sundry civil expenses of the Government for the year end-

ing June 30, 1870, and for other purposes; which were referred to the Committee on Appropriations.

Mr. RAMSEY submitted an amendment intended to be proposed to the bill (H. R. No. 1808) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1870; which was referred to the Committee on Appropriations.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1672) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1870, the pending question being on the amendment of the Committee on Appropriations, to insert after line six hundred and thirty-eight, the following clause:

To enable the Secretary of the Interior to fulfill a contract made by him under the provisions of a joint resolution authorizing a contract with Vinnie Ream for a statue of the late Abraham Lincoln, \$5,000.

Mr. MORRILL, of Maine. I send to the Chair a communication from the Secretary of the Interior on that subject, which I desire to have read, and I trust the Senator from Michigan [Mr. HOWARD] will give his attention to it. The Secretary read as follows:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., January 30, 1867.

SIR: I have the honor to inclose herewith a copy of a letter bearing date the 27th instant, which I have received from Miss Vinnie Ream, informing me of the completion of the model in plaster of the late President Lincoln, which she had contracted to execute, and requesting payment of the sum of \$5,000 due to her on such completion.

The "joint resolution authorizing a contract with Vinnie Ream for a statue of Abraham Lincoln," approved July 28, 1866, (U. S. Statutes, vol. 14, p. 370,) authorized and directed the Secretary of the Interior to contract with that lady for a life-size model and statue of the late President; and pursuant to its terms a contract was on the 30th day of August, 1866, executed, whereby the Secretary, on behalf of the United States, promised to pay Miss Ream the sum of \$5,000 on her completion of such life-size model in plaster, and the further sum of \$5,000 on her completion to his acceptance of the statue in marble and the delivery thereof to the officer to be designated to receive it. A copy of the contract is herewith transmitted.

I have inspected the completed model. It bears a faithful resemblance to the original and is highly creditable to the skill of the artist. I recommend that Congress make an appropriation of \$5,000 to enable the Secretary of the Interior to pay the installment now due to Miss Ream under her contract.

Very respectfully, your obedient servant,
O. H. BROWNING,
Secretary.

Hon. B. F. WADE,
President pro tempore of the Senate.

Mr. HOWARD. I will not criticise the construction which the Secretary of the Interior seems to give to the joint resolution of July 28, 1866. He seems to think, however, that on the completion of the model, however imperfect it may happen to be, he is bound to pay the \$5,000, whether the model is acceptable to him or not. I certainly do not concur in that construction of the joint resolution. I think the joint resolution requires, even before the payment of the first \$5,000, that he should be satisfied with the model itself.

Mr. MORRILL, of Maine. Will my honorable friend allow me to suggest to him that the Secretary says in so many words that it is acceptable to him? He compliments it.

Mr. HOWARD. I was speaking of his statement of the contract, not of his opinion respecting the acceptability of the model. I should like the Secretary to read that portion of the contract itself which relates to the model and the acceptance of it by the Secretary of the Interior, if it is at hand.

The Secretary read from the contract as follows:

"That the said Vinnie Ream, for and in consideration of the sum of \$10,000, to be paid to her as hereinafter mentioned, hereby binds herself to execute and deliver to the Commissioner of Public Buildings or other public officer to be designated by the Secretary of the Interior, and in snideity, a life-size model and a statue of the late President Lincoln: said statue to be in marble and to the acceptance of such Secretary; and the said Harlan, Secretary as aforesaid, in the name and on behalf of said United States, hereby promises to pay to said Vinnie Ream the sum of \$5,000 on the completion as aforesaid of such model

in plaster, and the further sum of \$5,000 on the completion, to the acceptance of the then Secretary of Interior, of such life-size statue in marble, and the delivery of the same as hereinbefore mentioned."

Mr. HOWARD. I have nothing further to say about this matter, except that it appears from the contract itself and from the letter of the Secretary that we are absolutely bound at present to pay the \$5,000 whatever may be the quality of this model. I wish that it was otherwise; but as I cannot help it I do not see but that I shall be compelled to vote for the appropriation, inasmuch as it is paying a debt for which we have entered into a contract. I beg to repeat, however, that in my opinion—and I place very little value upon it myself, I can assure Senators—we and the country will be dissatisfied with this statue if it is completed according to the present model, which I have inspected myself.

Mr. TRUMBULL. I will say but a word on this subject. It seems that this contract, was entered into in pursuance of law. The Senator from Michigan is a little mistaken, I think, in his idea about it. The Secretary of the Interior was directed to make a contract, and the model has been completed to his satisfaction. He says so. The Senator from Michigan thinks the model is such a one as the country will not be satisfied with. I have not much of an eye for statuary, and my opinion would be worth very little on a subject of that kind. I can only say that in my judgment the model resembles Mr. Lincoln very much; and I can say further that some of my Illinois friends who have examined the model and who were intimately acquainted with Mr. Lincoln, those who profess to have knowledge of such matters, express themselves as very much pleased with it and regard it as a very great success. That certainly is the concurring opinion of nearly all persons who knew Mr. Lincoln most intimately. It is regarded by them as a remarkable resemblance.

Mr. MORRILL, of Maine. I see the honorable Senator from Massachusetts [Mr. SUMNER] rises. I wish to appeal to him to allow us to have a vote on this proposition. I suppose nothing but a Massachusetts claim could prompt me to provoke discussion.

Mr. SUMNER. Senators about me say we must pay for this statue. I suppose we must; but I wish to suggest again to my friend, the chairman of the Committee on Appropriations, the expediency of inquiring whether we cannot in some way get a release from that second \$5,000, because it is all to no purpose; the statue never will be placed in this Capitol.

Mr. NYE. Will the honorable Senator allow me to ask whether he has ever seen it?

Mr. SUMNER. I have not, but I have heard of it.

Mr. NYE. Why did you not go and see it? It is right here in the Capitol. I insist that when the thing is here on exhibition the honorable Senator has no right to criticise it unless he has seen it.

Mr. SUMNER. I criticise it on what I have heard and read about it. From the beginning, in advance, I criticised it.

Mr. NYE. That is true.

Mr. SUMNER. The Senator says that is true. I know it is true, and I am sure the Senate will regret the appropriation. The French have a saying that it is bad to throw money out of a window. That vote by Congress was like throwing money out of a window. I wish we could get it back.

The amendment was agreed to.

The Secretary continued the reading of the bill down to the clause making appropriations for the surveyor general of Nevada and his office.

Mr. NYE. I call the attention of the chairman to the appropriation for the salary of the surveyor general of Nevada. I think the law fixes his salary at \$3,000, and it is placed in the bill at \$2,500. I do not understand why it is cut down.

Mr. MORRILL, of Maine. I think that should be \$3,000. I believe that is the law.

I move, in lines six hundred and eighty-nine and six hundred and ninety, to strike out "\$2,500" and to insert "\$3,000;" so as to make the appropriation for his salary \$3,000.

The amendment was agreed to.

The Secretary resumed the reading of the bill.

The next amendment reported by the Committee on Appropriations was after line seven hundred and five to insert:

For surveyor general of Florida, \$2,000, and for clerks in his office, \$3,500; \$5,500.

The amendment was agreed to.

The Secretary continued the reading of the bill down to the appropriations for the United States Patent Office.

Mr. MORRILL, of Maine. In line seven hundred and twenty-two I move to strike out the words "one disbursing clerk, \$2,000."

The amendment was agreed to.

Mr. MORRILL, of Maine. The last amendment renders it necessary to reduce the amount of the appropriation for the Patent Office by \$2,000. In line seven hundred and twenty-six I move to strike out the word "two;" so that the appropriation will be \$140,900.

The amendment was agreed to.

The next amendment was after line seven hundred and sixty-three to insert the following proviso:

Provided, That with the exception of the Commissioner of Patents and the examiners-in-chief, all the officers, clerks, and employés of the Patent Office shall be subject to the appointing and removing power of the Secretary of the Interior in like manner and to the same extent as clerks of the Pension Office are so subject under existing laws.

Mr. WILLEY. That amendment proposes a somewhat radical change in the administration of that Department, and I should be glad to have the chairman of the Committee on Appropriations inform us upon what it is based.

Mr. MORRILL, of Maine. It comes from the Department itself. The Senator will see that the only change effected by the amendment is to put the appointment of the subordinate officers, in other words the clerks, under the power of the Secretary the same as they are in the other bureaus. That is the whole extent of it.

Mr. WILLEY. Do I understand the Senator to say that this proposition comes from the Patent Office?

Mr. MORRILL, of Maine. No; not from the Patent Office, but from the Interior Department. It was suggested that it was an entirely anomalous condition of things in that Department of the Government, and it does seem to be. Why this office should be entirely distinct in this respect I do not know.

Mr. WILLEY. No doubt the different arrangement that has been made is due to the fact that the employés of this Department were required to be of a particular kind of mechanical skill and scientific skill having reference to particular duties to be performed by them, and it was supposed that the Commissioner of Patents, who himself is selected for his general knowledge of such subjects, would be better qualified to make judicious selections than would be the Secretary of the Interior himself. I suppose that is the reason why a different arrangement has heretofore prevailed in the power of appointing the employés of the Patent Office. It is a matter to which my attention has not been specially directed; but this seems to be the introduction of a new policy and a new arrangement in that Department. The Department seems to have worked well hitherto, and unless there be special reasons suggesting this change I submit that we had better let well enough alone.

Mr. FERRY. I think that this amendment of the committee, if it is practicable at all, if the Secretary undertakes to appoint all the officers, clerks, and employés of the Patent Office, will be productive of very great mischief. It is true, as is said by the Senator from West Virginia, that the appointing power in this office has been vested in the Commissioner of Patents because of the peculiar quality of skill and

scientific knowledge required in the appointees; and a very serious responsibility—

Mr. MORRILL, of Maine. If the honorable Senator will yield to me I will say that as this amendment is likely to give rise to debate and is deemed by the Committee on Patents objectionable I will ask the Senate to non-concur in it rather than have time spent upon it.

Mr. HARLAN. I hope not. I think the amendment is right.

Mr. MORRILL, of Maine. Very well; I yield to the Senator's opinion in that respect.

Mr. FERRY. Then I will proceed. I was saying that a great responsibility rests upon the Commissioner of Patents in exercising his function of selecting these subordinates, and the duties of that office can only be discharged by having the responsibility placed, in my judgment, upon the Commissioner. If the assistant examiners are to be thrust upon him by the Secretary of the Interior, who has his attention distracted among all the various bureaus of his Department, and upon whom especially will be urged political appointments to these subordinate places in the Department, I think the result will be exceedingly injurious to the public service. Where the Secretary of the Interior places in the Pension Bureau or in the Land Office a clerk whose sole duty it is to perform certain merely clerical functions, if that clerk is incapable no great mischief is done; but if he is to place in the Patent Office persons who should possess scientific knowledge and mechanical skill and legal knowledge, knowledge of the laws of patents, and to make those appointments on the ground of political qualifications mainly, as we all know appointments are made in the great portion of the bureaus, then I think the public service will suffer. I do not believe there is any evil existing in the present administration of appointments in the Patent Office calling for any such change as this. I can see how the change may be productive of mischief; and I therefore hope the amendment will not be concurred in by the Senate.

Mr. HARLAN. I have but a word or two to submit on that amendment. Now, there is a kind of divided jurisdiction. I suppose every Senator will admit, when he comes to reflect upon it, that the Constitution fixes it. It provides that the President shall appoint, by and with the advice and consent of the Senate, but that Congress may provide that the heads of Departments and the courts may appoint subordinate officers without the concurrence of the Senate. I suppose it would be an unconstitutional provision to confer on the head of a bureau merely the power to make these appointments. The scandal which has been engendered in connection with the business of the Patent Office, in my opinion, has all grown out of this divided jurisdiction. The law as it now stands, I believe, provides that the Commissioner of Patents may appoint these persons, with the approval of the Secretary. The result is, that the Secretary takes no responsibility whatever, but merely confirms the appointments that are sent to him by the Commissioner. I am sure that if any member of this body had a month's experience in either of those offices—that of Secretary of the Interior or of Commissioner of Patents—he would not object for one moment to this amendment.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the committee.

The amendment was agreed to.

Mr. MORRILL, of Maine. I now move to insert at the end of the amendment just adopted the following words:

And the disbursements for the Patent Office shall be made by the disbursing clerk for the Interior Department.

As we have just abolished the office of disbursing clerk of the Patent Office, this provision is to require all the disbursements to be made by the general disbursing officer.

The amendment was agreed to.

The next amendment was in line seven hun-

dred and seventy-six, in the clause for defraying the expenses of suits in which the United States are concerned, to strike out the following words:

Including legal assistance to the Attorney General, and other special and extraordinary expenditures in cases of the Supreme Court of the United States in which the United States are concerned.

The amendment was agreed to.

The next amendment was to insert after line seven hundred and eighty-two the following proviso:

Provided, That the second section of the act of August 2, 1861, entitled "An act concerning the Attorney General and the attorneys and marshals of the several districts," be, and the same is hereby, repealed.

The amendment was agreed to.

The next amendment was in line eight hundred and twenty-eight, in the appropriations for the War Department, before the word "clerks" to strike out "four" and insert "five;" and in line eight hundred and twenty-nine to strike out "\$25,080" and insert "\$26,480;" so that the clause will read:

Office of chief engineer:

For four clerks of class four, four clerks of class three, five clerks of class two, three clerks of class one, two messengers, and one laborer, \$26,480.

The amendment was agreed to.

The Secretary continued the reading of the bill down to the appropriations for the Navy Department.

Mr. GRIMES. I move, in line nine hundred and one, on page 37, to strike out the words "Assistant Secretary of the Navy, \$3,500;" and after the words "chief clerk" to insert "of the Navy Department;" so that the clause will read:

For compensation of the chief clerk of the Navy Department, \$2,200.

The amendment was agreed to.

Mr. GRIMES. I now move in line nine hundred and four to strike out "four" and insert "two;" and in the same line to strike out "five" and insert "three;" so that it will read:

Two clerks of the fourth class, three clerks of the third class.

The amendment was agreed to.

Mr. SHERMAN. I do not understand that the cutting down of the appropriation alone will prevent the clerks from being employed, as they will bring it in as a deficiency hereafter. The number of clerks is fixed by law.

Mr. GRIMES. I have got a provision which I propose to offer which will cover that.

The Secretary continued the reading of the bill.

Mr. GRIMES. In line nine hundred and twenty-eight I move to strike out "two" and insert "one;" and in the same line to strike out "three" and insert "two;" so as to allow one clerk of the third class and two clerks of the first class in the Bureau of Equipment and Recruiting.

The amendment was agreed to.

Mr. GRIMES. In line nine hundred and fifty-three, in the appropriations for the Bureau of Provisions and Clothing, I move to strike out "three" and insert "two;" and also to strike out the word "class" and insert "two;" so that it will read "two clerks of the third class, two clerks of the second class."

The amendment was agreed to.

Mr. GRIMES. I now move to add after the word "dollars," in line nine hundred and sixty-three, the following:

And the office of Assistant Secretary of the Navy is hereby abolished, and no clerks or other employees shall be appointed or employed in the Navy Department except such as are provided for in this act.

Mr. MORRILL, of Maine. I ask the Senator to explain that amendment.

Mr. GRIMES. I am asked by the chairman of the Committee on Appropriations to explain the amendment. My purpose has been in offering the amendments that have been adopted, and in offering the one which is now under consideration, to restore the Navy Department to something toward the condition it was in at the beginning of the war. The Sen-

ate has already adopted some amendments in regard to the clerks, which reduce the number that are now authorized but do not reduce them to the number allowed in 1861. I do not know that it is necessary to explain the amendments that have already been adopted. They had at that time thirty-six clerks. After the war had progressed about a year and a half we concluded that it was necessary to have an Assistant Secretary of the Navy. The purpose, I will say, was to secure the services of one who was an expert in the naval profession, a gentleman who was familiar with the personnel of the Navy and with its detail, and with the construction of ships, engines, &c.; and during the time that the war lasted he remained in that position. Now, I am unable to see any necessity or propriety in having another civilian appointed to hold the office and receive a salary of \$3,500. The proper way in which to conduct the Navy Department, if we are going to have a civilian at the head of it, is for the Secretary to detail a naval officer to act for the time being as Assistant Secretary of the Navy. Therefore I propose to strike out the Assistant Secretary, who knows nothing about his business, is a civilian, and allow it to stand as it stood up to 1862.

The amendment was agreed to.

Mr. MORRILL, of Maine. It becomes necessary on account of the amendments that have been adopted on the motion of the Senator from Iowa to make other amendments. In line nine hundred and eight I move to strike out "thirty" and insert "twenty," and in line nine hundred and nine to strike out "four" and insert "three;" so as to make the appropriation \$20,340 instead of \$33,440.

The amendment was agreed to.

Mr. MORRILL, of Maine. On page 38, line nine hundred and thirty, I move to strike out "eleven" and to insert "eight," and also to strike out the word "two" and insert "four;" so as to make the appropriation \$8,400 instead of \$11,240.

The amendment was agreed to.

Mr. MORRILL, of Maine. On page 39, line nine hundred and fifty-six, I move to strike out "twenty-one" and insert "fourteen;" and also to strike out "eight" and insert "six;" so as to make the appropriation \$14,640. These amendments are to make the sums conform to the amendments already adopted.

The amendment was agreed to.

Mr. FESSENDEN. With the permission of my colleague, I should like to offer an amendment to a previous part of the bill, as I shall not be here during the first part of the evening session.

Mr. MORRILL, of Maine. If the Senate do not now object, I have no objection.

Mr. FESSENDEN. The amendment is on page 9, after line two hundred and eight, to insert:

For paving the main walk through the grounds of the Botanic Garden with some uniform and durable material, \$11,000, under the direction of the architect of the Capitol extension.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was in line ten hundred and fourteen, under the head of "Post Office Department," after the words "female clerks," to strike out the words "at \$1,200 each;" so as to read: "fifty female clerks, \$60,000."

The amendment was agreed to.

The next amendment was in line ten hundred and twenty-seven, at the end of the appropriations for the Post Office Department, to strike out the following clause:

For temporary clerks, \$20,000.

The amendment was agreed to.

The next amendment was under the head of "Department of Agriculture," in line ten hundred and thirty-eight, to insert "translator, \$1,600."

The amendment was agreed to.

The next amendment was in line ten hundred and forty-two, to strike out "two" and insert

"three," and to strike out "\$3,600" and insert "\$5,400;" so as to read: "three clerks of class four, \$5,400."

The amendment was agreed to.

The next amendment was in line ten hundred and fifty-nine, to strike out "\$66,720," as the total amount of the appropriations for the Department of Agriculture, and to insert "\$70,120."

The amendment was agreed to.

Mr. FERRY. I offer an amendment to come in at the end of line ten hundred and sixty-three.

Mr. MORRILL, of Maine. If it is just as agreeable to the Senator I should like to get through with the amendments of the committee first.

Mr. FERRY. I have no objection; but we have been pursuing the other course, and we have just reached this point.

The next amendment of the Committee on Appropriations was in the contingencies for the Agricultural Department, to insert after line ten hundred and seventy-one:

For cases for museum, repairs of furniture, fences, and water, \$2,500.

The amendment was agreed to.

The next amendment was to insert after line ten hundred and seventy-five:

For improvement of the grounds, \$15,000.

The amendment was agreed to.

The next amendment was under the head of "Branch Mint at Denver," to insert:

For Superintendent, \$2,000.

The amendment was agreed to.

The next amendment was to insert after line eleven hundred and thirty-one the following proviso:

Provided, That the Secretary of the Treasury is hereby authorized, whenever in his judgment and in the judgment of the Director of the Mint it is for the interest of the United States to do so, to receive on deposit at the Mint of the United States, and the several branches thereof, refined gold and silver bullion suitable for coinage, and in payment thereof to deliver to the parties making such deposits unparted bars at such rates and upon such terms and regulations as shall be prescribed by the Director of the Mint, subject to the approval of the Secretary of the Treasury.

Mr. MORRILL, of Vermont. I ask that that amendment may be passed over until the chairman of the Committee on Finance shall be in his place. This subject was considered and acted upon in the Committee on Finance, and reported adversely.

The PRESIDENT *pro tempore*. It will come up again in the Senate.

Mr. MORRILL, of Maine. I have no objection to its being passed over for the moment.

Mr. STEWART. I am very much in favor of this amendment, and desire to explain it. I think the Senator from Vermont, when he hears the explanation, will agree to it.

Mr. COLE. Let it be passed over until the bill comes into the Senate.

The PRESIDENT *pro tempore*. It will be passed over.

The next amendment was under the head of "independent Treasury," in line eleven hundred and fifty-nine, to strike out "\$15,000" and insert "\$25,200;" so as to make the clause read:

For salaries of the clerks and messengers in the office of Assistant Treasurer at Boston, \$25,200.

The amendment was agreed to.

The next amendment was in line eleven hundred and sixty-two, to strike out "\$75,000" and to insert "\$135,734;" so that the clause will read:

For salaries of clerks, messengers, and watchmen in the office of the Assistant Treasurer at New York, \$135,734.

The amendment was agreed to.

The next amendment was in line eleven hundred and sixty-six, to strike out "fifteen" and insert "twenty-four;" so as to read:

For salaries of clerks, messengers, and watchmen in the office of the Assistant Treasurer at Philadelphia, \$24,000.

The amendment was agreed to.

The next amendment was in line eleven hundred and sixty-nine, to strike out "\$6,000" and insert "\$10,550;" so that the clause will read:

For salaries of clerks, messengers, and watchmen in the office of the Assistant Treasurer at St. Louis, \$10,550.

The amendment was agreed to.

The next amendment was in line eleven hundred and seventy-two, to strike out "\$6,000" and insert "\$9,600;" so that the clause will read:

For salaries of clerks, porter, and watchmen, in the office of the Assistant Treasurer at New Orleans, \$9,600.

Mr. KELLOGG. I desire to move an amendment by way of substitute for that amendment of the committee. I propose to make it an appropriation of \$10,600.

Mr. MORRILL, of Maine. I ask the Senator not to press that motion now, but to offer it after the committee's amendments shall have been disposed of.

Mr. KELLOGG. Very well.

The PRESIDENT *pro tempore*. The question is on the amendment of the committee.

The amendment was agreed to.

The next amendment was in line eleven hundred and seventy-five, to strike out "\$5,000" and insert "\$6,900;" so as to make the clause read:

For compensation to stamp clerk, cashier, and clerk in the office of the Assistant Treasurer at San Francisco, \$6,900.

The amendment was agreed to.

The next amendment was to strike out lines eleven hundred and eighty and eleven hundred and eighty-one, as follows:

For salary of the clerk to the acting Assistant Treasurer at Denver, \$1,800.

The amendment was agreed to.

The next amendment was in line eleven hundred and ninety, to strike out "\$3,000" and insert "\$7,000;" so as to read:

For salaries of clerks and messengers in the office of the depositary at Baltimore, \$7,000.

The amendment was agreed to.

The next amendment was in line eleven hundred and ninety-two, to strike out "\$8,000" and insert "\$14,850;" so as to make the clause read:

For salaries of clerks in the office of the depositary at Cincinnati, \$14,850.

The amendment was agreed to.

The next amendment was after line eleven hundred and ninety-seven, to insert:

For salaries of additional clerk and additional compensation of officers and clerk under act of August 6, 1846, for the better organization of the Treasury, at such rates as the Secretary of the Treasury may deem just and reasonable, \$60,000.

The amendment was agreed to.

Mr. WHYTE. I desire to offer an amendment by way of an additional section.

Mr. MORRILL, of Maine. The amendments of the Committee on Appropriations are all acted upon, except the amendment on the forty-sixth page, which was laid over on account of the absence of the chairman of the Committee on Finance. I will not call that up now. I will now hear the amendment of the Senator from Maryland.

The Secretary read the amendment, which was to add as an additional section the following:

And be it further enacted, That the clerks, messengers, watchmen, and laborers, or other persons, male or female, now employed at Washington, District of Columbia, at a salary fixed by law, or by regulations of a Department, in the State, War, Navy, Interior, Agricultural, and Post Office Departments, including the Attorney General's office and city postoffice, and the bureaus or branches of the several Departments herein named, who are paid at a rate not exceeding \$1,800 per annum, shall be allowed an additional compensation of ten per cent, on the amount of salary or pay received or that shall be received by them respectively, during the past and present fiscal year; and that the necessary amount to pay the same is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. FERRY. Upon that amendment I shall have to ask for a division by yeas and nays; and I hope the question will not be taken until after the recess.

Mr. TRUMBULL. Let me suggest to whoever offers that amendment—I did not observe who offered it—that we let this bill get into the Senate, and when the Senate is full it can be offered there.

Mr. WHYTE. I offered the amendment just at this moment, knowing that we should take a recess in two or three minutes.

Mr. TRUMBULL. Why not offer it in the Senate? Let us get the bill reported to the Senate. We shall not do any business if we keep these bills in Committee of the Whole.

Mr. WHYTE. I have no objection to withdrawing it temporarily.

Mr. TRUMBULL. Let the bill be reported to the Senate, and then it can be offered.

Mr. FERRY. I wish to offer an amendment.

The PRESIDENT *pro tempore*. The time for taking a recess is so near that we can do no further business.

Mr. TRUMBULL. With a view of getting this bill reported to the Senate, I move to extend the time for taking a recess ten minutes.

Mr. RAMSEY. Five minutes are enough.

Mr. MORRILL, of Maine. I suppose there will be no objection to that.

Mr. WILLEY. There are a great many amendments yet to be offered to the bill.

Mr. NYE. I hope the Senator from Illinois will not press his motion, as I understand that when the bill gets into the Senate no individual outside of a committee can offer an amendment.

Mr. TRUMBULL. You can amend in the Senate just the same as in committee.

The PRESIDENT *pro tempore*. The bill will be as open to amendment when it gets into the Senate as it is now.

Mr. TRUMBULL. I move to extend the time for taking a recess ten minutes.

Mr. BUCKALEW. I object.

The PRESIDENT *pro tempore*. Objection is made. The hour of half past four o'clock having arrived, the Senate will, according to its order, take a recess until seven o'clock.

EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

KANSAS PACIFIC RAILWAY.

Mr. HOWARD. Mr. President, there is a joint resolution from the House of Representatives, No. 468, to change the name of the Union Pacific Railway Company, eastern division, to the Kansas Pacific Railway Company. I move that the committee, to whom it was referred, be discharged from its further consideration, and that the Senate proceed to its consideration. I see no objection to it at all.

The PRESIDENT *pro tempore*. It will be taken up if there be no objection.

By unanimous consent, the Committee on the Pacific Railroad was discharged from the further consideration of the joint resolution (H. R. No. 468) authorizing the Union Pacific Railway Company, eastern division, to change its name to the Kansas Pacific Railway Company; and the Senate as in Committee of the Whole proceeded to consider it.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REMOVAL OF DISABILITIES.

Mr. STEWART. I move that the Senate proceed to the consideration of House bill No. 1880 to remove disabilities, which has been read. I simply want a vote. I will say to the Senate that there are some disputed names, and it is better to let a vote be taken and let the bill go to a conference committee as the other bill has gone. It is almost impossible to examine these names in the separate Houses. The House committee have papers that we have not. The other bill is before a conference committee. Let the vote be taken on this, and I will advise the House to have a conference on this as on the other bill.

Mr. DRAKE. I object to taking up the bill.

The PRESIDENT *pro tempore*. Then the

bill cannot be considered, another matter being now pending.

POST ROUTE BILL.

Mr. RAMSEY. Then I move that the Senate proceed to the consideration of House bill No. 2006, being the post route bill. There is no new legislation in it, and probably the Senate will pass it without reading by unanimous consent.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2006) to establish certain post routes.

Mr. MORRILL, of Vermont. I ask the chairman of the Committee on Post Offices and Post Roads whether this bill contains anything more than simply the ordinary routes?

Mr. RAMSEY. Nothing else in the world. There is no new legislation in it.

Mr. MORRILL, of Vermont. Then I move that the reading of it be dispensed with.

The PRESIDENT *pro tempore*. The reading may be dispensed with if there be no objection. No objection is made, and the reading is dispensed with.

Mr. RAMSEY. There are amendments reported by the Committee on Post Offices and Post Roads.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendments reported by the Committee on Post Offices and Post Roads.

The amendments were agreed to.

The bill was reported to the Senate as amended; and the amendments were concurred in. The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

SPRINGFIELD LINCOLN MONUMENT.

Mr. WILSON. I move to take up the bill of the House to authorize the Secretary of War to place at the disposal of the National Lincoln Monument Association of Springfield, Illinois, damaged and captured cannon. It is House bill No. 2009.

There being no objection the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2009) to authorize the Secretary of War to place at the disposal of the National Lincoln Monument Association, at Springfield, Illinois, damaged and captured ordnance. It is a direction to the Secretary of War to place at the disposal of the National Lincoln Monument Association, at Springfield, Illinois, such damaged and captured and other bronze and brass guns and ordnance as may be required, out of which to cast the principal figures to be incorporated into the structure, the material to be delivered to the association at Springfield, Illinois.

Mr. MORRILL, of Vermont. I shall not object to this bill; but I give notice now that I will object to any more of these bills. We have passed them for everybody that has asked for them, and are stripping the Government of all the raw material it possesses if it should ever have occasion for the manufacture of any more cannon.

Mr. GRIMES. I move to strike out in the sixth line the words "and other." It now reads "such damaged and captured and other bronze and brass guns," which would include not only damaged and captured guns but all other guns.

Mr. TRUMBULL. Read the rest of it.

Mr. GRIMES. "Such damaged and captured and other bronze and brass guns and ordnance as may be required."

Mr. WILSON. That means damaged guns.

Mr. GRIMES. No; it says "such damaged and captured and other bronze and brass guns." It includes every gun belonging to the Army. I move to strike out the words "and other."

Mr. TRUMBULL. That amendment may defeat the bill. The design here is not to take anything that is serviceable to the Government.

Mr. GRIMES. I suppose it is not the design, but we should have our legislation accurate.

Mr. TRUMBULL. It cannot receive that construction, I apprehend.

Mr. GRIMES. It cannot receive any other, grammatically or legally.

Mr. TRUMBULL. "Such damaged and captured" is the language.

Mr. GRIMES. "And other."

Mr. TRUMBULL. "And other guns."

Mr. GRIMES. What does "other guns" mean?

Mr. TRUMBULL. There may be captured guns and there may be damaged cannon; there may be worthless guns.

Mr. GRIMES. There may be good ones. It would give them command of our armories and arsenals.

Mr. TRUMBULL. It would never have that construction in the world.

Mr. GRIMES. I have no doubt the Senator means—

Mr. TRUMBULL. I have had nothing to do with getting up the resolution. The only difficulty about the amendment is that it will cause the bill to go back to the House of Representatives.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

TELEGRAPHY TO FOREIGN COUNTRIES.

Mr. SUMNER. I move that the Senate proceed to the consideration of the Senate bill No. 863, relating to telegraphic communication. That contains a provision which it is very important should be acted upon at this session.

There being no objection, the bill (S. No. 863) relating to telegraphic communication between the United States and foreign countries was read the second time, and considered as in Committee of the Whole. It provides that whenever communication shall hereafter be established between the United States and any foreign country by means of telegraphic or magnetic lines or cables laid in any part thereof, in and over the waters, reefs, islands, shores, and lands within the jurisdiction of the United States, the same shall be subject to the following conditions, stipulations, and reservations:

First. The Government of the United States shall be entitled to exercise and enjoy the same or similar privileges with regard to the control and use of such line or cable and the lines or cables connected therewith that may by law, agreement, or otherwise be exercised and enjoyed by any foreign Government whatever.

Second. The United States Government shall at all times be entitled to the use of any such line or cable, and the lines or cables connected therewith, by a telegraphic operator of its own selection, to transmit any messages to and from its military, naval, diplomatic, and consular agents; and such messages shall be entitled to take precedence of all other messages.

Third. The rates to be paid for the transmission of any such message or messages, when not otherwise fixed by agreement, shall be established by the Postmaster General of the United States.

Fourth. The lines of any such lines or cables shall be kept open to the public for the transmission for daily publication of market and commercial reports and intelligence, and all messages, dispatches, and communications shall be forwarded in the order in which they are received, except as hereinbefore provided.

Fifth. It shall be at all times within the power of Congress to determine the rates to be charged for the transmission of messages and communications over any such line or cable and to fix and establish such rules and regulations in relation thereto as it may judge necessary.

Sixth. Before extending and establishing any such line or cable in or over any waters, reefs, islands, shores, and lands within the juris-

diction of the United States a written acceptance of the terms and conditions imposed by the act shall be filed in the office of the Secretary of State by the company, corporation, or party proposing to establish telegraphic communication. Subject to the foregoing conditions, stipulations, and reservations the consent of Congress is given to the laying and maintaining of telegraphic or magnetic lines or cables between the United States and foreign countries, in and over the waters, reefs, islands, shores, and lands within the jurisdiction of the United States; subject, however, to any and all rights of property and State jurisdiction in and over the same; but the privileges thus conferred are not to be enjoyed by any company or persons whose line or cable, by its connections or otherwise, terminates in or extends to any foreign country in and by which similar privileges are not conferred upon companies incorporated by the authority of the United States or of any State of this Union.

Mr. SUMNER. I move to amend the joint resolution by inserting in the second line of the second section, immediately after the word "reservations," the words:

And subject to the terms of such grants as have heretofore been made by Congress for laying and maintaining telegraph cables between the United States and foreign countries.

Mr. MORRILL, of Vermont. I suggest to the Senator from Massachusetts that it should also be subject to laws which may hereafter be enacted.

Mr. SUMNER. Let this amendment be adopted.

Mr. MORRILL, of Vermont. And then there should be a further amendment that the act shall be open to amendment or repeal by Congress hereafter.

Mr. SUMNER. I have no objection, but there is a clause here that expressly says that:

It shall be at all times within the power of Congress to determine the rates to be charged for the transmission of messages and communications over any such line or cable, and to fix and establish such rules and regulations in relation thereto as it may judge necessary.

I think the Senator will find that the powers of Congress are sufficiently reserved.

Mr. MORRILL, of Vermont. I think not.

Mr. SUMNER. I should like to have the amendment I have moved acted on. It is simply to protect the grant already made for the Florida cable. That is all. There can be no objection to it.

Mr. MORRILL, of Vermont. I suggest to the Senator to insert after the word "heretofore" the words "or shall hereafter."

Mr. SUMNER. The Senator will see whether that is needed in view of the clause already here:

It shall be at all times within the power of Congress to determine the rates to be charged for the transmission of messages and communications over any such line or cable, and to fix and establish such rules and regulations in relation thereto as it may judge necessary.

It was so regarded in the committee, and I should like to have action on the amendment I have moved.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

PAPERS WITHDRAWN.

On motion of Mr. MORRILL, of Maine, it was

Ordered, That Nathan Webster have leave to withdraw his petition and papers from the files of the Senate.

ALASKA FUR SEAL.

Mr. MORRILL, of Maine. I call for the legislative, executive, and judicial appropriation bill.

Mr. CHANDLER. I ask the Senator from Maine to give way while I pass the little bill setting aside the fur-bearing islands in Alaska.

Mr. SUMNER. That ought to be passed.

Mr. MORRILL, of Maine. If the Senator

can have unanimous consent, and it will take no time, I shall not object.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 239) more efficiently to protect the fur seal in Alaska. It declares the islands of St. Paul and St. George, in Alaska, to be a special reservation for Government purposes; and until otherwise provided by law it is to be unlawful for any person not an officer of the United States to land or remain on either of those islands except by authority of the Secretary of the Treasury; and any such person found on either island contrary to the provisions of the act is to be summarily removed; but nothing contained in the act is to be construed to authorize the removal of the *bona fide* inhabitants of the islands permanently resident therein at the date of the treaty of cession, nor in any way to relate to or affect them or their property or any rights belonging to them under the treaty. It is to be the duty of the Secretary of War to carry the act immediately into effect.

Mr. HOWARD. This is rather an unusual kind of legislation. I would inquire of my colleague what there is peculiar about these islands to justify such a measure.

Mr. CHANDLER. If the Alaska bill, so called, for the protection of the fur animals becomes a law this will not become necessary; but this does not interfere with that in the slightest degree. It is to prevent killing and driving off the fur seals.

Mr. HOWARD. Does it prevent officers of the Government who are allowed to occupy the islands from driving off the seals or seizing them and selling them?

Mr. GRIMES. According to the bill anybody that is an officer, who holds a post office, or is a justice of the peace in this District, or a marshal of a State or Territory can go sealing there, and nobody else.

Mr. HOWARD. I ask that it be read again.

Mr. MORRILL, of Maine. If it gives rise to debate I must insist on the regular order.

Mr. GRIMES. It includes military officers, naval officers, Treasury officers.

Mr. HOWARD. Let it be read again. It is short.

The Secretary read the joint resolution.

Mr. CHANDLER. I move to strike out the words "not an officer of the United States." That covers the ground.

The amendment was agreed to.

Mr. GRIMES. Now it will give a monopoly to anybody who happens to have been on the islands at the time of the purchase.

Mr. CHANDLER. It leaves the matter under the direction of the Secretary of the Treasury. There is no one there except the Esquimaux.

Mr. GRIMES. The Secretary of the Treasury cannot drive off those who were there at the time of the purchase.

Mr. FERRY. There were no white men there.

Mr. GRIMES. How do we know that?

Mr. PATTERSON, of New Hampshire. I offered this resolution a few evenings since. It was put into my hands by an officer of the Treasury, and was drawn under the supervision of the Secretary of the Treasury. The object of the resolution is to keep interlopers from the islands of St. Paul and St. George. Parties go there, and the United States Government has no authority to keep them from the islands or to put them off after they go there, so that they may take seal on different parts of the islands and the Government cannot help it. The only object of the resolution is to keep these interlopers off, to guard the seals, so that it may not be necessary to create a large military force there to protect the islands.

Mr. FERRY. I suppose the object of the resolution is to keep them off until a law can be passed to regulate these seal fisheries.

Mr. PATTERSON, of New Hampshire, and

Mr. CHANDLER. That is it.

Mr. FERRY. That is all there is of it.

Mr. WILLIAMS. I move to amend this

resolution by striking out all after the word "remove," in the tenth line, to the word "treaty," in the fifteenth line, inclusive.

The PRESIDENT *pro tempore*. The words proposed to be stricken out will be read.

The SECRETARY. The words proposed to be stricken out are:

But nothing contained in this act shall be construed to authorize the removal of the *bona fide* inhabitants of said islands permanently resident thereon at the date of the treaty of cession; nor in any way to relate to or affect them or their property or any rights belonging to them under said treaty.

Mr. WILLIAMS. Let it be read as it would stand after the amendment.

The SECRETARY. If thus amended the resolution would then read:

That the islands of St. Paul and St. George, in Alaska, be, and they are hereby, declared a special reservation for Government purposes; and that until otherwise provided by law it shall be unlawful for any person to land or remain on either of said islands except by authority of the Secretary of the Treasury, and any such person found on either of said islands contrary to the provisions of this act shall be summarily removed; and it shall be the duty of the Secretary of War to carry this act immediately into effect.

Mr. CHANDLER. I hope that will be adopted. I have no objection to it.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

Mr. HOWARD. I move to strike out the word "such" before "person," in line eight. The amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolution of the Senate without amendment:

A bill (S. No. 584) relating to the time for finding indictments in the courts of the United States in the late rebel States;

A bill (S. No. 612) relating to the proof of wills in the District of Columbia;

A bill (S. No. 665) respecting the organization of militia in the States of North Carolina, South Carolina, Florida, Alabama, Louisiana, and Arkansas;

A bill (S. No. 711) relating to the Metropolitan Railroad Company;

A bill (S. No. 712) to define the fees of recorder of deeds and provide for the appointment of warden of the jail in the District of Columbia, and for other purposes;

A bill (S. No. 722) to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," by extending certain penalties to accessories; and

A joint resolution (S. No. 200) reappointing Louis Agassiz a regent of the Smithsonian Institution.

The message also announced that the House had passed the following bill and joint resolution of the Senate, with amendments, in which it requested the concurrence of the Senate:

A bill (S. No. 167) granting lands to the State of Oregon to aid in the construction of a military wagon road from the navigable waters of Coos bay to Roseburg in said State; and

A joint resolution (S. R. No. 178) tendering sympathy to the people of Spain and Cuba.

RAILROADS IN MINNESOTA AND IOWA.

Mr. HENDRICKS. Mr. President, some days ago Senate joint resolution No. 191 was considered in part, but the Senator from Iowa [Mr. HARLAN] wanted to look into it further. It came from the Committee on Public Lands. I believe now there is no objection to it, and I ask that it be passed.

Mr. MORRILL, of Maine. I think we had better go on with the regular order.

Mr. HENDRICKS. This will take but a minute.

Mr. MORRILL, of Maine. Here is a half hour gone.

Mr. HENDRICKS. I guess the Senator will not object.

The PRESIDENT *pro tempore*. If there be no objection the bill will be taken up.

There being no objection the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 191) explanatory of an act of Congress approved March 3, 1865, entitled "An act extending the time for the completion of certain land-grant railroads in the States of Minnesota and Iowa, and for other purposes."

The Committee on Public Lands moved to amend the resolution by striking out from the eleventh line the words "purchased by any one of said railroads and adopted and made a part of the line thereof," and inserting "by any arrangement adopted by any of said railroads and made part of the line thereof."

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

Mr. MORRILL, of Vermont. I should like to have the Senator from Indiana explain this resolution.

Mr. HENDRICKS. In the act of 1865 there was some very vague language used, and this is explanatory of that language. This is adopting the construction that the Commissioner of the General Land Office put upon the law, which construction, however, the Secretary of the Interior dissented from.

Mr. MORRILL, of Vermont. What is the merit of the matter?

Mr. HENDRICKS. The question was whether the grant was for the benefit of the road, so far as it was finished at that time, or whether it was confined to the work thereafter to be done. The Commissioner held that it included that which had already been done under the grant as well as that which was to be done in the future.

Mr. MORRILL, of Vermont. I dislike to object to the passage of this bill, but—

Mr. HENDRICKS. If there be any question about it I cannot ask for the consideration of the resolution, under my understanding with the chairman of the Committee on Appropriations.

Mr. MORRILL, of Vermont. There is a very vague explanation of it. Nobody knows anything about its extent.

Mr. HENDRICKS. The Senator from Iowa examined it.

Mr. MORRILL, of Vermont. And he does not approve of it.

Mr. HENDRICKS. If he does not I was misinformed. The Senator from Minnesota told me he was satisfied.

Mr. RAMSEY. The Senator from Iowa has withdrawn the objection he made to the measure when it was up before, I will inform the Senator from Vermont.

Mr. MORRILL, of Vermont. He has told me that he cannot vote for the bill.

Mr. RAMSEY. He made objection, but withdrew it. Probably he has not paid particular attention to it.

The PRESIDENT *pro tempore*. Are objections persisted in to the bill?

Mr. MORRILL, of Vermont. Yes, sir.

Mr. TRUMBULL. I hope we shall go on with the appropriation bill.

The PRESIDENT *pro tempore*. That is regularly before the Senate.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1672) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870.

The PRESIDENT *pro tempore*. An amendment of the Committee on Appropriations has been passed over, which will be reported.

The CHIEF CLERK. On page 46 it is pro-

posed to insert after line eleven hundred and thirty-one the following:

Provided, That the Secretary of the Treasury is hereby authorized, whenever in his judgment and in the judgment of the Director of the Mint it is for the interest of the United States to do so, to receive on deposit at the Mint of the United States and the several branches thereof refined gold and silver bullion suitable for coinage, and in payment thereof to deliver to the parties making such deposits unparted bars at such rates and upon such terms and regulations as shall be prescribed by the Director of the Mint, subject to the approval of the Secretary of the Treasury.

Mr. STEWART. As some question was raised about that, I will ask for the reading of the letters of the Secretary of the Treasury and the Director of the Mint.

The Secretary read as follows:

January 19, 1869.

The views presented by the Director of the Mint relative to receiving deposits of refined bullion suitable for coinage and paying the depositors thereof in unparted bars meet my approval, and I have no doubt if the proposed bill shall become a law, and the discretion in this particular left to the officers of the Mint, subject to the approval of the Secretary, that the interests of all parties will be protected and a considerable amount saved to the Government at present lost from the wastage and expense of refining gold and silver bullion.

I have the honor to be, very respectfully,

H. McCULLOCH,

Secretary of the Treasury.

Hon. SCHUYLER COLFAX,

Speaker of the House of Representatives.

MINT OF THE UNITED STATES,

PHILADELPHIA, January 15, 1869.

SIR: I duly received your favor of the 13th instant, inclosing a draft of a law permissive to the Mint and its branches to exchange unparted gold or silver bars for refined gold and silver bullion under certain restrictions, and herewith offer my views of the same. In order to a clearer view of the subject I have prepared the following table of deposits of domestic gold (to be refined) at United States Mint and branches from 1804 to 1867.

1804 to 1867, inclusive.

Dates.	Number of years.	Amount of gold deposited.	
		Total amounts.	Annual average.
1804 to 1827.....	24	\$110,000	\$4,500
1828 to 1837.....	10	5,063,000	506,000
1838 to 1847.....	10	7,635,000	763,000
1848 to 1857.....	10	415,557,000	41,555,000
1858 to 1867.....	10	271,690,000	27,690,000

An inspection of the table shows that up to the year 1848 the amount of gold requiring parting (refining) was so limited as hardly to tempt private capital to undertake refining as a remunerative operation except at exorbitant rates of charge to compensate for the small extent of the business. Hence arose that provision in the Mint law, from its origin, permitting gold to be refined at the Mint and its branches at rates not exceeding the bare cost of the operation. With the sudden expansion of gold production, however, in California from 1848, and in Australia from 1851, amounting to an average annual deposit in the United States Mint and branches of \$41,555,000 of domestic gold, the necessities of the case started many private refineries into activity. For while the Mint deposits reached their summit in 1853 and 1854, amounting to about fifty million dollars per annum, this amount gradually declined in successive years, so that the last decennary only averaged \$27,690,000 per annum; and yet we know that the total annual production has not diminished. It is therefore reasonable to estimate that about one half of the amount of the gold production of the United States is refined in private establishments, and as the same are sufficiently numerous, skillful, and responsible for all the refining business that can be demanded, there is no longer a reason for the Government being a manufacturer, which it becomes by refining gold.

Moreover, a Government establishment necessarily demands a larger official staff, buildings commensurate to the position of the United States as a world's Power, and other sources of cost which private refineries can avoid, so that the latter can and do refine at a lower rate of charge than the Government. As one great advantage alleged to be inherent in a Government refinery is the greater security of the depositor in receiving the full value of his deposit, it is evident that this is fully secured by the Government receiving a deposit, determining its value, paying the depositor, and then passing it into the hands of private refineries under conditions sufficient to secure the Government from loss. Security is thus attained both by the depositor and the Government. In addition to security the Treasury becomes indirectly a gainer by avoiding the losses termed wastage, which it is impossible to avoid when gold and silver are subjected to fire and chemicals in the art of refining. The difference between the charge by the Mint to depositors for refining and the price paid to refiners for their operations would cover all refining wastage to which the Government is now subject, and prob-

ably have a surplus to cover other necessary expenditures. As in all other business arrangements, the details of such an arrangement as is proposed should manifestly be left to the discretion of the proper officers, the Secretary of the Treasury and the Director of the Mint. Different localities, with their differing circumstances, will probably demand different arrangements. Some localities might not offer private refineries in all respects suited to the purpose, and hence it should not be obligatory on the Secretary to execute the proposed plan.

The draft of the proposed law is returned without alteration, as it fully meets all the requirements of the case.

Very respectfully,

H. R. LINDERMAN,
Director.

Hon. HUGH McCULLOCH,
Secretary of the Treasury.

Mr. STEWART. I will make a brief explanation; I shall occupy but a moment; I want the proposition understood. For two years the Secretary of the Treasury and the Director of the Mint have recommended this policy, and I think I can in a moment make it understood why it is the policy of this country. A very large portion of the bullion of the United States is shipped, as is well known, to foreign countries to be refined and parted. I suppose no one desires that result. I myself did not know how that was brought when the subject was up last year; I had not given the subject accurate consideration, although I live in a mining country, and my State produces as much if not more than any other State in proportion, and is interested as much in the price of bullion as any State. I had not investigated this great measure as to how it would affect that question and was not prepared to take my stand. I am now.

Now, there are two reasons why bullion can be shipped to England and foreign bankers buy it and pay more for it than our people can pay at home. In the first place, the difference in the price of labor upon a thing of this kind is not so much as has been supposed, because the labor is not a very great part of the operation. It is not the cost of materials, which are almost as cheap here as there. You have to have a great deal of metal for the solution. The great difference results, first, from the fact that the mint in Great Britain does not make the charges the United States Mint does, and her coinage is practically carried on free, so that the coining value of bullion is higher. In the next place, the principal thing she does is to allow private enterprise to do the refining.

In the United States when we started the Mint there were no private refineries and a different system was adopted to refine in the Mint, and by law the expense of carrying on this establishment is charged to the person leaving his bullion with the Mint for coinage. The Government carries it on in an expensive way, and consequently the Mint charges are high. There are other Mint charges besides these, but the great charge is for the refining. The result is that in the United States on the Pacific coast the commercial value of bullion for exportation was from a half to three quarters of one per cent. higher than the Mint value of gold, and the foreign banker has shipped it to England, and it has been shipped after being refined to China, and shipped back to this country. It has been taken there because our charges are so high.

Now, what does this propose to do? It proposes to encourage these private refiners, to let them go on, and let the Mint when it can get refined bullion take it and exchange the crude bullion for it, and let the Mint be confined to the mere business of coining in all those localities where private enterprise will enter into refining.

The effort to defeat this measure illustrates this matter better than anything. I have investigated and read all the arguments on both sides. In San Francisco, after they started private refineries, the merchants who bought the bullion to refine have raised the price of bullion in my country about one half of one per cent., and perhaps as high as three-fourths of one per cent. The consequence is that a large portion of the bullion is retained at home and manufactured and a larger amount goes to the Mint, because the men get returns so much more quickly. All there is in this proposition

is to say "We will allow private enterprise to refine bullion." If it can be done cheaper in that way, private establishments will do the work; otherwise the bullion will be refined at the Mint. I say—and I have investigated the subject—the effect is to raise the price of bullion, and thus we encourage an enterprise that benefits the miners, benefits the commerce of the country, raises the price of bullion at home, and stimulates this industry. Of course the foreign banker who desires to have bullion cheap in this country so that he can buy it and send it out is opposed to this. The miner who is interested in having the value of his bullion enhanced and the banker who wishes to trade at home are for this. The Director of the Mint and the Secretary of the Treasury favor it. Every one interested in home industry advocates the adoption of this measure. It is simply saying the Government shall not undertake to do business in a bungling way where private enterprise can do it profitably to the community.

Mr. MORRILL, of Vermont. At the next session we shall unquestionably have here the subject of coinage and various matters in relation to the Mint; and it seems to me this is rather too important a matter to be disposed of in an appropriation bill. After we have made appropriations to establish assay offices and mints all over the country, now it is proposed to do away with them and leave the business to private assayers. I merely make the suggestion.

The amendment was agreed to.

Mr. FERRY. The amendments of the Committee on Appropriations are now finished, I believe.

The PRESIDENT *pro tempore*. They are.

Mr. FERRY. I move this amendment, to come in immediately after line ten hundred and sixty-three:

For investigation and report on the cattle disease, already made, \$7,500.

The amendment I have offered grows out of this state of facts: it is familiar to the Senate that during the last year exceeding alarm was created in almost all sections of the country by the appearance and great prevalence of the cattle disease. The attention of the Commissioner of Agriculture was drawn to this circumstance, and he availed himself of the services of Professor Gamgee, of England, who had been familiar with and engaged in investigating the disease of pleuro-pneumonia of cattle in that country. Under the authority of the Commissioner of Agriculture investigations were made of this question in the western States, and to a very great extent in the State of Texas. Reports also were made by him to the Commissioner of Agriculture and forwarded to the committee of the House with the papers in the case, and that committee reported a bill containing the appropriation which is now in the amendment I have offered. That, however, I am informed was stricken out in the House; and I now move to reinsert it in the bill as it was originally inserted by the committee of the House.

I have before me quite a number of papers. I do not want to take up the time of the Senate in reading them or referring to them. I believe they have most of them been before the Committee on Appropriations.

Mr. MORRILL, of Maine. I ask the Senator if this appropriation has been considered by the proper committee?

Mr. FERRY. I am not aware whether it has been considered by the Committee on Agriculture. So far as I understand the fact is that it was inserted originally in the bill reported in the House by the appropriate committee there; it was stricken out in the House, and when the papers were brought to the attention of the Committee on Agriculture—I think it was only yesterday morning—it was too late for an examination. The papers were submitted to us both by the gentleman who was employed by the Commissioner of Agriculture and by a gentleman connected with the agricultural societies of my own State with a very earnest request

that I would give notice of this amendment and propose it at the proper time. I have examined the papers with care and believe the facts which I have stated to be true. The only reason why it has not been examined by the Committee on Agriculture is the fact that not until yesterday morning was the fact known that the item had been stricken out from the bill reported to the House, and the committee of this body had not had time to examine it. But the papers, as I have said, were sent to the Committee on Appropriations some time ago, and I filed the amendment and referred it to the same committee, I think. I wish to read a part of one letter which I possess. Says the writer:

"I am astounded at the treatment Professor Gamgee has received in the House. He gave up his private interests, which required his attention every moment, at the request of Commissioner Capron, and obtained the information wanted, which information could not thus have been obtained without him, and gave us facts worth millions to us. It will be a national disgrace to deprive him of his pay. All he says is true, and his family need the money."

I have a communication here from the Department of Agriculture, showing that the losses in four States alone last year amounted to \$1,500,000 by this disease; that it spread through the western and southwestern States. It recites the acts of the various boards of trade and of health, and the agricultural societies of most of the western States. There are also in my hands papers from the agricultural societies of the eastern States, urging the continuance of this investigation and a fuller report; but at the present time I have simply offered an amendment to pay this gentleman for the services he rendered at the request of the Commissioner of Agriculture, which have been, upon the testimony of all these various bodies interested in this subject in different sections of the country, of very great value to the country.

The amendment was agreed to.

Mr. FERRY. I offer another amendment on the same subject. It is to insert after line ten hundred and sixty-three:

For continuance and completion of investigations of the cattle disease, \$7,500.

The Commissioner of Agriculture, from whom I hold a letter in my hands, is desirous of the continuance of this investigation. The professor himself does not care anything about it. To him it is entirely immaterial. He only asks for the appropriation made by the amendment already adopted. The various agricultural institutions in different portions of the country have earnestly urged upon the attention of Congress the continuance of this investigation, and a fuller report. I hold in my hand a resolution, for instance, from the Connecticut Board of Agriculture, recently passed:

"Resolved, That the Connecticut Board of Agriculture learns with alarm and regret of the widespread prevalence of contagious pleuro pneumonia in cattle, and respectfully urges on Congress the necessity for the appointment of a commission of investigation, and the early adoption of measures for eradicating the disease."

It has appeared to me from the papers which have been placed in my hands that it is a matter of great public interest that this investigation should be continued, that the loss threatened to the country during the ensuing season may possibly be entirely prevented, or at any rate materially diminished, by the continuance of the work in which this gentleman has been engaged during the past year.

Mr. POMEROY. I desire to ask the Senator what bureau has charge of this? Where are these investigations had?

Mr. FERRY. They are reported to the Bureau of Agriculture. As I have stated, I have a letter from the Commissioner of Agriculture, and an allusion is made in the last monthly report to this subject.

Mr. POMEROY. The matter is of considerable importance, indeed of very great importance to many sections of the country.

Mr. FERRY. It is under the control of the Bureau of Agriculture, and the amendment which I propose is under the head of that Department in the present appropriation bill.

Mr. POMEROY. Is the amendment to cover the expenses of the late investigation and report?

Mr. FERRY. An amendment has already been agreed to appropriating \$7,500 for the expenses which were incurred in the investigation of last year in Texas and in the western States.

Mr. POMEROY. That belongs to the deficiency bill. But what do you propose to do for the ensuing year?

Mr. FERRY. For the ensuing year the present amendment appropriates \$7,500.

Mr. POMEROY. I do not know but that this is very well. It occurs to me if this subject is going to be taken up by the nation with any degree of interest to arrive at results it requires a larger expenditure than that and a great deal of research. I have never yet been able to ascertain any one who could give us the cause of this disease and of the deaths that occur. I have seen cattle die by the road side, and no living man in our section of the country has ever been able to tell the cause. The cattle that are driven from Texas and that region of the country through my State appear to be healthy, but our own cattle following in their wake die. It is not the Texas cattle that die, for they do not seem to be diseased, but they leave it in their track. I would like to have a scientific investigation that would be thorough and complete and absorb the whole question. I do not know but that this might be a good beginning. It is a question of very great magnitude. With the best research we can give it in the West we have arrived at no conclusion about it. Our State has gone so far as to forbid the driving of cattle through the State except during two or three winter months. It will not let them be driven at all during the growing season.

Mr. HENDRICKS. Allow me to suggest to the Senator that by reference to one of the monthly reports some two or three months ago he will find a very interesting and I think, as far as I can judge at least, an able article on this subject in regard to the disease, its appearances, its symptoms, and the safest remedies as far as they are known, as far as they can be described in an article of that length, I believe, written by the gentleman who is provided for in the amendment already adopted.

Mr. FERRY. I have it before me. It is the monthly report for November and December, 1868.

Mr. POMEROY. That report I have seen.

Mr. HENDRICKS. When I read that article I felt it of such importance that I sent it out for the consideration of a gentleman learned in such matters in the State of Indiana. I thought it of great use indeed that it should be known.

Mr. POMEROY. The real facts are very well known; but the remedy, if any exists, is not even detailed in that report, and it is not known. What I want the appropriation for is, if possible, to pursue the investigation until some remedy can be reached.

Mr. FERRY. That is what it is for.

The amendment was agreed to.

Mr. HENDRICKS. I offer the following amendment, to follow the last clause of the bill at the close of line thirteen hundred and sixteen:

And no United States marshal for the District of Columbia, in the settlement of his accounts with the Government, shall be chargeable with such fees as are uncollectable by reasonable diligence.

I suppose this amendment need not be explained much. It explains itself. I understand that under the law, as applicable to the marshal of the District of Columbia, he is chargeable in his accounts with all fees, and where he cannot collect the fees he seems to be a defaulter. Of course no suits are brought upon bonds in such cases, but it is disagreeable for a marshal to have accounts standing against him.

Mr. CONKLING. I hope this amendment will not be agreed to until we see more clearly the reason for it. It does not belong on this

bill, certainly. I do not see how a marshal can be chargeable for any fees in this way.

Mr. HENDRICKS. I do not propose to discuss the wisdom of the law as it now is. The fact is that the marshal of the District of Columbia in the settlement of his accounts has to report all fees. The marshal tells me that they are charged against him on his report, whether he can collect them or not. He is willing to be held to the exercise of care and diligence, but if he cannot collect the fees, then he wishes to be credited with them. I asked the marshal this question: how it was that the marshals in the different States were not defaulters in that respect also, and he was of the impression that they do not report the fees where they cannot collect them, and therefore they do not come to the Department at all. But he esteems it to be his duty to report all fees under existing laws applicable to his office, and he stands chargeable now in the accounts with about a thousand dollars that he cannot possibly collect. That ought not to be.

Mr. CONKLING. I submit now to the honorable Senator himself upon his own statement that this is not the way to legislate on such a matter. The Senator does not seem himself to have referred to the statute. He is not able to say that there is any distinction between the law applicable to the marshal here and the marshal in any other district. No committee has been directed to investigate this. It is a very easy thing to refer it to a committee; there can be no urgency about it; and I do not see why we might not with as much propriety make this provision in reference to any other district as well as this. We do not know what the statute is as it stands, nor what changes such a provision as this would work in the law. It seems to me to be imprudent and hasty legislation.

Mr. HENDRICKS. It cannot do any harm anyhow.

The amendment was agreed to.

Mr. WILLEY. I have had an interview with the Commissioner of Patents, and with him have reviewed so much of this bill as relates to the service in the Patent Office, and feel it my duty after information from him to move several amendments, to which I desire to direct the attention of the chairman of the Committee on Appropriations; and I invite his attention first to page 30, line seven hundred and thirty. The number of clerks in the office at this time of class two is fifty-six. The House bill as it comes to us, reported without amendment in this respect by the Committee on Appropriations on the part of the Senate, reduces this force to thirty-five clerks. The Commissioner assures me that it will be impossible for him to carry on the service devolved on him as the head of that office with the reduction of force made in this bill, and earnestly insists that the number of clerks of this class shall not be reduced at all. He says that it will be utterly impossible for him to keep the business up which is before that office, and daily and monthly increasing, with a less force of that class of clerks than he now has. I propose, therefore, to move that in line seven hundred and thirty the word "thirty-five" be stricken out and "fifty-six" be inserted instead thereof, that consequently the appropriation in that clause be changed from \$44,800 to \$78,400. The Commissioner has furnished me with a statement of the entire force in his Department, and also with a statement of the reduction of that force made by this bill; and the net reduction of employés by the bill below what the force now is in that Department would be fifty-five, including the one stricken out today on motion of the chairman of the Committee on Appropriations, making a reduction of fifty-six employés in that Department. I have here a letter—

Mr. MORRILL, of Maine. If the Senator pleases, I would prefer to have one amendment at a time.

Mr. WILLEY. In line seven hundred and

thirty I move to restore the force to what it is now precisely.

Mr. MORRILL, of Maine. Let us act on that first.

The PRESIDENT *pro tempore*. The amendment will be reported.

The CHIEF CLERK. In line seven hundred and thirty it is moved to strike out "thirty-five" and insert "fifty-six."

Mr. WILLEY. I will read some extracts from a letter of the Commissioner in regard to this whole bill, which applies as much and more perhaps to this amendment which I have offered than to any other part of the bill:

"I inclose to you a list of the employés in the Patent Office and the changes made by the appropriation bill recently passed by the House. The bill would require the discharge of twenty-one clerks at \$1,400. These are our most valuable and experienced clerks, and without them the business of the office cannot be promptly done."

So much in regard to that amendment. I will state in this connection that the Commissioner assures me that if he is allowed force sufficient to keep up the business before the office and execute it promptly the net proceeds of the Patent Office fund the present year beyond what will be necessary to pay the expenses of the office, keeping the force in the office at what it now is without any reduction, will amount to at least the sum of \$150,000. That will be the excess after paying all the expenses of the office, provided he is allowed to retain the force he now has, which he assures me is only sufficient to enable him to discharge the duties of the office efficiently and promptly. He will be enabled to cover into the Treasury at the end of the year the nice sum out of the proceeds of the office of \$150,000 beyond the expenses of the office.

Mr. MORRILL, of Maine. Will the Senator state the amendment he proposes?

Mr. WILLEY. To strike out in line seven hundred and thirty the word "thirty-five" and insert "fifty-six," and as a consequence of it, to make the appropriation correspond by striking out "\$44,800" and inserting "\$78,400."

Mr. MORRILL, of Maine. The next.

Mr. WILLEY. The next amendment is in line seven hundred and thirty-two to strike out "forty" and insert "fifty-four," that is the class of clerks at \$1,200 a year; and to make a corresponding change in the sum appropriated by striking out "\$48,000" and inserting "\$64,800." If the Senator desires me to state all my amendments at once I can do so. I ask action on the first amendment I offered.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from West Virginia, in line seven hundred and thirty.

The amendment was agreed to.

Mr. WILLEY. The next amendment is in line seven hundred and thirty-two to strike out "forty" and insert "fifty-four" before "clerks," and to strike out "\$48,000" and insert "\$64,800;" so as to read:

For fifty-four clerks of class one, \$64,800.

The amendment was agreed to.

Mr. WILLEY. I now desire to ask the attention of the chairman of the Committee on Appropriations to lines seven hundred and thirty-five, seven hundred and thirty-six, seven hundred and thirty-seven, seven hundred and thirty-eight, and seven hundred and thirty-nine. Here is a modification which I think is a change in the present system. The bill provides in these lines—

For thirteen copyists of drawings at \$1,000 each, \$13,000.

For fifty-three female copyists at \$700 each, \$37,100.

At present I am informed by the Commissioner that this copying, which consists of copying drawings and copying records and papers is done by giving the work out to parties outside of the office, to females outside the office. They are paid ten cents per every one hundred words. That fee is collected off the party who desires the copies and the compensation charged is paid to the party that does the labor.

Now, this bill provides, so far as female copyists are concerned at least, that they shall

be paid as regular appointees of the office. The Commissioner says, in the first place, that there is no place to put them. He has neither a room nor rooms where these appointees at a fixed salary can be properly located; and inasmuch as the present system costs the Government nothing, inasmuch as he has all this copying done by giving it out of the office—

Mr. MORRILL, of Maine. The honorable Senator will pardon me. If he will state what he proposes I shall be able to see the force of his remarks.

Mr. WILLEY. Before I state what I propose I will say that the Commissioner informs me in his letter that last year the total sum paid for this copying amounted to \$60,000. He says it will amount to more than that this year. My proposition is to strike out lines seven hundred and thirty-five, seven hundred and thirty-six, seven hundred and thirty-seven, and seven hundred and thirty-eight and insert instead thereof the following:

For copies of drawing, and of records, papers, &c., the sum of \$65,000, or so much thereof as may be necessary, to be expended under the direction of the Commissioner of Patents.

I offer the amendment.

Mr. MORRILL, of Maine. That increases the appropriation.

Mr. WILLEY. I will say to the honorable Senator that the fees received for this copying amounted to \$60,000 last year. The business is constantly increasing. The Commissioner supposes it will amount to \$65,000 this year. It need not be expended unless it is necessary.

Mr. MORRILL, of Maine. Very well.

The amendment was agreed to.

Mr. WILLEY. This bill also, in line seven hundred and forty-five, makes a reduction of the amount appropriated for skilled laborers, and the Commissioner thinks he cannot possibly get along with that reduction. In line seven hundred and forty-seven I move to strike out "thirty" and insert "thirty-four," and consequently to strike out "\$18,000" and insert "\$20,400;" so as to read:

For thirty-four laborers at \$600 each, \$20,400.

The amendment was agreed to.

Mr. WILLEY. There is a force now of twelve laborers at \$480 a year. To take the sense of the Senate I move to insert after line seven hundred and fifty the following words:

For twelve laborers at \$480 each, \$5,760.

That is just restoring the force there is now.

The amendment was agreed to.

Mr. WILLEY. I move to insert after line seven hundred and fifty-one "For five watchmen at \$720 each, \$3,600.

The amendment was agreed to.

Mr. COLE. I move an amendment on page 28, in line six hundred and eighty-four, to strike out "\$4,500;" and in the following line to strike out "\$7,500" and to insert "\$9,500;" so as to make the clause read:

For surveyor general of California and Arizona, \$3,000, and for clerks in his office, \$6,500, \$9,500.

Mr. MORRILL, of Maine. Has the Senator examined that and found it to conform to the estimates?

Mr. COLE. It is in accordance with the estimates. In consistency with another appropriation of \$20,000 for the work of the office, this appropriation is required for the proper working of the establishment.

The amendment was agreed to.

Mr. WHYTE. I offer the following amendment as an additional section:

And be it further enacted, That the clerks, messengers, watchmen, and laborers or other persons, male or female, now employed at Washington, District of Columbia, at a salary fixed by a law or by regulations of a Department, in the State, War, Navy, Interior, Agricultural, and Post Office Departments, (including the Attorney General's office and the Department of Education and city post office,) and the bureaus or branches of the several Departments herein named, who are paid at a rate not exceeding \$1,800 per annum, shall be allowed an additional compensation of ten per cent, on the amount of salary or pay received or that shall be received by them respectively during the past and present fiscal years; and that the necessary amount to pay the same is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. MORRILL, of Vermont, called for the yeas and nays; and they were ordered.

Mr. CORBETT. I should like to inquire whether this will not apply to the female laborers whose salary we have raised to-day to that of other employes?

Mr. TRUMBULL. They are raised for the next fiscal year.

Mr. CORBETT. I understand this is for the last year and for the present fiscal year.

Mr. TRUMBULL. This ten per cent. is not for the next year. It is proposed for the past year.

Mr. CORBETT. And the present year.

Mr. TRUMBULL. But not for next year. The next fiscal year commences on the first of July next.

Mr. WHYTE. The amendment is for the past fiscal year and the present fiscal year which will end on the 30th of June. The new appropriation bill commences on the 1st of July.

Mr. CORBETT. I would like to know when the salaries of the females commence which we raised to-day. Is it from the 1st of July next?

Mr. TRUMBULL. The 1st of next July, the beginning of the next fiscal year.

Mr. FERRY. I should like to inquire of the mover of this amendment what amount of money will be required to pay this extra ten per cent. for the period of two years?

Mr. WHYTE. I will answer the gentleman by saying that not being an accounting officer of the Treasury I have not made an accurate calculation. I know, however, that it only adds \$180 to each clerk of the highest grade mentioned in the amendment.

Mr. SHERMAN. I should like to know what past year is referred to in the amendment, 1801 or 1865. What past year does it refer to?

Mr. WHYTE. The last past year, as a matter of course.

Mr. SHERMAN. It does not say so.

Mr. WHYTE. It means so. When you speak of the present year and the past year it means the year just passed.

Mr. SHERMAN. Why not go back to the beginning of the war?

Mr. WHYTE. This is only to enable these clerks during these high prices—

Mr. SHERMAN. The high prices commenced in 1863. I think we had better go back.

Mr. WHYTE. I have no objection. If you will propose an amendment for 1863 I will vote for it.

Mr. TRUMBULL. I would inquire of the Senator from Ohio if we did not pay them twenty per cent. two years ago?

Mr. SHERMAN. I do not know that. We paid some of them. We have raised the pay of some since that time.

Mr. MORRILL, of Maine. I make the point of order that this is not in order under the thirtieth rule.

Mr. WHYTE. What is the point of order?

Mr. MORRILL, of Maine. The amendment contains an item of appropriation, and does not come from any committee.

Mr. WHYTE. I had it referred to the Committee on Appropriations on Saturday last.

Mr. MORRILL, of Maine. But what committee did it come from? Who authorized it? I inquire of the Senator whether he is authorized to move this amendment by any committee of the Senate?

Mr. WHYTE. It was referred to the Committee on Appropriations, but there was no action on it. I have a right to offer it at this time.

Mr. MORRILL, of Maine. I raise that question. It does not seem to be authorized by any committee of this body.

Mr. WHYTE. It is not necessary, as I understand.

The PRESIDENT *pro tempore*. The rule will be read.

The Secretary read the following portion of rule thirty:

"All amendments to general appropriation bills reported from committees of the Senate, proposing new items of appropriation, shall, one day before

they are offered, be referred to the Committee on Appropriations, and all general appropriation bills shall be referred to the said committee."

Mr. MORRILL, of Maine. That is not the clause.

Mr. WHYTE. That is the clause I offered it under.

Mr. MORRILL, of Maine. It is the first clause.

The Secretary read as follows:

"No amendment proposing additional appropriations shall be received to any general appropriation bill unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing or select committee of the Senate, or in pursuance of an estimate from the head of some of the Departments; and no amendment shall be received whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law or a treaty stipulation."

The PRESIDENT *pro tempore*. It is not in order unless it comes from a committee.

Mr. WHYTE. I offered it under the second clause of this rule, and I maintain that it is perfectly proper unless I do not understand how to read the English language.

"All amendments to general appropriation bills reported from committees of the Senate, proposing new items of appropriation, shall, one day before they are offered, be referred to the Committee on Appropriations, and all general appropriation bills shall be referred to the said committee."

I offered this amendment through my colleague [Mr. VICKERS] on Saturday last, and had it referred to the Committee on Appropriations, and under that clause I am entitled to offer it.

Mr. MORRILL, of Maine. Now, if the Senator will pardon me, it cannot be offered at all under this rule unless it comes from a committee; and my inquiry was whether any committee had authorized him to propose the amendment. It has not. It cannot be proposed to my committee at all unless it be authorized first by some committee of this body. That is the point. This is an additional rule simply requiring that whenever a committee proposes to make an amendment, having determined to propose it, they must give the Committee on Appropriations twenty-four hours' notice.

Mr. WHYTE. Mr. President, it is not—

The PRESIDENT *pro tempore*. Does the Senator appeal from the decision of the Chair?

Mr. WHYTE. I do.

The PRESIDENT *pro tempore*. The question is, "Shall the decision of the Chair stand as the judgment of the Senate?"

The decision of the Chair was sustained.

Mr. CRAGIN. I offer the following amendment, to come in at the end of the seventy-third line, on page 4:

Provided, That all improvements, alterations, additions, and repairs of the Capitol building shall hereafter be made by the direction and under the supervision of the architect of the Capitol extension, and the same shall be paid for out of the appropriations for the said extension and from no other appropriation; and that no furniture or carpets for either House shall hereafter be purchased without the written order of the chairman of the Committee to Audit and Control the Contingent Expenses of the Senate for the Senate, or without the written order of the chairman of the Committee on Accounts of the House of Representatives for the House.

The amendment was agreed to.

Mr. NYE. At the end of line eleven hundred and forty-one after the word "Treasury" I propose to insert the following amendment:

Branch mint at Carson City, Nevada:

To pay a deficit on machinery and freight on machinery from Philadelphia to Carson City, \$31,000.

For fitting up machinery in said mint and putting it in working order, \$11,000.

For salaries of officers and clerks, for wages of workmen, and for incidental expenses, including acids, chemicals, and wastage, for the fiscal year ending June 30, 1870, \$74,900.

Mr. MORRILL, of Maine. We do not want that on this bill. That should go on the deficiency bill.

Mr. NYE. The latter part of it should go on here.

Mr. MORRILL, of Maine. Perhaps the last two items should go on here.

Mr. NYE. I have in my hand an estimate made by the Secretary of the Treasury and the

Director of the Mint at Philadelphia for the expenses for the fiscal year commencing July 1, 1869, and ending June 30, 1870, at \$74,600. The mint will be ready to start its operations about that time or by that time certainly. The first item for deficiency for machinery not being appropriate to this bill can wait for the deficiency bill, but I will ask that the latter item, \$74,600, for salaries, &c., be inserted here. I hate to have all the other mints in the bill without having ours mentioned.

Mr. MORRILL, of Maine. Let the Clerk read what the Senator proposes to offer on this bill.

Mr. NYE. I propose to offer the amount we want for payment for machinery already shipped and for putting it up in the building. The first part of it I understood the honorable Senator as objecting to here, and therefore I offer the last item, \$74,600, for salaries of officers and clerks, wages of workmen, and for incidental expenses, including acids, chemicals, and wastage, for the fiscal year ending June 30, 1870.

Mr. TRUMBULL. Let it be reported by the Secretary.

The SECRETARY. It is proposed to amend by adding at the end of line eleven hundred and forty-one:

Branch mint, Carson City, Nevada:
For salaries of officers and clerks, for wages of workmen, and for incidental expenses, including acids, chemicals, and wastage, for the fiscal year ending June 30, 1870, \$74,600.

Mr. MORRILL, of Maine. I am not sure that that is estimated for at all. Has the Senator submitted that to us?

Mr. TRUMBULL. A communication from the Secretary of the Treasury, dated January 11, 1869, I see recommends it:

"As these appropriations seem to be necessary for putting the branch mint at Carson City, Nevada, in operation at the beginning of the next fiscal year, I respectfully request that the amounts asked for by the Director of the Mint may be appropriated.

And among them is this item of \$74,600.

Mr. MORRILL, of Maine. I believe that is right.

The amendment was agreed to.

Mr. MORTON. I offer the following amendment as an additional section.

Mr. NYE. Allow me a moment further—

Mr. MORTON. Certainly.

Mr. NYE. I ask the honorable Senator from Maine if the other portion of my amendment is not germane to this bill?

Mr. MORRILL, of Maine. As it struck me here I thought it was a deficiency. Let it be read.

The SECRETARY. It is as follows:

To pay a deficit on machinery and freight on machinery from Philadelphia to Carson City, \$31,000.
For fitting up machinery in said mint and putting it in working order, \$11,000.

Mr. MORRILL, of Maine. That ought to go on the deficiency bill.

Mr. NYE. Very well. I will not spend any time about it. I withdraw it.

Mr. MORTON. I offer the following as an additional section:

And be it further enacted, That the act regulating the tenure of certain civil offices, passed March 2, 1867, be, and the same is hereby, repealed.

Mr. NYE. I desire to make one more amendment, which I had forgotten. Before that discussion is entered upon I desire to offer the following amendment, to come in after line fifty-three:

Provided, That of the eight clerks in the office of the Secretary of the Senate one, to be designated the minute and journal clerk, shall receive an annual salary, beginning with the present session, of \$2,592; and an amount necessary to pay said increased compensation is hereby appropriated.

Mr. GRIMES. We have got a committee on that subject, I believe. I should like to know whether they recommend it or see any necessity for it. It increases the salary of one clerk, and if you do that you have got to go through the whole list of officers of the Senate.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Nevada.

Mr. GRIMES called for the yeas and nays; and they were ordered.

Mr. CRAGIN. I would inquire if this amendment is in order? Does it come from any committee?

Mr. NYE. I have this to say, that I conversed with the chairman and different members of the committee and they consented that I should move the amendment.

The PRESIDENT *pro tempore*. Then the question is on the amendment, and the Clerk will call the roll.

Mr. GRIMES. The Senator did not state that it came from a committee.

The PRESIDENT *pro tempore*. He said he had the assent of the committee, as I understand.

Mr. GRIMES. What committee?

Mr. MORRILL, of Maine. The Senator talked to me about moving it. That is what he means, I suppose.

Mr. NYE. I mean that.

Mr. MORRILL, of Maine. The question now is whether it is recommended by any committee.

The PRESIDENT *pro tempore*. Unless reported by a committee it is out of order. It is not in order. The question recurs on the amendment offered by the Senator from Indiana, [Mr. MORTON.]

Mr. FERRY. I wish to say a single word in reference to the amendment in this stage of the business of the session. I have not in former discussions expressed my opinion with regard to a repeal of what is known as the tenure-of-office law. I am, however, in favor of its total repeal, but I am not in favor of embarrassing the closing business of the session by appending so important an act to this appropriation bill. I shall therefore vote against it as an amendment to this bill.

Mr. HOWARD. Mr. President, I raise the question of order whether that is germane to the subject now before us.

The PRESIDENT *pro tempore*. That is not a question of order in the Senate of the United States. Whether it is appropriate or not is to be judged of by the Senate.

Mr. CONKLING. I do not understand the Chair.

The PRESIDENT *pro tempore*. Objection is made that this amendment is not in order because it is not germane; and that question is not to be decided in the Senate of the United States by the Chair. That is a question that Senators must judge of for themselves.

Mr. CONKLING. The Chair, then, will submit the question to the Senate.

Mr. HOWARD. I ask that it may be submitted to the Senate.

Mr. GRIMES. I inquire what rule it is that it trenches upon?

Mr. SHERMAN. What rule is it that requires us to pass a law germane in all its parts and only confined to one subject? I never heard of it.

Mr. CONKLING. What rule is there that requires any title to a bill? Is there any?

Mr. SHERMAN. A law would be good without a title.

Mr. CONKLING. I do not say it would or would not.

The PRESIDENT *pro tempore*. Does the Senator appeal from the decision of the Chair? The question is not debatable; and the Chair decides the amendment to be in order.

Mr. CONKLING. There is no express rule of the Senate declaring such an amendment out of order; and so we do not have a rule to prevent any preposterous thing. Does the Chair refuse to submit the question to the Senate?

The PRESIDENT *pro tempore*. The Chair decides that the amendment is in order. He cannot take cognizance of questions of relevancy.

Mr. CONNESS. Upon the amendment I call for the yeas and nays. Let us vote.

Mr. HOWARD. I appeal from the decision of the Chair.

Mr. POMEROY. There is no question that

is in order. It may be improper to an appropriation bill, but it is in order.

Mr. CONNESS. I understand the Chair to have decided that.

Mr. CONKLING. The Senator from Michigan has appealed from the decision of the Chair.

The PRESIDENT *pro tempore*. The Chair did not hear that. The Chair decides that this amendment is in order.

Mr. HOWARD. I take an appeal from the decision of the Chair.

The PRESIDENT *pro tempore*. Then the question is, "Shall the decision of the Chair stand as the judgment of the Senate?"

Mr. CONKLING called for the yeas and nays; and they were ordered.

Mr. SUMNER. Is this question debatable?

The PRESIDENT *pro tempore*. Certainly; the appeal from the decision of the Chair is debatable.

Mr. TRUMBULL. Mr. President, I do hope the Senator from Indiana will relieve us of this by withdrawing this proposition on this bill. He must know that there is some controversy in regard to this question. Without expressing my opinion now as to how I shall vote upon it it does seem to me, as it strikes the Senator from Connecticut, that we just endanger the passage of the appropriation bills. We have already laid aside one in consequence of a controverted matter of this character. I submit to the Senator from Indiana whether he will not bring it forward by itself.

Mr. MORTON. The friends of this amendment do not propose to debate it. The vote could have been taken almost by this time if there had been no objection made. It cannot hazard the passage of this bill, either in this House or in the other. It has been passed in the other House by a vote of nearly three to one and will not give the bill the least embarrassment in the other House, and we can take the vote here in five minutes, and if it is voted down, well; and if not, well; it will not embarrass the bill here or anywhere else.

Mr. CAMERON. I cannot consent to vote on this question without saying a word or two. I have said hitherto on more than one occasion that I shall vote for the repeal of the tenure-of-office law, but I cannot vote for this amendment on an appropriation bill at this stage of the session, when we shall endanger the whole bill and may occupy the whole evening upon this question. I think it is a most inopportune time to present this matter, and I am very much surprised that it should have been brought in now. I shall vote when it comes up in its naked form for the entire repeal of the law; but I think the friends of that measure can afford to wait a few days to have it done in the proper manner. I shall vote against this amendment.

The PRESIDENT *pro tempore*. The question now is whether the amendment is in order under the rules of the Senate, upon which question the yeas and nays are demanded. The question is whether the decision of the Chair shall stand as the judgment of the Senate, on which question the yeas and nays will be called.

Mr. FERRY. I hope the Senator from Michigan will withdraw the appeal. I have no doubt that under the practice of the Senate at any rate this amendment is in order. I hope the appeal will be withdrawn.

Mr. CONKLING. Before the Senator from Michigan withdraws or does not withdraw this appeal I hope Senators will stop to reflect upon the ground upon which it is taken. Nobody, I presume, will put it on the ground that there is a rule of the Senate which forbids it. I say with great respect that a more absurd and outlandish a thing is, in respect to parliamentary propriety, the more we do not have a rule to forbid that. Twenty illustrations of this could be given. Here is a proposition not only not germane but totally foreign to the thing before us as much as it would be to move an appropriation bill as an amendment to the tenure-of-office bill, as much as it would be to attempt

to put together wholly dissimilar, and, indeed, repugnant things. There is no rule of the Senate, I remind Senators, providing that an amendment totally repugnant, totally absurd in its repugnance, shall not be in order, and yet I take it it would be excluded. Why? Because by general parliamentary law it is out of order, it is inharmonious, an infraction of the whole theory of parliamentary proceeding. That I take for granted is the idea of the honorable Senator who takes the appeal, and not that there is a particular rule of the Senate which says that you shall not do this thing. If everything were in order which is not forbidden by the few rules we have it would take a great deal of arithmetic to count up all the unheard of things which might with impunity be done here. The rules of the Senate, I submit, are not established to specify everything that may be done by parliamentary law and to prohibit everything which is indecorous, impertinent, or inadmissible by parliamentary law. I do not wish to debate it, but simply to present to the Senate and to the Chair the point that this is an extreme illustration of introducing a matter totally foreign, totally hostile, and repugnant to the nature of the thing under consideration under the name of an amendment.

The PRESIDENT *pro tempore*. The Chair will have an authority read which contains the idea the Chair entertains.

The Chief Clerk read from Jefferson's Manual the following:

"If an amendment be proposed inconsistent with one already agreed to it is a fit ground for its rejection by the House, but not within the competence of the Speaker to suppress as if it were against order; for were he permitted to draw questions of consistence within the vortex of order he might usurp a negative on important modifications, and suppress instead of subserving the legislative will.

"Amendments may be made so as totally to alter the nature of the proposition, and it is a way of getting rid of a proposition by making it bear a sense different from what it was intended by the movers, so that they vote against it themselves."

Mr. HENDRICKS. That settles the question as far as the Senate is concerned, and I had supposed that the question of order was made, inasmuch as there is nothing in the rules of parliamentary usage, upon the fact that this question had been settled in a caucus. I supposed it was out of order for that reason, and I cannot conceive of any other. I was going to ask what was the ground of objection to it. I supposed that being a body which usually controls and governs that that was the ground on which it was out of order.

Mr. DRAKE. I would inquire of the honorable Senator from Indiana whether he was a member of that caucus that decided this matter?

Mr. HENDRICKS. I have so far maintained my integrity during this session as that I have not been connected with any such body, as far as I know. [Laughter.]

Mr. DRAKE. I do not see how the Senator, then, can speak as to what the caucus did if he was not a member of it.

Mr. HENDRICKS. A man can speak of very much that he did not do himself. I guess there is no doubt about it. It seems to be understood on all sides, in all classes of newspapers, that that thing was settled in caucus. Now, my colleague is setting up somewhat for himself, I think, on this question. [Laughter.] I am going to stand by him on it and do the best I can. I think this law ought to be repealed, and the sooner the better. It was regarded by the House of Representatives of such supreme importance last year as that the highest proceedings known to our form of Government were resorted to to enforce it and to punish by the severest penalty known its disregard by the President. Now, of course, the House repeals it, and I think the House has come to the right position. I think the law is unconstitutional and ought to be wiped out; therefore I vote for its repeal. I think it took away from the President a power that belonged to him under the Constitution, recognized as his from the foundation of the Government. So I shall vote for the repeal. The question of order is clearly as decided by the Chair.

Mr. CONKLING. Before this question is smothered by the jocose romancing about a caucus of the honorable Senator from Indiana, I wish to make one comment upon the passage from Jefferson's Manual which the Chair caused to be read. I submit humbly without arguing that it has nothing in the world to do with this question; that it does not come, if I may use the expression, within two rows of apple-trees of the point here at all. What is the effect of this language in Jefferson's Manual? That an amendment may be made inconsistent with one already agreed to, an amendment which totally alters the effect. Certainly; as for example if you adopt an amendment saying that a certain sum of money shall be paid, you may move to amend by inserting the word "not" and make it mean precisely the contrary, that it shall not be paid; and so on. You may totally displace and reverse the effect of an amendment by another amendment. But is that to the effect that when you are legislating upon a bill touching one subject it is in order to introduce into that bill all other subjects in the heavens above and in the earth beneath and in the water under the earth? Not at all. As the author of this commentary remarks, the fact that an amendment reverses the action of the House is good reason why the House should vote it down, but no reason why the Chair should exclude it on grounds of order. But can anybody doubt that nothing in parliamentary law is older than the distinction between what is germane and what is otherwise? Why is that a familiar distinction to everybody who has ever read the first chapter of parliamentary law always used, as the honorable Senator from Vermont [Mr. MORRILL] reminds me, in the House, always used in the British Parliament, and understood in the common councils of cities, in boards of supervisors, in the smallest and most insignificant theaters in which questions of parliamentary law are tried; and now we are to be told that because the Senate of the United States has not made a rule against it, as it has not against indecent conduct in this Chamber, and a variety of other more excessive things, therefore we are to wink so hard as not to see the old time, the immemorial and obvious distinctions of parliamentary law which lie deep down in the foundations of parliamentary proceeding.

Sir, I shall vote that this motion is out of order, regardless entirely of my opinion upon the tenure-of-office act, because I believe it to be out of order and because I foresee that as we have just escaped in one instance the destruction of an appropriation bill by the introduction of one subject comparatively foreign to it which led to a long debate, so we are to proceed now to a mooted question, destined of course to be debated on one side and on the other, when our business is to go forward in the remaining hours of this session and consummate the necessary appropriation bills.

Mr. HOWARD. Allow me to say one word, sir. This is an appropriation bill, purely such, to defray the legislative, executive, and judicial expenses of the Government. Its object is to apply money to the public service for the purpose of carrying it on. This amendment which is offered by the honorable Senator from Indiana simply, solely asks for the repeal of an existing statute of the United States which has not the remotest connection with appropriations of money to carry on the Government. I am not a very learned parliamentarian; but I have always understood it to be the rule of parliamentary law, one of its fundamental principles, that where a proposition is made by way of amendment which is totally foreign from the subject under discussion embraced in the bill before the House it is out of order; it is a subject upon which the House are not acting; it is not before them probably; and it tends only to create confusion in our legislative proceedings. Why, sir, you might as well tack on upon an ordinary appropriation bill, you might as well add to the bill now before you a proposition to declare war against a foreign country.

Mr. SHERMAN. That would be in order,

Mr. HOWARD. The Senator from Ohio says that would be in order. Certainly not. It would not be in order, because it is not in any way connected with the subject-matter of the bill before us; in other words, it is not germane. It is totally foreign to the subject before us. Certainly the Senate and the House of Representatives ought to be governed by rules as sensible, at least, as those which prevail in a boys' debating society in a school district; and I apprehend that a proposition like this, even before such an august assembly, would receive its quietus very soon. I say nothing now about the propriety of repealing the tenure-of-office act; that is not now under discussion; but what I insist upon is that this amendment to repeal the tenure-of-office act is not in order at this stage of this appropriation bill.

Mr. SHERMAN. It is scarcely worth while debating so clear a proposition as that this is not a point of order. It is a question of propriety. It is a question whether you will or will not attach to an appropriation bill a doubtful measure in the view of some Senators. I could give Senators many histories in our legislation where propositions of this kind much more incongruous than this have been attached to appropriation bills. The Wilmot proviso was attached to an appropriation bill, and nobody thought of raising a point of order even against that. So with many other cases. Our books are full of limitations, qualifications, legislation of all kinds on appropriation bills.

Mr. HOWARD. May I ask the Senator if that appropriation bill was not appropriating money for carrying on the business of the Territories as to which the Wilmot proviso applied directly?

Mr. SHERMAN. No, sir; it was an Army appropriation bill. I remember, too, that I myself moved in the House of Representatives, some years ago, a proposition that no money should be taken from the Treasury of the United States to enforce the territorial laws of Kansas, and it was put on the Army appropriation bill, and nobody thought of raising a question of order. It is true that as a question of propriety, of propriety of legislation to be decided by a majority of the Senate, it is a question that appeals to the judgment of every Senator whether he will put a disputed proposition on an appropriation bill. On the point of order the President of the Senate is clearly right; and no one, it seems to me, could in accordance with the practice of the Senate vote to overrule his decision when every precedent sustains it.

Mr. DRAKE. I thought I would look into the volume of the statutes of Congress to see how they spoke in reference to this question of order; and I find in the legislative appropriation bill of March 2, 1867, as section three, the following:

"And be it further enacted, That the Secretary of War is hereby authorized to direct a geological and topographical exploration of the Territory between the Rocky mountains and the Sierra Nevada mountains, including the route or routes of the Pacific railroad."

I think if that could be passed in 1867 this section now offered can be passed without violating the rules of congruity.

Mr. CONKLING. Was the point of order raised?

Mr. DRAKE. I do not know. It ought to have been if it could be.

Mr. CONKLING. If the point of order was not raised it does not show anything. We have put on this very bill by consent matters not germane to it. The question is how the point was decided when raised.

Mr. POMEROY. There can be but one objection in the Senate as to the propriety of putting on an appropriation bill things that do not belong to it. We have had a good deal of experience of that; but when it comes to a question of parliamentary law, and we have got to decide that question, we have no strict rule of interpretation that will prohibit it. We have made provision in this act for the payment of these civil officers for the year beginning 1st of July, 1869. This amendment re-

lates to those particular officers among others; and while it may be very improper to do it as retarding the passage of an appropriation bill still it is strictly in harmony with parliamentary law to put it on, in my opinion. I remember some years ago when we passed a tax bill here, and I presume other Senators recollect it, the Senator from Ohio moved as an amendment a proposition to distribute the banking capital of the country among the States. The banking capital of this country was distributed among the States, to the ruin as I thought of the western and southern States, by an amendment to a tax bill.

Mr. SHERMAN. I did not move it.

Mr. POMEROY. I do not know that the Senator from Ohio moved it, but he had charge of the bill. The division of the banking capital of the United States did not belong to the tax bill, but it was put on the tax bill and was not at all germane to it.

Mr. MORRILL, of Vermont. The subject is included in the original act in the tax bill.

Mr. POMEROY. I think when we get back to the old practice of the Senate, which was to put nothing on appropriation bills that did not relate to appropriating money for the current year, we shall be nearer the correct usage in legislation.

But I want to say one thing more. I am sorry the provision is to go on this bill on one account, because it will not go into effect until the 1st of July, 1869. My friend from Indiana wants to have it go into effect right off. He wants this repealing law to go into effect immediately, I take it; but if it be put on this bill it will not go into effect until the 1st of July, 1869. So we are to have this law upon us, even if it should be repealed by this amendment, until the 1st of July, 1869.

Mr. HOWARD. The Senator from Kansas will allow me one word. I dislike very much to be the occasion of wasting the time of the Senate in this way, and my friends about me suggest that I had better withdraw my appeal. I will do so; but I maintain that I entertain the same conviction.

Mr. POMEROY. I was only going to remark in addition that when I voted for the tenure-of-office act I said I wanted to do it to bridge over the administration of President Johnson. We have got so near through now that I think at the opening of the next Administration we can well afford to repeal it.

The PRESIDENT *pro tempore*. The Senator from Michigan withdraws his appeal. The question is on the amendment offered by the Senator from Indiana, on which the yeas and nays have been ordered.

Mr. SUMNER. I send an amendment to the amendment to the Chair, to strike out all after the enacting clause and insert other words.

The words proposed to be inserted were read, as follows:

That the first section of the act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, is hereby amended so as to read as follows: That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided.

Sec. — And be it further enacted, That the second section of said act is hereby amended so as to read as follows: That it shall be lawful for the President, whenever during a recess of the Senate in his opinion the public good shall require it, to suspend any officer appointed as aforesaid, excepting judges of the United States courts, and to designate some suitable person to perform temporarily the duties of such office until the next meeting of the Senate, and until the matter shall be acted upon by the Senate; and such person so designated shall take the oaths and give the bonds required by law to be taken and given by the person duly appointed to fill such office; and in case of such suspension it shall be the duty of the President, within twenty days after the first day of such meeting of the Senate, to report to the Senate such suspension, with the name of the person so designated to perform the duties of such office; and if the Senate shall concur in such suspension, and advise and consent to the removal of such officer, they shall so certify to the President, who may thereupon remove such officer, and by and with the advice and consent of the Senate appoint another person to such office; but if the Senate shall refuse to concur in such suspension the officer so suspended shall

forthwith resume the functions of his office, and the powers of the person so performing its duties in his stead shall cease; and the official salary and emoluments of such officer shall during such suspension belong to the person so performing the duties thereof, and not to the officer so suspended: *Provided, however*, That the President may, in his discretion, before reporting such suspension to the Senate as above provided, revoke the same and reinstate such officer in the performance of the duties of his office.

Sec. — And be it further enacted, That no person shall hold nor shall he receive salary or compensation for performing the duties of more than one office or place of trust or profit under the Constitution or laws of the United States at the same time, whether such office or place be civil, military, or naval; and any person holding any such office or place who shall accept or hold any other office or place of trust or profit under the Constitution or laws of the United States shall be deemed to have vacated the office or place which he held at the time of such acceptance.

Sec. — And be it further enacted, That nothing in the foregoing section shall be construed to prevent such designations or appointments of officers to perform temporarily the duties of other officers as are or may be authorized by law, nor to prevent such appointments or designations to office or duty as are required by law to be made from the Army or Navy.

Sec. — And be it further enacted, That the penalties provided in the act to which this is an amendment shall apply to violations of this act.

Mr. GRIMES. I call for the yeas and nays on that substitute.

Mr. TRUMBULL. Mr. President, I am one of those who believe that the tenure-of-office act should either be repealed or essentially modified and changed, but I am also one of those who believe it the duty of the Senate to pass the ordinary appropriation bills for the support of the Government, and I believe it is entirely inappropriate and out of place and wrong to attempt to put these measures upon appropriation bills which must be passed in order to carry on the Government. I regret exceedingly that members of the Senate should insist upon putting on the appropriation bills controverted questions of this character at this stage of the session, when it is impossible to consider them, and when it must be apparent to all reflecting persons that the effect of offering these amendments is to defeat the ordinary appropriations and make a protracted session of Congress necessary after the 4th of March, reaching probably until midsummer, in order to pass the necessary appropriation bills which then will be discussed, there being no limit to our session, at the commencement of the incoming Administration, before its policy can be fixed, before the gentlemen at the head of Departments can understand them and indicate the policy which they believe it wise to pursue. For the Senate, by persisting in putting upon appropriation bills matters that do not belong to them, to force such a result upon the next Administration and the country I believe to be disastrous to the public interests, and for one I shall vote against this proposition; and I hope that Senators without regard to the measures that are proposed, whether they are right or wrong upon their intrinsic merits, will vote against them when offered as amendments on appropriation bills to which they do not belong.

Mr. GRIMES. I call for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. HENDRICKS (when his name was called) said: The Senator from Illinois [Mr. YATES] was called home by sickness, and I agreed to pair with him on any question of a political character. I am not sure how he would vote on this question, but my impression is he would vote with his party; and therefore I do not feel authorized to vote upon it, and consider myself paired with him.

Mr. STEWART (after having voted in the affirmative) said: I was paired with the Senator from Maine, [Mr. FESSENDEN,] but I forgot it at the moment my name was called, and I should like to withdraw my vote. He was in favor of universal repeal and I am opposed to it.

The PRESIDENT *pro tempore*. If there be no objection the Senator's vote will be withdrawn.

The result was announced—yeas 17, nays 32; as follows:

YEAS—Messrs. Chandler, Conkling, Cragin, Har-

lan, Harris, Howard, Howe, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Ramsey, Sawyer, Sprague, Sumner, Welch, Willey, and Williams—17.

NAYS—Messrs. Abbott, Cameron, Cattell, Cole, Conness, Corbett, Dixon, Drake, Ferry, Frelinghuysen, Grimes, Henderson, McDonald, Morgan, Morton, Nye, Osborn, Pomeroy, Pool, Robertson, Ross, Sherman, Spencer, Thayer, Tipton, Trumbull, Van Winkle, Vickers, Wade, Warner, Whyte, and Wilson—32.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Davis, Doolittle, Edmunds, Fessenden, Fowler, Hendricks, Kellogg, McCreery, Norton, Patterson of Tennessee, Rice, Saulsbury, Stewart, and Yates—17.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment offered by the Senator from Indiana, [Mr. MORTON,] on which the yeas and nays have been ordered.

Mr. HOWARD. I proposed to say something upon that amendment; but on the suggestion of others I suspend my remarks until we get into the Senate.

The Secretary proceeded to call the roll.

Mr. STEWART. I am paired with the Senator from Maine, [Mr. FESSENDEN.]

Mr. CAMERON. I vote "nay;" but I feel very awkward about it. I am in favor of the repeal, but I vote against putting it on this bill.

Mr. CONKLING, (after having voted in the negative.) I wish to make a statement of a word. It escaped me entirely that the Senator from Wisconsin [Mr. DOOLITTLE] came to me some time ago with rather a vague hint which I did not at the time understand—I see what it meant now, as this doubtless has been understood on one side—saying that a member of his family was ill and he wished to go away, and if he was not here on the final vote on this question he should like to consider himself paired. Although it was qualified somewhat, very likely he considers it a pair, and I therefore ask to withdraw my vote.

Mr. POMEROY. I supposed that I was paired with that Senator.

Mr. CONKLING. Then I inquire of the Senator from Kansas whether he withheld his vote under that supposition?

Mr. POMEROY. I did, because I felt embarrassed about it.

Mr. CONKLING. Certainly we ought not to be both paired with the same Senator. The Senator from Wisconsin did not disclose to me that he had made the request of any one else.

Mr. POMEROY. Then I will vote. I vote "yea."

Mr. CONKLING. That will not do. The Senator votes now on the same side as the Senator from Wisconsin. [Laughter.]

The PRESIDENT *pro tempore*. Does the Senator from New York withdraw his vote?

Mr. CONKLING. Yes, sir; I prefer not to run any risk.

The result was announced—yeas 22, nays 26; as follows:

YEAS—Messrs. Cole, Conness, Dixon, Drake, Grimes, Henderson, Kellogg, McDonald, Morgan, Morton, Osborn, Pomeroy, Pool, Ramsey, Robertson, Ross, Sherman, Thayer, Van Winkle, Vickers, Warner, and Whyte—22.

NAYS—Messrs. Abbott, Anthony, Cameron, Chandler, Corbett, Cragin, Ferry, Frelinghuysen, Harlan, Harris, Howard, Howe, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Sawyer, Spencer, Sprague, Sumner, Tipton, Trumbull, Wade, Welch, Willey, Williams, and Wilson—26.

ABSENT—Messrs. Bayard, Buckalew, Cattell, Conkling, Davis, Doolittle, Edmunds, Fessenden, Fowler, Hendricks, McCreery, Norton, Nye, Patterson of Tennessee, Rice, Saulsbury, Stewart, and Yates—18.

So the amendment was rejected.

Mr. WILSON. I offer the following amendment as an additional section:

And be it further enacted, That the heads of the several Executive Departments be, and they are hereby, directed to report at the opening of the session of Congress beginning on the first Monday of December next the number of clerks in their several Departments, and what reduction, if any, can be made in the number of clerks in each grade.

The amendment was agreed to.

Mr. CAMERON. I desire to offer an amendment from the Committee on Agriculture. It is to insert after line ten hundred and sixty-three the words "one watchman, \$1,000." In offering this amendment I desire to say that

the Commissioner informs me that an additional watchman is necessary for the agricultural building, and that in consequence of the need of a watchman he has been compelled to occupy a part of the upper story of the building himself. He has done so for the purpose of protecting the property, and unless you give him this additional watchman he will be compelled to remain there. I hope therefore that the amendment will be adopted.

The amendment was agreed to.

Mr. SPRAGUE. I offer an amendment, to insert on page 22, after line five hundred and thirty-six, the following:

Provided, That after the passage of this act the proprietors of all bonded warehouses shall reimburse to the United States the expenses and salary of all storekeepers or other officers in charge of such warehouses; and the same shall be paid into the Treasury and accounted for like other public moneys.

I have consulted with members in relation to this amendment and it is all right. It comes from the Department.

The amendment was agreed to.

Mr. HENDRICKS. I offer an amendment, to strike out on page 4, from line seventy-four to line eighty-three, the following words:

For one captain, \$2,083; two lieutenants at \$1,800 each; thirty privates at \$1,584 each; twelve watchmen at \$1,000 each; making in all \$65,160, one half to be paid into the contingent fund of the House of Representatives and the other half to be paid into the contingent fund of the Senate.

And to insert in lieu thereof:

For one captain of police, \$1,600; one lieutenant, \$1,200; and twenty policemen and watchmen at \$900 each, making in all \$20,800.

Mr. President, I shall detain the Senate but a moment on this amendment. At this time I perceive by this bill that to guard this Capitol we are paying a captain of police above two thousand dollars; two lieutenants \$1,800 each; thirty privates \$1,584 each; twelve watchmen \$1,000 each—making in all about forty-five persons employed as a guard of the Capitol building at an expense of \$64,000. It is absurd to suppose that the expenditure of \$64,000 is necessary to protect this Capitol. I do not believe the half of it is necessary, therefore I have proposed the amendment which has been read. It gives a force of about twenty-two men to guard one building, with reasonable compensation. These persons employed about the Capitol are watchmen; it is simply their business to see that the Capitol is protected. It does not require high qualities, except the quality of honesty. That, no doubt, ought to be well paid for in these times. But the proposition that I submit as an amendment gives a very ample compensation, and as I propose it, the expenses will be about twenty-two thousand dollars instead of \$65,000. I believe that we can just as well save this \$40,000 as not. This amendment was suggested at the last session of Congress, but it was objected to by the chairman, because existing laws regulated the number of persons to be employed and the rates of their salaries, and it was suggested by him at that time that the retrenchment and economy ought to be introduced by a bill amending the act under which these persons are employed; but no such steps have been taken: no bill for that purpose has been introduced by his committee or by any other. Now, I do not see any other way of correcting this great abuse than by the amendment which I have suggested. I believe the amendment gives ample force and a sufficient compensation, and that it ought to be adopted.

Mr. MORRILL, of Maine. I hope we shall not enter at this late hour upon the work of reforming the service. I suggest to the Senator from Indiana that if we once enter upon that there is no end to an appropriation bill. This force was reorganized only two or three years ago by a joint committee of both Houses, and I think it would be unwise for us to undertake to put this amendment on an appropriation bill. I think it not unlikely that I did say last year that this proposition ought to be considered by an appropriate committee if it was desirable to consider it at all; and I understand that a joint committee of both Houses has been instructed to reorganize the entire

force of both branches of Congress. I do not wish to extend remarks upon it, because I am extremely anxious to bring this bill to a conclusion. I hope, therefore, that we shall get a vote upon it without debate, and that it will not be agreed to.

The amendment was rejected.

Mr. ABBOTT. On page 46, line eleven hundred and thirty, I move to strike out "\$1,000" and insert "\$2,000;" so that the clause will read:

For the care and preservation of the branch mint buildings, machinery, and materials, at Charlotte, North Carolina, including \$500 for necessary repairs, \$2,000.

The amendment was agreed to.

Mr. HENDRICKS. I wish to inquire of the chairman of the Committee on Appropriations if it was not understood at the last session that the bureau of education was to be continued only until the book which has been placed on our desks should be published. I see that a provision is made on the twenty-fourth page of this bill for the continuation of the Department of Education. I think when the bill was up at the last session it was claimed that the Commissioner ought to be continued in his office, with sufficient clerical force, until he could complete the preparation of this book, which is now just out; and that when it was completed the appropriation for the maintenance of that Department ought to cease. But I suppose now it is to become a permanent institution if this appropriation shall be made. For the purpose of testing the judgment of the Senate upon that question I move to strike out from line five hundred and seventy-one to line five hundred and seventy-five, on the twenty-fourth page.

The PRESIDENT *pro tempore*. The words proposed to be stricken out will be read.

The Secretary read as follows:

Office of Education:
For Commissioner of Education, \$3,000.
For two clerks of class one, \$2,400.
For contingent expenses, \$600; in all, \$6,000.

Mr. MORRILL, of Maine. I did not know what the Senator was driving at. I will say to him that he is mistaken in supposing that the law providing for a bureau of education was repealed. It was modified so that the bureau, or Department, as I think it is called, was transferred to the Interior Department with two clerks. It may be that they ought to be appointed by the Secretary of the Interior; but they are provided for by law, both the Commissioner of Education and the clerks. The Senator will find if he looks at the statutes a provision, which was put upon an appropriation bill, that the Department was simply modified and not repealed. I hope, therefore, the Senator will see that it is a proper thing to make the appropriation unless we choose to repeal the law.

Mr. HENDRICKS. It seems that the only way we can get at matters of this sort is to reduce the appropriation. The proposition to repeal is not brought forward in any independent way; but each session the appropriation is made for the continuance of the Department.

Now, Mr. President, what is to be accomplished by this Department of Education? I do not yield to any Senator that he has a higher appreciation of the importance of general education in the country than I have. I would desire to foster and encourage education in the country in every way. But I do not believe that it is one of the purposes of the General Government to take charge of the educational interests of the country. I do not believe that it is within the constitutional powers of the Government; and further than that, I do not believe that the Government of the United States can successfully and advantageously to the cause of education itself take charge of that interest. The States have their own systems of education, and I believe very good systems. In the State of Indiana we have a system to some extent borrowed from the eastern States, and I believe it to be a very successful system, improving, of course, each year.

Now, what is proposed to be accomplished by this bureau or Department of Education? That bureau has no means of coming in direct contact with the school systems in the States. All that it can accomplish is to compile for publication books such as the one we have now upon our tables, just published, a large volume, costing a great deal of money, costing so much money that I suppose no private publishing house would undertake its publication with a view to profits out of the sale of it. This is rather an extraordinary looking book. Of course I have not had an opportunity to examine it with any degree of care, but as far as I have examined it it is a book rather easily made. It is a compilation, a gathering together of old things, and I should judge of no great importance to the cause of education. I should not think it equal, as far as I am able to judge, to the works on the subject of education published by the States. I think that our department of education in Indiana is very much superior to this bureau at Washington, if I am to judge by this book. Here, in the first part of the book, is a speech covering a number of pages, a speech made in the House of Representatives, a speech already published in the Globe. If that speech were not buried in that tomb of learning it certainly is completely and forever buried in this volume. But, sir, it seems to me it is not necessary to keep up a bureau of education to publish annually books made up of compilations simply, a part of which is speeches in the House of Representatives. I would not question that this is a very excellent speech. It may be a better document on the subject of education than the Commissioner himself would be able to produce, but still it is not the kind of original matter that we ought to publish a second time.

Mr. SHERMAN. Whose speech is it?

Mr. HENDRICKS. Mr. GARFIELD'S. Then further over I find about one hundred pages made up of plates of school-houses. When I first opened it I thought it was on the style of the report of the Commissioner of Agriculture. You know a part of that volume each year is made up of pictures of horses, sheep, and cattle, and it is a very pleasing thing to turn from one fine blood to another and contemplate their beauty. It also has pictures of apples and pears and the like. This book is gotten up on the same style. There are over one hundred pages of plates representing school-houses, colleges, buildings for normal schools; but I do not observe one that is suitable for the ordinary purposes of a school-house. This man undertakes the work of architecture.

Mr. ANTHONY. If the Senator from Indiana will allow me, I can explain some portion of what he complains of in that report.

Mr. HENDRICKS. I shall be very happy to hear it.

Mr. ANTHONY. Those plates and a large amount of the matter of which the Senator complains are furnished by the Commissioner without any expense to the Government, furnished from stereotyped plates of his own, and the engravings also, I think. I may not be literally correct, but I do not think the Government has spent a dollar for the engravings in that publication.

Mr. HENDRICKS. Does the Senator expect that that system will be continued; that the illustrations to be found in the volumes hereafter published shall be at the expense of the Commissioner?

Mr. ANTHONY. I should be very happy to have that system adopted for all the Departments. If the heads of bureaus were to furnish their own engravings and print their own documents it would be a very great economy to the Government.

Mr. HENDRICKS. Yes, Mr. President, it would save a great many hundreds of thousands of dollars in printing.

Mr. ANTHONY. I merely wished to explain that a much greater latitude might be allowed to the head of a bureau in publishing a report, if he published it without expense to

the Government, than if he published it entirely at the expense of the Government. I say that rather in justification of the printing part of the document.

Mr. HENDRICKS. If the Senator will allow me I wish to ask him a question. As I looked over these pictures I supposed that the head of the bureau or Department here had simply borrowed from the States the plates that had been used to illustrate their styles of school architecture. Is not that the fact?

Mr. ANTHONY. I think not. The Commissioner of Education has devoted his life to that subject, and is undoubtedly one of the ablest, one of the most accomplished, and best-informed educators living; and this book embodies a large amount of the results of his studies and his experience. It is a book which is more of a treatise and less of a report than ought to be printed by the Government, unless, as was the case with the more expensive portion of it, it were printed at the cost of the Commissioner himself.

Mr. SPRAGUE. Who paid for the paper?

Mr. ANTHONY. The Government paid for the paper, and we furnished the type for a large amount of it, and the stereotyping.

Mr. HENDRICKS. I think the Senator is mistaken about this. I do not think these are new plates gotten up for this work.

Mr. ANTHONY. They are not new plates gotten up; they are old plates.

Mr. HENDRICKS. It seems to me I have seen these pictures before.

Mr. ANTHONY. Certainly; that is what I said.

Mr. HENDRICKS. I am not going to debate the question of the personal excellence or the attainments of the Commissioner of Education. He may be all that the Senator from Rhode Island claims for him; but this book will not do to put very much money in, in my judgment, if we consult the good of the people and the cause of education. It is not worth publishing so far as I can judge from a hasty examination of it. It is not worth publishing when it is made up of newspaper articles and speeches delivered in Congress and plates taken from old publications. We ought not to have one hundred pages of such plates as those. I understood at the last session of Congress that the purpose was to continue this gentleman in office until he could get his great book out, and then that he would not care anything more about it. We had better leave the cause of education where it is, with the States. I know that the States of the Northwest are going on with great rapidity and success in the cause of education, and they are not looking to Washington; and if they did look to Washington and only every two or three years got a book of this sort as a return for their hopes in that direction they would not get much. I do not believe that the bureau which is now being established will be of such service to the cause of education as to justify the expenditure of money. It is simply a book-making Department, and we have more books now published at the public expense than we ought to have.

Mr. CONNESS. There is not a clerk in the country who could not get it up for one tenth of the money it has cost.

Mr. HENDRICKS. I have no doubt about that. It has not the dignity of an original book. It is a compilation and collection together of scraps; I will not say scraps; I take that back, because there is a speech in there from a member of Congress, and of course that is not scraps; but it is a collection together of floating matter. I did not understand that to be the purpose of the establishment of this bureau. We have got to put an end to it now, or it becomes a permanent bureau. It is a growing thing. Pass this period, and let him commence another book, and the argument will be that that must be finished also. If I thought this institution was useful to the cause of education I would not object to it, except upon the ground that the Government of the United States has no proper connection with that business.

Mr. ANTHONY. I do not stand here to

defend the publication of treatises upon any subject. I think that the head of a Department or bureau should make a report of the operations of his Department or bureau during the year.

Mr. CONNESS. It would be a very small book.

Mr. ANTHONY. It would be; and that is all we ought to have. I do not believe that we ought to have treatises here on political economy or upon international law or upon science.

Mr. GRIMES. Why should we not?

Mr. ANTHONY. I do not think we ought to have them at the expense of the Government. But of the class of books of that kind I think the one which my friend from Indiana has denounced so severely, and evidently has examined so cursorily, is one of the best we have had. I think that book contains more information upon the subject of education than will be found between the covers of almost any book that has been published. I do not say that, in my judgment, the Government ought to go to the expense of publishing books because they are good books. I do not think we ought to publish any books, good or bad, or anything except what is sufficient to give the country information on the operations of the Government for the past year. But I do not like to hear that book traduced so by my friend from Indiana, who evidently has not read anything in it, for I think he does it very great injustice. It is a very valuable work on education which might well have been printed at the expense of any State or of any educational society.

Mr. DIXON. Mr. President, the appropriation for the support of the bureau of education in this bill is only \$6,000. I do not know how much the entire bill appropriates for all purposes; but it is an enormous amount, of which the sum of \$6,000 is appropriated for the bureau of education. It does not seem to me that this is an extravagant amount. I do not know whether it is the purpose and design of the Senate to continue this bureau. It has been established by law. The officer has been appointed. The policy has been established, as I suppose; at least, the sense of both Houses of Congress has been expressed in the enactment of a law on the subject; and now it is proposed to appropriate the sum which I have mentioned, \$6,000, for the great cause of education.

The principal objection made to it by the Senator from Indiana is the character of the report of the Commissioner, and he has exhausted his powers of ridicule and sarcasm, which are certainly very great as we all know, upon this very innocent and, in my judgment, very useful publication. I must confess that I had supposed it a meritorious work. I had examined it with considerable care. I had found in it the proofs of very great labor, of very great investigation, of very great research, of very great knowledge; the product, in fact, of a life spent in the cause of education. It may not all be precisely original. I do not know that it is necessary that on the subject of education every word published should be a word that never was published before; that the Commissioner should at all times and on all occasions say that which had never been said before. There may be some old truths in this book; there may be truisms in it. It would be difficult to publish a book of this size on this subject which should be entirely original. I will not take up the time of the Senate by reading the table of contents. Here, it is true, is the speech of Mr. GARFIELD, of Ohio, in the House of Representatives, upon the publication of which, not upon the speech itself, the Senator pours out a torrent of ridicule. As a general rule, I should say that it was not best to publish in a report of this sort speeches that are published in the Globe; but this was an exception. This was a speech in which the subject of establishing the bureau was considered, and Mr. Barnard thought it proper to publish it in his report. It may be a matter of somewhat doubtful propriety, because somewhat doubtful as a question of taste,

whether it is well to publish the speech of a member of Congress in this way; but it was certainly a very able speech, a speech which reflected great honor upon the distinguished member who made it, and a speech which elucidated and illustrated the question upon which he was speaking, and Mr. Barnard, it seems, thought it would be useful to publish it in his report. But, sir, aside from that, I do not find anything in it which is not extremely useful.

Now, with regard to these pictures. The Senator has objected because one hundred pages of this book have been devoted to illustrations.

Mr. MORRILL, of Maine. I beg the Senator to allow us to take the vote.

Mr. DIXON. I will not take up time; but I feel it my duty, knowing as I do the Commissioner, to say that he has published a report of very great value.

Mr. MORRILL, of Vermont. I am sorry that the Senator from Indiana should signalize the last hours of his service in the body of which he has been so distinguished a member by an attack upon this bureau in order to save \$6,000, when only this afternoon he voted for an expenditure of \$300,000 without wincing at it at all.

Now, Mr. President, in relation to this matter, I suppose it is intended to have something of this to continue, and it matters not whether the party now in the office is a fit person to fill the place or not. He certainly is a man of distinguished abilities and acquirements, who has spent a whole life on this subject and evinced an enthusiasm that might be copied to advantage by younger men. Instead of striking out the appropriation I should much prefer that the Senate should raise the two clerks of class one to two clerks of class four. Two clerks of class one of course must be the lowest grade, and they are not equal to the duties which they will be called upon to perform. But I suppose such a motion would be ruled out of order, and therefore I shall not make it.

Mr. GRIMES. The Senator from Vermont is chairman of the Committee on Education, and perhaps he can give me some information that I have never yet been able to ascertain; and that is, what is the purpose of this bureau?

Mr. MORRILL, of Vermont. Why, Mr. President, the Commissioner has been in correspondence with the educated men of the whole country for the last year, and he has had clerks here compiling the laws in relation to education in the several States. If you examine that book you will find some matter there that will be useful for reference for all time.

Mr. GRIMES. When they have got those laws thus compiled what is going to be done with them? Is it proposed that the national Government shall take charge of education in the several States? Does the Committee on Education look to such a consummation as that?

Mr. MORRILL, of Vermont. I do not propose to be drawn into a constitutional argument on this subject.

Mr. GRIMES. It is not a constitutional question.

Mr. MORRILL, of Vermont. I have no question that the Commissioner can find something to do that will be useful and valuable to every part of the Union.

Mr. GRIMES. But what does the Committee on Education propose that this bureau shall grow into, or what duty is it to exercise in a national point of view? I can very well see that there is propriety in having some one in charge of the schools in this District, but I should like to know what relation this bureau is to have to education in any State?

Mr. MORRILL, of Vermont. If the Senator from Iowa finds that they have a better system or have introduced any improvement in relation to the art of teaching, the books used, or the houses constructed for the accommodation of children in other States, I have no doubt he would welcome it in his own; for I believe that when he was Governor of the State of Iowa he

was a distinguished advocate of the improvement of the schools in that State.

Mr. GRIMES. But not through any agency of the Government. We took the common school journals; we took the various magazines that were published; and we thus learned at our own expense quite as much as I think we shall be apt to learn by an annual report from the Commissioner of Education located here at the capital of the nation, and at much less expense to ourselves.

Mr. WELCH. I do not think that there are any magazines published in any State by which any one State in the Union can obtain adequate information in regard to education in other States. There are a large number of States in which no educational journals are published at all, and the educational journals that are published by some of the States do not circulate generally in the other States. It needs, it seems to me, some agency, whether it be an agency established by the General Government or not, by which any State can get the light thus shed on the great subject of education by other States of the Union. This appropriation of \$6,000 only it seems to me is a very insignificant sum to be appropriated by the General Government to so great a purpose as this. There are very many causes not half so important as the great cause of education to which large sums are appropriated for their advantage and progress. I know, indeed, from the experience that I have had as an educationist, that there are positively no means by which any institution can gain knowledge of the progress of the various interests of education in the other States other than through this agency.

I do not think that this book which has been referred to should be taken by any means as a criterion by which to judge whether this Department is to be continued or not. I cannot see that the matter which is embodied in a single volume published by this Department can be made a proper criterion to judge whether the Department should be continued or not. The Department may be of immense value to the Government and the cause of education through future years, and yet the book be utterly valueless. And so I may say of the man who occupies the office. Although I believe him to be a man of great expression and great enthusiasm upon the subject of education, a man who no doubt fills the office with great honor, still I do not think his success in the conduct of the office should be made any criterion by which to judge of the future value of the office. I take it that the object of that office is to disseminate information in regard to the progress of the different interests of education to each State throughout the whole country, and I think it is a sad thing to hear honorable Senators make objections to such an enterprise as that. Not one of them will have the temerity to say that he is the enemy of education. Indeed, every argument is begun with a declaration of the devotion of the speaker to education, just as an honorable Senator this morning, when he spoke against the payment of labor according to the skill of the laborer, and not according to the sex of the laborer, began by saying that no dollars and cents could measure his devotion to the sex, and yet he was against their being paid according to the value of their labor and made their sex the criterion by which to measure the amount of payment. The cause of education is a great cause. I think it is due to the dignity of this great nation that it should have a department by which information shall be disseminated through all the States as to the progress made in each State in every department of this great subject.

Mr. GRIMES. The reference of the Senator from Florida to the remarks of the Senator who made some objections this morning on the subject of female labor was rather unfortunate, for if I recollect aright that objection was made by the distinguished Senator from Vermont, who is the chairman of our Committee on Education.

Mr. MORRILL, of Vermont. Oh, no.

Mr. WELCH. I beg the Senator's pardon.

Mr. GRIMES. At any rate, he was the gentleman who led the opposition to giving to a woman the same compensation for the same sort of labor and the same amount of labor that was given to a man. Now, Mr. President, the argument of the Senator from Florida amounts to this: that in case educational journals are not taken in a particular section of the country, therefore the Government of the United States should furnish that section with them free; that where there is a want of capacity and a want of inclination or of disposition to elevate or extend or to encourage education in any particular section of the country, we are in duty bound to put the other portions of the country to very great expense in order to force upon that portion of the country educational periodicals, and those only to be annual, like the large volume that is upon our desks. The same argument will apply to all sorts of journals, embracing all sorts of subjects, and the jurisdiction of this Federal Government would be extended into every neighborhood and every family throughout the country. For one, as a representative of one State, I shall always protest against the national Government having anything to do with education in my State. We can take care of ourselves. We have been able to take care of ourselves, and so far as depends upon my vote I am determined that we shall take care of ourselves.

The first thing we shall know this Government will be grasping at our school fund to supply some portion of the country where they are deficient in it. I think we have gone far enough in that direction. Why, sir, we have laid the basis to-day of a veterinary college by an appropriation this evening of \$9,000 to pursue investigations on the subject of the cattle disease; the very thing that all the States of the Northwest are investigating now through commissions of scientific and practical men and have been for two years, and yet we are going to establish some sort of a bureau here in connection with the Agricultural Department; and that will be swollen into a great big national veterinary college that will publish a book probably twice as big as that which the Senator from Missouri has in his hands.

Mr. WELCH. The reference of the Senator to the independence of his State from the national Government is rather an unfortunate one. If I understand the honorable Senator, he says his State does not want any help, or does not recognize any dependence upon the national Government. Now, in point of fact, that State has lately received two hundred and forty thousand acres of land for the establishment of an agricultural college, and it is now deriving an income of \$30,000 a year for the support of that institution. Now, is it not proper that this Government should look after appropriations of that sort, and look into its own educational offspring in the different States? It seems to me that it would be well for this Government to see that the vast amount of land it has donated for the progress of agricultural and industrial science is so appropriated as to secure the great objects for which it is made; and that is one great purpose for which this Department is established.

Mr. SUMNER. If my voice had not failed me I should deem it my duty to discuss this question at some length. So far from striking out the appropriations for the bureau of education I would increase them. All told now they are but \$6,000; for a Commissioner \$3,000, for two clerks \$2,400, being \$1,200 apiece, the lowest grade of clerks. That is all that you give to the bureau of education. Now, turning to the bureau of agriculture, I find numerous clerks, assistants, watchmen, officers of all kinds, with salaries making in all \$70,100. Thus much you appropriate to agriculture, while you appropriate only \$6,000 to education. Is that right? The Senator from Iowa says that he does not wish this bureau to control education in his State. Does he wish the bureau of agri-

culture to control agriculture in his State? I presume not; and yet I am not aware that the Senator proposes to abolish the bureau of agriculture. That bureau is at this moment useful to the agricultural interests of the country.

Mr. GRIMES. I will say to the Senator that I will most cheerfully vote to abolish it. If he will give me an opportunity to so vote he will find that I will do so.

Mr. SUMNER. Then the Senator would make a great mistake.

Mr. GRIMES. That is a question of judgment.

Mr. SUMNER. The bureau of agriculture is of infinite value to the country at this moment; and let me say that a bureau of education properly endowed, with a sufficient number of officers and clerks to organize it powerfully, would be more valuable to the country than even any bureau of agriculture.

I should not say even these few words at this late stage of the discussion if I did not feel unwilling that debate on this question should close without bearing at least one word of testimony to the value of this branch of the public service. Sir, I hope that Congress very soon will see its way to enlarge these appropriations. For the present I hope the Senate will vote down the proposition of the Senator from Indiana.

Mr. MORRILL, of Maine. I rise to appeal to the Senate to vote on this proposition and close this bill. The Senator from Iowa, in reply to a suggestion of mine, said there was time enough. I hope my honorable friend will hold to that opinion. Between this and six o'clock to-morrow morning I hope with his effort we shall be able to pass two other bills which it is my purpose to bring before the Senate between that and this time if we can finish this bill.

Mr. GRIMES. Leave out the Massachusetts amendment and we can pass them both.

Mr. MORRILL, of Maine. I hope we shall have a vote on this amendment.

The amendment was rejected.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 112) relating to captures made by Admiral Farragut's fleet in the Mississippi river in May, 1862;

A bill (H. R. No. 425) for the relief of Mary A. Filler;

A bill (H. R. No. 1279) in relation to additional bounties, and for other purposes;

A bill (H. R. No. 1327) to amend an act entitled "An act to exempt certain manufactures from internal tax, and for other purposes," approved March 31, 1868;

A bill (H. R. No. 1344) to confirm certain private land claims in the Territory of New Mexico;

A bill (H. R. No. 1487) to declare and fix the status of judge advocates of the Army;

A bill (H. R. No. 1867) for the relief of the Illinois Iron and Bolt Company;

A bill (H. R. No. 1879) for the relief of certain companies of scouts and guides organized in Alabama;

A bill (H. R. No. 1989) for the relief of Peter McGough, collector of internal revenue and disbursing agent, twentieth district, Pennsylvania;

A bill (H. R. No. 1928) granting a pension to Lemuel Bartholow;

A bill (H. R. No. 1930) granting a pension to Madge K. Guthrie and Robert B. Guthrie;

A bill (H. R. No. 1973) in reference to certifying checks by national banks;

A joint resolution (H. R. No. 211) for the

relief of Henry S. Gibbons, Luther McNeal, and Seth M. Gates; and

A joint resolution (H. R. No. 438) relative to certain purchases by the Interior Department.

THOMAS W. PHIPPS.

Mr. RAMSEY submitted the following; which was considered by unanimous consent, and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That there be paid to Thomas W. Phipps from the contingent fund of the Senate his salary as messenger acting assistant doorkeeper of the Senate, from the 1st day of May, 1867, up to the present time, deducting therefrom the amount received by him during that time.

MARY A. DAVIS.

The Senate proceeded to consider the amendment of the House of Representatives to the amendment of the Senate to the bill (H. R. No. 596) granting a pension to Mary A. Davis, widow of William P. Davis, a private in the war of 1861, which was to strike out the word "one" in the third line of the Senate amendment and insert the word "four."

The amendment to the amendment was concurred in.

OREGON MILITARY ROAD.

The Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 167) granting lands to the State of Oregon to aid in the construction of a military road from the navigable waters of Coos bay to Roseburg, in said State; which were read, as follows:

Insert after the first proviso in page 3, line thirteen, the following:

Provided further, That the grant of lands hereby made shall be upon the condition that the lands shall be sold to any one person only in quantities not greater than one quarter section, and for a price not exceeding \$2 50 per acre.

Insert at the end of section five the following words:

Provided, however, The entire amount of public lands granted by this act shall not exceed three sections per mile for each mile actually constructed.

The amendments were concurred in.

PREVENTION OF REVENUE FRAUDS.

The Senate proceeded to consider its amendments to the bill (H. R. No. 375) to repeal an act approved March 2, 1867, entitled "An act to regulate the disposition of fines, penalties, and forfeitures received under the laws relating to the customs, and for other purposes," and to amend certain acts for the prevention and punishment of frauds on the revenue and for the prevention of smuggling, disagreed to by the House.

On motion by Mr. MORRILL, of Maine, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

SYMPATHY WITH SPAIN.

The Senate proceeded to consider the amendment of the House of Representatives to the joint resolution (S. R. No. 178) tendering sympathy to the people of Spain.

The Secretary read the amendment, which was to strike out all after the resolving clause of the resolution and to insert:

That the people of the United States sympathize with the patriotic people of Spain in their efforts to establish the liberties of the Spanish nation.

Sec. 2. And be it further resolved, That the people of the United States sympathize with the people of Cuba in their efforts to secure political independence, and that they will welcome to the family of independent nations any Government that guarantees liberty to all men and recognizes the principle of the absolute sovereignty of the people.

Sec. 3. And be it further resolved, That the President is hereby authorized to recognize the independence of Cuba whenever in his opinion a republican form of government shall have been established.

The House proposed also to amend the title of the joint resolution by adding the words "and Cuba."

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made by the House of Representatives.

Mr. FESSENDEN. I move that it be referred to the Committee on Foreign Relations.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had passed the following bills of the Senate:

A bill (S. No. 264) for the relief of Henry C. Noyes;

A bill (S. No. 661) for the relief of Lieutenant Colonel John W. Davidson, of the United States Army;

A bill (S. No. 679) to amend an act entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Oregon City to the eastern boundary of said State;

A bill (S. No. 705) further to provide for giving effect to treaty stipulations between this and foreign Governments for the extradition of criminals;

A bill (S. No. 760) for the relief of Rev. D. Hillhouse Buel;

A bill (S. No. 781) for the relief of Alpheus C. Gallahue;

A bill (S. No. 844) for the relief of Captain Charles Hunter, United States Navy; and

A bill (S. No. 862) amendatory of the act providing for the sale of the arsenal grounds at St. Louis and Liberty, Missouri, and for other purposes, approved July 25, 1868.

POST OFFICE APPROPRIATION BILL.

Mr. MORRILL, of Maine. I move that the Senate proceed to the consideration of the bill (H. R. No. 1806) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1870.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The Secretary proceeded to read the bill; but was interrupted by

Mr. WARNER. With the consent of the Senator from Maine, I ask the unanimous consent of the Senate to take up Senate bill No. 890. I will state that it is the first measure to which I have asked the attention of the Senate at this session; but it is one of importance to our State, and of pressing importance to be passed now, because at the next session of Congress Alabama will have no representation in the other House.

The PRESIDING OFFICER. (Mr. CONNESS in the chair.) The Senator is not in order at present pending the reading of the bill. The Secretary will continue the reading.

The Secretary resumed and concluded the reading of the bill.

Mr. WARNER. I now ask the consent of the Senate, with the permission of the chairman of the Committee on Appropriations, to take up Senate bill No. 890. It is a very important bill and the only one to which I have asked the attention of the Senate this winter.

The PRESIDING OFFICER. Is there any objection to the bill proposed to be taken up by the Senator from Alabama?

Mr. WARNER. I will state that on the 4th of March Alabama will have no Representatives in the other House, and consequently it is important that it should be attended to now. I move to take up Senate bill No. 890, renewing a grant of lands to a railroad in Alabama—a grant made before the war. It is a simple renewal of the grant in the very words of the old law. The road is very important to our people in every way. I move to take up the bill.

The PRESIDING OFFICER. It can only be done by unanimous consent. Is there any objection?

Mr. HOWARD. It is objected to.

The PRESIDING OFFICER. Objection being made, the motion cannot be entertained.

Mr. RAMSEY. I inquire of the chairman of the Committee on Appropriations whether he has any amendment to propose to this bill from that committee?

Mr. MORRILL, of Maine. No, sir; the committee propose none.

Mr. RAMSEY. Then I move to amend the bill by striking out the proviso in the twelfth and thirteenth lines, in these words:

Provided, That no part of said sum shall be paid for inland transportation between Fort Abercrombie and Helena.

Mr. President, in my judgment this is a very unfair, unreasonable, and odious discrimination against this mail route. At present we have a tri-weekly mail carried from St. Paul and from our northern towns on the Mississippi river to Fort Abercrombie; and again upon the other side from Helena to Walla-Walla there is a tri-weekly mail carried. To make this link comport with the service both east and west the act of about six months ago was passed. The business is increasing, the settlements are pressing east and west, and there is necessity for this particular kind of service. The other mail service upon the central route is some five or six hundred miles south of this; and surely an American Congress will not say that the whole service between the East and West upon this continent is to be confined to one line. It might be suspected that this proviso was owing to the selfishness of the central line of railroad wishing to accumulate upon its line all the mail transportation upon this continent, instead of allowing those great and growing and prosperous northern regions of the country to be served upon their own line from the States from which most of their people have come, and where much of the travel is, seeking to divert it all to that central line. I hope the Senate will repudiate this odious discrimination upon the part of the House of Representatives, and will strike out the proviso.

Sir, already population is rapidly spreading toward the Red River valley. As I said, we have a mail service three times a week up to Fort Abercrombie. Farmers have settled through the whole Sauk valley, stretching from the Mississippi to that point. It is a thickly settled country. Again, upon the other side, along the valley of the Missouri, settlements are growing and extending every year. The distance from Fort Abercrombie to the bend of the Missouri river is only about three hundred and fifty miles; and within the next year the railroad system of Minnesota will extend to the Red river. Contracts have been entered into looking to the completion of our railroad system to that point.

Now, Mr. President, this kind of service is not nearly so much in advance of the growth of this region of country as was the service upon the central route when that was entered upon. I think it is an odious and unfair discrimination to select this route from all the routes of the country, and say that no service shall be placed upon it, especially as the Congress of the United States, after solemnly considering the subject, passed a law six months ago ordering the service upon that route. The proposition to discontinue it is either owing to the disposition of the central railroad line to accumulate, as I said, all the business upon its route, or it is owing probably to some contractor who was caught in his bid and who now desires to avoid executing his contract by this kind of legislation. I hope that the Senate will not consent to anything of the kind, but will agree to my amendment and strike out this proviso.

Mr. MORRILL, of Maine. I will say one word on this subject. It seems by a resolution passed in 1868 that a mail route was provided for, and the Postmaster General was authorized to make a contract for the mail service between these two points, some three or four hundred miles or more. The Postmaster General reports that the thing is utterly impracticable; that he cannot carry the mail.

Mr. RAMSEY. No, sir.

Mr. MORRILL, of Maine. That is the report, that he has made a contract which cannot be executed.

Mr. RAMSEY. Where is there such a report, I would ask the Senator?

Mr. MORRILL, of Maine. In the report of the Postmaster General.

Mr. RAMSEY. You will find nothing of the kind. The Senator is entirely mistaken. He has misread the report. It has reference to a contract previously made for carrying it upon horseback simply.

Mr. MORRILL, of Maine. I have reference to the precise contract under consideration—a \$194,000 contract—which he says is impracticable, and further, that there is but one single residence on the whole route.

Mr. RAMSEY. The Senator does not mean to say that he finds that statement in any report of the Postmaster General?

Mr. MORRILL, of Maine. Yes, sir.

Mr. RAMSEY. There are numerous settlements on the line of this route.

Mr. MORRILL, of Maine. The upshot of it is, Mr. President, that the Postmaster General reports that it is impracticable to carry the mail on this route. That is the information before the committee, that no service has been rendered, and no service under the contract is practicable; and furthermore, that the establishment of the post route was improvident; that Montana can be supplied from another point to a great deal better advantage; and for that reason the House of Representatives provided that no part of the sum appropriated in this clause should be paid for that service; and on that information the Committee on Appropriations on the part of the Senate thought it reasonable to concur. I hope the Senate will retain this proviso.

Mr. RAMSEY. I will read an extract from the report of the Postmaster General, and the Senator will see how entirely he has been misinformed on this subject:

"In the last annual report allusion was made to the route from Fort Abercrombie, Dakota, to Helena, Montana, (or the route from St. Cloud to Pembina,) intended to provide direct mail communication to the Territories of Montana, Idaho, and Washington."

That is the northern mail line, five hundred miles north of the central line of mail service.

"It was stated that in consequence of Indian hostilities on nearly the whole of the line the service was unreliable, of no value to the Department, and would be discontinued in the spring unless a marked improvement occurred. As there was no improvement the service was discontinued from March 30, 1868; but at the last session of Congress a resolution was adopted as follows:

"Resolved, &c., That the Postmaster General is hereby authorized to change the character of the mail service from Fort Abercrombie, Dakota Territory, to Helena, Montana Territory, to post-coach service."

"No service existed on the route at the date of this resolution, and the resolution is not mandatory in its terms; but considering it as indicating that the legislative will required that the mail should be carried, and on post-coaches; and acting on the supposition that a special appropriation would be made to meet the expense," &c.

Mr. President, of course a mere horse mail could not be carried over that long line; and for that reason Congress determined that it should be a coach service. The present occupant of the chair [Mr. CONNESS] will recollect that that was the kind of service to California a few years ago, and but very few people then lived on that line after you left the borders of Kansas until you reached those of California. Nevertheless, the service was a dear one to California—I do not mean simply that it was an expensive one, but it was one which the country estimated very highly. It is necessary to have such a service to enable the contractors to build posts, erect places at which travelers can stop, where their stages can stop at night, where they can place their horses, and so on. A mere horse line would not enable them to do that; the compensation would not be sufficient; but by giving them a coach service they will be enabled to do this. That is the reason why all the transcontinental service has been coach service. It was not only so on the central line, but it was so on the great southern line. These northern Territories and these northern States demand this kind of service. We have not had the opportunity to carry the law into effect. The contractor has made a proposal. Probably it has been accepted. My

impression is that from his great desire to get the contract he may have put his bid a little too low, and he may desire to retreat from that, and for that purpose appeals to Congress for this kind of legislation.

I assure Senators that by the next year there will be railroad communication to Red river; and from that point to the Great Bend of the Missouri is but three hundred and fifty miles. Persist in this service, and in less than three years it will more than compensate the Treasury of the nation for whatever it may draw from it—not in the postages returned, I admit, but in the general growth of all that country. We all know that next to Nevada at this time Montana yields more gold and silver than any other Territory or State of the Union. It is growing in population more rapidly than any other Territory of the Union. The same is true of Idaho to almost the same extent. Will you not furnish them some direct mail communication with those regions from which their population largely came? The pioneers of Montana and Idaho were largely drawn from Minnesota. The communication is frequent, is constant, between the settlements of those Territories and Minnesota. I hope that the Senate will agree to the amendment that I have offered.

Mr. NYE. Will the honorable Senator allow me to make an inquiry of him before he sits down?

Mr. RAMSEY. Certainly.

Mr. NYE. As the franking privilege is not abolished, I ask the Senator whether the speech that he has now made well circulated up there will not satisfy the people for this year? [Laughter.]

Mr. MORRILL, of Maine. I think I am entirely sustained in my statement by the report of the Postmaster General, introduced by the Senator himself. He says:

"In the last annual report allusion was made to the route from Fort Abercrombie, Dakota, to Helena, Montana, (or the route from St. Cloud to Pembina,) intended to provide direct mail communication to the Territories of Montana, Idaho, and Washington. It was stated that in consequence of Indian hostilities on nearly the whole of the line the service was unreliable, of no value to the Department, and would be discontinued in the spring unless a marked improvement occurred. As there was no improvement the service was discontinued from March 30, 1868."

That is the statement I made. That covers the whole of it and a little more. It emphasizes it. But here is the point—

"but at the last session of Congress a resolution was adopted, as follows:

"Resolved, &c., That the Postmaster General is hereby authorized to change the character of the mail service from Fort Abercrombie, Dakota Territory, to Helena, Montana Territory, to post-coach service."

"No service existed on the route at the date of this resolution, and the resolution is not mandatory in its terms; but considering it as indicating that the legislative will required that the mail should be carried, and on post-coaches; and acting on the supposition that a special appropriation would be made to meet the expense, an advertisement was issued," &c.

Now, I think my statement is fully sustained the first proposition; and secondly, that the by Postmaster General has not changed his mind, but he feels that you have instructed him; he feels that although he had communicated to Congress that this service was a failure, that it was unreliable, and Congress ought not to make the appropriation, you instructed him by the resolution of 1868. The House of Representatives by this amendment say that he ought not to feel himself instructed, and we say to him that he is not instructed and that he shall not appropriate any portion of this money to a service which he represents to be impracticable.

Mr. RAMSEY. That was not precisely the statement of the honorable Senator. It was that this service was useless. It was the service previously had, before the legislation of 1868, that was useless, because of Indian interruptions. Those have ceased, and new legislation was had.

Mr. MORRILL, of Maine. Does the honorable Senator mean to say to the Senate that where a horseback service was found to be impracticable it does not follow that a coach

service three times a week would not also be improvident?

Mr. RAMSEY. Certainly not.

Mr. MORRILL, of Maine. Does he mean to say that the Postmaster General recommends coach service?

Mr. RAMSEY. With a single horse how can the lonely rider travel over a region of country like this, with no place to rest at night?

Mr. MORRILL, of Maine. I will not argue that.

Mr. RAMSEY. How was the mail carried over the central route? How was it carried over the southern route? The expenditure requisite for the erection of stations upon the great plains involves, requires a coach service. Then again, the Senator says that there are no settlements on all that line. Sir, we have several military posts there that require this mail service. This service, if I am not very much mistaken, is recommended strongly by General Grant and the military commanders of that northern district. Immediately after you pass the space between the Red river and the Missouri you come upon the settlements in the valley of the Missouri river. There is a space between the settlements of three hundred and fifty miles; and these very Territories are growing rapidly, and they are entitled to this direct communication, and they ask it. The people of Montana and the people of Idaho ask it as much as do the people of Minnesota and the other northern States lying east of them. I think it is unfair to make this discrimination. It is in the discretion of the Postmaster General whether or not he will put service on this line. I have no doubt if you would search all the States over you would find many lines which would seem much more useless than this. Why not seek them out and instruct the Postmaster General to place no service upon them? Why single out this particular one? I say there is no other mail line directly across the continent within five hundred miles of this; and I assert that there is infinitely more settlement upon the line of this route than there was upon the line of the central road when you first sent your mail across there in coaches.

Mr. CORBETT. I think the statement made by the Senator from Minnesota is very practical and self-evident to any one who has any acquaintance with an extent of country through which a mail is to pass, and at the end of which there are settlements to be supplied. As he says, a one-horse mail cannot be sustained through the unsettled country. In order to sustain stations and keep persons there to take care of the passengers and horses you must have a sufficient service to make it an object to establish those stations. It was so through the central route when it was established, and it has been so on every new route that has been established. It was so through our country when the first mail route from California to Oregon was established, and yet it settled up all the whole length of the line. You have got to establish this kind of service before you can settle up the country. That is the pioneer. At these stations you commence your settlements and they become a nucleus for forming settlements along the whole line, and finally railroads extend through the country. I think the gentleman from Minnesota is perfectly right in his statement in that respect.

Mr. MORRILL, of Vermont. Here is manifestly one of the links by which the Post Office Department, instead of being self-sustaining, is a weight of five or six millions beyond its actual revenue. The proposition is to send a mail-coach, I suppose, with six horses where it is impracticable even for a man on horseback to get through. The next thing will be that we shall be required to make the road for the stage-coach, and we shall be told although there are no inhabitants there now to be supplied with the mail if we only establish a mail route there will be.

Mr. CORBETT. I understand there are inhabitants at each end of the road.

Mr. MORRILL, of Vermont. Then the

proposition is that the contract has been taken too cheaply. It will only cost \$195,000, and if we allow this to go in it will probably cost \$500,000.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Minnesota to strike out the proviso in lines twelve and thirteen.

The amendment was rejected, there being on a division—ayes nine, noes not counted.

Mr. RAMSEY. Let it pass for the present. I will renew it in the Senate. On page 2, line twenty, I propose to increase the appropriation for clerks for post offices from \$2,000,000 to \$2,500,000. I will state that the estimate of the Department was \$2,500,000, and I can see no reason for striking it down. I will send to the desk a letter of the Postmaster General to be read in explanation of the amendment.

The Secretary read the following letter:

POST OFFICE DEPARTMENT,
WASHINGTON, February 2, 1869.

SIR: Inclosed I have marked the items where the appropriations have been cut down by the Appropriation Committee. The estimate I made for post office clerks is not too high. The business of the post offices is constantly increasing, and new calls are constantly made for additional clerk-hire. It will be most mischievous to the service to cut the appropriation down.

The amount expended last year for mail-bags, mail-catchers, &c., was about one hundred and four thousand dollars, I believe. The report will show. That item is cut down to \$30,000. New bags are constantly required, and the mails will be seriously damaged if the supply of good bags is at all restricted. The same kind of embarrassment will occur if the appropriation for locks and stamps is cut down. Cutting off \$1,000,000 for next year will require a material reduction of the mail service. I shall not be here to be annoyed by applications for additional service or to bear complaint that must arise if these appropriations are not made; but my successor will have great trouble about these questions, and the service will materially suffer.

Very truly,

A. W. RANDALL.

Hon. J. F. FARNSWORTH.

Mr. MORRILL, of Maine. I call the attention of the Senator to the last provision of this bill, which is evidently intended to cover any deficiency of that sort, and I ask him whether in his judgment that is not ample? It provides \$5,740,000 for supplying deficiencies in the revenues of the Post Office Department.

Mr. RAMSEY. Oh, no; the Senator does not understand it. The last provision of the bill provides for any deficiency in the postal treasury. Supposing you make the appropriation in the previous part of this bill, that would probably produce a deficiency say of \$5,000,000 in the postal treasury, and it makes that up by an appropriation out of the national Treasury; but you could not make up this deficiency for clerks from \$2,000,000 to \$2,500,000 without being authorized by this law. The Post Office Department has estimated for this amount. The increase of the service all over the country seems to require it, and there can be no motive for the present officials in that Department to overestimate the wants of the country in this regard. I think it but fair to give it to them.

Mr. MORRILL, of Maine. Well, sir, I do not know that it is not so.

The PRESIDING OFFICER put the question, and declared that the ayes appeared to have it.

Mr. MORRILL, of Vermont. I ask for a division.

Mr. TRUMBULL. I wish simply to say, on the statement of the Senator from Minnesota and the statement of the Postmaster General which he reads, it appears that the amount named in the bill is not sufficient to carry on the business of the Post Office Department. Now, if we are to vote money for anything we must vote for it on the statements of the heads of Departments as to the necessity for it. There is nothing in the world shown why this is not necessary. The chairman of the Committee on Appropriations gets up and says, "I do not know that it is not so," and then the Senate vote it down.

The PRESIDING OFFICER. The Chair will put the question again.

The amendment was agreed to.

Mr. RAMSEY. I now wish to offer an amendment in the thirty-fifth line.

The clause now reads:

For detecting and preventing mail depredations and for special agents \$82,000; and no greater sum shall be paid special agents than is hereby provided.

The estimate is \$118,350, and I have a communication from the Department in explanation of this item which I will send to the Chair.

Mr. MORRILL, of Maine. What is your motion?

Mr. RAMSEY. My motion is to increase the appropriation to the estimate of the Department, which is \$118,350; and here is a letter from the Post Office Department in explanation of it which I ask to have read.

The Secretary read the following letter:

POST OFFICE DEPARTMENT,
CONTRACT OFFICE, INSPECTION DIVISION,
WASHINGTON, February 23, 1869.

SIR: I have the honor to report the following as the number of paid special agents of this Department for the respective years mentioned below as obtained from the official register, the intervening years of 1862, 1864, and 1866 approximating 1861, 1863, 1865, and 1867; also the amount charged annually to the account of special agents and mail depredations, for the fiscal year ending June 30, 1861, to June 30, 1868, inclusive:

	Number special agents.	Amount paid.
1861.....	21	\$47,837 22
1862.....	21	48,320 06
1863.....	16	45,719 39
1864.....	16	49,932 62
1865.....	33	62,935 22
1866.....	33	95,756 83
1867.....	42	123,074 05
1868.....	49	138,905 16

By the act approved March 3, 1865, an additional special agent was appointed for the Pacific coast at a salary of \$2,500 per annum, and a sum not exceeding five dollars per diem for incidental expenses. Previous to the passage of the act referred to there was only one special agent on the Pacific coast. The same act authorized the Postmaster General to increase the per diem of all other special agents to a sum not exceeding five dollars, and as it was found that the amount previously allowed—two dollars per diem—was totally inadequate, on account of the increased cost of living, to pay their expenses, other special agents have been allowed from two to four dollars per diem, according to their several localities and the character of the services required by them.

Very respectfully, your obedient servant,

GEORGE W. McLELLAN,

Second Assistant Postmaster General.

Hon. ALEXANDER RAMSEY, Committee Post Offices and Post Roads, United States Senate.

Mr. RAMSEY. I will state that in the appropriation bill of last year \$100,000 was appropriated for this purpose. It seems but reasonable in the growth of the affairs of the Department that this little increase should occur from \$100,000 to \$118,000; and it seems to me very unreasonable that the appropriation should be cut down now to \$80,000.

The amendment was agreed to.

Mr. RAMSEY. I desire to move an amendment in the next clause, which reads:

For mail-bags and mail-bag catchers, \$120,000.

The Department have estimated for \$130,000, and I move to increase that item to the estimate of the Department.

Mr. MORRILL, of Maine. That is so near the estimate that I would not do it.

Mr. RAMSEY. Very well; I will pass that by; but this balance accumulates from year to year, and it will require a very large appropriation some other year. That is the only difference. Probably before we pass it over I ought to say that I have a communication from the Department on the subject; but still as the chairman says that the difference is very slight I will let it pass. I now call attention to the clause in lines forty-one, forty-two, and forty-three, which reads:

For miscellaneous payments, including payment of balances to foreign countries, \$250,000.

I move to amend that by making the appropriation \$875,000. This reduction on the part of the House of Representatives was a clear mistake. The miscellaneous disbursements under that head amount to the sum appropriated here alone, and the balance due foreign countries amounts to between three and four hundred thousand dollars.

Mr. MORRILL, of Maine. The Senator has a communication on that subject I believe?

Mr. RAMSEY. Yes, sir; and I will send it to the desk and have it read.

Mr. MORRILL, of Maine. The Committee on Appropriations concurred in the House proposition upon the statement in the Globe from one of the managers of the bill in the House that in a conversation at the Department he was told that the estimate was a mistake and that this sum was all that was necessary. I think the Senator from Minnesota showed me a communication the other day which seemed to contradict that statement or showed that there was a misapprehension about it.

Mr. RAMSEY. It was a clear mistake on the part of the member of the House who made the inquiry at the Department. It was a misapprehension on his part entirely. I ask that the letter be read.

The PRESIDING OFFICER. The communication will be read.

The Secretary read it, as follows:

POST OFFICE DEPARTMENT,
February 24, 1869.

SIR: I have the honor to ask your attention to the following: In the estimates for expenses of this Department for the fiscal year ending June 30, 1870, as submitted to the House of Representatives on December 12, 1868, there appears the following item:

"For miscellaneous payments, including balances due foreign countries, \$875,000," which was made up in the following manner: For rent, light, fuel, and incidental expenses of post offices, \$500,000; for miscellaneous payments, the character of which may be seen by reference to pages 147 to 152 inclusive of report of 1867 herewith inclosed, \$75,000; and for balances to foreign countries, \$300,000. In the bill, as passed by the House of Representatives, this item has been reduced to \$250,000, or barely sufficient to meet the payments to foreign countries.

I would therefore request that some provision be made for the other items embraced in the original item for which \$375,000 were asked.

The amount actually expended for these items during the year ending 30th June, 1868, as per report now in the hands of the printer, were—

For rent, light, fuel, &c.....\$403,360 76
For miscellaneous expenses..... 66,990 43
For balances to foreign countries..... 465,616 91

I am, very respectfully, your obedient servant,

ALEXANDER W. RANDALL,

Postmaster General.

Hon. ALEXANDER RAMSEY, Chairman Committee on Post Offices, United States Senate.

Mr. RAMSEY. Balances on account of foreign mails arise in this way: it seems that the American letters sent abroad are three fourths of them prepaid, while only about one fourth of the foreign letters received here are prepaid. This necessarily leaves a very large balance in transactions, amounting to millions of dollars on both sides, which must be remitted to foreign countries and sent back, and to do this requires an appropriation. The money goes into the Treasury and is taken out again and returned.

Mr. MORRILL, of Maine. I am satisfied that the provision in the bill was a mistake.

The amendment was agreed to.

Mr. RAMSEY. I have another amendment to offer. I move to amend the bill by adding the following as an additional section:

And be it further enacted, That the Postmaster General is hereby authorized to purchase for a post office the lot and building at the southwest corner of Lime-stone and High streets, in Springfield, Ohio, known as the Episcopal church property, for the sum of \$10,000; *Provided,* however, That the entire cost to be paid by the United States for the said property and for fitting it up for a post office shall not exceed the sum herein appropriated.

The Senator from Ohio could explain this matter fully if he were here. The proposition has the approval of the Post Office Department as an economical measure. It is to buy a church conveniently situated, and it is for a reasonable sum, to be made an advantageous post office in the town of Springfield, Ohio.

Mr. GRIMES. What kind of a church is it?

Mr. RAMSEY. I do not know what denomination; that is not important; but the measure has the recommendation of the Department.

Mr. GRIMES. I am not talking about the character of the people who worship there; but what is the structure made of? Wood?

Mr. RAMSEY. Brick or stone, I imagine. There are a parcel of papers here on the sub-

ject. I had expected the Senator from Ohio to be here and explain it more fully.

Mr. GRIMES. What is the peculiar necessity for having a post office belonging to the United States in the town of Springfield, Ohio? It is an ordinary county town, of Clark county, I believe.

Mr. RAMSEY. It is a town, I understand, of fifteen or sixteen thousand inhabitants, in which there will be economy in buying this building as compared with the rent now paid for the post office.

Mr. CONNESS. I was opposed to this amendment when it was first proposed in the Committee on Post Offices and Post Roads; but from the statement made to me by Mr. SHELLABARGER, of the other House, who is a very careful man and a good legislator, I became entirely satisfied that it was an economical measure and a saving of money to the Government. The sum appropriated is small and the property will answer all the purposes of a post office.

Mr. RAMSEY. The letter of Mr. SHELLABARGER addressed to the Post Office Department will make the matter very clear.

Mr. POMEROY. I believe the committee were at first opposed to it, but subsequently they agreed to recommend the proposition.

The amendment was agreed to.

Mr. RAMSEY. I offer the following amendment:

For commencement of post office and sub-Treasury building at Boston, Massachusetts, \$200,000.

Mr. MORRILL, of Maine. I think no notice was given of that.

Mr. TRUMBULL. I hope we are not going to put on this bill appropriations to build post offices all over the country. We just had one from Springfield—I disliked to divide the Senate upon it—a little town in Ohio. You propose to build a post office there. If it is done there it will be done in every other place. We have a dozen such towns in my State. Is the Government going to build a Government house for the accommodation of post offices at all these towns?

Mr. GRIMES. It is because Mr. SHELLABARGER wants it.

Mr. TRUMBULL. Suppose Mr. SHELLABARGER does want it, what of that? If we commence that we shall not finish this appropriation bill this session it is certain. I hope these amendments will not prevail.

Mr. CONNESS. The question before us is on the amendment making an appropriation for Boston. Do I understand a point of order to be raised upon it?

Mr. MORRILL, of Maine. I inquire whether it has been referred?

Mr. RAMSEY. The Senator is aware that a large and expensive lot was purchased in the city of Boston.

Mr. MORRILL, of Maine. But was notice given of this amendment?

Mr. RAMSEY. Notice was given.

Mr. POMEROY. Do I understand the Senator to say that it passed the Post Office Committee?

Mr. CONNESS. I never heard of it.

Mr. RAMSEY. The committee was consulted informally.

Mr. CONNESS. I never heard of it before.

Mr. MORRILL, of Maine. I want to know what this means. I do not think my committee has had any notice of it. It did not come to my personal attention.

Mr. RAMSEY. Notice was placed on the Clerk's desk.

Mr. MORRILL, of Maine. I inquire whether any notice has been given to the Committee on Appropriations?

Mr. RAMSEY. The notice was placed on the Clerk's desk.

Mr. EDMUNDS. What do you mean by "placed?"

Mr. RAMSEY. Offered in open Senate to-day.

Mr. MORRILL, of Maine. That will not do.

Mr. POMEROY. My inquiry was whether the Post Office Committee had authorized it?

Mr. MORRILL, of Maine. It is not in order. No notice has been given.

The PRESIDING OFFICER, (Mr. THAYER in the chair.) The Senator from Maine raises a question of order.

Mr. MORRILL, of Maine. I raise the question of order that no notice such as the rule requires has been given to the Committee on Appropriations.

Mr. SUMNER. I hope my friend from Maine will not raise that point of order on this proposition. The appropriation is needed; the land has been purchased at a large outlay; the plans are already made; the whole question has been considered again and again most carefully; architects are engaged—

Mr. MORRILL, of Maine. The Senator will allow me to suggest that this amendment would be a great deal more proper on the miscellaneous bill which will come in to-morrow; and notice of it can be given at the present time.

Mr. SUMNER. Very well. If it can go on the miscellaneous bill I do not care about its going on here. I only want it passed.

Mr. GRIMES. It can be put on the Army bill with the other Massachusetts matter. [Laughter.]

The PRESIDING OFFICER. The amendment is out of order.

Mr. CONNESS. I offer the following amendment to come in as an additional section:

And be it further enacted, That it shall not be lawful for the Postmaster General to make any steamship or other new contract for carrying the mails on the sea for a longer period than ten years, nor for any other compensation than the sea and inland postages on the mails so transported by steamships built and registered in the United States; and every contract made under this act shall reserve to the United States the right to reduce the rates of postage at any time during the continuance of such contract without giving to the contractor any right to any claim for damages or indemnity; but in any such contract to be made the United States shall reserve the right to send its agents over any such line free of any charge whatever.

I wish to say in regard to this amendment that it changes the existing law only in one respect, and that as to one word, inserting "ten" for "two." The Postmaster General now, under the act of June 14, 1858, has the right to make these contracts for ocean service, but that act says they shall not extend beyond two years. This gives him authority to make such contracts for a period of ten years upon the same conditions; provided, however, that he is not at liberty, as now, to contract that the American mails may be carried by foreign ships, but they shall be ships of American build and register, and the carriage shall be for the sea and inland postages.

Mr. GRIMES. How much do they amount to between here and Europe?

Mr. CONNESS. That would depend entirely on the amount of mail carried at the time.

Mr. GRIMES. But what is the average amount?

Mr. RAMSEY. Seven or eight hundred thousand dollars now.

Mr. CONNESS. They would not get all that. The ships would get what was ready to be transported at the time they were about to sail. It is a measure proposing to encourage the introduction of American ships into the Atlantic trade, not in favor of any particular person or company, because the Postmaster General may contract with any American ship-builder and ship-owner that he sees fit.

Mr. WILSON. I move to amend this amendment by adding the following section:

Sec. — And be it further enacted, That for the purpose of encouraging the construction and employment of American steamships and restoring ocean commerce under the American flag all money received by the United States from the ocean and inland postage on foreign mail matter carried between the United States and Europe, to an amount not exceeding \$2,000,000 annually, is hereby set apart for the period of ten years, and is authorized to be paid and expended as hereinafter provided.

Sec. — And be it further enacted, That the Postmaster General is hereby authorized and directed to contract with responsible citizens of the United States for the transportation of the foreign mails of the United States in American steamships for a term not exceeding ten years, on such conditions and with such limitations as will secure the full and faithful per-

formance of such contracts, between ports of the United States and ports in Europe; and he shall contract for the performance of the aforesaid service by not less than four and not more than sixteen steamships in all, and for not less than four and not more than eight departures monthly from New York, and for not less than two and not more than four departures monthly from Boston, the days and time of departures to be fixed by the Postmaster General. Said steamships shall be of not less than twenty-eight hundred tons, register measurement, and shall be wholly owned by citizens of the United States. They shall class A1 at 'American Lloyds' and by one of the marine inspectors of three of the marine insurance companies in either of the cities of the United States from which the said steamers may run. Their speed shall be equal to the average speed of steamships of similar size and class now or hereafter employed between the United States and Europe. They shall carry all mail matter offered by the Post Office Department, but the United States shall receive all postages therefrom. The owners of said steamships shall furnish passage free of compensation for all diplomatic and other agents of the Government of the United States when requested by the proper Department. The Postmaster General shall pay from the money provided by the first section of this act to the owners of said steamships for each round voyage to Europe and back a sum not exceeding \$20,000: *Provided, That the amount derived from postages under this act shall be sufficient therefor; and if not sufficient, then such sum as may be derived from said postages shall be apportioned ratably for each steamship for each round voyage: Provided, however, That the deficiency of any one voyage may be made up from the excess of any at any time during the continuance of any contract made in accordance with this act.*

Sec. — And be it further enacted, That the Secretary of the Navy is hereby authorized, in time of war or of public danger, to take possession of any or all steamships employed under the provisions of this act and use them in the service of the United States; and the owners shall be paid a fair compensation for any steamship so taken and for any loss or damage they may suffer thereby.

Sec. — And be it further enacted, That all acts and parts of acts inconsistent herewith are hereby repealed.

Mr. CHANDLER. If any action is taken on any steamship line, or any arrangement for carrying mail matter by ocean, steamers, I hope the measure now offered will pass. It was considered very carefully by the Committee on Commerce and unanimously reported from that committee, and I think it a good bill and hope it will pass.

Mr. TRUMBULL. Here is a very important provision regulating the whole mail service between this country and Europe, as I suppose. It has been considered by the Committee on Commerce, as we are informed by its chairman, and he thinks it a good bill. The Senate has never considered it. It is just read here now for the first time; and is it right—I ask the Senator from Michigan who reports this bill—is it right at this hour of the night and so near the close of the session to introduce so important a feature as this on an appropriation bill? I know it is in order under our rules, but ought it to be put upon a bill merely appropriating money to carry on the postal service?

Mr. CHANDLER. No, sir; I do not think it is right: but I think it is just as germane as the amendment of the Senator from California.

Mr. TRUMBULL. I think it is as germane as that, but I hope it will not be persisted in.

Mr. CONNESS. Very well, sir; I will withdraw the amendment I offered.

Mr. CHANDLER. I would like to pass this measure on its merits, and it ought to pass.

Mr. WILSON. It has been reported by the Committee on Commerce. I believe it to be a good, honest, and just measure in every respect, and I think if it be passed we shall again revive, or rather more than revive, we shall establish, on the north Atlantic steamship lines carrying the American flag. There is no job in it. It simply appropriates the sea postages and land postages for that purpose. They will not at the present time amount to probably a million dollars a year, something between nine hundred thousand and a million dollars in the aggregate. That will probably be soon increased. It is a fair, open movement, and I think an honest one. I think it will put an end to all schemes and arrangements from whatever quarter they may come, and I certainly think it an honest and fair proposition, and one that it will be for the interest of the whole country to adopt.

Mr. CONNESS. There is only one little irregularity about this measure, and that is

that it never was referred to the Committee on Post Offices and Post Roads; and how the Committee on Commerce usurps this business from the honorable chairman of the Committee on Post Offices I do not understand. The business of commerce generally and the seal fishery belongs to the Committee on Commerce; but if they step in to regulate the question of ocean postages I suppose we might as well dispense with the honorable Senator from Minnesota and his committee.

Mr. CHANDLER. It has generally been supposed that steamship navigation had something to do with commerce. It may be that under the new dispensation of the Committee on Post Offices and Post Roads they have the control of steamships. It was unheard of before; but if it should prove that the honorable Senator from California is correct, and that the post roads are intended to run the steamships, then the Committee on Commerce was out of place.

Mr. SUMNER. Mr. President—

Mr. TRUMBULL. This amendment is withdrawn.

Mr. SUMNER. It is not withdrawn.

The PRESIDING OFFICER. The Chair will state that there is no amendment pending.

Mr. SUMNER. No amendment pending?

The PRESIDING OFFICER. The Senator from California has withdrawn his amendment; and consequently the amendment to it offered by the Senator from Massachusetts fell with it.

Mr. WILSON. I move it as an independent amendment to the bill.

The PRESIDING OFFICER. Then that amendment is before the Senate.

Mr. SUMNER. I understand that there is no objection to this amendment in substance.

Mr. CONNESS. There is.

Mr. SUMNER. Very well; none has yet been presented. The objections that have been presented have been only of form. There has been a criticism on the committee that reported it. Sir, what has that to do with the amendment? Look at it on its merits; judge it by these. If it has merit, why reject it because it comes from the Committee on Commerce instead of the Committee on Post Offices and Post Roads? I know not why the Committee on Commerce should not have jurisdiction of this matter as well as the Committee on Post Offices and Post Roads. It seems to me that the subject belongs as much to the one as to the other.

Now, sir, the Committee on Commerce, a most respectable committee of this body, has reported in favor of this proposition after careful consideration, as the chairman has told us just now. Why, then, are we reminded that it is not reported by the Committee on Post Offices and Post Roads? Enough, sir, that it is reported by a committee of this body. Therefore it is in order when moved. And now I ask you, sir, if there is no objection to it on the merits, for that is the only question. I see the Senator from Iowa just ready to spring; but he can have no objection to this proposition except the general objection that he makes to almost everything. [Laughter.] There can be no objection to this. It is, as my colleague says, a fair proposition; it is an honest proposition; it is one by which the Government will lose nothing and the commercial interests of this country will gain much—those interests which since the rebellion and since the fitting out of British cruisers have suffered so much, and which now have a right to look to you for a little aid. Give them this aid, then. It is not much; but give it to them and the country will gain while its commerce will be extended.

Mr. GRIMES. Mr. President, so far as it relates to the controversy between the two committees, I think myself the Committee on Commerce is the proper committee to whom such a proposition as this should be referred, because, as I understand, all these subsidies are claimed to be granted for the purpose of extending and enlarging our commerce. It is in other words to encourage ship building, and

I believe they have always been supported here upon the patriotic principle that we did not desire that our mails should be carried under any other than the American flag, if it were possible that we could build or buy ships to sail under the American flag; but I wish to say that this subject has been under consideration, as I learn from the newspapers, in Massachusetts as well as in Washington.

Mr. SUMNER. Very well.

Mr. GRIMES. Although we have not a written report from the committee of the Senate on the subject of subsidies we have one from the Legislative Assembly of the State of Massachusetts. If I am right about it—and the chairman of the Committee on Post Offices and Post Roads will correct me if I am wrong—we now have our mails carried between our country and Europe for the sea postage.

Mr. RAMSEY. Yes.

Mr. GRIMES. Which amount to about one-half of the entire postages, both inland and sea.

Mr. RAMSEY. Oh, no.

Mr. GRIMES. What is the relative proportion?

Mr. RAMSEY. The sea postage to England is twelve cents and the inland postage three cents.

Mr. GRIMES. What is the average? That is what I am talking about.

Mr. RAMSEY. Three to twelve. The inland postage is but three cents, while the postage to England and almost all European countries is twelve cents. Our sea postages amount to about seven hundred thousand dollars a year, and the inland postages on foreign letters \$100,000.

Mr. GRIMES. At any rate the proposition is to give, under all the bills I have seen lying on our tables, to these steamships, on patriotic principles, the inland postage as well as the sea-going postage. As I was saying, this subject has been under consideration in Massachusetts as well as here, and I believe the proposition now offered is peculiarly a Massachusetts bill. I hold in my hand the report of the mercantile committee of the General Assembly of the State of Massachusetts, to which I would call the attention of the Senators from Massachusetts and of the Senate. It is excellent reading. The question was whether steps should be taken by the Legislature of Massachusetts to memorialize Congress on the subject of steamships. I have cut the slip from a newspaper, and I will ask the Clerk to read it as a part of my remarks.

The Secretary read as follows:

"The committee of the Massachusetts Legislature on mercantile affairs have just submitted an interesting report on the depression of commerce. They refuse to memorialize Congress to subsidize steamship companies, and give, among others, the following conclusive reasons for the refusal:

"In view of the restrictions now imposed upon foreign commerce, the committee do not deem it expedient to memorialize the General Government to interpose for the purpose of promoting ocean steam transportation, and beg leave to recommend that no such application be made unless it is made as part and parcel of a general plan for the relief of foreign commerce from the burdens and trammels which our present system of United States laws for the collection of revenue have imposed upon it. Your committee cannot believe that our commerce with foreign nations can be restored to a prosperous condition by an artificial system of bounties or subsidies rendered necessary in part, if at all, by the artificial obstacles to foreign commerce which are maintained under the name of revenue laws.

"Of what use, we may ask, is it to attempt to promote ocean steam transportation, which is but an incident to commerce, if our whole policy is framed for the purpose of preventing a free exchange of our commodities and manufactures for those produced elsewhere, which exchange constitutes commerce itself?"

Mr. MORRILL, of Vermont. I desire to say to the Senator from Iowa that it is an entire mistake to suppose that the Boston board ever adopted this report. It has never been adopted; it was right the reverse.

Mr. GRIMES. What do you mean? Right the reverse of what?

Mr. SUMNER. I will show the Senator. I have in my hand a series of resolutions bearing date February 24, 1869, adopted by the Legislature of Massachusetts in both its branches, and

which it is the duty of my colleague or myself to present to the Senate. We have not thus far discharged that duty. Therefore the Senator from Iowa may be pardoned for his ignorance with regard to the action of the Legislature of Massachusetts. These are as follows:

"Resolves in relation to American steamship companies.

Resolved, As the sense of the Legislature of Massachusetts that the bill introduced into the Senate of the United States by our distinguished Senator, Hon. HENRY WILSON, entitled "A bill to establish a line of American steamships between the United States of America and Europe," should at once be passed, and that our Senators and Representatives in Congress be requested to use all their influence to secure the passage of said bill at the present session.

Resolved, That his Excellency, the Governor, be requested to transmit a copy of these resolutions to each of our Senators and Representatives in Congress."

Mr. GRIMES. What has that to do with this?

Mr. SUMNER. It is on this very bill.

Mr. GRIMES. What has it to do with this report? Does the Senator say that what I present is not an authentic report?

Mr. SUMNER. I know nothing about that report.

Mr. GRIMES. I find it published.

Mr. SUMNER. It has never been communicated to me.

Mr. GRIMES. I only saw it in the newspapers.

Mr. SUMNER. I have not seen it in the newspapers.

Mr. GRIMES. I know it is a very potential argument, worthy of the Massachusetts Legislature and of the intelligent gentlemen who compose the mercantile committee, and I have no doubt it would meet the approbation of the Senators themselves if they would only suffer it to be read through. I hope the Senator [Mr. SUMNER] is willing to hear an expression of sentiment on the part of the mercantile committee of the General Assembly of Massachusetts.

Mr. SUMNER. The Senator knows now what is the opinion of the Legislature of Massachusetts.

Mr. GRIMES. I would respectfully inquire what has become of my speech that I was making? [Laughter.]

The PRESIDING OFFICER. The Senator from Iowa has the floor. Does he request the further reading of the paper?

Mr. CONNESS. I desire to say, in reference to the reading of this document, which is a part of the speech of the honorable Senator from Iowa, that I hope the reading will be finished. It is one of those free-trade documents that the honorable Senator has been so industrious in gathering up. I hope he will be allowed to read it as a part of his remarks.

Mr. GRIMES. And one of the most hopeful signs in that connection is that it emanates from Massachusetts; hence I want to put it upon record.

Mr. RAMSEY. The Senator from Massachusetts assumes that this was within the province of the Committee on Commerce.

The PRESIDING OFFICER. The Chair feels obliged to arrest this debate and to ask the Senator from Iowa if he requests the further reading of this communication?

Mr. GRIMES. I should like to hear it read.

The PRESIDING OFFICER. The reading will be proceeded with.

The Secretary continued the reading, as follows:

"As the Massachusetts Legislature has in its special charge the interests of the Commonwealth, let us glance at the position of the State in its relation to other countries. We have a sterile soil, a harsh climate, and a more dense population than any other State. Let us suppose that instead of being one member of a great nation our Commonwealth had been one independent community similar to one of the lesser kingdoms or duchies of Germany, governed by our own laws and collecting our own revenue. A matter of course the same general principles would have applied to Massachusetts which it is now claimed to apply to the United States as a nation. It would have been said that we should establish our entire independence and make or raise everything that we needed, could make or raise at all. Our first need would have been to have protected our farmers, and we should therefore have placed a heavy duty upon the wheat of the Genesee valley and upon the beef cattle of the prairies, for are we not as a nation

now protected against the barley, oats, and potatoes of the provinces and of Canada? Next we should have protected the owners of our peat bogs from the competition of the anthracite of Pennsylvania, precisely as the nation has protected us against the competition of the cheap coal of Nova Scotia. Our next step would have been to shut out the wool of Ohio, where sunlight and good feed enable the farmers to raise wool more cheaply than we can afford it upon our Berkshire hills; precisely as Ohio has been protected by the nation against the yet cheaper wool of South Africa and South America. We would not have admitted the textile fabrics of England then any more than we would now, since it would have been unwise to protect the wool and not the woollens. We could perhaps have admitted cotton duty free, in order that we might share with England in the prosperity which is said to ensue from the export of manufactured goods rather than of raw materials. We would have enacted that all our railroads should be built of Berkshire iron, as it is now enacted that most of our railroads shall be built with Pennsylvania iron; and that the State flag, the glorious symbol of our independence, should be made, as it is now, in the single factory owned by our distinguished soldier, patriot, and legislator. Then from our own iron and oak we would have constructed our own steamer with boilers especially adapted to the use of our own peat, and have granted her a subsidy from the revenue collected on tea, coffee, and sugar, in order that she might carry to the pauper laborer of Europe an account of the glorious system of common schools and the noble position of the laborer in our free Commonwealth. We could not, it is true, have offered him an abundance of all that men require for their grosser need; but, better than that, we could have offered him protection for his labor and independence as a citizen of a State which relied only upon its own resources.

"We would also have said to him, 'we have freed ourselves from that tyrant, gold, and with a better and cheaper money we now carry on all our transactions. We have stamped the faith of the State upon a piece of our own paper, made in our own mills, printed in our own press, and declared to be a legal tender for all debts due from our own citizens.'

"Thus free, independent, and proud Massachusetts would have stood forth as an example among States. Her government would have protected labor and fostered Massachusetts industry. Can any one doubt that her commerce would have prospered or that her steamers would have controlled the seas?

"Would she not have established her independence and protected her people from the competition of ignorant and pauper laborers? Would not her farmers, her mechanics, her spinners, and weavers, have earned high wages, and would not the great accumulation of capital have secured to us lower rates of interest than in any other country? Would not our capital have been represented by money made and secured upon the faith of the State, which the State would never permit to become so scarce as to command usurious interest?

"It will be said, and truly said, that the independence they secured would have been that of starvation; that no commerce worthy of the name could have existed, and that no subsidy could have built it up.

"It may now be said, as truly, that our commerce has been starved from the seas because our laws have excluded from our ports the merchandise, which is the food of commerce, as far as it has been possible to do so.

"That Massachusetts is not in all respects in the same condition as her commerce is due to the fact that free trade upon a continental scale has saved her from the starvation of total independence. Interdependence or free trade among communities having apparently interests as opposite and antagonistic to each other as can be imagined—if different conditions of soil and climate presuppose antagonism—has saved Massachusetts from the disaster which the laws regulating our foreign trade would have brought upon her. In the regulation or the absence of regulation as to our internal commerce the truth has been fully recognized that no commerce can permanently exist unless the exchange of products benefits both parties in the transaction. Thus when we send to Illinois our textile fabrics, our boots and shoes, and our clothing, and take her wheat and corn, each State gets what it wants with the expenditure of less labor than would otherwise be required.

"It is true that we have raised the cost both of corn and wheat by the imposition of taxes called duties upon the iron and steel which enter into the tools and implements of our husbandry, and we have also raised the cost of our boots and shoes, our woollen and cotton goods, and our clothing, by imposing taxes called duties upon the iron and steel which we also use, as well as upon our leather, our coal, our starch, and our wool.

"We have increased the cost of transportation by taxes called duties upon railroad iron, and upon every article which enters into the cost of our locomotives and our cars.

"But this imposition of taxes only prevents our exchange with other nations; it has simply resulted in a general high cost, both of farm products and manufactures, and under the guise or pretext of a general benefit it has simply confined our commerce within our own limits and compelled us to conduct it at high prices, with no benefit to any special class, except where a representative of some special interest has secured a heavier rate of tax upon his neighbor than upon himself.

"We have attempted a universal system of protection, and the only gain to any one results from its inequality, but the loss is the loss of our foreign commerce and a partial sacrifice of our prosperity as a nation.

"Your committee cannot ask that a feeble attempt shall be made to make the running of steamships profitable by granting them a bounty from the proceeds of the very taxes, by the unwise imposition of which the profitable use of steamships has been destroyed.

"Rather would we urge upon Congress a complete revision of the laws for the collection of revenue known as tariff laws, and demand that such revision be made with a view to the collection of the revenue only, and without regard to the claims of any special interest for fostering care, bounty, or protection. We believe that the law which results in protection to one results in privation to another, and that it is not the province of Government to lay taxes which inure to the benefit of any one class at the expense of another."

Mr. GRIMES. I think that every member of this body will agree with me that that is very excellent reading, and that it is such as is worthy of emanating from the distinguished source whence it came—the committee on mercantile affairs of the Legislature of Massachusetts.

Mr. SUMNER. I wish my friend would allow me to correct him there. I understand that article is the production of a very excellent gentleman, a personal friend of my own, Mr. Atkinson, of Boston. It has not the official sanction of a committee of the Legislature. The Legislature has spoken by the resolutions which I have read.

Mr. GRIMES. I do not vouch for the authenticity of the article. I stated when I introduced it that I cut it from a newspaper. Nor am I responsible for the change of sentiment that may possibly have come over the minds of the members of the Legislature of Massachusetts who may possibly have passed this memorial on considerations which have been presented to them since the report is alleged to have been made by the committee on mercantile affairs. I only know that it is a better speech on this subject than I could make; and being opposed to the amendment proposed by the Senator from Massachusetts, I thought I would substitute a Massachusetts argument or speech rather than one from Iowa.

Mr. CONKLING. Mr. President, it now wants less than a quarter of an hour of midnight, and one day of the session remains. I submit to the honorable Senator from Massachusetts that he ought not to persevere in this amendment. It is the presentation of one of several schemes of kindred nature that have been reported favorably from the Committee on Post Offices and Post Roads. In at least one of these my constituents are largely interested. It is a scheme better, as I believe, for the country and the service than this. I have sent for the bill, and if the Senator will persevere I must offer it as an amendment to this amendment in the nature of a substitute, and then we will proceed to discuss the positive and relative merits of these propositions. I do this not with a view of antagonizing him at all, but because if he will persist in thrusting upon appropriation bills a matter of this sort, foreign and independent, grave and somewhat complicated in its nature, which ought to be deliberately considered, of course I cannot allow other interests equally meritorious presenting propositions to be preferred, I think, to this, to be estopped because in the haste and snatch of the closing hours he succeeds in putting upon an appropriation bill a provision of this sort.

I am sure if we are to go into this consideration only fairly, only reasonably, it will take hours to compare the merits of these different schemes; and I submit to my honorable friend that it is not fair toward the rest of us. It is not fair to attempt to do this without the presentation of rival propositions; nor is it fair to drive us to stay here all night when tomorrow we shall very likely be compelled to remain here all night at best, and when the result at last is to be of no service to anybody. If I thought the honorable Senator would listen to any appeal from me, I would respectfully and earnestly expostulate with him against continuing this process, which I think is trifling, and worse than trifling, with the appropriation bills. They will fail at last, some of them, if we all conspire to their consummation. Why

should we not, then, go forward and do what we can to pass them, each one withholding his selfish scheme—I say it not invidiously, but selfish in the sense of being local and particular in its application and independent and foreign to the purposes of these bills.

Now, sir, I will wait and see if this is to be persevered in; and if it is I will offer a scheme which I think should be adopted as an amendment to this amendment.

Mr. POMEROY. I agree precisely with what the Senator from New York has said. The committee has reported on this subject and we have had it up two or three times in the session. The chairman of the Committee on Post Offices and Post Roads has succeeded in getting the subject to the attention of the Senate. Here is a proposition reported from the Committee on Commerce that has never been considered by the Senate at all. I do not know how much consideration it had with the committee, and I know that committee is as capable of considering a proposition of this character as any other committee; but to bring in the subject here in this way looks to me only like an effort to defeat an appropriation bill. The Army appropriation bill lies sleeping because something was undertaken to be put on to it that was not at all germane; and this appropriation bill if it be lost will be lost because schemes not connected with any appropriation are insisted upon to deter us from voting on the passage of the bill. I, too, if the Senator from Massachusetts intends to persist in this amendment, would like to move an amendment as a substitute, and another Senator near me has one; and these are propositions which have been considered in committee, reported upon, considered in the Senate, voted upon in the Senate, where the whole question has been considered in the Senate. I shall, of course, have to bring my substitute to the attention of the Senate and try to get a vote upon that. Unless the Senator from Massachusetts chooses to withdraw the amendment I shall move an amendment as a substitute.

Mr. RAMSEY. I call the attention of the Senator from Massachusetts to the gross errors of his bill although he informs us that the Committee on Commerce have considered it and it is a most perfect bill. Look at the first section of this measure of the Committee on Commerce; and this illustrates the propriety of individuals and committees sticking to the business that belongs to them. They have presumed to dabble in postal matters which they clearly did not comprehend. This bill is intended to transport your mails. That is the pretension. What business had they with it? The whole thing is in regard to postage. What business had they with it? Had they not better turn their attention to the river and harbor bill that has been smothered up for months and that the country has been clamoring for? Doubtless they could attend to that much better than to this. The first section of this bill reads:

That for the purpose of encouraging the construction and employment of American steamships and restoring ocean commerce under the American flag, all money received by the United States from the ocean and inland postage on foreign mail matter carried between the United States and Europe, to an amount not exceeding \$2,000,000 annually, is hereby set apart for the period of ten years, and is authorized to be paid and expended as hereinafter provided.

There are only \$700,000 received from that source every year; and yet the Committee on Commerce appropriate \$2,000,000 for this purpose! Then again we are told that that committee have thoroughly examined this subject and understand it well, and that this is a most perfect bill. They go on further, and in the second section declare:

The Postmaster General is hereby authorized and directed to contract for not exceeding eight trips a month from New York and four from Boston.

Now, the United States mail is sent four times a week at present from New York. What kind of improvement in the mail service would this be and how much are the parties to receive for these trips? A sum not exceeding \$20,000:

that is, the Postmaster General shall pay from money provided by the first section of this bill "to the owners of said steamships for each round voyage to Europe and back, a sum not exceeding \$20,000." That would amount to about five millions a year; the number of trips provided for from Boston and from New York at \$20,000 a trip would amount to \$5,000,000; and yet all this is to be paid out of \$700,000 income from land and sea postages! In the first place they appropriate \$2,000,000 when there are but \$700,000 to pay, and then the service is to cost \$5,000,000, without increasing the sum!

Mr. MORRILL, of Vermont. Mr. President—

Mr. CONKLING. I ask the Senator to allow me to send up an amendment which, if this is persevered in, I will ask to have read. It avoids the errors the Senator from Minnesota has referred to. I move it as an amendment.

Mr. MORRILL, of Vermont. I will say nothing about the propriety of offering this amendment on this bill; but whenever the question comes up on the merits of the respective propositions that have been presented I shall be prepared to discuss the merits either with the Senator from New York or the Senator from Kansas. We have had various propositions here—some offering subsidies, some offering to guaranty bonds, some offering postages, and some offering to allow the materials of which the vessels were to be built to be exempt from all tariff or internal revenue taxation. Now, the chairman of the Committee on Post Offices and Post Roads, in order to show the ignorance of the Committee on Commerce about this business, has exposed some of his knowledge of their bill. I think that on that proposition alone the Committee on Commerce might rest content. Their bill only proposes to appropriate so much as may be received from postages not exceeding the sum of \$2,000,000. The chairman of the Committee on Post Offices and Post Roads is not correct even in estimating the amount now received; it is something over nine hundred thousand dollars.

Mr. RAMSEY. Here are the documents. If the Senator will turn to them and find \$900,000 I shall be obliged to him.

Mr. MORRILL, of Vermont. The amount received in any case, no matter what the increase of postages may be, is not to exceed the sum of \$20,000 for each round trip. No one expects that there will be half that; but there is some ambition on the part of some portion of our country and of the Senate that we shall establish an American line of steamships with foreign countries. Every one understands that at the present moment the major part of all our commerce is brought here and carried away under a foreign flag by these large and fast-sailing steamers. It is something of an object to establish these lines, and when it can be done without any cost to the Government, except the mere postage received, I think the Congress of the United States will not hesitate long in relation to it. I do not propose now to consume any time in relation to this matter any further than I have already done.

Mr. CONKLING. I only wish to say to the Senator from Vermont, agreeing with him in the suggestions he makes, that they are all met and answered by the amendment which I have sent to the Chair. There is no subsidy, there is no exemption of materials, there is nothing except that for the naked postages these men, already provided with the materials with which to do so, propose to carry the mails in the most expeditious manner. That is all they ask. It does not exempt anything from taxation. Everything of that sort has been eliminated from the bill; and it is a simple proposition without expense to get the ocean-carriage of mails and to get it under our own flag. I move it as a substitute for the amendment offered by the Senator from Massachusetts.

The PRESIDING OFFICER. It will be read.

Mr. TRUMBULL. I think we might as

well adjourn. It is no use to stay here and punish ourselves. It is evident that we cannot pass this appropriation bill.

Mr. CONNESS. Yes, we can. I hope the Senator from Massachusetts will withdraw his amendment and let us go on with our work.

Mr. TRUMBULL. He has had it here for an hour, and persistently refuses to withdraw it. I move that the Senate adjourn.

Mr. WILSON. Mr. President—

Mr. TRUMBULL. I will withdraw the motion if the Senator will allow us to go on with the business.

The PRESIDING OFFICER. The motion to adjourn is withdrawn.

Mr. WILSON. I think the Senate ought to sustain this amendment, and I should be very glad to have a vote upon it and a vote upon the proposition made by the Senator from New York, to test the sense of the Senate as between the two. Under the present state of affairs in the Senate I shall withdraw the amendment; and whenever—and I hope it will be very soon—we shall take up this matter I shall be prepared to declare and maintain that this proposition is the broadest, fairest, and most liberal proposition that has been made; and if anybody can show one better I am ready for that.

Mr. CONKLING. I will show one better at that time.

Mr. WILSON. I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The bill was reported to the Senate, as amended.

The PRESIDING OFFICER. The question is on concurring in the amendments made as in Committee of the Whole.

Mr. TRUMBULL. I ask to except the amendment in regard to the post office at Springfield, Ohio, and let the vote be taken on the others together.

The PRESIDING OFFICER. That exception will be made. The question is on concurring in the amendments made as in Committee of the Whole, with that exception.

The other amendments were concurred in.

Mr. TRUMBULL. I ask for the vote on the amendment making appropriation to build a post office at the town of Springfield, Ohio.

The PRESIDING OFFICER. The question is on concurring in that amendment.

Mr. RAMSEY. Before that is done I should like to have the letter read that the Senate declined hearing before when we put on the appropriation.

Mr. CONNESS. I hope the honorable Senator will allow this to go with the other amendments, that it may be considered in conference, where the bill will have to go. It will only delay us to have these papers read. It is a very small matter at best.

Mr. RAMSEY. If we are going to vote on this question I should like the letter of Mr. SHELLABARGER to be read.

Mr. TRUMBULL. This appropriation ought not to go on the bill. I object to it.

Mr. CONNESS. Let the amendment be read.

The PRESIDING OFFICER. It will be read.

The Secretary read the amendment, as follows:

And be it further enacted, That the Postmaster General is hereby authorized to purchase for a post office the lot and building at the southwest corner of Lime-stone and High streets, in Springfield, Ohio, known as the Episcopal church property, for the sum of \$10,000: *Provided, however,* That the entire cost to be paid by the United States for the said property and fitting it up for a post office shall not exceed the sum herein appropriated.

Mr. SHERMAN. I will state the facts in regard to that. It is a matter in which my colleague, Mr. SHELLABARGER, who is about to leave the House of Representatives, takes a very deep interest, and you will find letters on file from him and also a letter from the Postmaster General and from the First Assistant Postmaster General recommending it.

Springfield is a town of about sixteen thou-

sand inhabitants; a rapidly-growing town. A church in the heart of the city has recently been substantially purchased by the citizens there with a view to remove the church to an outlying part of the city and build a very fine one. In connection with building a new church it has been proposed by the citizens to buy this property and substantially donate it to the Government of the United States upon the Government paying \$10,000. The property is worth a great deal more. They want this particular site, which is right in the center of the city, selected for a post office, and the facts in regard to the expense are these: the present rent is about twenty-four hundred dollars, and the building now occupied by the post office must be abandoned and considerably more rent will have to be paid for the necessary accommodations. There is not only a population of sixteen thousand, but there is a considerable population around getting their mail matter there. On the whole the Postmaster General was of the opinion that it was better to take this property and let it be fitted up with the limitation that the expense should not exceed \$10,000, fitted up solely for a post office in a central position. On the whole the Government will make by it. They would have to pay probably in four years, perhaps in three years, more rent than they would have to pay for this building complete. They substantially get the building at little or no cost.

Mr. TRUMBULL. Will the Senator from Ohio allow me to ask him if he is prepared, as chairman of the Finance Committee, to recommend the building of post offices in all towns of this size throughout the country?

Mr. SHERMAN. I would recommend the building of a post office in any town under the same circumstances. That town substantially contributes the site. It is a matter in which Mr. SHELLABARGER takes very deep interest, and I trust the Senate will allow it to go on the bill for his benefit. He lives in the place, and I think it is manifestly for the interest of the Government, and I trust therefore the Senator from Illinois will not press his objection. If similar circumstances arise in any other city I certainly should vote for building a post office there.

The question being taken on concurring in the amendment, a division was called for; and the ayes were eight.

Several SENATORS. Give it up.

Mr. SHERMAN. I do not give it up. I think this opposition is unreasonable under the circumstances.

Mr. POMEROY. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CONKLING. I am going to vote against this, and I wish to say to the Senator from Ohio that I shall not be unreasonable in doing it. In the city in which I live, for example, there is a much stronger case than this presented; and yet I do not feel at liberty to vote for an appropriation there, although nothing, absolutely nothing has ever been done to provide by the Government a public building there for any public purpose.

Mr. GRIMES. What is the population?

Mr. CONKLING. Much larger than here.

The question being taken by yeas and nays, resulted—yeas 16, nays 20; as follows:

YEAS—Messrs. Conness, Corbett, Drake, Nye, Osborn, Pomeroy, Ramsey, Rice, Robertson, Ross, Sherman, Sumner, Thayer, Van Winkle, Warner, and Welch—16.

NAYS—Messrs. Anthony, Cattell, Chandler, Cole, Conkling, Edmunds, Grimes, Harlan, Harris, Hendricks, Howe, McCreery, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Sawyer, Sprague, Stewart, and Trumbull—20.

ABSENT—Messrs. Abbott, Bayard, Buckalew, Cameron, Cragin, Davis, Dixon, Doolittle, Ferry, Fessenden, Fowler, Frelinghuysen, Henderson, Howard, Kellogg, Morton, Norton, Patterson of New Hampshire, Patterson of Tennessee, Pool, Saulsbury, Spencer, Tipton, Vickers, Wade, Whyte, Willey, Williams, Wilson, and Yates—30.

So the amendment was non-concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had passed the following bills of the Senate:

A bill (S. No. 228) for the further security of equal rights in the District of Columbia;

A bill (S. No. 753) to provide for the execution of judgments in capital cases;

A bill (S. No. 810) to regulate elections in Washington and Idaho Territories;

A bill (S. No. 836) for the relief of Celestra P. Hartt; and

A bill (S. No. 891) for the relief of George Fowler and the estate of De Grasse Fowler, deceased, or their assigns.

THE DEFICIENCY BILL.

Mr. HOWE. I move that the Senate proceed to the consideration of House bill No. 1911, making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. POMEROY. I suppose the Senate desires to adjourn now.

Mr. MORRILL, of Maine. We must pass the deficiency bill to-night if we intend to make any progress.

The bill was read.

The first amendment of the Committee on Appropriations was to strike out from the commencement of line thirteen to line forty-nine, in the following words:

And after the present fiscal year there shall only be employed and paid for labor in the Treasury building and the five other buildings used by the Department for lighting, cleaning, and general care and superintendence thereof the following persons, to wit: one superintendent, at a salary of \$2,500 a year; one clerk of class four and one clerk of class one; one engineer in charge of heating apparatus, at a salary of \$1,200 a year; five firemen, at a salary of \$600 each per year; one machinist and gas-fitter, at a salary of \$1,200 per year; one captain of the watch, at a salary of \$1,400 per year; one storekeeper, at a salary of \$1,000 per year; thirty watchmen, at a salary of \$820 each per year; thirty laborers, at a salary of \$800 each per year; seventy women as cleaners, at a salary of \$180 each per year; *And it is hereby provided*, That no account for contingent expenses at any of the bureaus of the Treasury Department shall hereafter be allowed, except on the certificate of the general superintendent of the Treasury buildings that they are necessary and proper, and that the prices paid are just and reasonable; and that the said superintendent shall keep a full, just, and accurate account in detail of all amounts expended under the head of contingent expenses for the several bureaus of the Treasury Department, which shall be transmitted to Congress by the Secretary of the Treasury at every December session. And the expenditure for furniture and repairs for the same shall be made by the said superintendent, subject to the approval of the Secretary of the Treasury; and it shall be the duty of said superintendent to keep a just and accurate account in detail of all the amounts paid for the purchase of furniture, and also for the repairs thereof, as well as a full statement of the disposition of the old furniture; all of which shall be transmitted to Congress at every December session thereof by the Secretary of the Treasury.

And to insert in lieu thereof:

Provided, That hereafter no disbursements shall be made from any contingent fund nor from any appropriation made for the purchase of furniture or for the repairs of the same except upon an account duly audited and allowed by the proper accounting officers of the Treasury Department, and a full, just, and accurate account in detail of all such disbursements shall be annually rendered to Congress at the December session thereof by the Secretary of the Treasury.

The amendment was agreed to.

The next amendment was in line fifty-seven, before the word "provided," to strike out the words "it is hereby."

The amendment was agreed to.

The next amendment was in line fifty-eight, after the word "this" and before "act," to insert "or any subsequent;" so as to read:

And provided further, That no part of the appropriations made by this or any subsequent act for contingent and incidental expenses shall be paid for clerk hire, messengers, or laborers.

The amendment was agreed to.

The next amendment was to insert after line sixty-three the following:

Provided, That no extra compensation shall here-

after be allowed to any officer or person for disbursing any moneys appropriated to the construction of any public building.

Mr. COLE. I am strongly of the impression that that amendment ought not to prevail. I believe it is customary when public officers are required to discharge the duty of disbursing public moneys to allow them as a compensation for the responsibility and trouble a small fraction of a percentage, perhaps one fourth of one per cent. This proviso, it seems to me, will cut off all that. I do not see what inducement, therefore, a public officer can have for discharging this extra duty, a duty above the ordinary duties of the office. The collector of the port has to discharge many duties of this kind, and so it is, perhaps, with other public officers; and if they are not to have, as has been customary heretofore, any compensation whatever they will be disposed to decline the duty. I think this amendment ought not to be adopted.

The amendment was rejected.

Mr. WILLIAMS, (at twelve o'clock and twenty minutes.) There is nobody here paying any attention to this business. I move that the Senate adjourn.

Mr. TRUMBULL. Had we not better meet at ten o'clock in the morning?

Mr. ANTHONY. I do not see the Senator from Maine here.

Mr. EDMUNDS. The Senator from Wisconsin has charge of this bill.

Mr. HOWE. All our amendments have to be engrossed.

The PRESIDING OFFICER. Discussion is not in order. The question is on the motion to adjourn.

The question being put, there were on a division—ayes eleven.

Mr. HENDRICKS. I think we had better have the yeas and nays. ["Oh, no!"] I withdraw the call.

Mr. EDMUNDS. Take the negative.

The PRESIDING OFFICER. The Chair will be obliged to request Senators to resume their seats that we may proceed intelligently. The Chair will take the count again.

The question being again put, there were, on a division—ayes 17, noes 18; no quorum voting.

Mr. MORRILL, of Maine, Mr. HENDRICKS, and others, called for the yeas and nays.

The yeas and nays were ordered.

Mr. MORRILL of Maine. I want to say one word. If there is any purpose to pass the appropriation bills this bill must be passed to-night, because there will be three bills tomorrow—

Mr. GRIMES. What are they?

Mr. MORRILL, of Maine. The Senator asks what they are. There is this bill, the deficiency bill, the Army appropriation bill, and the miscellaneous bill.

Mr. EDMUNDS. Which ones are here now?

Mr. MORRILL, of Maine. The deficiency bill and the Army bill. If this is not passed to-night it is an abandonment of this bill or some other bill.

Mr. HENDRICKS. I ask the Senator from Maine if he expects to carry the Army bill with that Massachusetts claim?

Mr. MORRILL, of Maine. It is not for the Senator from Maine to answer. The Senator from Maine proposes to present to the Senate all the appropriation bills that come from the House if the Senate chooses to hear them.

The PRESIDING OFFICER. The Secretary will call the roll on the motion to adjourn.

Mr. HENDRICKS. I yield my own judgment at the earnest desire of the chairman of the Committee on Appropriations and vote against the motion.

The question being taken by yeas and nays, resulted—yeas 7, nays 28; as follows:

YEAS—Messrs. Edmunds, Grimes, Harlan, McCreery, Pomeroy, Ross, and Williams—7.

NAYS—Messrs. Anthony, Cattell, Cole, Conkling, Corbett, Cragin, Harris, Hendricks, Howe, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Osborn, Patterson of New Hampshire, Ramsey,

Rice, Robertson, Sawyer, Sprague, Stewart, Thayer, Trumbull, Van Winkle, Warner, Welch, and Wilson—28.

ABSENT—Messrs. Abbott, Bayard, Buckalew, Cameron, Chandler, Conness, Davis, Dixon, Doolittle, Drake, Ferry, Fessenden, Fowler, Frelinghuysen, Henderson, Howard, Kellogg, Morton, Norton, Patterson of Tennessee, Pool, Saulsbury, Sherman, Spencer, Sumner, Tipton, Vickers, Wade, Whyte, Willey, and Yates—31.

So the Senate refused to adjourn.

The next amendment of the Committee on Appropriations was to strike out from line sixty-nine to line seventy-six, inclusive, as follows:

For necessary expenses in carrying into effect the several acts of Congress, authorizing loans and the issue of Treasury notes, \$400,000: *Provided*, That no work shall be done in the Engraving and Printing Bureau for private parties: *And provided further*, That no part of the money hereby appropriated shall be paid for clerk hire or other service except to persons actually engaged in producing such issues in the Bureau of Engraving and Printing.

The amendment was agreed to.

The next amendment was to strike out lines seventy-seven and seventy-eight, as follows:

For supplying deficiency in the fund for the relief of sick and disabled seamen, \$50,000.

The amendment was agreed to.

The next amendment was to insert after line one hundred and twenty-three the following:

Senate deficiency:

For clerks to committees, pages, horses, and carryalls, \$30,000.

For heating and ventilating, \$5,000.

For miscellaneous items, \$15,000.

For stationery for committees and the Secretary's office, \$5,000.

For additional messengers, \$3,500.

For stationery and newspapers for Senators for the third session of the Thirty-Ninth Congress, \$9,000.

Mr. HOWE. I move to amend the amendment in line one hundred and twenty-nine by striking out the words "for committees and the Secretary's office;" so that it will read: "For stationery, \$5,000."

The amendment to the amendment was agreed to.

Mr. HOWE. I move further to amend the amendment by inserting after the appropriation for additional messengers the following:

For folding documents and materials, \$5,000.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment was to strike out from line one hundred and thirty-seven to line one hundred and forty-seven inclusive, in the following words:

New Mexico:

For salary of the secretary of the Territory, as *ex officio* superintendent of the public grounds, from July 28, 1868, to June 30, 1869, at \$1,000 per annum, \$920 38: *Provided*, That after the expiration of the present fiscal year the said secretary shall only receive \$2,000 per annum, and no more, in full compensation for all official services, whether as secretary or superintendent of public buildings and grounds.

The amendment was agreed to.

The next amendment was after line one hundred and forty-seven, to strike out the following clause:

Colorado:

For supplying deficiency in the appropriation for the salaries of the Governor, judges, and secretary, caused by the increase of compensation to the judges by act of March 2, 1867, \$1,000.

The amendment was agreed to.

The next amendment was in line one hundred and fifty-six, to strike out "five" and insert "two," and in line one hundred and fifty-seven to insert the words "one hundred;" so that the clause will read:

Dakota:

For amount required to pay the increased salaries to the judges of Dakota Territory authorized by the act of March 2, 1867, \$2,100.

The amendment was agreed to.

The next amendment was after line one hundred and sixty-two, to strike out the following clause:

For refunding to the appropriation for the legislative expenses of Idaho Territory the amount advanced from this fund and not accounted for by the secretary of said Territory, \$38,000.

Mr. WILLIAMS. I hope that amendment will not be agreed to.

Mr. MORRILL, of Maine. I think myself it ought not to be.

Mr. HOWE. I also think it ought not to be agreed to. The committee had no information before them on the subject, and it was stricken out because we found that only \$20,000 was appropriated last year; but I learn since that this is to replace a former appropriation which was made away with.

Mr. WILLIAMS. The secretary of the Territory absconded with it.

The PRESIDING OFFICER, (Mr. THAYER in the chair.) The question is on the amendment of the committee striking out this clause.

The amendment was rejected.

The next amendment was in the appropriations for Montana Territory, after line one hundred and seventy to strike out the following clause:

For amount required to pay outstanding liabilities on account of compensation and mileage of members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, \$20,000.

The amendment was agreed to.

The next amendment was to strike out after line one hundred and ninety-one the following clause:

For compensation and mileage of the members of the Legislative Assembly and pay of officers and clerks and contingent expenses of the Assembly, \$10,000.

The amendment was agreed to.

The next amendment was to insert after line one hundred and ninety-four the following:

Interior Department:
For amount to supply deficiency in the contingent expenses of the Indian department, \$11,500.

Mr. HARLAN. I should like to have an explanation of that amendment before it is adopted. If there is no explanation I hope it may not be adopted.

Mr. HOWE. Let that be passed by for the present.

The PRESIDING OFFICER. It will be laid aside for the present.

The next amendment was to insert after line two hundred and seventeen the following words:

For the construction of a barge office at New York, \$50,000.

The amendment was agreed to.

Mr. ANTHONY. As I understand from the Senator in charge of this bill that amendments are being made other than those reported by the committee, as we go along, I desire to move an amendment to come in on page 6. It is the amendment of which I gave notice.

The PRESIDING OFFICER. We are now proceeding with the committee's amendments.

Mr. ANTHONY. I hope this amendment will be allowed to go in now.

Mr. MORRILL, of Maine. But you will go away if we agree to the amendment.

Mr. ANTHONY. Oh, no; I will not. It is to insert on page 6, after line one hundred and twenty-three, the following:

For Congressional Globe and Appendix, \$29,842, or so much thereof as may be necessary to complete the work under the contract expiring March 3, 1869.

This is required for the Senate precisely as the similar appropriations in the bill are required for the House. On account of the extra sessions that we had last year the appropriation is short.

The amendment was agreed to.

The Secretary continued the reading of the bill to the following clause:

For the construction of a public building at Springfield, Illinois, for a court-house and post office, and the accommodation of officers of the United States, \$25,000.

Mr. WARNER. I should like to have an explanation from the Senator from Illinois as to the necessity of a court-house and post office at Springfield, Illinois, as he did not seem to think there was any necessity for one at Springfield, Ohio.

Mr. TRUMBULL. The Senator from Alabama must perceive that this is a building at the capital of the State of Illinois. One of these buildings is in the capital of the State, and there is an appropriation here for another

at Cairo, where there is not only a post office, but a custom-house, and also a court-room, and it has been customary, I believe, always for the Government of the United States to provide a public building for custom-houses, court-houses, and post offices where they were all together. There is no custom-house, I suppose, at Springfield, Ohio, and no terms of the United States courts held there.

The PRESIDING OFFICER. No amendment is offered to this clause, and the reading will be proceeded with.

The next amendment of the committee was after line two hundred and thirty-three to strike out the following clause:

For continuing the work on the marine hospital at Chicago, \$25,000.

Mr. TRUMBULL. I hope those words will not be stricken out. The Secretary of the Treasury and the architect who is the superintendent of these public works have recommended an appropriation for a larger amount than this—\$50,000, I think. This is for a deficiency upon the work on the marine hospital in the city of Chicago. It is partly constructed. The walls are up, certainly above the first story, and the building is there in that half-finished state, subject to the weather, and I suppose this, being in a deficiency bill, is probably to pay liabilities already existing.

Mr. ANTHONY. What do you want a marine hospital at Chicago for?

Mr. TRUMBULL. Why, we have more commerce at Chicago than Rhode Island ever saw. The Senator from Rhode Island probably is not aware of the number of vessels and seamen that go into Chicago.

Mr. ANTHONY. Flat-boats, I suppose.

Mr. TRUMBULL. The city of Providence, Rhode Island, could be set down at Chicago and would hardly be noticed. I hope the committee will consent to let these words stand. They come from the House, and it is evidently an appropriation that is absolutely necessary in the condition of things there. It is not a question now as to the building of a marine hospital. That has been undertaken under authority of law. The building has cost more than it ought to cost. I agree to that. I do not propose to go into a discussion of this subject. I trust the committee will see the propriety of letting this appropriation stand.

Mr. HOWE. The Senate will do as they think expedient about this amendment. In my own judgment, this whole business of building marine hospitals is a profound mistake, not to call it by any harsher name than that. And yet the Government has undertaken it in a great many places, and has spent, I think, seven or eight million dollars in the construction of marine hospitals. They are expending somewhere from two to three hundred thousand dollars a year in taking care or professedly in taking care of invalid sailors. I think all these appropriations are entirely wrong. But in pursuance of this system the Government undertook to build a hospital at Chicago, and built one, and finished it, and finished the grounds all complete; and a few years ago passed an act authorizing the Secretary of the Treasury to sell that hospital and grounds, and buy another site in or near Chicago, and build another hospital, upon the condition that the amount to be expended in purchasing the new site and building the new hospital should not be more than was received on the sale of the old one. They sold the old hospital for something less than one hundred and fifty thousand dollars, I believe—somewhere from one hundred and thirty to one hundred and forty thousand dollars—and they have been constructing, I understand, a new hospital. I find here an appropriation of \$25,000 as a deficiency. For the work of the current year I believe there is an estimate for \$100,000, to be spent the next fiscal year. What the present purpose is, how much it is proposed now to expend on that hospital, I do not know. It seems to me that the Government ought not to expend a dollar; it ought to sell what it has there, and ought to sell what it has in every

other marine hospital. I want to say once more what I said here last year, that there is no reason in the world why the Government should take upon itself the support of the sailors employed in the marine service any more than there is why they should undertake to support the farmers, the tillers of the soil, or the operatives in your factories.

Mr. TRUMBULL. That opens a great question to determine whether we should dispense with all the marine hospitals in the country or not. It is hardly worth while, I think, to discuss that question in reference to this appropriation. Here is a building partly finished, and the proper Department recommends this appropriation for a deficiency. It seems to me it is one of those cases that if we appropriate any money anywhere on any showing we must do it here. I trust the words will not be stricken out. I could go into a statement that would show that there is a necessity for a marine hospital at Chicago; but I do not propose to do it on the present occasion, as I am anxious that this bill should pass as early as possible. I trust the Senate will not agree with the committee in striking out this proposition as it has been put in by the House.

Mr. HOWE. I ask the Senator from Illinois, who is usually as jealous of making unnecessary appropriations as any one, what means we have of enforcing laws which impose restrictions upon expenditures if just as often as those laws are violated we assent to the violation? When the work of building this hospital was undertaken there was the express command of law upon the Treasury Department not to exceed the amount received from that hospital. They go on in open defiance of that, and simply come in here and ask us to appropriate year after year additional sums of money to do this work, when we told them it should be done for a given sum. If we vote this money what use is it to put conditions upon the expenditures?

Mr. TRUMBULL. I quite agree with the Senator from Wisconsin that it is very improper to enter into contracts for erecting buildings to cost more than the appropriations; but it is the way all our public buildings are built. You will see in this very bill numerous appropriations to go on in the construction of works. We appropriate perhaps \$100,000 for a custom-house in Boston or in Charleston; and we have got a law, or ought to have one, requiring the officers charged with the construction of these buildings not to enter into contracts for the erection of buildings to exceed the amount of the appropriations. That has been the law, and I think is the law now; and yet they cost a great deal more. I think that is wrong. I struggled here in the Senate some years ago to try and prevent that. In this very case the direction of the law was to sell the old hospital and with the funds arising from the sale to purchase a site and erect another. I do not know that there were any words of prohibition in the statute.

Mr. HOWE. Yes, sir; express.

Mr. TRUMBULL. At any rate, it meant that the new building was to be put up with that amount. Instead of that they are making it cost very considerably more; I do not know the exact amount. The Senator is right as to the purport of the law. I do not know whether the words were express words of prohibition, but at any rate that was the fair construction of the act. That was not done. You find the same thing here:

For the construction of a public building at Springfield, Illinois, for a court-house and post office and the accommodation of officers of the United States, \$25,000.

Then follows an appropriation for appraisers' stores at Philadelphia, and an appropriation for a custom-house at St. Paul, Minnesota; but there was an appropriation originally of a certain amount to erect all these buildings in the first place. What authority, I ask the Senator from Wisconsin, had the officer charged with the construction of a custom-house and court-house, if you please, at Springfield, when

the law appropriated \$50,000 to erect that building to make a contract for a building that would cost \$150,000?

Mr. HOWE. How do you know that he did?

Mr. TRUMBULL. Here is a deficiency. There would not be any deficiency unless that was so.

Mr. HOWE. That does not follow.

Mr. TRUMBULL. It certainly necessarily follows; because if the building had been constructed for the amount appropriated there would not be any deficiency.

Mr. MORRILL of Maine. Let us have a vote.

Mr. TRUMBULL. The Senator from Maine says "let us vote." I shall say no more. I hope the Senate will not agree to this amendment.

Mr. RAMSEY. You can have a committee of conference upon it.

Mr. TRUMBULL. But I ask the Senate not to strike it out. This clause was put in by the House, and there is no reason for striking it out. It has the recommendation of the Secretary.

Mr. HOWE. Let the amendment be made, and then it can go to a committee of conference.

The PRESIDING OFFICER. The question is on the amendment of the committee.

The amendment was rejected.

Mr. COLE. With the leave of the committee, I offer an amendment to be inserted after line two hundred and thirty-five, on the tenth page:

For repairs of the custom-house at San Francisco, California, \$15,000.

I find this in the list of estimates from which these other appropriations are taken, and I think it must have been by some oversight that the amount was left out. The repairs were rendered necessary by the earthquake that occurred in October last. The building was so far racked and injured as to require the front portion to be taken down entirely, and considerable other repairs to the wall inside and other portions of the building were rendered absolutely necessary. So badly, indeed, was the building injured, that it has not been occupied for the purposes for which it was built since; but it is in the process of getting repaired, and will be occupied again in a very short time. I presume it was a mere oversight that this appropriation was left out. I ask, therefore, that the amendment be adopted. It will be found on the first page of the estimates.

Mr. TRUMBULL. Is that reported by any committee?

Mr. COLE. All the rest of the items in the estimates seem to have been included in the bill except the two items that relate to California. I do not know why they were left out. Appropriations for deficiencies for buildings at Cairo, Ogdensburg, St. Paul, Madison, Springfield, Chicago, Philadelphia, and New York, and everywhere else are made, except at San Francisco. Two items are mentioned in the estimates for California, and why they should have been overlooked I cannot see. One of them is certainly absolutely necessary, rendered so by the late earthquake at that place, the custom-house building having been very badly injured by it, and the repairs have been rendered necessary on that account.

The amendment was agreed to.

Mr. THAYER. I send an amendment to the Chair, to follow the amendment just adopted:

For the purchase, inclosure, and preservation of a parcel of ground at Omaha, Nebraska, for a site and for the erection of a building for the use of the Federal courts, post office, and other Federal offices, \$25,000.

Mr. HOWE. Has there been any notice of that amendment?

Mr. THAYER. There is a report from the Postmaster General on the subject which I will have read if it is desired.

Mr. HOWE. But has any notice been given of it to the Committee on Appropriations?

Mr. THAYER. Certainly. It was first before the Post Office Committee and approved by them, and I now offer it here.

Mr. HOWE. Has it ever been submitted to the Committee on Appropriations?

Mr. THAYER. Yes, sir; it has been in their possession for some time.

The amendment was agreed to.

Mr. POMEROY. Have the amendments of the committee been concluded.

Mr. TRUMBULL. The bill has not yet been read through, and I think it had better be finished.

The Secretary resumed the reading of the bill.

The next amendment was in line two hundred and fifty, to strike out "July" and insert "June."

The amendment was agreed to.

The next amendment was after line three hundred and two, to strike out the following clause:

For collecting and preparing the proceedings at the decoration of the soldiers' graves, under resolution of June 22, 1868, \$2,000.

The amendment was agreed to.

The next amendment was after line three hundred and ten, to strike out the following clause:

For necessary repairs and furniture for the office of the register of deeds of the District of Columbia, \$350.

The amendment was agreed to.

The next amendment was to strike out after line three hundred and thirteen the following clause:

For a sufficient amount to pay the regular salary of the present minister resident at Portugal, and the exchange thereon, from the 1st day of July, 1866, so long as the same was withheld from him.

The amendment was agreed to.

Mr. POMEROY. I offer the following amendment in the language of the estimate of the Department. I read from Executive Document No. 56, second session Fortieth Congress:

For additional appropriation required to complete the survey of a line dividing the Creek country under the third and fifth articles of the treaty with the Creek nation of Indians, concluded June 14, 1866, and for surveying the exterior boundary of a grant of land to the Seminole nation of Indians under the third article of the treaty with that nation, concluded March 21, 1866, \$5,000.

This amendment was agreed to first by the committee of the House of Representatives, and my colleague from the House informs me that by some means it did not get on the appropriation bill. I moved it from the Committee on Public Lands, and it was referred to the Committee on Appropriations yesterday. I suppose it is unnecessary to explain it any further than to say that the work has been done and this is a deficiency. The appropriation was made last year; but there was not enough appropriated by \$5,000, and the Secretary has made this estimate, and I now move it on the appropriation bill.

Mr. HOWE. Where?

Mr. POMEROY. Under the head of "miscellaneous" on page 15, after line three hundred and forty.

The amendment was agreed to.

Mr. NYE. I move an amendment to come in after the amendment introduced by the Senator from Nebraska, [Mr. THAYER:]

To supply a deficiency for the payment for machinery for the branch mint at Carson City, and balance of freight on the same from Philadelphia to Carson City, \$31,000.

For fitting up machinery of said mint and putting it in working order, \$11,000, or so much thereof as is necessary for that purpose.

This is estimated for by the Secretary of the Interior and by the Director of the Mint, and I have shown it to the chairman of the committee.

The PRESIDING OFFICER (Mr. WARNER in the chair) put the question on the amendment and declared that the yeas appeared to have it.

Mr. NYE. Oh, that is a mistake.

Mr. WILSON. You can move it again in the Senate.

Mr. NYE. I cannot move it on anything else. The machinery is all there ready to be fitted up, and the Senate this very night made an appropriation to put this mint in operation.

This is an appropriation for the freight on the machinery and the machinery itself.

Mr. TRUMBULL. It is manifest that the Senate did not hear the report that was read some time ago when the other bill was up. There is an estimate here and a recommendation from the Secretary of the Treasury for this very thing.

The PRESIDING OFFICER. By common consent the Chair will put the question again on the amendment.

The amendment was agreed to.

Mr. NYE. I am instructed by the Committee on Naval Affairs to offer the following amendment, to come in at the end of the bill, and I send to the Chair the recommendation on which it is based:

Navy Department:

To supply a deficiency for provisions for the Marine corps for the fiscal year ending June 30, 1868, \$2,000.

To supply a deficiency for provisions for the Marine corps for the year ending June 30, 1869, \$56,000.

Mr. HOWE. What does that mean?

Mr. NYE. All that I know about it is contained in the statements that I have sent to the desk. I was directed by the Senator from Iowa, [Mr. GRIMES,] the chairman of the Naval Committee, to offer this amendment, as he thought he would not be present when this bill was considered. I ask that the statement be read.

The Secretary read as follows:

Statement of deficiency in the appropriation for provisions for the Marine corps for fiscal year ending June 30, 1868, and estimated deficiency in same appropriation for fiscal year ending June 30, 1869.

There will be required to meet deficiency in the quartermaster's department, Marine corps, in the appropriation for provisions for fiscal years ending June 30, 1868, and June 30, 1869, the sum of \$99,223 65, as follows:

For deficiency for fiscal year ending 30th June, 1868.....	\$42,551 05
For rations for fifteen hundred and thirty-three non-commissioned officers, musicians, privates, and washerwomen for one year from 1st July, 1868, to 30th June, 1869, one ration per day each at twenty-eight cents per ration.....	\$156,672 60
Deduct amount appropriated per act approved 17th June, 1869.....	100,000 00

Deficiency for fiscal year ending 30th June, 1868.....	56,672 60
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Total deficiency.....	\$99,223 65
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Respectfully submitted.

W. B. SLACK,
Quartermaster Marine Corps.

Mr. HOWE. I could not hear the letter read. I could hear everything in the world but that. I do not know now whether it states what the appropriations made for the year are. It would seem as though the subsistence of a force not numbering over two thousand five hundred at the commencement of the war, and which was really reduced to eighteen hundred during the war, might be estimated for within \$90,000; but I do not know that it was within \$90,000.

Mr. NYE. If the Senator will allow me, I will read a portion of the report of Major Slack. That shows it very clearly. Perhaps the Secretary had better read it. I ask him to do so.

The Secretary read as follows:

HEADQUARTERS MARINE CORPS,
QUARTERMASTER'S OFFICE,
WASHINGTON, December 12, 1868.

Sir: I have the honor to submit herewith, in triplicate, with the request that they be transmitted to the honorable Secretary of the Navy, a statement of deficiency in the appropriation for "provisions Marine corps" for fiscal year ending June 30, 1868, and estimated deficiency in the same appropriation for fiscal year ending June 30, 1869.

In explanation of the deficiency in fiscal year ending June 30, 1868, I would state that in the estimate for that year rations for eighteen hundred and sixty enlisted men and washerwomen were estimated for at twenty-five cents per ration, while the average cost of rations per contract for that period was thirty cents, and in consequence of the gradual reduction of the naval forces afloat more marines were rationed on shore than had been estimated for.

In regard to the present fiscal year the number of enlisted men supposed to be on shore is fifteen hundred, and the actual cost of rations as per contracts average twenty-eight cents per ration, making the amount necessary for the year \$156,672 60.

The sum appropriated by Congress was \$100,000, thus leaving a deficiency of \$56,672 60, which added to the actual deficiency on the 30th June, 1868, makes

the sum of \$99,223 65 necessary to reimburse the appropriation for provisions and meet the requirements of the service to the close of the present fiscal year.

I am, very respectfully, your obedient servant,

W. B. SLACK,

Quartermaster Marine Corps.

Brigadier General J. ZEILIN,

Commandant Marine Corps, Headquarters.

Mr. NYE. Now I ask that the letter of the Secretary of the Navy be read.

Mr. WILSON. That is enough. That tells the story. We have got to pay it anyhow.

The amendment was agreed to.

The PRESIDING OFFICER. The Chair will call attention to an amendment of the Committee on Appropriations which was passed over. It was on page 9, after line one hundred and ninety-five, to insert:

Interior Department:

For amount required to supply a deficiency in the contingent expenses of the Interior Department, \$11,500.

Mr. MORRILL, of Maine. That is all right.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendments were concurred in.

Mr. HOWE. The bill is still open to amendment, I believe.

The PRESIDING OFFICER. It is.

Mr. HOWE. I renew the amendment on the fourth page, line sixty-four, which was not agreed to in Committee of the Whole.

The Secretary read the amendment, which was to insert after line sixty-three the following proviso:

Provided, That no extra compensation shall hereafter be allowed to any officer or person for disbursing any moneys appropriated to the construction of any public building.

Mr. COLE. I do not know how the Government will be able to procure the disbursement of money for the erection of public buildings unless some compensation is offered for it, as has been the custom heretofore. The Senator from Wisconsin, who has charge of this bill, may be able to assign some reason for this amendment which I do not know of; but certainly there should be some reason given why this proviso should be inserted. Is there anything in the estimates or in the reports of the Departments on the subject?

Mr. HOWE. No. The only reason the committee had, I think, for proposing the amendment was simply this: the Government transmits money where these works are going on—deposits it in a bank; and it seems the Treasury Department is in the habit of allowing a commission of from one fourth of one per cent. to two per cent. to the bank for paying out the money. When I get any money and deposit it in bank they pay it out for nothing; and I suppose they would do it for the Government if the Government insisted on the same terms. I do not know any reason why we should pay them.

Mr. COLE. Then I move to amend the proviso, before the vote is taken upon it, by striking out the words "or person;" so that it will read:

Provided, That no extra compensation shall hereafter be allowed to any officer for disbursing any moneys appropriated to the construction of any public building.

Mr. HOWE. I hope that amendment will not be agreed to.

Mr. COLE. That will obviate the objection to the practice that the Senator from Wisconsin has, I believe. I was not aware that the banks were intrusted with the public moneys for any such purposes. I supposed they were received by the collector of the port, if there happened to be a collector at the place where the moneys were to be disbursed, and that he acted as disbursing officer; and that where there was no collector of the port at the place where a building was being erected, another officer who had given bonds, the highest officer, perhaps, in the service of the Government who had given bonds, would be the one called upon to receive and disburse the moneys. I should be willing to join with the Senator from Wisconsin in prohibiting the placing of public

moneys in the hands of banks, to be disbursed. I suppose they should go into the hands of some officer who gives bond for the faithful use of the money placed in his hands, and for the proper disbursement of it.

But I really think that an officer who is called upon to perform this service should receive some small compensation for it. I believe that the compensation that has hitherto been allowed has been no more than about one fourth of one per cent. If that is too large make it one eighth of one per cent., but do not burden a public officer with this duty without making him some compensation. If it were put into the hands of a bank for this purpose it could perhaps be made the basis of its business to some extent and be of advantage to it; but that cannot be the case with a faithful public officer. He must do this work if this proviso is adopted without any compensation whatever, if he can be required to do it at all; and I do not know why a public officer could not absolutely decline this duty if there is to be no compensation attached to it.

Mr. HOWE. I guess they will not.

Mr. COLE. It will be guess work so far as the Senator is concerned.

Mr. CORBETT. Where there is a collector of customs it is usual for the Secretary of the Treasury to designate such collector to disburse this money; and I believe it has been the custom at places distant from points where there are collectors of customs, and not convenient for the disbursement of the money through a public officer, for the Secretary of the Treasury to appoint a disbursing agent to whom he allows one half of one per cent., and the disbursing agent has to give bonds for the faithful disbursement of the money. Is it not better to do that than to allow a person who does not give bonds to disburse it? It strikes me that it is more safe to do that than it is to deposit it in a bank that does not give any bonds, and that we do not know anything about, and allow the bank to disburse it. It seems to me the law is better as it is. For instance, in Carson City, where they propose to erect a mint, I suppose they will have to appoint there, as there is no collector of customs, a disbursing agent, and perhaps pay him one half of one per cent. for doing the business. It seems to me that this amendment of the committee ought not to be agreed to.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California to the amendment.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question now is on the amendment of the committee.

Mr. CORBETT. I hope the Senate will not agree to it.

Mr. EDMUNDS. Let it be read.

Mr. TRUMBULL. I have it before me. It is a proviso in these words:

Provided, That no extra compensation shall hereafter be allowed to any officer or person for disbursing any moneys appropriated to the construction of any public building.

Mr. EDMUNDS. I move to amend the amendment by adding after the word "person" the words "or corporation," and striking out the word "or" before "person;" so that it will read, "No officer, person, or corporation," and save all possible question about a bank getting this. Has the Senator from Wisconsin any objection to that?

Mr. HOWE. No, sir.

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

Mr. HENDRICKS. I wish to ask the chairman of the committee what is the aggregate of appropriations in this bill?

Mr. MORRILL, of Maine. About twenty million dollars.

Mr. HENDRICKS. I merely want to keep the run of this business on the records of the country. Mr. President, one appropriation that should be made in this bill, and which I

had expected to come from the committee, that is to pay the minister at Portugal for the two years for which he has not been paid, is not in the bill.

The PRESIDING OFFICER. Does the Senator from Indiana make a motion to amend?

Mr. HENDRICKS. Yes, sir; I make a motion to amend by inserting that clause.

Mr. HOWE. I will say to the Senator from Indiana that the reason the committee had for striking that out was because no sum was mentioned. It did not appropriate any particular sum; but merely a sum sufficient to pay him for his salary, and it was thought a committee of conference could ascertain the sum that was due and put it in, and do it in a manly way, if we are going to do it at all.

Mr. HENDRICKS. Is it in the bill now in such shape that a committee of conference can allow it?

Mr. HOWE. Yes, sir.

Mr. HENDRICKS. That is satisfactory.

Mr. President, I dare say most of these appropriations are necessary, but my object in rising was to call the attention of the Senate to the amount of money that is now appropriated in a deficiency bill. I do not blame the officers who have expended money to carry on the service as much as ordinarily I should be inclined to do, for the reason that last year when the appropriation bills were passed it was well known, as I thought, that very limited appropriations were made in some of the departments of the public service, so as to make it appear during the campaign of last year that the party was returning to a system of economy. I did not believe much in it, but I suppose it had the effect that was desired; it accomplished the end that was intended; and now this vicious mode of legislation has to be resorted to. A deficiency bill goes upon the idea that the executive department have incurred expenses that were not authorized by the legislative department. It is always vicious legislation, and it is particularly so when a party in the majority makes an appropriation with a view to that very thing. Twenty million dollars in an appropriation bill to supply deficiencies is a very extraordinarily large sum of money. Having stated the aggregate as I get it from the chairman, I am content now to allow the vote to be taken, and restore the composure of the Senator from Maine.

Mr. HARLAN. I desire to make a remark or two on the same head. I have learned privately from the Senator who has this bill in charge that some fourteen millions of this sum is for expenses incurred by the Army. Doubtless this was occasioned by the Indian war, a matter that could not be anticipated. It could not have been known when the appropriations were made for the current fiscal year that there would be a war of that magnitude on the plains.

Mr. HENDRICKS. What war is the Senator speaking of?

Mr. HARLAN. The war between the United States and the Arapahoes, Cheyennes, and Comanche Indians.

Mr. HENDRICKS. I will ask the Senator, with his permission, how many have been killed in this war? I am not speaking of women and children; but in battle, how many warriors have been killed?

Mr. POMEROY. I can answer that question; one Indian for every \$1,000,000.

Mr. HENDRICKS. I am asking information from the Senator from Ohio. He is on the Indian Committee, and I know he knows or ought to know. Now, he has laid this great deficiency to the charge of a terrible war. I want to know how many warriors have been killed in battle in that war?

Mr. HARLAN. I very much regret to say that I am unable to give the number of those who may have been slain; but I had not previously learned that the importance of a campaign depended on the number of the slain. Brave and great warriors frequently achieve victories without very much bloodshed. It is said that the illustrious commander of our armies in

Mexico was a general of that character and that he achieved victories by strategy as much by slaughter.

Mr. POMEROY. I think General Harney made a report on this subject a few days ago, or wrote a letter at any rate, in which he shows that it has cost us about a million dollars to kill one Indian warrior.

Mr. HENDRICKS. I think, if the statement of the Senator from Iowa be correct that this enormous appropriation of \$20,000,000 is mainly to be attributed to the Indian war, that even the statement of General Harney is not entirely accurate; for here is an appropriation of \$20,000,000, and I understand that the generals have succeeded in killing six Indian warriors in the war.

Mr. STEWART. As many as that?

Mr. HENDRICKS. They have succeeded in killing six warriors; so that it is much more than a million dollars apiece.

Mr. HOWE. How many does the Senator think they ought to have killed? [Laughter.]

Mr. HENDRICKS. Mr. President, I think this: that it is all a pretense and a sham when you tell me that there is a war and nobody is hurt. There has been a waste and a squandering of the public money I have no doubt, but there is no war that will furnish the Senator from Iowa the defense he seeks to make. I know that the border men at a small expense used to make war at a very different rate from this when the Indians invaded the settlements.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

ARMY APPROPRIATION BILL.

Mr. MORRILL, of Maine. I move that the Senate proceed to the consideration of the Army appropriation bill.

The motion was agreed to.

Mr. MORRILL, of Maine. I now move that the Senate adjourn.

HOOR OF MEETING.

Mr. RAMSEY. I hope the Senator will withdraw that motion for one moment. I wish to move that when the Senate adjourn it adjourns to meet to-morrow at twelve o'clock. We have but one or two appropriation bills left, and we shall probably be late rising in the morning and will be continuously, in session all day to-morrow and the next day. I therefore move that when the Senate adjourn it adjourns to meet at twelve o'clock to-morrow.

Mr. ANTHONY. I think we had better have all the time we can.

The PRESIDING OFFICER, (Mr. THAYER.) The question is on the motion of the Senator from Minnesota, that when the Senate adjourn it be to meet to-morrow at twelve o'clock.

The motion was agreed to.

Mr. TRUMBULL. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, March 2, 1869.

The House met at ten o'clock a. m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

STRENGTHENING THE PUBLIC CREDIT.

The SPEAKER. The reading of the Journal has been dispensed with, and the House resumes the consideration of the motion to suspend the rules to take up and non-concur in the amendments of the Senate to the bill to strengthen the public credit.

Mr. SCHENCK. I yield to the gentleman from Massachusetts.

PRINCE EDWARD ISLAND.

Mr. BUTLER, of Massachusetts, from the select Committee on Prince Edward Island, submitted a report; which was laid on the table, and ordered to be printed.

The resolution to print extra copies was, under the law, referred to the Committee on Printing.

REPORTING THE DEBATES.

Mr. LAFLIN. I ask the unanimous consent to take from the Speaker's table Senate joint resolution No. 231, providing for the reporting and publication of the debates in Congress. It is perfectly satisfactory to have that passed as it came from the Senate.

Mr. ROBINSON. We do not object if it is proposed to pass the Senate joint resolution without amendment. We do object to the resolution being amended. It is right as it is, and ought to pass immediately.

Mr. KERR. I think there is no objection to it.

The resolution was taken up, and read as follows:

Be it resolved, &c., That the joint Committee of Congress on Public Printing is hereby authorized to contract on behalf of the General Government with Rives & Bailey for the reporting and publication of the debates of Congress for the term of two years on and from the 4th day of March, 1869: *Provided,* That before the United States shall be called on to pay for any reporting or the publication of the debates the accounts therefor shall be submitted to the joint Committee on Public Printing or to such other officer or officers of Congress as they may designate, and on their or his approbation thereof, as being in all respects according to the contract, it shall be paid for from the Treasury of the United States, after having passed the proper accounting officers thereof.

SEC. 2. *And be it further resolved,* That in case the joint Committee on Public Printing are unable to conclude a satisfactory contract with the said Rives & Bailey, or that they be unable to fulfill any contract that they may make, the joint Committee on Public Printing be authorized to have the debates reported and printed under the direction of the Congressional Printer at the Government Printing Office.

SEC. 3. *And be it further resolved,* That for the purpose aforesaid there be appropriated and paid out of any money in the Treasury not otherwise appropriated the sum of \$50,000, or so much thereof as may be necessary.

The Senate joint resolution was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. LAFLIN moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NEWPORT AND CINCINNATI BRIDGE.

Mr. SCHENCK. I will yield to my colleague [Mr. CARY] to move to take up without objection a joint resolution on the Speaker's table.

Mr. CARY. I ask unanimous consent to take up from the Speaker's table a joint resolution (S. R. No. 219) giving the assent of the United States to the construction of the Newport and Cincinnati bridge.

Mr. HOLMAN. I have no objection if two or three little pension bills can be taken up also.

Mr. CARY. The gentleman will not object to this, I am sure.

Mr. HOLMAN. I will not.

The joint resolution was accordingly taken up and read a first and second time. It proposes to give the consent of Congress to the erection of a bridge over the Ohio river from the city of Cincinnati, Ohio, to the city of Newport, Kentucky, by the Newport and Cincinnati Bridge Company, a corporation chartered and organized under the laws of each of the States of Kentucky and Ohio. The bridge is to be built with an unbroken or continuous span of not less than four hundred feet in the clear, from pier to pier, over the main channel of the river, and to be built in all other respects in accordance with the conditions and limitations of an act entitled "An act to establish certain post roads," approved July 14, 1862. The bridge, when completed in the manner specified, is to be deemed and taken to be a legal structure, and to be a post road for the transmission of the mails of the United States; but Congress reserves the right to withdraw the assent hereby given in case the free navigation of the river shall at any time be substantially and materially obstructed by any bridge to be erected under the authority of the resolution, or direct the necessary modifications and alterations of said bridge.

The joint resolution was ordered to be read

a third time; and it was accordingly read the third time, and passed.

Mr. CARY moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DENVER PACIFIC RAILWAY.

Mr. SCHENCK. I yield to the gentleman from Iowa [Mr. PRICE] to move to take up a bill by unanimous consent.

Mr. PRICE. I ask unanimous consent to take up from the Speaker's table a Senate bill (S. No. 871) to authorize the transfer of lands granted to the Union Pacific Railway Company, eastern division, between Denver and the point of its connection with the Union Pacific railroad, to the Denver Pacific Railway and Telegraph Company, and to expedite the completion of railroads to Denver, in the Territory of Colorado.

The bill was accordingly taken up and read a first and second time. It authorizes the Pacific Railway Company, eastern division, to contract with the Denver Pacific Railway and Telegraph Company for the construction and operation of that part of its line of road and telegraph between Denver City and its point of connection with the Union Pacific railroad, which point shall be at Cheyenne, and to adopt the road-bed already graded by said Denver Pacific Railway and Telegraph Company as the said line, and grant to the said railway company the perpetual use of its roadway and depot grounds, and transfer to it all the rights and privileges, subject to all the obligations pertaining to said part of its line. Section two provides that the Union Pacific railroad, eastern division, shall extend its railroad and telegraph to the City of Denver, so as to form a continuous line from Kansas City by way of Denver to Cheyenne. Section three authorizes the said companies to mortgage their respective portions of said road for an amount not exceeding \$32,000 per mile, and to enable them to do so each company is granted alternate sections of land along their respective lines, the same as is provided by law in the case of lands granted to the Union Pacific railroad, provided that neither of the companies shall be entitled to subsidy in United States bonds under the provisions of this act.

Mr. JULIAN. I ask the gentleman from Iowa to allow me to move an amendment.

Mr. PRICE. That will lose the bill, as I cannot hold the floor.

Mr. JULIAN. I only wish to move to amend by providing that the lands transferred from one company to the other shall be sold to actual settlers only, in quantities not greater than a quarter section to each settler, and at a price not exceeding \$2 50 an acre.

Mr. PRICE. It cannot be amended.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. PRICE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PACIFIC RAILROAD.

Mr. McCORMICK presented resolutions of the Legislature of Missouri on the subject of the Pacific railroad; which were referred to the Committee on the Pacific Railroad.

Mr. SCHENCK. I yield now to the gentlemen from New York.

EAST RIVER BRIDGE.

Mr. ROBINSON. I ask unanimous consent to take up from the Speaker's table the amendments of the Senate to the bill (H. R. No. 1804) to establish a bridge across the East river between the cities of Brooklyn and New York, in the State of New York, a post road. I hope there will be no objections. This is the greatest work of the age.

Mr. FARNSWORTH objected, but on Mr. ROBINSON's earnest request withdrew the objection.

There being no objection the amendments of the Senate were taken up and read, as follows:

Strike out all after the word "that," in line fifteen, as follows: Nothing herein contained shall be construed so as to legalize any structure which shall materially injure the navigation of said river; and insert in lieu thereof:

The said bridge shall be so constructed and built as not to obstruct, impair, or injuriously modify the navigation of the river; and in order to secure compliance with these conditions the company, previous to commencing the construction of the bridge, shall submit to the Secretary of War a plan of the bridge, with a detailed map of the river at the proposed site of the bridge, and for the distance of a mile above and below the site, exhibiting the depths and currents at all points of the same, together with all other information touching said bridge and river as may be deemed requisite by the Secretary of War to determine whether the said bridge when built will conform to the prescribed conditions of the bill, not to obstruct, impair, or injuriously modify the navigation of the river.

Add to the bill the following additional sections:
SEC. 2. *And be it further enacted*, That the Secretary of War is hereby authorized and directed, upon receiving said plan and map and other information, and upon being satisfied that a bridge built on such plan and at said locality will conform to the prescribed conditions of this bill, not to obstruct, impair, or injuriously modify the navigation of said river, to notify the said company that he approves the same; and upon receiving such notification the said company may proceed to the erection of said bridge, conforming strictly to the approved plan and location. But until the Secretary of War approve the plan and location of said bridge and notify said company of the same in writing the bridge shall not be built or commenced; and should any change be made in the plan of the bridge during the progress of the work thereon such change shall be subject likewise to the approval of the Secretary of War.

SEC. 3. *And be it further enacted*, That Congress shall have power at any time to alter, amend, or repeal this act.

Mr. ROBINSON moved that the amendments of the Senate be concurred in.

The motion was agreed to.

Mr. ROBINSON moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NORMAN WIARD.

Mr. SCHENCK. I ask unanimous consent to report back from the joint select Committee on Ordnance a bill for the relief of Norman Wiard, with a substitute.

Mr. CULLOM. Does not the bill contain a large appropriation?

Mr. SCHENCK. The amount is to be paid out of funds already appropriated.

The SPEAKER. The Chair would state to the gentleman from Ohio that his motion to suspend the rules being now pending the bill cannot be reported except by unanimous consent.

Mr. SCHENCK. I am aware of that.

Mr. DAWES. I object.

Mr. STEVENS. I call for the regular order of business.

Mr. SCHENCK. I hope the gentleman from Massachusetts will withdraw his objection and allow me to make a brief explanation.

Mr. DAWES. I withdraw the objection.

The SPEAKER. The gentleman from New Hampshire [Mr. STEVENS] has demanded the regular order of business.

Mr. STEVENS. As I understand this is a matter in which the gentleman from Ohio feels a strong personal interest, I withdraw the demand for the regular order.

The SPEAKER. The bill will be read, and then the Chair will ask for objections.

The bill was read. It authorizes and directs the Secretary of the Navy to pay the sum of \$125,848 49 to Norman Wiard out of any appropriation made for the support of the Navy Department, provided that sum be accepted by him as in full for all guns of steel made by him and delivered in 1861, and afterward sold by the Navy Department, he not having been paid for them, and in full for all expenditures incurred in making experimental guns for the Government in 1863 and 1864 under a joint agreement with the War and Navy Departments.

Mr. SCHENCK. I ask consent to explain the bill.

The SPEAKER. The gentleman from Ohio asks for a few moments to explain the bill before the Chair asks for objection. If there is no objection the gentleman will have five minutes. The Chair hears none.

Mr. SCHENCK. There is a very full report on this subject from the joint select Committee on Ordnance containing all the proofs and statements in the case. This is the unanimous report of the joint select committee, consisting of Senators and Representatives.

The case disclosed is simply this: Mr. Wiard, under a contract with the Government to make steel guns, bought the steel and other material, paid for it all in gold at the time, did the work, and delivered the guns to the Government; but there was some difficulty about the contract, and he never was paid. His guns have been sold and the money derived from the sale paid into the Treasury, and Mr. Wiard now stands knocking at the door of Congress asking for relief.

Mr. HARDING. When was this steel bought?

Mr. SCHENCK. In 1862 and 1863, during the war. It is all disclosed in the report of the committee; there is a very full report, giving the whole testimony in the case. A bill for his relief, two bills I believe, the substance of both of which is embraced in this one, passed the House and went to the Senate, but failed there simply for want of time. The very Senator who objected to it, thinking injustice had been done, at the very next session introduced a similar bill in the Senate; but that also failed for want of time.

The matter was then referred to the joint select Committee on Ordnance, consisting of three Senators and three Representatives; they have investigated the whole subject from beginning to end, and the Senators and Representatives of whom the committee is composed are unanimously of opinion that it is a clear, strong, just case, and that the lowest amount that ought to be paid to that gentleman is the sum proposed in this bill. We also find that no special appropriation for this purpose is necessary, for there is a sufficient amount under the control of the Navy Department to pay this claim. We therefore propose that it shall be paid out of appropriations already made for the Navy Department. No interest has been computed in making up the amount.

Mr. HARDING. What was the gross amount of purchases for this purpose made by this claimant?

Mr. SCHENCK. I do not recollect; it is all in the report. The price allowed is the actual contract price without any interest.

Mr. WARD. I must object to the consideration of this bill at this time. I do not think we should pass a bill of this description—

The SPEAKER. Objection being made, the bill is not before the House.

Mr. WARD. I desire to say that I do not think we should pass bills of this importance without there being a quorum present.

Mr. SCHENCK. I can only say that I have been trying for one month to get an opportunity to make this report, but have been prevented from doing so.

The SPEAKER. The bill is not before the House, objection being made by the gentleman from New York, [Mr. WARD.]

Mr. SCHENCK. Then I call for the regular order.

PUBLIC DEBT—GOLD CONTRACTS.

The SPEAKER. The regular order of business is the consideration of the motion of the gentleman from Ohio, [Mr. SCHENCK,] pending at the adjournment last night, to suspend the rules for the purpose of non-concurring in and asking a committee of conference upon the amendments of the Senate to House bill No. 1744, to strengthen the public credit and relating to contracts for the payment of coin.

Mr. BUTLER, of Massachusetts. Is this debatable?

The SPEAKER. It is not. A motion to suspend the rules is not debatable, nor pending such a motion is it in order for a member

to call for the reading of the amendments of the Senate, for the motion is to suspend all rules, even the rule which gives any member the right to call for the reading of the amendments. But as they are brief they will be read if there be no objection.

No objection was made.

The amendments of the Senate to the first section were to strike out "interest bearing" before "obligations of the United States;" also strike out the words "provided, however, that before any of said interest-bearing obligations not already due shall mature or be paid before maturity the obligations not bearing interest, known as United States notes, shall be made convertible into coin at the option of the holder;" so that the section would read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to remove any doubt as to the purpose of the Government to discharge all just obligations to the public creditors, and to settle conflicting questions and interpretations of the laws by virtue of which such obligations have been contracted, it is hereby provided and declared that the faith of the United States is solemnly pledged to the payment in coin, or its equivalent, of all the obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver.

The amendment to the second section was to strike out the words "and on the trial of a suit brought for the enforcement of any such contract proof of the real consideration may be given;" so that the section would read as follows:

SEC. 2. *And be it further enacted*, That any contract hereafter made specifically payable in coin, and the consideration of which may be a loan of coin, or a sale of property or the rendering of labor or service of any kind the price of which as carried into the contract may have been adjusted on the basis of the coin value thereof at the time of such sale or the rendering of such service or labor, shall be legal and valid, and may be enforced according to its terms.

Also amend the title so as to read "An act relating to the public debt."

The question was taken upon the motion to suspend the rules; and upon a division there were—ayes 50, noes 18; no quorum voting.

The SPEAKER. The Chair can appoint tellers under the rule, but is of opinion that there is hardly a quorum present.

Mr. SCHENCK. I move a call of the House.

Mr. FARNSWORTH. I ask the gentleman to yield a moment to enable me to ask a non-concurrence in some Senate amendments.

Mr. SCHENCK. I will withdraw my motion for a call of the House and yield to the gentleman.

Mr. FARNSWORTH. I am directed by the Committee on Reconstruction to ask unanimous consent for the House to non-concur in the amendments of the Senate to the bill for the removal of disabilities and ask a committee of conference.

Mr. FERRISS. I object.

Mr. SCHENCK. I withdraw the motion for a call of the House, and ask for the yeas and nays on the motion to suspend the rules.

Mr. STEVENS. I renew the motion for a call of the House, and on that motion ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 42, nays 81, not voting 99; as follows:

YEAS—Messrs. Archer, Delos R. Ashley, Bailey, Beatty, Benjamin, Buckley, Benjamin F. Butler, Roderick B. Butler, Calk, Cary, Sidney Clarke, Cobb, Coburn, Deweese, Eckley, Eila, Thomas D. Eliot, Ferriss, French, Harding, Hotchkiss, Julian, Kellogg, Kelsey, Koontz, Lash, Loughbridge, Lynch, Mallory, Miller, Moore, Mullins, Niblack, Norris, Pile, Poland, Spalding, Stevens, Stover, Twichell, James F. Wilson, and Wood—42.

NAYS—Messrs. Allison, Arnell, James M. Ashley, Baker, Beaman, Beck, Bingham, Blackburn, Blair, Boutwell, Boyden, Bromwell, Brooks, Broomall, Burr, Callis, Churchill, Clift, Corley, Cullom, Dawes, Dockery, Donnelly, Driggs, Eldridge, Farnsworth, Ferry, Fields, Garfield, Goss, Gove, Haughey, Holman, Hooper, Hopkins, Chester D. Hubbard, Hurlburd, Hunter, Jencks, Thomas L. Jones, Kerr, Ketcham, Knott, Lafin, Lincoln, Loan, Maynard, McCarthy, McCormick, McKee, Mercier, Moorhead, Morrell, O'Neill, Perham, Peters, Plants, Pomeroy, Price, Prince, Robertson, Robinson, Roots, Schenck,

Scotfield, Shanks, Smith, Starkweather, Stokes, Sypher, Taber, Lawrence S. Trimble, Van Aernam, Van Auker, Burt Van Horn, Robert T. Van Horn, Ward, Henry D. Washburn, William B. Washburn, Welker, and Windom—81.

NOT VOTING—Messrs. Adams, Ames, Anderson, Axtell, Baldwin, Banks, Barnes, Barnum, Benton, Blaine, Boles, Bowen, Boyer, Buckland, Chanler, Reader W. Clarke, Cook, Cornell, Covode, Delano, Dickey, Dixon, Dodge, Edwards, Eggleston, James T. Elliott, Fox, Getz, Glossbrenner, Golladay, Gravelly, Griswold, Grover, Haight, Halsey, Hamilton, Hawkins, Heaton, Higby, Hill, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Johnson, Alexander H. Jones, Judd, Kelley, Kitchen, George V. Lawrence, William Lawrence, Logan, Marshall, Marvin, McCullough, Morrissey, Mungen, Myers, Newcomb, Newsam, Nicholson, Nunn, Orth, Paine, Pettis, Phelps, Pierce, Pike, Polsley, Prunyn, Randall, Raum, Ross, Sawyer, Selye, Shellabarger, Sitgreaves, Stewart, Stone, Taffe, Taylor, Thomas, Tift, John Trimble, Trowbridge, Upson, Van Trump, Van Wyck, Vidal, Cadwalader C. Washburn, Elihu B. Washburne, Whittemore, Thomas Williams, William Williams, John T. Wilson, Stephen F. Wilson, Woodbridge, Woodward, and Young—59.

So a call of the House was not ordered.

The **SPEAKER**. The question recurs on the motion of the gentleman from Ohio [Mr. SCHENCK] to suspend the rules for the purpose of non-concurring in the amendments of the Senate to the bill to strengthen the public credit, &c., and asking the appointment of a committee of conference.

Mr. SCHENCK. I withdraw the call for the yeas and nays.

Mr. STEVENS. I rise to a parliamentary inquiry. I desire to know whether it is in order now to move to suspend the rules for the purpose of concurring in the amendments of the Senate.

The **SPEAKER**. A motion to suspend the rules is already pending, and such a motion is not amendable.

The question being taken on the motion to suspend the rules, there were—ayes 76, noes 37.

Mr. LOUGHRIDGE. I call for tellers.

Mr. HOLMAN. I call for the yeas and nays.

The **SPEAKER**. The demand for the yeas and nays takes precedence of the demand for tellers.

On ordering the yeas and nays, there were—ayes 16, noes 93.

Mr. ELDRIDGE. I call for tellers on ordering the yeas and nays.

Tellers were not ordered.

The **SPEAKER**. The question recurs on the demand of the gentleman from Iowa [Mr. LOUGHRIDGE] for tellers on the motion to suspend the rules.

Tellers were not ordered.

The **SPEAKER**. Two thirds having voted in the affirmative, the motion of the gentleman from Ohio [Mr. SCHENCK] to suspend the rules for the purpose of non-concurring in the amendments of the Senate, and asking the appointment of a committee of conference, is agreed to.

MISCELLANEOUS APPROPRIATION BILL.

The House resumed the consideration of the bill (H. R. No. 2007) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, and for other purposes.

Mr. SPALDING. I call the previous question on the amendments reported from the Committee of the Whole and the amendments offered in the House.

The previous question was seconded and the main question ordered.

The **SPEAKER**. If the gentleman from Ohio [Mr. SPALDING] desires to speak on this bill he must do so before the House proceeds to vote on the amendments.

Mr. SPALDING. I have no desire to make any speech. I want the House to act on the amendments.

The **SPEAKER**. The amendments will be read in their order, and if there be no objection, those on which a vote is not asked will be regarded as agreed to.

There was no objection.

The following amendment, on which a vote was called for by Mr. KELSEY, was read:

On page 9, after line two hundred and eleven, insert the following paragraph:
For reimbursing the State of Iowa for expenses

incurred and payments made during the rebellion, as examined, audited, and found due the State by General Robert C. Buchanan's commission under the act of Congress approved July 25, 1866, \$229,848; *Provided*, That an amount be appropriated from the Treasury to pay the war claims of the rebellion from all the States which have been reported upon favorably by commissioners appointed by Congress.

Mr. SCOTFIELD. Would it be in order to ask what States have had commissions appointed?

The **SPEAKER**. The previous question is operating, and no debate is in order.

Mr. SCOTFIELD. I ask a separate vote on that part of the amendment relating to the Iowa war claim.

The **SPEAKER**. The amendment must be voted on as a whole.

Mr. SCOTFIELD. But the latter part of the amendment covers we know not what.

The **SPEAKER**. That is a matter for the judgment of the House.

Mr. WOOD. Let the whole thing be voted down.

The **SPEAKER**. The presumption of law is that every citizen knows the laws which have been passed.

Mr. SCOTFIELD. Nobody knows but the gentleman from Massachusetts; and under the ruling of the Chair he cannot tell.

The House divided; and there were—ayes 52, noes 49.

Mr. SCOTFIELD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—ayes 61, nays 78, not voting 83; as follows:

YEAS—Messrs. Allison, Ames, James M. Ashley, Benjamin, Bingham, Boutwell, Broomall, Benjamin F. Butler, Roderick R. Butler, Callis, Sidney Clarke, Clift, Covode, Cullom, Dawes, Dickey, Donnelly, Driggs, Ela, Thomas D. Eliot, Ferry, Garfield, Higby, Hooper, Hopkins, Jenckes, Judd, Julian, Lafin, Loughbridge, Lynch, Maynard, McCarthy, McKee, Moorhead, Morrell, Mullins, Norris, O'Neill, Orth, Paine, Perham, Peters, Pile, Plants, Price, Raum, Roots, Sawyer, Schenck, Shanks, Shellabarger, Starkweather, Stokes, Stover, Twichell, Van Aernam, Robert T. Van Horn, William B. Washburn, James F. Wilson, and Windom—61.

NAYS—Messrs. Archer, Delos R. Ashley, Bailey, Baker, Barnes, Beaman, Beatty, Beck, Blackburn, Blair, Boyden, Bromwell, Buckley, Burr, Cary, Churchill, Reader W. Clarke, Cobb, Coburn, Deweese, Dockery, Eldridge, Farnsworth, Ferriss, Fields, Golladay, Goss, Griswold, Grover, Harding, Haughey, Hawkins, Holman, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Johnson, Alexander H. Jones, Thomas L. Jones, Kelsey, Kerr, Kitchen, Knott, Koontz, Lash, William Lawrence, Loan, Mallory, Marshall, McCormick, McCullough, Mercier, Miller, Moore, Newcomb, Newsam, Niblack, Phelps, Pierce, Robinson, Ross, Scotfield, Sitgreaves, Smith, Spalding, Stevens, Taber, Taylor, John Trimble, Lawrence S. Trimble, Trowbridge, Upson, Van Auker, Burt Van Horn, Ward, Welker, and Wood—78.

NOT VOTING—Messrs. Adams, Anderson, Arnell, Axtell, Baldwin, Banks, Barnum, Benton, Blaine, Boles, Bowen, Boyer, Brooks, Buckland, Cake, Chanler, Cook, Corley, Cornell, Delano, Dixon, Dodge, Eckley, Edwards, Eggleston, James T. Elliott, Fox, French, Getz, Glossbrenner, Gove, Gravelly, Haight, Halsey, Hamilton, Heaton, Hill, Asahel W. Hubbard, Humphrey, Hunter, Ingersoll, Kelley, Kellogg, Ketcham, George V. Lawrence, Lincoln, Logan, Marvin, Morrissey, Mungen, Myers, Nicholson, Nunn, Pettis, Pike, Poland, Polsley, Pomeroy, Prince, Prunyn, Randall, Robertson, Selye, Stewart, Stone, Sypher, Taffe, Thomas, Tift, Van Trump, Van Wyck, Vidal, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Whittemore, Thomas Williams, William Williams, John T. Wilson, Stephen F. Wilson, Woodbridge, Woodward, and Young—83.

So the amendment was non-concurred in.

During the vote,

Mr. WOODWARD and Mr. VAN TRUMP stated that if they had been present before the last name was called they would have voted in the negative.

The vote was then announced as above recorded.

The question then recurred on Mr. FARNSWORTH's motion, to strike out the following:

For laying the foundation and commencing the building for the post office and sub-Treasury in Boston, Massachusetts, \$200,000.

Mr. SPALDING. I promised to yield to the gentleman from Illinois, [Mr. FARNSWORTH,] chairman of the Committee on the Post Office and Post Roads for two minutes.

The **SPEAKER**. The gentleman cannot yield, as he has not the floor.

Mr. FARNSWORTH. There are no plans

for this work. We do not know how much the work will cost or how long it will take.

The **SPEAKER**. Debate is not in order.

Mr. FARNSWORTH. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—ayes 70, nays 81, not voting 71; as follows:

YEAS—Messrs. Archer, Bailey, Baker, Beatty, Benjamin, Broomall, Buckley, Burr, Callis, Cary, Sidney Clarke, Clift, Cobb, Cook, Deweese, Dockery, Donnelly, Eckley, Eldridge, Farnsworth, Ferriss, Getz, Glossbrenner, Golladay, Goss, Grover, Harding, Haughey, Hawkins, Holman, Chester D. Hubbard, Hunter, Thomas L. Jones, Judd, Kerr, Kitchen, Koontz, Lash, William Lawrence, Marshall, McCormick, McCullough, Mercier, Miller, Moore, Moorhead, Morrell, Mullins, Newcomb, Niblack, Orth, Paine, Phelps, Pierce, Plants, Ross, Sawyer, Shellabarger, Sitgreaves, Stover, Taffe, Taylor, Lawrence S. Trimble, Trowbridge, Robert T. Van Horn, Van Trump, Welker, William Williams, Stephen F. Wilson, and Woodward—70.

NAYS—Messrs. Allison, Ames, James M. Ashley, Axtell, Baldwin, Barnes, Barnum, Beaman, Bingham, Blackburn, Boutwell, Boyden, Bromwell, Brooks, Benjamin F. Butler, Roderick R. Butler, Churchill, Reader W. Clarke, Coburn, Corley, Cornell, Cullom, Dawes, Dixon, Driggs, Thomas D. Eliot, Ferry, Fields, French, Garfield, Gove, Griswold, Higby, Hooper, Hopkins, Hotchkiss, Hulburd, Jenckes, Johnson, Alexander H. Jones, Julian, Kellogg, Kelsey, Ketcham, Lafin, Loan, Lynch, Mallory, Maynard, McCarthy, Newsam, Norris, O'Neill, Perham, Peters, Poland, Pomeroy, Prince, Randall, Raum, Robinson, Roots, Scotfield, Smith, Spalding, Starkweather, Stevens, Stokes, Sypher, Taber, Twichell, Upson, Van Auker, Burt Van Horn, Cadwalader C. Washburn, William B. Washburn, Whittemore, James F. Wilson, John T. Wilson, Windom, and Wood—81.

NOT VOTING—Messrs. Adams, Anderson, Arnell, Delos R. Ashley, Banks, Beck, Benton, Blaine, Blair, Boles, Bowen, Boyer, Buckland, Cake, Chanler, Covode, Delano, Dickey, Dodge, Edwards, Eggleston, Ela, James T. Elliott, Fox, Gravelly, Haight, Halsey, Hamilton, Heaton, Hill, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Kelley, Knott, George V. Lawrence, Lincoln, Logan, Loughbridge, Marvin, McKee, Morrissey, Mungen, Myers, Nicholson, Nunn, Pettis, Pike, Pile, Polsley, Price, Prunyn, Robertson, Schenck, Selye, Shanks, Stewart, Stone, Thomas, Tift, John Trimble, Van Aernam, Van Wyck, Vidal, Ward, Elihu B. Washburne, Henry D. Washburn, Thomas Williams, Woodbridge, and Young—71.

So the House refused to strike out the paragraph.

The amendment upon which a vote was called for by Mr. FARNSWORTH was read, as follows:

For laying the foundation and commencing the building for the post office in New York, \$200,000.

Mr. BENJAMIN. I demand the yeas and nays.

The yeas and nays were refused.

Mr. FARNSWORTH. I demand tellers.

Tellers were refused.

The amendment of the Committee of the Whole was concurred in.

Mr. GRISWOLD. I move to reconsider the vote by which the Iowa war claim was rejected.

The **SPEAKER**. Did the gentleman vote with the majority?

Mr. GRISWOLD. I did.

The **SPEAKER**. The motion is in order.

Mr. HARDING. I move to lay the motion to reconsider on the table.

The question being put on the latter motion, there were—ayes 63, noes 55.

Mr. WILSON, of Iowa. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—ayes 74, nays 70, not voting 78; as follows:

YEAS—Messrs. Archer, Bailey, Baker, Barnum, Beaman, Beatty, Beck, Benton, Blackburn, Blair, Boyden, Broomall, Buckland, Burr, Cary, Cobb, Coburn, Cook, Dockery, Eldridge, Farnsworth, Ferriss, Fields, Getz, Glossbrenner, Golladay, Grover, Harding, Haughey, Hawkins, Hill, Holman, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Johnson, Alexander H. Jones, Thomas L. Jones, Kelsey, Kerr, Kitchen, Knott, Koontz, Lash, George V. Lawrence, William Lawrence, Mallory, Marshall, McCormick, McCullough, Mercier, Miller, Moore, Morrissey, Niblack, Phelps, Robinson, Ross, Scotfield, Sitgreaves, Spalding, Stevens, Taber, Taylor, Lawrence S. Trimble, Trowbridge, Upson, Van Auker, Van Trump, Ward, Cadwalader C. Washburn, Welker, Wood, and Woodward—74.

NAYS—Messrs. Allison, Ames, James M. Ashley, Baldwin, Benjamin, Bingham, Boutwell, Broomwell, Buckley, Roderick R. Butler, Callis, Reader W. Clarke, Sidney Clarke, Covode, Dawes, Donnelly,

Driggs, Thomas D. Eliot, Ferry, Garfield, Hooper, Hopkins, Hulburd, Ingersoll, Jenckes, Judd, Julian, Ketcham, Laffin, Loughridge, Marvin, Maynard, McCarthy, McKee, Moorhead, Morrell, Mungen, Newcomb, Norris, O'Neill, Orth, Paine, Peters, Pettis, Pile, Plants, Poland, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Shanks, Shellabarger, Smith, Starkweather, Stewart, Stokes, Stover, Sypher, Taffe, Twichell, Van Aernam, Robert T. Van Horn, William B. Washburn, Whittemore, William Williams, James F. Wilson, and Stephen F. Wilson—70.

NOT VOTING—Messrs. Adams, Anderson, Arnell, Delos R. Ashley, Axtell, Banks, Barnes, Blaine, Boles, Bowen, Boyer, Brooks, Benjamin F. Butler, Calkins, Chanler, Churchill, Clift, Corley, Cornell, Culom, Delano, Deweese, Dickey, Dixon, Dodge, Eckley, Edwards, Eggleston, Ela, James T. Elliott, Fox, French, Goss, Gove, Gravely, Griswold, Haight, Halsey, Hamilton, Heaton, Higby, Asahel W. Hubbard, Humphrey, Hunter, Kelley, Kellogg, Lincoln, Loan, Logan, Lynch, Mullins, Myers, Newsham, Nicholson, Nunn, Perham, Pierce, Pike, Polsley, Prince, Pruyn, Randall, Roots, Selye, Stone, Thomas, Tift, John Trimble, Burt Van Horn, Van Wyck, Vidal, Elihu B. Washburne, Henry D. Washburn, Thomas Williams, John T. Wilson, Windom, Woodbridge, and Young—78.

So the motion to reconsider was laid on the table.

Mr. BENJAMIN. I move to reconsider the vote by which the amendment in regard to the New York post office was adopted.

The SPEAKER. Did the gentleman vote with the majority?

Mr. BENJAMIN. There was only a division on the vote.

Mr. BROOKS. The gentleman voted in the negative.

The SPEAKER. As the yeas and nays were not called the gentleman has a right to make the motion. The rule (page 161 of the Digest) is this:

"Where a vote is not taken by yeas and nays, and consequently no record is made of each member's vote, it is the well-settled practice to permit a member to move a reconsideration."

Mr. RANDALL. But the House refused to take the yeas and nays on the proposition. Now, can a member move to reconsider a vote where only a division was taken so as to secure a further division on the question?

The SPEAKER. The motion to reconsider is an independent proposition by itself.

Mr. BROOKS. Another point of order. There was a division upon the question. Now, if the gentleman from Missouri [Mr. BENJAMIN] will say he voted with the majority I have no point of order to make. I saw him vote with the minority, and I am sure he will not contradict my statement.

Mr. BENJAMIN. I will not.

Mr. SPALDING. I move to lay the motion to reconsider on the table.

Mr. BENJAMIN. I demand the yeas and nays.

The yeas and nays were refused.

Mr. BENJAMIN. Tellers.

Tellers were refused.

The motion to lay the motion to reconsider on the table was agreed to.

The following amendment, upon which a vote was called for by Mr. BENJAMIN, was read:

At the end of line four hundred and fourteen add the following:

For branch mint at San Francisco, \$150,000.

Mr. BENJAMIN called for tellers on agreeing to the amendment.

Tellers were ordered; and Mr. AXTELL and Mr. BENJAMIN were appointed.

The House divided; and the tellers reported—ayes 64, noes 53.

Mr. BENJAMIN called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 78, nays 68, not voting 76; as follows:

YEAS—Messrs. Archer, Delos R. Ashley, James M. Ashley, Axtell, Barnum, Beck, Bingham, Boles, Boyden, Brooks, Burr, Benjamin F. Butler, Roderick R. Butler, Cary, Chanler, Sidney Clarke, Corley, Dixon, Donnelly, Thomas D. Eliot, James T. Elliott, Getz, Glossbrenner, Golladay, Gove, Grover, Haughey, Heaton, Higby, Hooper, Richard D. Hubbard, Ingersoll, Jenckes, Johnson, Alexander H. Jones, Thomas L. Jones, Kellogg, Kerr, Knott, Mal-lory, Marvin, McCarthy, McCormick, McCullough, McKee, Morrissey, Mungen, Newsham, Niblack, Orth, Paine, Peters, Poland, Pomeroy, Price, Pruyn, Robinson, Roots, Sawyer, Schenck, Spalding, Stewart, Taber, Taffe, Thomas, Tift, Lawrence S. Trimble, Twichell, Upson, Van Auken, Robert T. Van

Horn, Van Trump, Van Wyck, Whittemore, Windom, Wood, Woodward, and Young—78.

NAYS—Messrs. Allison, Ames, Bailey, Baker, Baldwin, Beaman, Beatty, Benjamin, Benton, Blackburn, Blair, Broomall, Buckland, Buckley, Calkins, Reader W. Clarke, Cobb, Coburn, Cook, Covode, Culom, Dockery, Eggleston, Ela, Farnsworth, Ferriss, Ferry, Fields, Hawkins, Holman, Hopkins, Chester D. Hubbard, Hulburd, Judd, Kelsey, Ketcham, Kitchen, Koontz, Laffin, Lash, George V. Lawrence, William Lawrence, Loughridge, Lynch, Miller, Moore, Morrell, Mullins, Newcomb, Norris, O'Neill, Pettis, Phelps, Ross, Scofield, Shellabarger, Sitgreaves, Smith, Stokes, Stover, Taylor, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, and James F. Wilson—68.

NOT VOTING—Messrs. Adams, Anderson, Arnell, Banks, Barnes, Blaine, Boutwell, Bowen, Boyer, Brownell, Churchill, Clift, Corley, Dawes, Delano, Deweese, Dickey, Dodge, Driggs, Eckley, Edwards, Eldridge, Fox, French, Garfield, Goss, Gravely, Griswold, Haight, Halsey, Hamilton, Harding, Hill, Hotchkiss, Asahel W. Hubbard, Humphrey, Hunter, Julian, Kelley, Lincoln, Loan, Logan, Marshall, Maynard, Merceur, Moorhead, Myers, Nicholson, Nunn, Perham, Pierce, Pike, Pile, Plants, Polsley, Prince, Randall, Raum, Robertson, Selye, Shanks, Starkweather, Stevens, Stone, Sypher, John Trimble, Trowbridge, Van Aernam, Burt Van Horn, Vidal, Ward, Elihu B. Washburne, William Williams, John T. Wilson, Stephen F. Wilson, and Woodbridge—76.

So the amendment was agreed to.

Mr. AXTELL moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The following amendment, upon which a vote was asked by Mr. HOOPER, of Utah, was read:

Line five hundred and seventy-two, strike out "twenty-five" and insert "ten;" so that the clause will read:

For surveying the public lands in Utah Territory, at rates not exceeding fifteen dollars per mile for standard lines, twelve dollars for township, and ten dollars for section lines, \$10,000.

Mr. SPALDING. That amendment was made at my instance. I find I was mistaken, and hope the amendment will not be agreed to.

The amendment was rejected.

The following amendment, on which a vote was called for by Mr. KELSEY, was read:

At the end of the following paragraph: "For lighting the Capitol and President's House and public grounds around them and around the executive offices, \$30,000," insert a proviso, as follows:

Provided, That no greater sum than \$2 80 per one thousand cubic feet shall be paid for the gas for which this appropriation was made.

The amendment was agreed to.

The SPEAKER. The amendments reported from the Committee of the Whole on the state of the Union having been disposed of the question recurs on the amendment offered in the House by the gentleman from Indiana, [Mr. HOLMAN.]

Mr. KELSEY. I would inquire if there was not an amendment reported to strike out the following clause:

Columbia Hospital for Women and Lying-in Asylum:

For the support of the asylum over and above the probable amount received for pay patients, \$15,000.

The SPEAKER. There was no such amendment reported. That clause was stricken out on a point of order.

Mr. KELSEY. I then desire to offer the following amendment:

For the support of the Columbia Hospital for Women and Lying-in Asylum, over and above the probable amount received for pay patients, \$15,000.

I hope there will be no objection to that. This is the most deserving charity in the whole city, and it is the only one that has been stricken out of the bill.

Mr. WELKER. I object.

Mr. KELSEY. Would it be in order for me to move to suspend the rules so as to enable me to offer that amendment?

The SPEAKER. It is not in order while the previous question is pending. The rule will be found on page 170 of the Digest:

"It is not in order to move a suspension of the rules while the House is acting under a suspension of the rules unless connected with the business immediately before the House, nor while considering a special order, it having been made under a suspension of the rules, unless connected with the consideration of such special order, nor while the previous question is operating."

Mr. KELSEY. Very well; I will try and get it in in the Senate.

The next amendment was the following, offered by Mr. HOLMAN, after the bill had been reported from the Committee of the Whole:

To increase the contingent fund of the House for the purpose of paying \$2,500 each to John B. Young, John A. Wimpy, James H. Christie, and James H. Birch, contestants, \$10,000; and the Clerk of the House is hereby directed to pay the said amount to the individuals named.

To which an amendment had been moved by Mr. ROSS, to strike out "\$2,500" and insert "\$1,500."

The question was taken on the amendment of Mr. ROSS; and on a division there were—ayes 52, noes 49; no quorum voting.

Tellers were ordered; and Mr. ROSS and Mr. PETERS were appointed.

The House again divided; and the tellers reported that there were—ayes 71, noes 61.

Before the result of the vote was announced, Mr. BURR called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 81, nays 67, not voting 74; as follows:

YEAS—Messrs. Allison, Ames, Delos R. Ashley, Bailey, Baker, Baldwin, Beaman, Beatty, Bingham, Blair, Boles, Broomall, Buckland, Buckley, Calkins, Churchill, Sidney Clarke, Cobb, Cook, Corley, Cornell, Culom, Donnelly, Eckley, Ela, Ferriss, Ferry, Fields, Garfield, Getz, Goss, Griswold, Haughey, Heaton, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Judd, Julian, Kelsey, Kitchen, Koontz, Laffin, Lash, George V. Lawrence, William Lawrence, Loughridge, Lynch, Marvin, McKee, Merceur, Miller, Moore, Moorhead, Mullins, Myers, Newcomb, O'Neill, Orth, Pomeroy, Price, Ross, Schenck, Scofield, Shellabarger, Smith, Stevens, Stover, Taffe, Taylor, Trowbridge, Twichell, Burt Van Horn, Ward, Cadwalader C. Washburn, Welker, Thomas Williams, William Williams, and James F. Wilson—81.

NAYS—Messrs. James M. Ashley, Barnes, Barnum, Beck, Brooks, Burr, Benjamin F. Butler, Roderick R. Butler, Calkins, Cary, Chanler, Reader W. Clarke, Clift, Coburn, Dawes, Dixon, Dockery, Dodge, Eldridge, Thomas D. Eliot, Fox, Glossbrenner, Golladay, Grover, Haight, Harding, Higby, Holman, Hotchkiss, Richard D. Hubbard, Ingersoll, Jenckes, Johnson, Alexander H. Jones, Thomas L. Jones, Knott, Mal-lory, Marshall, Maynard, McCarthy, McCormick, Morrissey, Mungen, Newsham, Niblack, Norris, Perham, Peters, Poland, Prince, Randall, Robinson, Sawyer, Spalding, Stewart, Stone, Taber, Tift, Lawrence S. Trimble, Upson, Van Auken, Van Trump, Whittemore, Wood, Woodbridge, Woodward, and Young—67.

NOT VOTING—Messrs. Adams, Archer, Arnell, Axtell, Banks, Benjamin, Benton, Blackburn, Blaine, Boutwell, Bowen, Boyden, Boyer, Brownell, Covode, Delano, Deweese, Dickey, Driggs, Edwards, Eggleston, James T. Elliott, Farnsworth, French, Gove, Gravely, Halsey, Hamilton, Hawkins, Asahel W. Hubbard, Humphrey, Hunter, Kelley, Kellogg, Kerr, Ketcham, Lincoln, Loan, Logan, McCullough, Morrell, Nicholson, Nunn, Paine, Pettis, Phelps, Pierce, Pike, Pile, Plants, Polsley, Pruyn, Raum, Robertson, Roots, Selye, Shanks, Sitgreaves, Starkweather, Stokes, Sypher, Thomas, John Trimble, Van Aernam, Robert T. Van Horn, Van Wyck, Vidal, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, John T. Wilson, Stephen F. Wilson, and Windom—74.

So the amendment to the amendment was agreed to.

During the call of the roll,

Mr. ELIOT, of Massachusetts, said: I have been requested to say that Mr. PERRIS, who has been here all the morning, has been obliged to return to his room on account of sickness.

The question was then taken upon the amendment as amended; and on a division there were—ayes 78, noes 46.

Before the result of the vote was announced, **Mr. BENJAMIN** called for the yeas and nays.

The question was taken upon ordering the yeas and nays; and there were twelve in the affirmative; not one fifth of the last vote.

Before the result was announced, **Mr. BENJAMIN** called for tellers on ordering the yeas and nays.

The question was taken upon ordering tellers; and there were nineteen in the affirmative. So (the affirmative not being one fifth of a quorum) tellers were not ordered.

The yeas and nays were accordingly not ordered.

The amendment, as amended, was agreed to.

Mr. STEVENS moved to reconsider the vote by which the amendment was agreed to;

and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. SPALDING. Upon that I call for the previous question.

The previous question was seconded and the main question ordered.

Mr. HARDING. I call for the yeas and nays on the passage of the bill.

The question was taken on ordering the yeas and nays; and there were thirteen in the affirmative.

So (the affirmative not being one fifth of the last vote) the yeas and nays were not ordered.

The bill was then passed.

Mr. SPALDING moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HOOR FOR MEETING TO-NIGHT.

Mr. SCHENCK. It is known to gentlemen here that each of the two political parties represented in the next Congress has called a caucus for this evening, the one at half past six o'clock and the other at seven o'clock, to take the necessary steps for the organization of the next House. It will probably take some two or three hours to conclude their deliberations. I therefore ask unanimous consent that the recess for this afternoon be until nine o'clock.

Mr. ROSS. I object to having a session to-night. It is the last reception of the President of the United States and many of us desire to attend it.

Mr. SCHENCK. I know the gentleman is so devoted to the public interests that he will not object to coming here to-night.

Mr. ROSS. I think going to the last reception of the President is quite as important as having a caucus.

Mr. SCHENCK. I think we should have a session to-night for two or three hours.

Mr. MULLINS. I hope that gentlemen on the other side who exhibited such devotion to General Grant during the recent election will be allowed an opportunity to pay their respects to him.

A MEMBER. It is Mr. Johnson's reception that takes place to-night.

Mr. MULLINS. Well, if they are going to visit Mr. Johnson I take back all I have said. [Laughter.]

Mr. SCHENCK. I hope there will be no objection to the motion I make, that the House reassemble to-night at nine o'clock instead of half past seven.

The SPEAKER. Objection is made; but the Chair will state that it is within the power of the House to control its sessions each day.

Mr. BROOKS. If the proposition is amendable I would like to provide for a meeting at six o'clock to-morrow morning. My habit is to go to bed at night and rise in the morning.

Mr. WOOD. I think we can dispense with to-night's session and meet early to-morrow morning.

Mr. SCHENCK. I do not think that would be practicable. It has been observed that meeting at ten o'clock in the morning we have had during the first hour so thin a House as to obstruct the transaction of business. I think that if we should fix a meeting at six o'clock in the morning or any earlier hour than ten we should experience the same difficulty.

Mr. GARFIELD. I ask the Speaker to state the condition of the public business, and whether he believes it possible for us to get through with the appropriation bills and other important measures unless we sit at least one whole night.

Mr. ROSS. Cannot the bills that may go over be as well acted on in the Forty-First Congress?

The SPEAKER. In response to the inquiry

of the gentleman from Ohio [Mr. GARFIELD] the Chair will state, as it is his duty to do at this stage of the session, the condition of the public business.

In regard to appropriation bills the House is now in advance of the Senate. The appropriation bills are all disposed of in the House except the amendments of the Senate to the Indian appropriation bill and the amendments which the Senate may make to the appropriation bills now in the possession of that body and not returned to the House. When the amendments of the Senate to the Indian appropriation bill shall have been disposed of the business immediately pressing upon the House will then be out of the way until the Senate return some other appropriation bills with amendments for the action of the House.

The next business of pressing importance consists of Senate bills upon the Speaker's table. Bills upon the Speaker's table have not been considered for some time, no successful motion for that purpose having been made. The bills upon the Speaker's table are now about one hundred and fifteen. Many are bills of the House with Senate amendments. Many of the amendments are verbal in their nature. Some have been concurred in this morning and others, no doubt, would be if they could be taken up. Whether the business of the Congress can be disposed of or not without a night session is for the House to determine and not for the Chair.

Mr. SCHENCK. It must be obvious to any one who has considered the condition of the business that one whole night session is absolutely necessary; and I think it is better to have that session to-night rather than the last night of the session, when confusion is apt to prevail. I hope my motion will be agreed to.

Mr. WOOD. I withdraw my objection.

Mr. WILSON, of Iowa. I desire to give notice that I shall call up at the evening session Senate bill No. 704, to amend the judicial system of the United States.

Mr. SCHENCK. I hope that we will proceed to the consideration of the business upon the Speaker's table, and take up all the bills lying there.

The SPEAKER. The Committee on Appropriations will be entitled to the floor until its business is disposed of.

The motion was agreed to.

RESIGNATION OF THE SPEAKER.

The SPEAKER. The Chair will announce that he desires to-morrow morning to present his resignation of the office of Speaker, which he has held by the kindness of the House.

INDIAN APPROPRIATION BILL.

Mr. BUTLER, of Massachusetts. I move to suspend the rules for the purpose of discharging the Committee of the Whole on the state of the Union from the further consideration of the amendments of the Senate to House bill No. 1738, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1870; and concurring in some and non-concurring in others, as recommended by the Committee on Appropriations; and requesting a committee of conference on the disagreeing votes of the two Houses.

Mr. ROSS. I ask the amendments be read.

The SPEAKER. That rule will be suspended with the others. Speaker BANKS so decided in the Thirty-Fourth Congress, and was sustained by the House; and such has been the uniform decision. The amendments are, however, in print.

Mr. CLARKE, of Kansas. Will the gentleman from Massachusetts state what are the recommendations of the Committee on Appropriations?

Mr. BUTLER, of Massachusetts. I have stated it over and over again. We concur in a few unimportant items and non-concur in the others.

Mr. CLARKE, of Kansas. I ask that an

order of Major General Sheridan be read in reference to these treaties.

Mr. BUTLER, of Massachusetts. I object.

The rules were suspended, and it was ordered accordingly.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had insisted on its amendments, disagreed to by the House, to the bill (H. R. No. 1744) to strengthen the public credit and relating to contracts for the payment of coin, had agreed to the conference asked by the House, and had appointed Mr. SHERMAN, Mr. WILLIAMS, and Mr. MORTON conferees on the part of the Senate.

The message also announced that the Senate had passed without amendment House bills of the following titles:

An act (H. R. No. 1063) for the relief of Henry Barricklow; and

An act (H. R. No. 1041) granting the right of way to the Walla-Walla and Columbia River Railroad Company, and for other purposes.

The message further announced that the Senate had passed a bill of the following title, in which the concurrence of the House was requested:

An act (S. No. 707) granting lands to the State of Wisconsin, to aid in the construction of a breakwater and harbor and ship-canal at the head of Sturgeon bay, in the county of Door, in said State, to connect the waters of Green bay and Lake Michigan, in said State.

COMMITTEE ON ACCOUNTS.

Mr. BROOMALL. The Committee on Accounts, in view of the business pressing upon them at the close of the session, ask leave to sit during the sessions of the House.

The SPEAKER. If there be no objection leave will be granted.

There was no objection.

LEAVE TO PRINT.

Mr. MILLER asked and obtained leave to print in the Globe remarks on the tariff. [See Appendix.]

Mr. HAUGHEY asked and obtained leave to print in the Globe remarks on the rights of loyal citizens of Alabama. [See Appendix.]

The SPEAKER. The gentleman from Louisiana [Mr. BLACKBURN] asks leave to have printed in the Globe the remarks which he had intended to deliver to-day on the death of his late colleague, Mr. MANN. The announcement of that event was postponed until after the decision of the contested-election case, but owing to the pressure of business he now asks leave to print his remarks rather than consume the time of the House. If there is no objection the leave will be granted. The Chair hears no objection.

[The remarks will be published in the Appendix.]

WITHDRAWAL OF PAPERS.

On motion of Mr. DAWES leave was granted for the withdrawal from the files of the House of original papers belonging to the archives of the Territory of New Mexico, used by the Committee of Elections in the contested-election case from New Mexico.

CONSULAR, ETC., APPROPRIATION BILL.

Mr. ORTH. I submit the following report from the conference committee on the consular and diplomatic appropriation bill.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 1570) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1870, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses, as follows:

That the Senate recede from their amendments numbered 27, 30, and 31.

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 1, 6, 7, 13, 14, 22, 27, 32, and 33, and agree to the same.

That the House recede from their disagreement to the second amendment of the Senate, and agree to the same with an amendment as follows; add the

following words: "and to continue while acting as minister to Uruguay."

That the House of Representatives recede from their disagreement to the twenty-eighth amendment of the Senate, and agree to the same with the following amendment: strike out all of said amendment, being the fourth section of the bill, and insert in lieu the following:

SEC. 4. And be it further enacted, That the President is authorized on the recommendation of the Secretary of the Treasury to cause examinations to be made into the accounts of the consular officers of the United States, and into all matters connected with the business of their said offices, and to that end he may appoint such agent or agents as may be necessary for that purpose; and any agent, when so appointed shall, for the purpose of making said examinations, have authority to administer oaths and take testimony, and shall have access to all the books and papers of all consular officers. And any agent appointed in this behalf shall be paid for his services a just and reasonable compensation, not exceeding five dollars per day for the time necessarily employed, in addition to his actual necessary expenses, the same to be paid out of the sum appropriated for expenses of collecting the revenue, but no greater sum than \$5,000 shall be expended as compensation of such agent or agents in any one year. And the President shall communicate to Congress, at the commencement of every December session, the names of the agents so appointed, and the amount paid to each, together with the reports of such agents; and agree to the same.

GODLOVE S. ORTH,
SAMUEL B. AXTELL,
Managers on the part of the House.
CHARLES SUMNER,
F. T. FREELINGHUYSEN,
W. PINKNEY WHYTE,
Managers on the part of the Senate.

Mr. ORTH. I move the previous question on the adoption of the report.

The previous question was seconded and the main question ordered.

Mr. ORTH. I yield two minutes to the gentleman from Massachusetts.

Mr. BUTLER, of Massachusetts. I simply desire to say that the committee of conference have agreed that there shall be a full minister to each of these small South American republics, as they are called, seven of which are destitute out of the eleven. I want to say further that I never will attempt again to cut down any offices in an outgoing Congress where the places will be so desirable as these South American missions with nothing to do and everything to get.

Mr. ORTH. There are two important amendments to this bill upon which there was a difference of opinion between the Senate and the House. The first was with reference to the South American missions. I do not desire to detain the House with reference to them in view of the votes which were taken here a few days ago sustaining the present law in reference to those missions. The conference committee were unanimous with one exception in the opinion that these missions should be retained for the present at least; that this was not the time nor was this appropriation bill the place to revise our diplomatic system. We therefore reported in favor of the law as it now stands, one member of the committee [Mr. SCOFIELD] dissenting.

The other important question was with regard to the act of July, 1866. That act provided that where the consular fees exceed the sum of \$1,500 at any one consulate the surplus should be paid into the Treasury of the United States. The amendment of the Senate provided that that law should not go into operation till the 1st of January, 1867. The effect of that would be to increase the appropriations under this bill probably ten or twelve thousand dollars. The conference report is that the Senate recede from that amendment, leaving the act of July 25, 1866, to commence its operation from the date of its passage. These are the only two amendments of importance.

Mr. PRUYN. What is done with the last matter?

Mr. ORTH. Nothing. We leave the law of July, 1866, to commence its operation from the date of its passage.

Mr. PRUYN. Does not that work great hardship to consuls?

Mr. ORTH. There may be one or two instances where it will, but rather than defeat the bill we prefer that that matter should be left to be brought up in a new Congress in the

shape of claims on behalf of two or three consuls whose salaries are fixed. I yield to the gentleman from Pennsylvania.

Mr. SCOFIELD. As a member of the conference committee I did not concur in establishing or continuing so many South American missions. I was in favor of the House proposition as originally adopted, reducing the number of those missions, regarding them as entirely useless, for those who fill them are very seldom there to attend to their duties, but get them performed through some inferior officers. I suppose, however, rather than have the bill lost the House had better concur in the report of the majority.

Mr. ORTH. In reply to my colleague I will say that we are about entering upon a new era and hope to have better officers in these places.

The report of the committee of conference was agreed to—ayes seventy-three, noes not counted.

Mr. ORTH moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRESENTATION OF CREDENTIALS:

Mr. WHITTEMORE, by unanimous consent, presented the credentials of J. P. M. Epping, claiming to be a member of this Congress elected at large from South Carolina; which were referred to the Committee of Elections.

WELLS, FARGO AND COMPANY.

Mr. BROMWELL submitted a report of the views of the minority of the Committee on Public Expenditures in the case of Wells, Fargo & Co.; which was ordered to be printed with the report of the majority.

Mr. BROOMALL. I wish to enter a motion to reconsider the order to print until I can see what the minority report is.

The SPEAKER. The motion will be entered. When the order to print the majority report was made the Chair supposed the right was reserved to submit the views of the minority.

Mr. BROOMALL. There was nothing said about it.

PRINTING OF EVIDENCE.

Mr. WILSON, of Ohio. I ask unanimous consent to offer the following resolution:

Resolved, That the Committee on Roads and Canals be, and they are hereby, authorized to print the testimony taken on the subject of the proper length of spans of bridges across the Ohio river.

That is the same resolution which I offered the other day, and which was objected to by the gentleman from Maryland, [Mr. ARCHER.] That objection, I understand, was made under a misapprehension. Gentlemen will remember that about a month ago a resolution passed this House directing the Committee on Roads and Canals to take testimony upon the subject of bridge-building as well as upon the question of navigation. That testimony has been taken.

Mr. KERR. It has been ordered to be printed.

The SPEAKER. The Chair is under the impression that on motion of the gentleman from Indiana [Mr. KERR] the printing was ordered.

Mr. KERR. It was ordered on last Monday morning.

Mr. WILSON, of Ohio. I was not aware of that fact. I withdraw the resolution.

JAMES FOWLER KIRTLAND.

Mr. STOKES, by unanimous consent, from the Committee of Claims, submitted a report in writing on the memorial of James Fowler Kirtland, of the city of New York, praying compensation for damages resulting from the suspension of the work on the Dome of the Capitol in 1861 by order of the Secretary of War; which was laid on the table, and ordered to be printed.

IMPROVEMENT OF WILLAMETTE RIVER.

Mr. SCOFIELD, from the Committee on

Appropriations, reported adversely on the joint resolutions of the Legislative Assembly of Oregon, asking an appropriation of \$100,000 for the improvement of Willamette river; which were laid on the table.

PRESIDENT'S SALARY.

Mr. SCOFIELD, from the same committee, reported back, with the recommendation that it do not pass, joint resolution (H. R. No. 426) providing that the salary of the President of the United States be increased to the sum of \$100,000 per annum.

The joint resolution was laid on the table.

EXPENSES OF RETRENCHMENT COMMITTEE.

Mr. SCOFIELD, from the same committee, reported back, with the recommendation that it do not pass, the joint resolution (H. R. No. 437) appropriating money to pay the expenses of the joint select Committee on Retrenchment.

The joint resolution was laid on the table.

IOWA WAR CLAIMS.

Mr. SCOFIELD, from the same committee, reported back, with the recommendation that it do not pass, the bill (H. R. No. 1491) fixing the amount found to be due to the State of Iowa on account of claims against the United States.

The bill was laid on the table.

HARBOR OF MICHIGAN CITY.

Mr. SCOFIELD, from the same committee, reported adversely on the joint resolutions of the Legislature of the State of Indiana relative to the harbor of Michigan City; and the same were laid on the table.

MARY A. DAVIS.

On motion of Mr. HOLMAN, by unanimous consent, the amendments of the Senate to the bill (H. R. No. 596) granting a pension to Mary A. Davis, widow of William P. Davis, a private in the eighteenth regiment of Indiana volunteers in the war of 1861, were taken from the Speaker's table.

The amendments were read, as follows:

Line nine strike out "first" and insert "ninth;" line nine, after the word "of," insert "September;" line ten, before "and" insert "one;" so that the bill will read:

That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-rolls the name of Mary A. Davis, widow of William P. Davis, deceased, a private in the eighteenth regiment of the Indiana volunteers of the war of 1861, and that she be paid a pension allowed a private during her widowhood, subject to the provisions and limitations of the pension laws, to commence on the 9th day of September, 1861, and in case of her death or marriage, then the pension to be paid to the minor children of the said William P. Davis, deceased, under sixteen years of age, subject to the provisions and limitations of the general pension laws.

Mr. HOLMAN. I understand that the Committee on Invalid Pensions are willing that the amendments of the Senate shall be concurred in with an amendment, to strike out "one" and insert "four," so as to make the pension date from the 9th of September, 1864.

Mr. PERHAM. I agree to that.

Mr. HOLMAN. I offer that amendment.

The amendment was agreed to.

The Senate amendments, as amended, were then concurred in.

Mr. HOLMAN moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JUDGE ADVOCATES OF THE ARMY.

Mr. GARFIELD. I ask unanimous consent to have taken from the Speaker's table the Senate amendments to House bill No. 1487, to declare and fix the status of the corps of judge advocates of the Army. Those amendments are merely verbal in their character, and I desire that they be concurred in.

No objection was made.

The amendments of the Senate were to strike out the preamble, and to strike out all of the enacting clause of the bill and to insert in lieu thereof the following:

That the department of judge advocate of the Army be, and the same is, fixed at ten members; and the

President is hereby authorized, by and with the advice and consent of the Senate, to fill all vacancies which have occurred or may hereafter occur therein.

Mr. GARFIELD. I move that the amendments of the Senate be concurred in.

The motion was agreed to.

Mr. GARFIELD moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS, ETC., SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 1804) to establish a bridge across the East river between the cities of Brooklyn and New York, in the State of New York, a post road;

An act (S. No. 871) to authorize the transfer of lands granted to the Union Pacific Railway Company, eastern division, between Denver and the point of its connection with the Union Pacific Railroad, to the Denver Pacific Railway and Telegraph Company, and to expedite the completion of railroads to Denver, in the Territory of Colorado;

Joint resolution (S. R. No. 219) giving the assent of the United States to the construction of the Newport and Cincinnati bridge; and

Joint resolution (S. R. No. 231) providing for the reporting and publication of the debates in Congress.

NORMAN WIARD.

Mr. SCHENCK, from the joint select Committee on Ordnance, reported a bill (H. R. No. 2021) for the relief of Norman Wiard; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, directs the Secretary of the Navy to pay the sum of \$125,848 89 to Norman Wiard, out of any appropriation made for the support of the Navy Department, provided that sum shall be accepted by him as in full for all guns of steel made by him and delivered in 1861, and afterward sold by the Navy Department, he not having been paid for them; and in full for all expenditures incurred in making experimental guns for the Government in 1863 and 1864, under a joint agreement with the War and Navy Departments.

Mr. SCHENCK. If gentlemen will forbear asking me questions until they have heard what I have to say I think that in a very few minutes I can put them in possession of the facts of this case.

This report is made with reference to the claims of Norman Wiard under two contracts made with the Government, one in 1861 for certain steel guns, and one in 1863 for certain other experimental steel guns. Both of these claims arising under these contracts have been considered together, and they are both embraced in the bill now before the House.

In the Thirty-Ninth Congress these claims were considered separately, and two bills were reported to the House by the Committee on Military Affairs. Those bills met with the favorable consideration of the House, passed, and went to the Senate. They were not considered in the Senate for want of time. The Senator who objected was afterward so well satisfied that injustice had been done in not allowing the claim—as I am informed, and I presume that to have been his motive—that he himself introduced in the succeeding Congress a bill for the payment of the claim.

But in the Fortieth Congress a joint select committee, consisting of three Senators and three Representatives, was raised, to whom the whole subject of ordnance was referred, and as these claims of Wiard related entirely to ordnance they were referred to that joint select committee. That committee have had that subject under consideration, have given it very careful attention, and at the present session

made a report, which is printed—report No. 6—and which gentlemen can see, if they wish to examine it more at length, by sending to the document-room for it.

As that report is one of some length, embodying references to all the testimony and facts of the case, I will state briefly the facts of the case, which statement will probably answer all the questions that might naturally be asked.

The joint select Committee on Ordnance, which have had the claims of Norman Wiard under consideration, find the same growing out of and based on contracts for furnishing experimental and other guns. The first contract was made between the chief of the Bureau of Ordnance of the Navy Department and W. A. Harwood and Norman Wiard, the claimant, in 1861, and was for a large number of steel guns of fifty pounds caliber. The evidence shows the contract complete in the usual form and with the proper officers of the Government. The guns were to be made in lots of five for eighty-five cents per pound, the order to be renewed for five more as soon as the first five were completed, all after the first five to be priced at eighty cents per pound.

The second part of the claim is for disbursements necessary to the production of experimental guns made under a formal contract with Gideon Welles, Secretary of the Navy, dated April 10, 1863, and an informal but expressed contract between the War Department, by acting Secretary of War P. H. Watson, esq., and Norman Wiard.

The Navy part of the contract was for twenty large guns on a new and untried plan to weigh forty-three thousand pounds each, at the price of sixteen cents per pound, provided either two or more stood the test.

The War Department part of the contract was for an unlimited number of like guns to be received of Mr. Wiard in case they stood the stipulated test. The contracts were made in a formal manner and notice given the claimant that the Department were disposed to try his plan of making guns. A joint board of Army and Navy officers especially convened, and they recommended a contract which was made and signed by the Secretary of the Navy. The frequent bursting of heavy guns and the necessity of using stronger materials having come to the attention of the Departments the contract of 1863 was by the Navy Department annulled arbitrarily, and this, with the stoppage of the disbursements in the matter of experimental guns, constitute the foundations for the claims referred to. The committee award for guns of the first lot:

Four weighing 22,800 pounds at 85 cents.....	\$19,380 00
Five weighing 28,500 pounds at 80 cents.....	22,800 00

For first part of the claim.....	42,180 00
And for expenditures supported by vouchers under the second contract in 1863.....	83,668 49

Total.....	\$125,848 49
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The report, the substance of which I have stated, is not a mere majority report of the joint select Committee on Ordnance, consisting of three Senators and three Representatives, who have considered this whole matter and taken the testimony, but it is the unanimous report of that committee. There may be mentioned two or three points of hardship in the case that do not appear in the statement I have just submitted. One is that Mr. Wiard actually paid to the Government, as has been ascertained, \$11,000 of internal revenue taxes upon this work of his; and of this money the Government has had the benefit, though he has received nothing on his contract. Another point is that the guns of his manufacture were delivered to the Government, and after lying here for some time, and when the Government had arbitrarily thrown up the contract were sold, and the proceeds, whatever the amount may have been, of all those steel guns thus sold went into the public Treasury. So that although the guns were rejected, or at least claimed not properly to belong to the Govern-

ment, yet the Government assumed control over them, sold them and appropriated to its own use the money received from the sale.

In short, the committee became satisfied that here was a clear, just case for compensation to be made, but as this claim had been pending for some time the committee, after reducing the amount to the lowest point which they thought just to Mr. Wiard, and after declining to allow in the computation any interest upon the amount of the claim, which might perhaps reasonably have been allowed, inserted a further provision that the payment provided for in this bill shall be the end of the matter, that Mr. Wiard is to make no further claim, but is to accept this in full compensation.

Now, sir, if there be no further inquiry to be made I will, on account of the little time we have to spare, demand the previous question.

Mr. WARD. I would like to ask the gentleman a question; that is, whether Mr. Wiard has been paid anything by the ordnance department for any of these experiments?

Mr. SCHENCK. No, sir; I understand that Mr. Wiard has had no pay for any experiment connected with these guns at all. This has all been done under contract.

Mr. WARD. My reason for asking the question was that I had been informed that this man had received considerable pay from the ordnance department and had filed with that department a receipt in full for all his claims against the Government. Besides that, I had some recollection that a claim of this man had come before the Committee of Claims and had been rejected. I ask the gentleman from Ohio [Mr. SCHENCK] whether this is the same claim?

Mr. SCHENCK. That was a matter relating to the fitting out of a steamboat. The only payment that Mr. Wiard has ever received under this contract for guns is the amount he received as the price per pound of the materials used in one of the first guns that was made, and that is not a part of the amount included in the report of the committee.

Mr. WARD. The substance of this claim, as I understand, is that Mr. Wiard made these experiments in guns, incurring for that purpose a considerable expenditure. Now, I ask whether these experiments have been so valuable in their results that we should pay for them.

Mr. SCHENCK. I will answer the gentleman's inquiry. Mr. Wiard was not merely employed to produce these experimental guns, but he was employed under a contract providing that he should be paid at a certain rate per pound. The contract was complied with upon his part until his experiments were stopped by the Government. For his material furnished, his time given, his labor, his services in every way, he has received no pay. His guns were finally refused, notwithstanding the obligations of the contract. If the gentleman forces me to an opinion I will give it to him. My conviction is—and I think it is the belief of every member of the Committee on Ordnance—that Mr. Wiard was not permitted to go any further because he was an outside civilian manufacturer of steel and iron products, and his manufactures came in competition with those of gentlemen upon the inside who, it was thought, ought to have the monopoly of making guns, good or bad, for both the Navy and the Army. That is the secret of the matter.

Mr. WARD. Then, Mr. Speaker, I understand the case to be this: that Mr. Wiard had a contract; that in pursuance of that contract he made certain experiments and produced certain work which was refused by the Navy Department, and now the gentleman claims he has not been fairly treated in this refusal.

Mr. SCHENCK. The guns were delivered and received. I thought I had obviated the necessity of answering these questions by the abstract I took the pains to prepare. I demand the previous question.

The previous question was seconded and the main question ordered; and under the opera-

tion thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WARD demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 65, nays 57, not voting 100; as follows:

YEAS—Messrs. Banks, Barnes, Bingham, Blaine, Blair, Boies, Buckley, Benjamin F. Butler, Roderick R. Butler, Cake, Callis, Reader W. Clarke, Clift, Coburn, Corley, Dixon, Dodge, Driggs, Eckley, James T. Elliott, Farnsworth, Ferry, French, Garfield, Goss, Griswold, Hooper, Hotchkiss, Ingersoll, Jenckes, Johnson, Judd, Kelsey, Koontz, Lash, Logan, Lynch, Mallory, Marvin, McCarthy, Miller, Morrill, Morrissey, Mullins, Mungen, Myers, Norris, O'Neill, Paine, Pile, Plants, Price, Prince, Pruyn, Randall, Robinson, Roots, Schenck, Sitgreaves, Stewart, Stover, Taffe, Taylor, Twichell, and Whittemore—65.

NAYS—Messrs. Allison, Archer, Bailey, Baker, Barnum, Beaman, Benjamin, Benton, Broomall, Chanler, Cook, Cornell, Dawes, Dickey, Thomas D. Eliot, Ferriss, Fields, Getz, Glossbrenner, Golladay, Haight, Hawkins, Hill, Holman, Hopkins, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Julian, Ketcham, William Lawrence, Loan, Loughridge, Mercer, Niblack, Nunn, Poland, Pomeroy, Ross, Sawyer, Scofield, Shellabarger, Stevens, Stokes, Taber, Upson, Van Aernam, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Wood, and Young—57.

NOT VOTING—Messrs. Adams, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Beatty, Beck, Blackburn, Boutwell, Bowen, Boyden, Boyer, Bromwell, Brooks, Buckland, Burr, Cary, Churchill, Sidney Clarke, Cobb, Covode, Cullom, Delano, Deweese, Dockery, Donnelly, Edwards, Eggleston, Ela, Eldridge, Fox, Gove, Gravely, Grover, Halsey, Hamilton, Harding, Haughey, Heaton, Higby, Asahel W. Hubbard, Alexander H. Jones, Thomas L. Jones, Kelley, Kellogg, Kerr, Kitchen, Knott, Ladin, George V. Lawrence, Lincoln, Marshall, Maynard, McCormick, McCullough, McKee, Moore, Moorhead, Newcomb, Newsham, Nicholson, Orth, Perham, Peters, Pettis, Phelps, Pierce, Pike, Polsley, Raum, Robertson, Selye, Shanks, Smith, Spalding, Starkweather, Stone, Sypher, Thomas, Tift, John Trimble, Lawrence S. Trimble, Trowbridge, Van Auker, Robert T. Van Horn, Van Trump, Vidal, Elihu B. Washburne, Henry D. Washburn, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Woodward, and Woodward—100.

So the bill was passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM B. LOONEY.

The SPEAKER stated that the Senate requested a committee of conference on the disagreeing votes of the two Houses on Senate bill No. 900, granting a pension to William B. Looney.

There was no objection, and the request was reciprocated.

MILITARY TESTIMONY.

Mr. GARFIELD submitted the following resolution; which was read, considered, and, under the law, referred to the Committee on Printing:

Resolved, That there be printed for the use of the House three thousand extra copies of the testimony of officers of the Army taken before the members of the Committee on Military Affairs and the report of the committee accompanying the same.

REMOVAL OF POLITICAL DISABILITIES.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting applications for removal of political disabilities from R. Richardson, H. D. Foote, J. A. P. Campbell, A. Clayton, R. V. Booth, and A. J. Conklin; which was referred to the Committee on Reconstruction.

RECONSTRUCTION.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting reports of commanders of military departments South relative to persons turned over for trial to civil authorities; which was referred to the Committee on Military Affairs, and ordered to be printed.

JOHN DUMPLIN.

Mr. ORTH, by unanimous consent, withdrew from the files of the House the petition and papers in the case of John Dimplin, to

be referred to the next Congress, without leaving copies.

REMOVAL OF DISABILITIES.

Mr. FARNSWORTH, from the Committee on Reconstruction, reported back the amendment of the Senate to the bill (H. R. No. 1746) for the removal of certain disabilities from the persons therein named, and moved that the House disagree to the same.

Mr. ROSS. I move that the House concur.

Mr. FARNSWORTH. I demand the previous question. The Senate has inserted about twice as many more names. The amendment is in the nature of a substitute.

The previous question was seconded and the main question ordered.

The question being taken on the motion to concur, it was disagreed to.

The motion to non-concur was agreed to.

Mr. BECK. I move that the House ask for a conference.

Mr. PAINE. I hope not.

The question being put on the motion of Mr. Beck, there were—ayes 52, noes 53; no quorum voting.

Tellers were ordered; and Messrs. Beck and PAINE were appointed.

The House divided; and the tellers reported—ayes 74, noes 50.

So the motion was agreed to.

The SPEAKER appointed as conferees on the part of the House Messrs. BECK, FARNSWORTH, and PAINE.

LEAVE OF ABSENCE.

Leave of absence was granted to Mr. HAMILTON, on account of sickness confining him to his room.

RELEASE OF AMERICAN CITIZENS.

Mr. SCHENCK. I move that the House proceed to the consideration of business on the Speaker's table.

The motion was agreed to.

The first business on the Speaker's table was the following message of the President of the United States, which had been laid on the table when the Chair asked unanimous consent to lay it before the House, because Mr. ROBINSON desired to make some remarks on the subject:

To the House of Representatives:

I transmit an additional report from the Secretary of State, representing that Messrs. Costello and Warren, citizens of the United States imprisoned in Ireland, have been released.

ANDREW JOHNSON.

Mr. ROBINSON addressed the House. [His speech will be published in the Appendix.]

The message was ordered to be printed, and referred to the Committee on Foreign Affairs.

FIFTEENTH CONSTITUTIONAL AMENDMENT.

The next business on the Speaker's table was the following resolution of the Senate:

Resolved by the Senate, (the House of Representatives concurring,) that the President be requested to transmit forthwith to the Executives of the several States of the United States copies of the article of amendment proposed by Congress to said Legislatures to amend the Constitution of the United States, passed February 20, 1869, respecting the exercise of the elective franchise, to the end that the said States may proceed to act upon the said article of amendment; and that he request the Executive of each of the States that may ratify said amendment to transmit to the Secretary of State a certified copy of said ratification.

Mr. CULLOM. I move that the House concur; and on that I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was concurred in.

Mr. CULLOM moved to reconsider the vote by which the resolution was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NATIONAL CURRENCY.

The next business on the Speaker's table was the following resolution of the Senate, passed February 20, 1869:

Resolved, That the Senate disagree to the amend-

ment of the House of Representatives to the bill (S. No. 440) supplementary to an act entitled "An act to provide a national currency secured by a pledge of national bonds and to provide for the circulation and redemption thereof," approved January 3, 1864, and ask a conference on the disagreeing votes of the two Houses thereon.

Ordered, That Messrs. SHERMAN, MORGAN, and CAMERON be the conferees on the part of the Senate.

Mr. COBURN. I move that the House accede to the request of the Senate for a conference on the disagreeing votes of the two Houses on the amendments of the House to that bill; and on that motion I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. SCOTFIELD. I move to lay the resolution of the Senate on the table.

The question was put; and there were—ayes 56, noes 62.

Mr. BROOKS called for tellers.

Tellers were ordered; and Mr. COBURN, and Mr. TRIMBLE of Kentucky, were appointed.

The House divided; and the tellers reported—ayes 73, noes 75.

Mr. BROOKS called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 70, nays 103, not voting 44; as follows:

YEAS—Messrs. Bailey, Baldwin, Banks, Barnum, Benton, Boutwell, Brooks, Broomall, Cake, Chanler, Churchill, Cook, Cornell, Covode, Dawes, Dixon, Thomas D. Eliot, Ferriss, Fields, Fox, Getz, Griswold, Hotchkiss, Richard D. Hubbard, Hulburd, Humphrey, Jenckes, Kelsey, Ketcham, Koontz, Laffin, Marvin, McCarthy, Mercer, Miller, Moore, Moorhead, Morrill, Morrissey, Myers, O'Neill, Perham, Pike, Poland, Pomeroy, Pruyn, Randall, Robertson, Robinson, Scofield, Selye, Sitgreaves, Smith, Spalding, Starkweather, Stevens, Stewart, Taber, Taylor, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Ward, William B. Washburn, Thomas Williams, Stephen F. Wilson, Wood, and Woodward—70.

NAYS—Messrs. Allison, Delos R. Ashley, James M. Ashley, Axtell, Baker, Barnes, Beaman, Beatty, Beck, Benjamin, Bingham, Blackburn, Blaine, Blair, Boies, Boyden, Bromwell, Buckland, Buckley, Burr, Callis, Cary, Reader W. Clarke, Cobb, Coburn, Corley, Cullom, Delano, Dockery, Donnelly, Driggs, Eckley, Eggleston, Eldridge, James T. Elliott, Ferry, French, Garfield, Glossbrenner, Golladay, Goss, Gove, Grover, Harding, Haughey, Hawkins, Heaton, Holman, Hopkins, Hunter, Ingersoll, Johnson, Alexander H. Jones, Thomas L. Jones, Judd, Julian, Kellogg, Kerr, Kitchen, Knott, Lash, William Lawrence, Loan, Loughridge, Mallory, Marshall, Maynard, McCormick, McKee, Mullins, Mungen, Newsham, Niblack, Nicholson, Norris, Orth, Paine, Pierce, Pile, Plants, Prince, Raum, Roots, Ross, Sawyer, Schenck, Shanks, Shellabarger, Stokes, Stone, Stover, Sypher, Taffe, Tift, Lawrence S. Trimble, Trowbridge, Van Auker, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, Welker, Whittemore, William Williams, James F. Wilson, John T. Wilson, Woodward, and Young—103.

NOT VOTING—Messrs. Adams, Ames, Anderson, Archer, Arnell, Bowen, Boyer, Benjamin F. Butler, Roderick R. Butler, Sidney Clarke, Clift, Deweese, Dickey, Dodge, Edwards, Ela, Farnsworth, Gravely, Haight, Halsey, Hamilton, Higby, Hill, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Kelley, George V. Lawrence, Lincoln, Logan, Lynch, McCullough, Newcomb, Nunn, Peters, Pettis, Phelps, Polsley, Price, Thomas, John Trimble, Vidal, Elihu B. Washburne, and Windom—44.

So the House refused to lay the resolution of the Senate on the table.

Mr. COBURN's motion was then agreed to.

Mr. COBURN moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER appointed Mr. COBURN, Mr. JUDD, and Mr. HOOPER of Massachusetts, managers of the conference on the part of the House.

LAND CLAIMS IN NEW MEXICO.

The next business on the Speaker's table was the amendment of the Senate to the bill (H. R. No. 1344) to confirm certain private land claims in the Territory of New Mexico.

The amendment of the Senate was to insert after the word "land," in line eleven, the words "not improved by or in behalf of the United States and not including any military or other reservation."

The amendment was concurred in.

OFFICERS AND CREW OF THE KEARSARGE.

The next business upon the Speaker's table was the amendments of the Senate to the bill (H. R. No. 1967) to compensate the officers and crew of the United States steamer Kearsarge for the destruction of the rebel piratical vessel Alabama.

Mr. PIKE. I move that the amendments of the Senate to that bill be non-concurred in and a conference asked on the disagreeing votes of the two Houses thereon.

The motion was agreed to.

The SPEAKER appointed Mr. PIKE, Mr. TWICHELL, and Mr. HAIGHT managers of the conference on the part of the House.

NAVAL CAPTURES ON THE MISSISSIPPI.

The next business on the Speaker's table was the amendments of the Senate to the bill (H. R. No. 112) relating to captures made by Admiral Farragut's fleet in the Mississippi river in May, 1862.

The amendments of the Senate were read.

Mr. SCOTFIELD. I move that the amendments of the Senate be concurred in.

The motion was agreed to.

Mr. SCOTFIELD moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PURCHASES BY INTERIOR DEPARTMENT.

The next business on the Speaker's table was the amendment of the Senate to House joint resolution No. 438, relative to certain purchases by the Interior Department.

The amendment of the Senate was to insert after the word "goods," in line thirteen, the words "in such unpaid bills."

Mr. LAFLIN. I move that the amendment of the Senate be concurred in.

The motion was agreed to.

Mr. LAFLIN moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FINES, PENALTIES, AND FORFEITURES.

The next business on the Speaker's table was the consideration of amendments of the Senate to House bill No. 375, to repeal an act to regulate the disposition of fines, penalties, and forfeitures received under the laws relating to the customs, and for other purposes, and to amend certain acts for the prevention and punishment of frauds on the revenue and for the prevention of smuggling.

The amendments of the Senate were: in line eighteen, after the word "the," to insert the words "second, third, and fourth sections of the;" also to amend the title by inserting after the word "repeal" the words "certain sections of the."

Mr. ELIOT, of Massachusetts. I move that the House disagree to the amendments of the Senate, and ask a committee of conference.

The motion was agreed to.

Mr. ELIOT, of Massachusetts, moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADDITIONAL BOUNTIES.

The next business on the Speaker's table was the consideration of the amendments of the Senate to House bill No. 1279, in relation to additional bounties, and for other purposes.

The first amendment of the Senate was to strike out the second section, which declares that the prohibition of bounty in the fourteenth section of the act of July 28, 1866, to any soldier "who shall have bartered, sold, assigned, transferred, loaned, exchanged, or given away his final discharge papers, or any interest in the bounty provided by this or any act of Congress," shall not apply in cases when the full amount of bounty has been advanced by States, counties, or towns to the soldiers or to their

families, but the State, county, or town advancing the same shall be entitled to it.

The second amendment of the Senate was in line twenty-one, page 1, strike out "or" and insert "all."

The third amendment was to add to the bill the following:

SEC. — And be it further enacted, That all claims for the additional bounties granted in sections twelve and thirteen of the act of July 28, 1866, shall after the 1st day of May next be adjusted and settled by the accounting officers of the Treasury under the provisions of said act; and all such claims as may on the said 1st day of May be remaining in the office of the Paymaster General unsettled shall be transferred to the Second Auditor of the Treasury for settlement.

SEC. — And be it further enacted, That all claims for bounty under the provisions of the act cited in the foregoing section shall be void unless presented in due form prior to the 1st day of December, 1869.

Mr. GARFIELD. I move to concur in the amendments of the Senate. They have struck out one section which we would like to have in the bill. But it is now too late in the session to insist upon retaining it. They have also added a section which is of importance. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendments of the Senate were concurred in.

Mr. GARFIELD moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TAX ON MANUFACTURES.

The next business on the Speaker's table was the consideration of the amendments of the Senate to House bill No. 1327, to amend an act entitled "An act to exempt certain manufactures from internal taxes, and for other purposes," approved March 31, 1868.

The amendments of the Senate were read.

Mr. SCHENCK. These amendments are merely verbal. Probably the Senate may suppose that they have improved the language of the bill, whatever may be the opinion of the Committee of Ways and Means of this House. I move that the amendments of the Senate be concurred in.

The motion was agreed to.

Mr. SCHENCK moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARY A. FILLER.

The next business on the Speaker's table was the amendment of the Senate to the bill (H. R. No. 425) for the relief of Mary A. Filler.

Mr. KOONTZ. The amendment of the Senate is simply to strike out of the bill that portion which proposes to confer upon Mrs. Filler the same rights and benefits as if she were the natural mother of the deceased soldier. I move that the amendment be concurred in.

The amendment was read, as follows:

Strike out after "law," in line five, to the end of the bill, the following:

And in these and in all other respects shall have the same rights and benefits as if she were the natural and lawful mother of said Henry Drenning.

Mr. PERHAM. I hope the amendment will be concurred in.

The amendment was concurred in.

Mr. MILLER moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEMUEL BARTHALOW.

The next business on the Speaker's table was the Senate amendment to the bill (H. R. No. 128) granting a pension to Lemuel Barthalow.

The SPEAKER. In this case the amendment of the Senate is simply to correct the name in the title and in the body of the bill by changing "n" to "w," so as to read "Barthallow." If there be no objection the amendment will be regarded as concurred in.

There was no objection.

M. J. AND R. B. GUTHRIE.

The next business on the Speaker's table was the Senate amendments to the bill (H. R. No. 1930) granting a pension to Madge J. Guthrie and Robert B. Guthrie.

The amendments of the Senate were read, as follows:

In line six, insert after "them" the words "or their authorized guardian or guardians."

In line eight, after "1867" insert "and continuing until November 11, 1868, and afterward to the said Robert or his guardian or guardians until October 23, 1871, when he will attain the age of sixteen years."

Mr. PERHAM. I move that the House concur in the amendments of the Senate.

The amendments were concurred in.

Mr. PERHAM moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RELIEF OF POSTMASTERS.

The next business on the Speaker's table was the amendments of the Senate to the joint resolution (H. R. No. 211) for the relief of Henry S. Gibbons, late postmaster at St. Johns, Michigan.

The amendments of the Senate were read, as follows:

Add at the end of the joint resolution the following: *Provided*, It shall be proven satisfactorily to the Postmaster General that funds belonging to the Post Office Department to the amount of \$500 was stolen by burglars, and that said Gibbons was not guilty of neglect in the custody thereof.

SEC. 2. *And be it further resolved*, That Luther McNeal be paid the sum of \$175 46 for money and postage stamps belonging to the United States, and which were stolen from the post office at the town of Lancaster, Erie county, New York, while he was postmaster, and which sum he has paid to the Government on settlement with the Post Office Department as such postmaster, and that such sum be paid out of the Post Office fund by the Postmaster General upon the said McNeal making proof to his satisfaction that said money and stamps were stolen without any fault of said McNeal.

SEC. 3. *And be it further resolved*, That in the settlement of the accounts of Seth M. Gates, postmaster at Warsaw, New York, with the Post Office Department, the Postmaster General be, and he is hereby, authorized to allow a credit to the said Seth M. Gates of \$726 73, the amount in value of postage stamps belonging to the United States stolen from the post office on the 13th of July, 1867, while the said Gates was postmaster; *Provided*, That it shall satisfactorily appear to the Postmaster General that the said Gates was guilty of no negligence in the custody of the said stamps.

Amend the title so as to read: "A joint resolution for the relief of Henry S. Gibbons, Luther McNeal, and Seth M. Gates."

Mr. SCOTFIELD. I believe I will move to lay that joint resolution on the table.

Mr. FERRY. This bill, after being considered by the Committee on the Post Office and Post Roads, and receiving the unanimous assent of that committee, was reported to this House, and after pretty full discussion was passed and sent to the Senate. The Senate has attached to it an amendment embracing two cases similar to that provided for in the original bill, accompanied with a proviso that none of the claims shall be paid unless sufficient evidence be presented to the Postmaster General to satisfy him that they ought to be paid. I move concurrence in the amendments.

Mr. SCOTFIELD. I do not wish to interpose any objection at this stage to the bill as passed by the House, that question having already been determined; but the Senate amendment embraces two claims which we know nothing about. I hope the House will non-concur.

Mr. FERRY. The bill is properly guarded by a provision directing the Postmaster General not to pay the claims unless in his judgment there should be sufficient evidence that the money and stamps were stolen and that the respective postmasters were not guilty of any neglect.

I yield to the gentleman from New York, [Mr. VAN HORN.]

Mr. VAN HORN, of New York. The gentleman from Maine [Mr. LYNCH] had charge of the matter in reference to Mr. Gates, but owing to his absence it was not reported and the amendment was put on in the Senate at my suggestion. The case has been examined with great care and has been found to be all right. I

know that the burglary was committed, and the special agent who was sent to the place reported that Mr. Gates had used all due diligence in the discharge of his duty and taking care of the Government property.

Mr. LYNCH. That case was referred to me as sub-committee of the Committee on the Post Office and Post Roads. I went to the Post Office Department and investigated the case and found it to be all right. The committee were unanimously in its favor. It would have been reported if I had not been called away, and there has been no opportunity since to report it.

Mr. FERRY demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was concurred in.

Mr. FERRY moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CERTIFYING CHECKS BY NATIONAL BANKS.

The next business on the Speaker's table was the amendment of the Senate to House bill No. 1973, in reference to certifying checks by national banks.

The amendment of the Senate was read, as follows:

Strike out in lines eight, nine, ten, and eleven the words:

And it shall be the duty of the officers of any national bank certifying any check to enter the same to the account against which it is drawn as if the amount of such check had been paid in money.

And insert in lieu thereof the words:

And any check so certified by duly authorized officers shall be a good and valid obligation against such bank.

Mr. PRICE. How would the bill then read?

The Clerk read the bill as it would be if amended, as follows:

Be it enacted, &c., That it shall be unlawful for any officer, clerk, or agent of any national bank to certify any check drawn upon said bank unless the person or company drawing said check shall have on deposit in said bank at the time such check is certified an amount of money equal to the amount specified in such check; and any check so certified by duly authorized officers shall be a good and valid obligation against such bank; and any officer, clerk, or agent of any national bank violating the provisions of this act shall subject such bank to the liabilities and proceedings on the part of the Comptroller as provided for in section fifty of the national banking law, approved June 3, 1864.

Mr. HOOPER, of Massachusetts, moved that the amendment be concurred in.

The amendment was concurred in.

Mr. HOOPER, of Massachusetts, moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPORTS OF NATIONAL BANKS.

The next business on the Speaker's table was the substitute of the Senate for House bill No. 1881, regulating the reports of national banking associations.

The amendment of the Senate was read, as follows:

Strike out all of the original bill after the enacting clause and insert:

That in lieu of all reports required by section thirty-four of the national currency act every association shall make to the Comptroller of the Currency not less than five reports during each and every year, according to the form which may be prescribed by him, verified by the oath or affirmation of the president or cashier of such association and attested by the signature of at least three of the directors; which report shall exhibit in detail and under appropriate heads the resources and liabilities of the association at the close of business on any past day to be by him specified, and shall transmit such report to the Comptroller within five days after the receipt of a request or requisition therefor from him; and the report of each association, in the same form in which it is made to the Comptroller, shall be published in a newspaper published in the place where such association is established, or if there be no newspaper in the place, then in the one published nearest thereto in the same county, at the expense of the association; and such proof of publication shall be furnished as may be required by the Comptroller. And the Comptroller shall have power to call for special reports from any particular association whenever in his judgment the same shall be necessary in order to a full and complete knowledge of its condition. Any asso-

ciation failing to make and transmit any such report shall be subject to a penalty of \$100 for each day after five days that such bank shall delay to make and transmit any report as aforesaid and in case any association shall delay or refuse to pay the penalty herein imposed, when the same shall be assessed by the Comptroller of the Currency, the amount of such penalty may be retained by the Treasurer of the United States, upon the order of the Comptroller of the Currency, out of the interest, as it may become due to the association, on the bonds deposited with him to secure circulation; and all sums of money collected for penalties under this section shall be paid into the Treasury of the United States.

Mr. HOOPER, of Massachusetts. I move a concurrence.

Mr. LYNCH. I move to lay the amendment of the Senate on the table.

Mr. RANDALL. I move a non-concurrence, and that the House ask for a conference.

Mr. HOOPER, of Massachusetts. If the House will listen to me—

The SPEAKER. The motion to lay on the table is not debatable.

The motion was disagreed to—ayes 35, noes 78.

Mr. HOOPER, of Massachusetts. I withdraw my motion to concur, and call the previous question on the motion to non-concur.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to non-concur and ask a conference was agreed to.

Mr. RANDALL moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER appointed as conferees on the part of the House Messrs. RANDALL, POMEROY, and LYNCH.

HOT SPRINGS RESERVATION.

The next business on the Speaker's table was the amendments of the Senate to the bill (H. R. No. 1276) for the sale of the Hot Springs reservation in Arkansas.

Mr. JULIAN. I move the reference of the amendments to the Committee on the Public Lands.

The motion was agreed to.

Mr. JULIAN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RELIEF OF SCOUTS AND GUIDES.

The next business on the Speaker's table was the amendments of the Senate to the bill (H. R. No. 1879) for the relief of certain companies of scouts and guides organized in Alabama.

The first amendment was to strike out "Gordon" and insert "R. S.," so as to read "General R. S. Granger."

The next amendment was to add the following section:

SEC. 2. *And be it further enacted,* That all other companies or parts of companies of scouts and guides organized or employed by General R. S. Granger under the authority or by the approval of Major General George H. Thomas, commanding the department of the Cumberland, be entitled to the same relief as provided for the companies named in the first section of this act: *Provided,* That before such payment satisfactory evidence of service shall be furnished by claimants as approved by the Secretary of War.

Mr. RAUM. I am directed by the Committee on Military Affairs to move a concurrence in the amendments.

The motion was agreed to.

Mr. RAUM moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ILLINOIS IRON AND BOLT COMPANY.

The next business on the Speaker's table was the amendment of the Senate to the bill (H. R. No. 1867) for the relief of the Illinois Iron and Bolt Company.

The amendment was to insert in line eleven the words "not exceeding \$2,750."

The amendment was agreed to.

PETER M'GOUGH.

The next business on the Speaker's table was the amendment of the Senate to the bill (H. R. No. 1989) for the relief of Peter McGough, collected of internal revenue and disbursing agent of the twentieth district of Pennsylvania.

The amendment was to strike out all after the enacting clause and insert:

That the proper accounting officers of the Treasury be, and they are hereby, authorized to allow to Peter McGough, collector and disbursing agent of the twentieth internal revenue district of Pennsylvania, a credit for the sum of \$4,750 64, public money deposited in pursuance of law in the Venango National Bank, late a United States designated depository, and lost by the failure of said bank without fault or neglect of the said collector and disbursing agent.

Mr. BINGHAM. I move that the House concur in the amendment of the Senate.

The motion was agreed to.

Mr. BINGHAM moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PROOF OF WILLS.

The next business on the Speaker's table was a bill (S. No. 612) relating to the proof of wills in the District of Columbia; which was read a first and second time.

Mr. INGERSOLL. I ask that that bill be put upon its passage.

The bill provides that whenever a will or codicil shall be exhibited for probate to the orphans' court of the District of Columbia, if any witness to the same shall reside out of the District or be temporarily absent therefrom at the time when the said will or codicil shall be so exhibited for probate, it shall be lawful for the court to issue, upon personal notice of not less than twenty days to all the parties in interest, a commission to one or more competent persons to take the deposition of such absent witness or witnesses, in such form as the court may prescribe, touching the execution of such will or codicil and the competency of the testator or testatrix at the time of the execution thereof, and that such deposition when returned to said court shall be received as competent testimony and have the same force and effect as if the said witness or witnesses were personally present and testifying; provided that in all such cases the original will or codicil shall accompany the commission to be exhibited to the witness.

Mr. INGERSOLL. The bill explains itself and requires no explanation from me. There can be no objection to it from any source. I move the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to a third reading, and was accordingly read the third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MILITIA IN SOUTHERN STATES.

The next business on the Speaker's table was a bill (S. No. 665) respecting the organization of militia in the States of North Carolina, South Carolina, Florida, Louisiana, and Arkansas; which was read a first and second time.

The bill proposes to repeal so much of the Army appropriation bill approved March 2, 1867, as prohibits the organization, arming, or calling into service of the militia forces in the States of North Carolina, South Carolina, Florida, Alabama, Louisiana, and Arkansas.

Mr. PAINE. I move that the bill be referred to the Committee on the Militia.

Mr. SCOTFIELD. I hope we shall put it upon its passage.

Mr. PAINE. If there is no objection to the bill I withdraw my motion.

Mr. ROSS. I move that the bill be referred to the Committee on the Militia.

Mr. PAINE. I had examined the bill carefully and saw that there was nothing objection-

able in it. I desire that it shall pass. I only moved its reference because I thought there might be some objection.

Mr. SCOFIELD. If I understand the bill it only authorizes these States to organize militia the same as the other States.

Mr. PAINE. That is all.

Mr. SCOFIELD. I think it is right. We had a law which prohibited them from organizing their militia. This simply proposes to repeal that law.

Mr. ROSS. I think the bill had better go to a committee.

Mr. PAINE. I move the previous question.

The previous question was seconded and the main question ordered.

The motion to refer the bill was disagreed to.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PAINE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SPAIN AND CUBA.

The next business on the Speaker's table was a joint resolution (S. R. No. 178) tendering sympathy to the people of Spain; which was read a first and second time.

The joint resolution was read, as follows:

Be it resolved, &c., That the people of the United States, sympathizing with the people of Spain in their effort to establish a more liberal form of government, express the confident hope that it will be conducted to the end in such way as to promote the triumph of liberal institutions, and they earnestly appeal to the people of Spain not to allow the present opportunity to pass without securing the immediate emancipation of slaves and the final abolition of slavery throughout the Spanish dominions.

Be it further resolved, That the President of the United States is charged with the duty of communicating this resolution to the Government of Spain.

Mr. BANKS. I am authorized by a unanimous vote of the Committee on Foreign Affairs to move a substitute for the resolution which I hope will be adopted by the unanimous vote of the House.

The Clerk read the substitute, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the people of the United States sympathize with the patriotic people of Spain in their efforts to reestablish the liberties of the Spanish nation.

Resolved, &c., That the people of the United States sympathize with the people of Cuba in their efforts to secure political independence, and that they will welcome to the family of independent nations any Government that guarantees the liberty of all men and represents the principle of the absolute sovereignty of the people.

Resolved further, That the President is hereby authorized to recognize the independence of Cuba whenever in his opinion a republican form of government shall have been established.

Mr. BANKS. Of course I do not propose to detain the House with any remarks at this late hour of the session. I will only say that the unanimous consent of the members of the Committee on Foreign Affairs has been given to the substitute which has been read, and I hope it may be approved by the unanimous vote of the House.

Mr. BROOKS. If I understand this proposition it is to sympathize with Spain, which is all very well. Then we profoundly sympathize with Cuba, that is in a state of revolution against Spain. It strikes me that is a very absurd contradiction.

Mr. BANKS. I will say that there is no inconsistency in the resolutions. The first one is an expression of the sympathy of the people of the United States with the efforts of the Spanish people to reestablish the liberties of the Spanish nation. That resolution is based upon the recognized principle of the absolute sovereignty of the people. Then we express the same sympathy for the people of Cuba. The people of Cuba have the same right to their liberties that the people of Spain have to theirs, and we express our sympathy with both in their efforts to obtain their liberties.

Mr. BROOKS. If I understand the substitute—I am not sure that I do—we sympathize with Spain, who is pouring forth her troops for the overthrow of Cuban independence, and we

also sympathize profoundly with Cuba. Well, I think I am in favor of the whole substitute.

Mr. ROSS. Would it not be as well to amend the substitute by striking out the word "reestablish" and inserting the word "establish"?

Mr. BANKS. I have no objection to that; but the resolution now recognizes a former republican government in Spain.

The amendment of Mr. Ross was then agreed to.

The substitute, as amended, was then agreed to.

Mr. BANKS. I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution, as amended, was read the third time, and passed unanimously.

Mr. BANKS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. PRUYN. I think the title of this joint resolution should be amended. It now reads "a joint resolution tendering sympathy to the people of Spain."

Mr. ORTH. Amend it by adding: "and for other purposes." [Laughter.]

Mr. BANKS. I move to amend it by adding the words "and to the people of Cuba."

The amendment was agreed to; and the title, as amended, was then agreed to.

METROPOLITAN RAILROAD COMPANY.

The next business on the Speaker's table was Senate bill No. 711, relating to the Metropolitan Railroad Company; which was taken up and read a first and second time.

The question was upon ordering the bill to be read a third time.

The bill, which was read, provides for extending the time for five years for the completion of the line of street railway of the Metropolitan Railroad Company.

Mr. KOONTZ. This bill merely provides for the completion of the line of the Metropolitan Railroad Company. I ask that it be now put upon its passage; and on that I call the previous question.

Mr. INGERSOLL. I desire to have this bill referred to the Committee for the District of Columbia.

The SPEAKER. That motion will be in order if the previous question shall not be seconded.

Mr. KOONTZ. If this bill is now referred to the Committee for the District of Columbia it will be lost.

Mr. INGERSOLL. If it is passed it will gridiron this whole city with street railways.

Mr. KOONTZ. I insist upon the previous question.

The question was taken upon seconding the previous question; and upon a division there were—ayes 34, noes 78.

Before the result of the vote was announced, Mr. KOONTZ called for tellers.

The question was taken on ordering tellers; and there were seventeen in the affirmative.

So (the affirmative not being one fifth of a quorum) tellers were not ordered.

The previous question was accordingly not seconded.

Mr. INGERSOLL. I move that the bill be referred to the Committee for the District of Columbia.

The motion was agreed to; there being on a division—ayes eighty-six, noes not counted.

Mr. INGERSOLL moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FEES OF RECORDER OF DEEDS, ETC.

The next business on the Speaker's table was Senate bill No. 712, to define the fees of recorder of deeds and to provide for the appointment of warden of the jail in the District of Columbia, and for other purposes; which was taken up and read a first and second time.

The question was upon the third reading of the bill.

Mr. WELKER. I hope this bill will be now passed; and I call the previous question on its passage.

Mr. POLAND. I hope it will be referred to the Committee on the Judiciary.

Mr. WELKER. This bill authorizes the appointment of the warden of the jail by the supreme court of the District of Columbia. It also regulates the fees of the recorder of deeds for the District of Columbia. I am informed by the chairman of the Committee on the District of Columbia of the Senate that it does not increase the compensation of that officer, but merely reduces to dollars and cents the fees of the recorder of deeds, which are now computed in pounds of tobacco under the old rule establishing the fees. That is the substance of the bill. I will yield to the gentleman from Vermont [Mr. POLAND] if he desires to make any remarks on this bill.

Mr. POLAND. Mr. Speaker, my objection to this bill is that it vests the power of political appointment in a court, a thing which ought never to be done. The other day a gentleman made application to me to aid in the passage of this bill, because he said he had already secured the appointment if this bill should be passed. Although I have a very good opinion of courts and judges I think they never should have any power of political appointment. The business of courts is to try cases. They never should have any opportunity to reward friends or punish enemies by the distribution of patronage.

Mr. WELKER. The gentleman who made the application to my friend from Vermont [Mr. POLAND] must have been, I think, a rather "green" politician. I believe that in vesting this power of appointment in the supreme court of the District we place it just where it ought to be. The warden of the jail is the executive officer of that court. The Supreme Court of the United States appoints its own marshal; and it is right that the supreme court of the District should have the control of this warden.

Mr. SCOFIELD. I wish to ask the gentleman from Vermont [Mr. POLAND] whether his only objection to this bill is that under it the supreme court of the District of Columbia will appoint the warden of the jail?

Mr. POLAND. I have no objection to the other sections of the bill; but I do object to this provision, and I object to it upon principle.

Mr. SCOFIELD. I guess that provision is not very mischievous.

Mr. ROSS. I wish to know whether this bill is intended to take away patronage from General Grant? [Laughter.]

Mr. WELKER. Of course it takes from the President the appointing power with respect to this officer and places it in the court whose officer the warden is. I think this a proper provision.

Mr. ROSS. I think we had better stand by the incoming President. [Laughter.]

Mr. WELKER. I call the previous question.

The previous question was seconded and the main question ordered.

The question being taken on the motion of Mr. POLAND, to refer the bill to the Committee on the Judiciary, there were—ayes 65, noes 63.

Mr. WELKER. I call for tellers.

Tellers were ordered; and Mr. WELKER and Mr. POLAND were appointed.

The House divided; and the tellers reported—ayes 58, noes 66.

So the motion to refer was not agreed to.

The bill was ordered to a third reading; and it was accordingly read the third time.

The question being taken on the passage of the bill, there were—ayes eighty-seven, noes not counted.

Mr. ROSS. I call for the yeas and nays. The yeas and nays were not ordered.

So the bill was passed.

Mr. WELKER moved to reconsider the vote by which the bill was passed; and also moved

that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NATIONAL CURRENCY FRAUDS.

The next business on the Speaker's table was the bill (S. No. 722) to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," by extending certain penalties to accessories; which was read a first and second time.

The bill provides that every person who shall aid or abet any officer or agent of any association in doing any of the acts enumerated in section fifty-five of an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," with intent to defraud or deceive, shall be liable to the same punishment therein provided for the principal.

Mr. HOOPER, of Massachusetts. I demand the previous question upon the passage of this bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. HOOPER, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 1041) granting the right of way to the Walla-Walla and Columbia River Railroad Company, and for other purposes; and

An act (H. R. No. 1063) for the relief of Henry Barricklow.

WAGON-ROAD IN OREGON.

The next business on the Speaker's table was Senate bill No. 167, granting lands to the State of Oregon to aid in the construction of a military wagon-road from the navigable waters of Coos bay to Roseburg, in said State; which was read a first and second time.

The bill was read. The first section provides that there shall be granted to the State of Oregon, to aid in the construction of a military wagon-road from the navigable waters of Coos bay to Roseburg alternate sections of public lands, designated by odd numbers, to the extent of three sections in width on each side of said road; provided that the lands hereby granted shall be exclusively applied to the construction of said road and to no other purpose, and shall be disposed of only as the work progresses; and provided further that any and all lands heretofore reserved to the United States, or otherwise appropriated by act of Congress or other competent authority, are reserved from the operation of this act, except so far as it may be necessary to locate the route of said road through the same, in which case the right of way to the width of one hundred feet is granted; and provided further that the grant hereby made shall not embrace any mineral lands of the United States or any lands to which homestead or preemption rights have attached.

The second section provides that the lands hereby granted to said State shall be disposed of by the Legislature thereof for the purpose aforesaid, and for no other; and the said road shall be and remain a public highway for the use of the Government of the United States, free from tolls or other charges upon the transportation of any property, troops, or mails of the United States.

The third section provides that said road shall be constructed with such width, gradation, and bridges as to permit of its regular

use as a wagon-road, and in such other special manner as the State of Oregon may prescribe.

The fourth section provides that the State of Oregon is authorized to locate and use in the construction of said road an additional amount of public lands not previously reserved to the United States nor otherwise disposed of, and not exceeding six miles in distance from it, equal to the amount reserved from the operation of this act in the first section of the same, to be selected in alternate odd sections, as provided in section one of this act.

The fifth section provides that lands hereby granted to said State shall be disposed of only in the following manner; that is to say, when the Governor of said State shall certify to the Secretary of the Interior that ten continuous miles of said road are completed, then a quantity of the land hereby granted, not to exceed thirty sections, may be sold, and so on from time to time until said road shall be completed; and if said road is not completed within five years no further sales shall be made, and the lands remaining unsold shall revert to the United States.

The sixth and last section provides that the United States surveyor general for the district of Oregon shall cause said lands, so granted, to be surveyed at the earliest practicable period after said State shall have enacted the necessary legislation to carry this act into effect.

Mr. JULIAN. I move to add the following to the first section:

Provided, That the grant of lands hereby made shall be upon the condition that the lands shall be sold to actual settlers only in quantities not greater than one quarter section and for a price not exceeding \$2 50 per acre.

Mr. LAWRENCE, of Ohio. Has this bill been considered by the Committee on the Public Lands?

Mr. JULIAN. It has not been before the committee. This is an irregular way to dispose of the bill; but with that amendment I shall not oppose its passage.

Mr. LAWRENCE, of Ohio. What amount of lands does the bill grant?

Mr. JULIAN. Alternate sections for three miles on each side of the road.

Mr. LAWRENCE, of Ohio. I hope the bill will be referred.

Mr. MALLORY. Mr. Speaker, I am sure that if the House understood this bill there would be no objection to it. Those who are acquainted with the geography of the State of Oregon know that along the line of the coast there is a high range of mountains known as the Coast range. Between that range of mountains and the Cascade mountains there is a succession of valleys. In one of these, known as the Umpqua valley, is situated the town of Roseburg, a point of some considerable importance on account of the country which surrounds it. This is to enable the people there to build a road over the summit of the coast range of mountains so as to get to the coast by that means. A large portion of the land proposed to be granted is not worth anything. Most of it lies on this range of mountains and could not be sold for one cent an acre. Some of it may be valuable in the construction of this road.

Mr. LAWRENCE, of Ohio. Does the bill define the kind of road to be built? It ought to be understood that it is not a railroad. Is it to be a macadamized road?

Mr. MALLORY. It is merely a wagon-road; and the gentleman ought to know that to build a wagon-road over the mountains requires a great outlay of money. A macadamized road would cost \$1,000 a mile. This road is to enable wagons to get from the Umpqua valley over the mountains to the coast. The only possible means they have for communication is on the backs of mules and horses. The object of this bill is to enable men to build a wagon-road so that they can transport their produce and goods across the mountains with less trouble and expense.

Mr. HIGBY. To what extent is the country settled?

Mr. MALLORY. In the valley of the Ump-

qua there is a considerable settlement, and at the Coos river, on the coast, there is another settlement; but along the line extending about sixty miles it is an unbroken wilderness. I think this House cannot refuse to render this assistance. To refer the bill to the Committee on the Public Lands is to defeat it. It is simply an indirect blow to destroy the bill. Justice to the people of Oregon demands that this little grant should be made.

Mr. BROMWELL. Has there been any survey made?

Mr. MALLORY. I presume not; and I will state why: it would require a considerable outlay of money such as is necessary to locate a railroad. But the frontiersmen have gone on and located the route, as such men do, and this is found to be the only line practicable.

Mr. BROMWELL. To whom or for whose benefit does this grant inure; to what company?

Mr. MALLORY. The grant is made to the State of Oregon, and it is to be controlled by the Legislature. I have no objection to the amendment offered by the gentleman from Indiana.

Mr. JULIAN. I will yield to the gentleman from Minnesota to offer an amendment, and then I will renew the demand for the previous question.

Mr. DONNELLY. I find the fifth section is rather obscurely worded; therefore, to relieve the bill of all doubt as to the quantity of land granted, I offer the following amendment, to come in at the end of the section:

Provided, however, That the entire amount of public land granted by this act shall not exceed three sections per mile for each mile actually constructed.

Mr. JULIAN. I demand the previous question.

Mr. MALLORY. Mr. Speaker, when this bill was read at the Clerk's desk I moved that it be put on its passage. I would inquire how the gentleman from Indiana takes possession of the floor?

The SPEAKER. The Chair heard the gentleman from Oregon say "Mr. Speaker," and that was all.

Mr. MALLORY. Not being accustomed to making speeches, I suppose I did not speak loud enough to make myself heard.

The SPEAKER. Upon the gentleman's statement, with the consent of the gentleman from Indiana, [Mr. JULIAN.] the Chair will recognize the former as having moved the previous question.

Mr. JULIAN. I waive my right.

The previous question was seconded and the main question ordered.

The first question was on the amendment of Mr. JULIAN.

Mr. JULIAN. I will modify my amendment by inserting after the words "quarter section" the words "to each person."

The amendment, as modified, was agreed to.

The question recurred on the amendment of Mr. DONNELLY.

Mr. MALLORY. If the floor had been under my control I should not have allowed that amendment.

The SPEAKER. If the gentleman should insist upon it the Chair would be compelled to rule that the floor belonged by right to the gentleman from Indiana, [Mr. JULIAN.]

Mr. MALLORY. I hope the amendment will not be adopted.

The question being put, there were—ayes 53, noes 50; no quorum voting.

Tellers were ordered; and Messrs. DONNELLY and MALLORY were appointed.

The House divided; and the tellers reported—ayes 75, noes 45.

So the amendment of Mr. DONNELLY was agreed to.

The bill, as amended, was ordered to be read a third time; and it was accordingly read the third time.

Mr. MALLORY. I demand the previous question on the passage.

Mr. HOLMAN. I move to lay the bill on the table.

The motion was disagreed to.

The previous question was then seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. MALLORY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INDICTMENTS IN THE REBEL STATES.

The next business on the Speaker's table was the bill (S. No. 544) relating to the time for finding indictments in the courts of the United States in the late rebel States; which was read a first and second time.

The bill provides that the time for finding indictments in the courts of the United States in the late rebel States for offenses cognizable by said courts and which may have been committed since said States went into rebellion should be extended for the period of two years from and after said States are or may be restored to representation in Congress, provided that this provision shall not apply to treason or other political offenses.

Mr. BINGHAM. I ask that that bill be put on its passage.

Mr. KERR. I desire to inquire of the gentleman whether this bill has been considered by the appropriate committee in this House; and if not, I ask him to explain it?

Mr. BINGHAM. I answer the gentleman that the bill passed the Judiciary Committee of the Senate, as I am informed, unanimously, and I understand that a majority of the Judiciary Committee of this House have examined it and are satisfied with it. I beg leave further to say to the gentleman that the principle involved in the bill is sustained by every writer upon law accepted as authority in America and sustained by the precedents, so far as I know, of every State in this Union. Those who have noticed the reading of the bill will have discovered that it excepts from its operation treason and other political offenses. The result is that the bill simply extends in the States lately in insurrection, where the laws were silent and the courts closed, the time heretofore limited by law for the presentation of indictments for offenses against person and property. It is the exercise of legislative power simply over the law of the forum, and on that question there is not a division of opinion among the jurists of America. When your courts were not open indictments were impossible. The learned gentleman knows right well that the sanctions of the criminal law are at last the highest security known to the law for person and property. If these persons are not liable to indictment by reason of the courts being closed on account of insurrection, the result is that they snap their fingers in the face of the men they have outraged and wronged. To refuse to pass the bill, in short, in my judgment, would be to refuse to do justice to the people and so to give colorable license to crime. I move the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. BINGHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REGENT OF THE SMITHSONIAN INSTITUTION.

The next business on the Speaker's table was a joint resolution (S. R. No. 200) reappointing Louis Agassiz a regent of the Smithsonian Institution; which was read a first and second time.

Mr. GARFIELD. I move the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered.

The joint resolution was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed;

and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LINCOLN MONUMENT.

The next business on the Speaker's table was a joint resolution (S. R. No. 203) donating cannon for a monument to the memory of the late President Lincoln.

Mr. CULLOM. I ask that that resolution be laid aside, as the House has already passed a similar resolution.

The joint resolution was passed over informally.

MILITARY ROAD IN OREGON.

The next business on the Speaker's table was Senate bill No. 679, to amend an act entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State;" which was taken up and read a first and second time.

The question was on the third reading of the bill.

The preamble of the bill states that an act was passed July 2, 1864, granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of the State, and that the time designated for the completion of the road expires on the 2d of July, 1869.

The bill provides for extending the time for the completion of the road to July 2, 1872.

Mr. MALLORY. I ask that this bill be now put on its passage.

Mr. JULIAN. Will the gentleman allow me to offer an amendment to the bill?

Mr. MALLORY. I will hear the amendment read.

Mr. JULIAN. I desire to move to amend the bill by adding to it the following:

Provided, That the grant of lands hereby renewed and continued shall be upon the condition that the lands shall be sold to actual settlers only, in quantities not greater than a quarter section, and for a price not exceeding \$2 50 per acre.

Mr. MALLORY. While I do not object to the principle contained in that amendment I am very well aware that to adopt it at this stage of the session would endanger the passage of this bill.

I desire to state, so that the House may understand, the circumstances under which this legislation is asked. In July, 1864, a bill was passed through Congress giving to the State of Oregon six sections of land to the mile for the construction of a military wagon-road from Eugene City to the eastern boundary of the State of Oregon. The provisions of the bill required that the road should be completed within five years from the passage of the act. The citizens in that vicinity donated money for the purpose of constructing the road in order to enable them to open communication with the gold and silver mining regions of Idaho, so that they might have the benefit of that country as a market for their productions. The work was continued until the road was completed to the summit of the Cascade range of mountains and to the plains on the east side of that range; at a cost of something over two hundred thousand dollars in gold, which was paid by the people for that purpose.

On arriving at that point they found themselves in the vicinity of the Indian troubles, where General Crook was then engaged in operating against the Indians. The hostile character of the Indians prevented them from proceeding further with their work. But for the presence of the hostile Indians in that vicinity at that time this legislation would not now be asked. The only reason why the road has not been completed to the eastern boundary of the State of Oregon within the time limited by the original act is the fact that the hostile Indians precluded the company from proceeding with their work.

The time limited by the act will expire on the 2d of July next; and unless this bill pass at this session of Congress these lands, by the condition of the grant, will lapse to the United States, and the people of that region instead of

having a road completed through to the eastern boundary of the State will simply have a road terminating at the top of the Cascade range of mountains, which will be of no value whatever to the people there, and the expense of constructing which will be an almost total loss to those who have invested their money in the construction of this road.

The House will understand that this bill does not propose to make an original grant of land for this purpose. The grant has already been made; and all that is now asked is simply a little further extension of time for the completion of the road. It seems to me that there can be no objection to this bill. Any limitations upon the grant incorporated into this bill at this time will have no other effect than to defeat the bill, and a defeat of this bill now is to deprive the people who have gone to work in good faith and expended their money in the construction of this road of the advantage of this grant, which will then revert to the United States. I think this bill ought to pass without amendment. The only reason why I object to the amendment proposed by the gentleman from Indiana [Mr. JULIAN] is that I believe the adoption of it, requiring the bill to be sent back to the Senate at this late stage of the session, will in all probability defeat it.

Mr. JULIAN. Mr. Speaker, the amendment which has been read by the Clerk is a provision which ought to be applied to every future grant of land and to every dead grant that seeks a revival at our hands. If the gentleman from Oregon will not permit that amendment to be offered and voted upon I hope the House will refuse to second the previous question and will allow me to submit a motion to refer the bill to the appropriate committee. The adoption of the amendment will not defeat the passage of the bill, for the Senate, like the House, has repeatedly approved of the very condition prescribed in the amendment, and it will take but a moment for that body to concur in it if it be attached to this bill.

Mr. MALLORY. I yield for a moment to the gentleman from Illinois, [Mr. INGERSOLL.]

Mr. INGERSOLL. I desire the gentleman from Oregon [Mr. MALLORY] to inform the House whether this bill proposes any enlargement of the original grant or simply its revival.

Mr. MALLORY. It is simply a proposition to extend the time for the completion of the road. I have already stated emphatically to the House that this legislation is asked for now not by reason of any fault or neglect on the part of the company, but because the presence of hostile Indians prevented the company from going on with the work. If upon this statement the House is not willing to extend the grant, then the bill must be voted down.

Mr. RAUM. Will the gentleman yield to me for a question?

Mr. MALLORY. Yes, sir.

Mr. RAUM. I wish to ask whether the road, so far as it has been constructed, has been constructed by a company and is now a toll-road?

Mr. MALLORY. It is a toll-road for all purposes except for the use of the United States. Under a provision of the bill making the grant the company has no right whatever to charge the United States Government for any use the latter may make of the road, not even for the transportation of troops or the carrying of the mails.

I now insist upon the demand for the previous question.

On seconding the previous question there were—ayes 69, noes 43.

Mr. JULIAN. I call for tellers.

Tellers were not ordered.

So the previous question was seconded.

Mr. JULIAN. I move that the bill be laid on the table; and on that motion I demand the yeas and nays.

On ordering the yeas and nays there were—ayes 28, noes 99.

Mr. JULIAN. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and Mr. JULIAN and Mr. MALLORY were appointed.

The House divided; and the tellers reported—ayes 81, noes 91.

So (one fifth voting in favor thereof) the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 35, nays 98, not voting 89; as follows:

YEAS—Messrs. Archer, Arnell, Baker, Banks, Beatty, Benton, Boutwell, Broomall, Benjamin F. Butler, Cake, Churchhill, Cobb, Cook, Davies, Dickey, Dockery, Ela, Fields, Garfield, Getz, Haight, Holman, Julian, Kelsey, William Lawrence, McCarthy, McKee, Newsham, Randall, Scofield, Shanks, Shel-labarger, Sitgreaves, Stevens, and Taylor—35.

NAYS—Messrs. Adams, Delos R. Ashley, Axtell, Barnes, Barnum, Beck, Blair, Boyden, Buckland, Buckley, Cary, Chanler, Coburn, Corley, Covode, Cul-lom, Deweese, Dixon, Dodge, Driggs, Eckley, Thomas D. Eliot, James T. Elliott, Ferriss, Ferry, Glossbren-ner, Golladay, Goss, Gove, Grover, Haughey, Haw-kins, Heaton, Higby, Hill, Hooper, Hopkins, Hotch-kiss, Chester D. Hubbard, Ingersoll, Jenckes, Johnson, Alexander H. Jones, Thomas L. Jones, Judd, Kellogg, Kerr, Knott, Laflin, Lash, George V. Lawrence, Lin-cola, Logan, Mallory, Marshall, Maynard, McCorm-ick, Meurer, Miller, Moorhead, Morrill, Mullins, Mungen, Myers, Newcomb, Nicholson, Norris, O'Neill, Orth, Phelps, Pile, Poland, Price, Robertson, Root, Sawyer, Smith, Spalding, Starkweather, Stewart, Stone, Stover, Taber, Tift, Trowbridge, Twichell, Burt Van Horn, Robert T. Van Horn, Ward, Henry D. Washburn, William B. Washburn, Welker, Whitte-more, Thomas Williams, William Williams, Windom, Wood, and Young—98.

NOT VOTING—Messrs. Allison, Ames, Anderson, James M. Ashley, Bailey, Baldwin, Beaman, Benja-min, Bingham, Blackburn, Blaine, Boles, Bowen, Boyer, Bromwell, Brooks, Burr, Rodrick R. Butler, Callis, Reader W. Clarke, Sidney Clarke, Clift, Cor-nell, Delano, Donnelly, Edwards, Eggleston, Eldridge, Farnsworth, Fox, French, Gravelly, Griswold, Halsey, Hamilton, Harding, Asabel W. Hubbard, Richard D. Hubbard, Hulburt, Humphrey, Hunter, Kelley, Ketcham, Kitchen, Kootz, Loan, Loughridge, Lynch, Marvin, McCullough, Moore, Morrissey, Niblack, Nunn, Paine, Perham, Peters, Pettis, Pierce, Pike, Plants, Polsley, Pomeroy, Prince, Pruyn, Raum, Robinson, Ross, Schenck, Selye, Stokes, Sypher, Taffe, Thomas, John Trimble, Lawrence S. Trimble, Upson, Van Aernam, Van Auken, Van Trump, Van Wyck, Vidal, Cadwalader C. Washburn, Elihu B. Washburne, James F. Wilson, John T. Wilson, Stephen F. Wil-son, Woodbridge, and Woodward—89.

So the bill was not laid on the table.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HAMLIN, one of its clerks, notifying the House that that body had adopted the report of the committee of conference on the dis-agreeing votes of the two Houses on House bill No. 1570, making appropriations for the consular and diplomatic expenses of the Gov-ernment for the year ending June 30, 1870, and for other purposes.

It further announced that the Senate had agreed to the conference asked for on the dis-agreeing votes of the two Houses on House bill No. 1746, for the removal of certain dis-abilities from the persons therein named, and had appointed as managers on its part Mr. STEWART, Mr. TRUMBULL, and Mr. HENDRICKS.

The hour of half past four having arrived the House took a recess till nine o'clock p. m.

EVENING SESSION.

The House reassembled at nine o'clock p. m. Mr. LOGAN moved that the House adjourn until to-morrow at ten o'clock a. m.

The House divided; and there were—ayes 48, noes 67.

So the motion was disagreed to.

ALLEGED NEW YORK ELECTION FRAUDS.

Mr. LAWRENCE, of Ohio, from the select Committee on Alleged Election Frauds in New York, submitted a supplemental report; which was laid on the table, and ordered to be printed.

MILITARY ROAD IN OREGON.

The SPEAKER. The first business in order is the consideration of Senate bill No. 679, to amend an act entitled "An act granting lands to the State of Oregon to aid in the construc-tion of a military road from Eugene City to the eastern boundary of said State. At the taking of the recess the House refused to lay the bill on the table. The previous question was sec-onded, and the question now is "Shall the main question be now ordered to be put?"

The main question was ordered.

The bill was ordered to a third reading; and it was accordingly read the third time.

Mr. MALLORY demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the opera-tion thereof the bill was passed.

Mr. MALLORY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CAPTAIN CHARLES HUNTER.

The next business on the Speaker's table was Senate bill No. 844, for the relief of Cap-tain Charles Hunter; which was read the first and second time.

The bill directs the Secretary of the Treas-ury to pay Captain Charles Hunter, United States Navy, out of any money in the Treasury not otherwise appropriated, pay as commander in the Navy on leave from the 22d of June, 1863, to the 21st of June, 1866.

Mr. BUTLER, of Massachusetts. I should like to hear some explanation of the bill.

Mr. BENJAMIN. I make the point of order that that makes an appropriation, and under the rule must have its first consideration in the Committee of the Whole.

The SPEAKER. The Chair sustains the point of order, as the bill does make an appro-priation.

Mr. SCHENCK. I ask the gentleman from Missouri to withdraw his point of order until he hears what this bill is.

Mr. BENJAMIN. I withdraw the point of order for the present. Has the bill ever been considered by any committee of this House?

Mr. PIKE. The facts about this case, Mr. Speaker, are that Captain Hunter, while in charge of one of our naval vessels during the war pursued a blockader, and in following it with great diligence went into Cuban waters. When within three miles of the shore the peo-ple on board the blockader became alarmed and burnt it. Therefore, Captain Hunter was court-martialed, as our foreign relations were in a very delicate condition and it was neces-sary to conciliate foreign nations. He was court-martialed and dismissed from service. Subsequently he was restored. This bill gives him his pay for the time he was out of service. Under these circumstances I know no gentle-man will object.

Mr. WASHBURN, of Wisconsin. Under the statement of the chairman of the commit-tee there is no question that this bill ought to pass.

Mr. BENJAMIN. I withdraw the objection.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PIKE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ALPHEUS C. GALLAHUE.

The next business on the Speaker's table was the bill (S. No. 781) for the relief of Al-pheus C. Gallahue; which was read a first and second time.

It grants leave to the petitioner to make application to the Commissioner of Patents for an extension of a patent granted to him on the 16th day of August, 1853, for pegging boots and shoes, antedated the 18th of February, 1853, for fourteen years from the latter date, in the same manner as if the petition for said extension had been filed at least ninety days before the expiration of the patent.

Mr. JENCKES. I am instructed by the Com-mittee on Patents to move to concur in that bill. It simply proposes to relieve the party against the consequence of a mistake, and it gives him no right except to apply to the Com-missioner of Patents in the same manner as he might have done if he had not made the mis-take which is set forth in the bill.

Mr. BUTLER, of Massachusetts. Will the gentleman state why the patent was not applied for?

Mr. JENCKES. The petitioner explains it in this way: his patent was antedated six months and he indorsed it as of that date. On making his application he discovered the fact which he had forgotten, and he did not make it within the ninety days required by law. I demand the previous question.

The previous question was seconded and the main question ordered; and under the opera-tion thereof the bill was read a third time.

Mr. SCOFIELD. I move to lay the bill on the table.

The motion was disagreed to—ayes twenty-one, noes not counted.

The bill was passed.

Mr. JENCKES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REDUCTION OF MILITARY FORCES.

The next business on the Speaker's table was the bill (S. No. 811) to provide for the reduction of the military forces, and for other purposes; which was read a first and second time.

Mr. GARFIELD. I ask that this bill be informally laid aside until we get the Army appropriation bill from the Senate. We do not know what may come in that direction.

By unanimous consent the bill was laid aside.

JOHN W. DAVIDSON.

The next business on the Speaker's table was the bill (S. No. 661) for the relief of Lieutenant Colonel John W. Davidson, of the United States Army; which was read a first and second time. It directs the Secretary of the Treasury to pay to the petitioner \$218 25, being the amount of public money stolen from him while in his possession at Los Angeles, California, in August, 1847.

Mr. PILE. I ask it to be put on its passage. In explanation I send to the desk the report of the Senate committee who examined this matter. I will also state that I examined the matter myself at the Treasury and War Departments, and the statements in this report are verified by the official papers in those De-partments.

The report was read.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PILE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REV. D. HILLHOUSE BUEL.

The next business on the Speaker's table was the bill (S. No. 760) for the relief of Rev. D. Hillhouse Buel; which was read a first and second time.

Mr. GRISWOLD. I ask that that bill be put upon its passage now.

The bill was read. It directs the Secretary of the Treasury to cause to be issued to the Rev. D. Hillhouse Buel, of Cooperstown, New York, proper certificates of registered stock of the United States consolidated debt under the act of March 3, 1865, to the amount of \$7,000, in lieu and stead of certificates of said debt numbered 16331 and 16332 for \$1,000 each, and certificate numbered 4987 for \$5,000, belonging to him and lost while passing through the mails; provided that the said Buel shall give bonds with surety to the satisfaction of the Secretary of the Treasury conditioned to in-demnify the United States against all claims upon or in respect to the first-mentioned cer-tificates.

Mr. GRISWOLD. The circumstances at-tending the loss of these bonds are simply these: Rev. Mr. Buel sent coupon bonds to the Treas-ury to be exchanged for registered bonds. In transmitting them by mail they were lost more than a year since. By the usage of the Treas-ury Department they are of no value to a third party, as they have to go to the Treasury De-partment to be registered again in the event

of their being transferred to a third party. In addition to that, the Government is amply indemnified against loss, and there is no possible objection to the passage of the bill.

Mr. SCOFIELD. Do I understand the gentleman from New York to say that the bonds lost were registered bonds?

Mr. GRISWOLD. Yes, sir.

Mr. SCOFIELD. Then this bill is entirely unnecessary. The registry of the Treasury Department shows that fact, and the simple losing of the certificate of registry amounts to nothing. The party can go to the Treasury and get his interest and pay when the bonds are due the same as if he had not lost his certificate.

Mr. GRISWOLD. He will want some evidence when the bonds are due. He has no evidence of indebtedness unless he has the bonds.

Mr. SCOFIELD. If I understand the bill, it was seven-thirties that were sent to the Treasury for conversion, or coupon bonds.

Mr. GRISWOLD. It was coupon bonds that were sent to be exchanged for registered bonds.

Mr. SCOFIELD. That is what I understand.

Mr. WASHBURN, of Wisconsin. As I understand the case, coupon bonds were sent to the Treasury to be exchanged, and they were exchanged for registered bonds, and the registered bonds were lost in the mails.

Mr. GRISWOLD. Yes, sir.

Mr. WASHBURN, of Wisconsin. And he now wants duplicate bonds.

Mr. GRISWOLD. Yes; there can be no possible objection to it.

Mr. SCOFIELD. There could be no objection to the bill on the statement of the gentleman from New York, but I think he is mistaken as to the character of the transaction. If there is a report made by the Senate committee I would like to have it read.

The SPEAKER. There is no report, but the bill will be read again, as there seems to be some misunderstanding in regard to the facts.

The bill was again read.

Mr. GRISWOLD. Unless some gentleman desires to ask further questions I will move the previous question.

Mr. WOOD. I desire to ask my colleague whether there is any precedent for a bill of this character? Has Congress ever indemnified parties under these circumstances?

Mr. GRISWOLD. Yes; plenty of them.

Mr. WOOD. Will my colleague state one?

Mr. GRISWOLD. I cannot give the gentleman names and dates, but I say to him from my own knowledge that bills of this character have been passed.

Mr. WASHBURN, of Wisconsin. I think I recollect a case which passed this very Congress reported from the Committee of Claims by the gentleman from Massachusetts, [Mr. WASHBURN.]

Mr. PETERS. We have passed two or three such bills.

Mr. WASHBURN, of Wisconsin. As I understand the bill, there can be no objection to it.

Mr. MAYNARD. What evidence is there that the bonds are lost? Where is the proof?

Mr. INGERSOLL. They make their proof to the proper officers of the Treasury.

Mr. GRISWOLD. The Government can lose nothing by this bill. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was read the third time, and passed.

Mr. GRISWOLD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BUILDING FOR INTERIOR DEPARTMENT, ETC.

The next business on the Speaker's table was Senate joint resolution No. 204, relating to

the Department of the Interior; which was taken up, and read a first and second time.

The question was upon ordering the joint resolution to be read a third time.

The joint resolution was read. The first section authorizes the Secretary of the Interior to lease, for a period not exceeding one year, with the privilege of continuing the same from year to year for five years, at a yearly rent not exceeding \$10,000, the fire-proof building on G street, owned by Mr. White, for the use of the Department of the Interior; and the sum of \$10,000 is appropriated for that purpose. The second section authorizes the Secretary of the Interior to remove from the floor of the said Department building now occupied for the storage and exhibition of models, whenever in his judgment the accumulation of such models may render the same expedient, all such models as relate to applications for patents not granted, and to dispose of the same as he may think best.

Mr. JENCKES. If this bill is to be passed I move to amend it by striking out the second section.

Mr. KELSEY. This is an appropriation bill, and I make the point of order that it must receive its first consideration in Committee of the Whole.

The SPEAKER. The Chair sustains the point of order, and the bill will be referred to the Committee of the Whole unless a motion is made to suspend the rules to consider it in the House.

Mr. JENCKES. I have no objection to the first section of the bill; but the second section involves one of the worst jobs ever attempted to be put through Congress.

Mr. SCOFIELD. This subject was before the Committee on Appropriations, and they gave it some consideration. It was proposed to put it on one of the appropriation bills, but the proposition did not secure the sanction of that committee.

Mr. JENCKES. I will make no objection to this bill going to the Committee of the Whole.

The bill was accordingly referred, under the rule, to the Committee of the Whole.

HEIRS OF THOMAS LAWSON.

The next business on the Speaker's table was the bill of the Senate, No. 647, for the relief of the heirs of the late Thomas Lawson, deceased; which was taken up, and read a first and second time.

Mr. WASHBURN, of Massachusetts. I move that this bill be referred to the Committee of Claims.

The motion was agreed to.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EXTRADITION OF CRIMINALS.

The next business on the Speaker's table was Senate bill No. 705, further to provide for giving effect to treaty stipulations between this and foreign Governments for the extradition of criminals; which was taken up, and read a first and second time.

The question was upon ordering the bill to be read a third time.

The bill was read. The first section provides that whenever any person shall have been delivered by any foreign Government to an agent or agents of the United States, for the purpose of being brought within the United States and tried for any crime of which he is duly accused, the President shall have power to take all necessary measures for the transportation and safe-keeping of such accused person and for his security against lawless violence until the final conclusion of his trial for the crimes or offenses specified in the warrant of extradition, and until his final discharge from custody or imprisonment for or on account of such crimes or offenses, and for a reasonable time thereafter. And it shall be lawful for the President, or such person as he may empower for that

purpose, to employ such portion of the land or naval forces of the United States, or of the militia thereof, as may be necessary for the safe-keeping and protection of the accused as aforesaid.

The second section provides that any person duly appointed as agent to receive in behalf of the United States the delivery by a foreign Government of any person accused of crime committed within the jurisdiction of the United States and to convey him to the place of his trial shall be, and hereby is, vested with all the powers of a marshal of the United States in the several districts through which it may be necessary for him to pass with such prisoner, so far as such power is requisite for his safe-keeping.

The third section provides that if any person or persons shall knowingly and willfully obstruct, resist, or oppose such agent in the execution of his duties, or shall rescue, or attempt to rescue, such prisoner, whether in the custody of the agent aforesaid, or of any marshal, sheriff, jailor, or other officer or person to whom his custody may have lawfully been committed, every person so knowingly and willfully offending in the premises, shall, on conviction thereof before the district or circuit court of the United States for the district in which the offense was committed, be fined not exceeding \$1,000 and imprisoned not exceeding one year.

Mr. BANKS. This bill is rendered necessary by events of recent occurrence which, doubtless, are familiar to all members here. It has been examined by the chairman and I think other members of the Judiciary Committee, and they recommend its passage. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. BANKS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PAVEMENT OF PENNSYLVANIA AVENUE.

The next business on the Speaker's table was Senate bill No. 786, for the pavement of Pennsylvania avenue; which was taken up, and read a first and second time.

Mr. INGERSOLL. I ask that the bill be read; and if members will give attention there will be no objection to it. We all know that Pennsylvania avenue is in a poor condition. If any gentleman should make a point of order on the bill I shall move to suspend the rules.

The bill was read *in extenso*.

Mr. PILE. I made the point of order that that bill makes an appropriation and must be referred.

The SPEAKER. The Chair sustains the point of order.

Mr. INGERSOLL. I move that the rules be suspended for the purpose of considering the bill in the House.

Mr. TABER. The bill ought to be referred to the Committee on Public Buildings and Grounds.

The House refused to suspend the rules.

Mr. INGERSOLL. I move that the bill be referred to the Committee for the District of Columbia.

The motion was agreed to.

ENROLLED BILLS AND RESOLUTIONS.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 112) relating to captures made by Admiral Farragut's fleet in the Mississippi river in May, 1862;

An act (H. R. No. 425) for the relief of Mary A. Filler;

An act (H. R. No. 1279) in relation to additional bounties, and for other purposes;

An act (H. R. No. 1344) to confirm certain

private land claims in the Territory of New Mexico;

An act (H. R. No. 1827) to amend an act entitled "An act to exempt certain manufacturers from internal tax, and for other purposes," approved March 31, 1868;

An act (H. R. No. 1487) to declare and fix the status of judge advocates;

An act (H. R. No. 1867) for the relief of the Illinois Iron and Bolt Company;

An act (H. R. No. 1879) for the relief of certain companies of scouts and guides organized in Alabama;

An act (H. R. No. 1928) granting a pension to Lemuel Barthallow;

An act (H. R. No. 1930) granting a pension to Madge K. Guthrie and Robert B. Guthrie;

An act (H. R. No. 1973) in reference to certifying checks by national banks;

An act (H. R. No. 1989) for the relief of Peter McGough, collector of internal revenue and disbursing agent of the twentieth district, Pennsylvania;

Joint resolution (H. R. No. 438) relative to certain purchases by the Interior Department; and

Joint resolution (H. R. No. 211) for the relief of Henry S. Gibbons, Luther McNeal, and Seth M. Gates.

SALE OF ST. LOUIS ARSENAL GROUNDS.

The next business on the Speaker's table was Senate bill No. 862, amendatory of the act providing for the sale of the arsenal grounds at St. Louis and Liberty, Missouri, and for other purposes, approved July 25, 1868; which was taken up, and read a first and second time.

The bill provides that so much of the third section of the act providing for the sale of the arsenal grounds at St. Louis and Liberty, Missouri, and for other purposes, approved July 21, 1868, as grants to the city of St. Louis the westernmost six acres of the tract of ground occupied by the St. Louis arsenal be repealed so far as it designates the part of said tract so granted; and in lieu of said westernmost six acres there shall be granted to said city, for the purposes and upon the conditions expressed in said act, other six acres of said tract, to be designated by the Secretary of War; and that the period limited in said act for the erection of the monument therein contemplated to be erected shall be considered as commencing at the time when the Secretary of War shall have designated the six acres of said tract to be granted to said city; provided, however, that no part of the said six acres shall be selected east of the western line of the ground occupied by the St. Louis and Iron Mountain railroad for its road.

Mr. PILE. Mr. Speaker, this bill makes three changes in the law providing for the sale of the St. Louis arsenal. First, the law now donates the western six acres to the city of St. Louis for a park on which to erect a statue of General Lyon. The lines of the arsenal tract not running east and west, the western six acres would be a triangular tract not suitable for a park. This bill provides that the Secretary of War shall designate the six acres for the park. Second, this bill provides that the three years during which this monument of General Lyon is to be erected shall date from the time of the designation of the six acres to be so used by the Secretary of War; and third, that no part of this six acres shall be east of the Iron Mountain railroad tract. I think there can be no objection to the passage of this bill. I call for the previous question.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PILE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HENRY C. NOYES.

The next business on the Speaker's table was Senate bill No. 264, for the relief of Henry C. Noyes; which was taken up, and read the first and second time.

The bill directs the Secretary of the Treasury to issue a new bond for \$1,000, with coupons from and including that of July 1, 1867, to Henry C. Noyes, of Claremont, New Hampshire, in place of his coupon bond for a like amount, No. 55337, act of March 3, 1865, July issue, 1865, destroyed; provided, that before issuing a new bond the Secretary of the Treasury shall require a sufficient bond of indemnity securing the Government against the presentation of the bond alleged to be lost.

Mr. BENTON. I know Mr. Noyes very well by reputation. He has sustained an excellent character as a man of integrity. The testimony, as I am informed by the Senate committee, was full and explicit to show the destruction of this bond, which occurred in consequence of its being kept in a cellar. This bill provides for the issue of a new bond upon the condition that there shall be filed an indemnity bond acceptable to the Secretary of the Treasury securing the Government against any possible loss. It has been now some two or three years since this bond was lost, and no bond or coupon of the same number has been presented. From the Senate committee, which I understand was unanimous in reporting in favor of this bill, I learn that the testimony was ample as to the fact of the loss and the propriety of affording relief as proposed in the bill.

Mr. MAYNARD. I do not understand that the gentleman from New Hampshire [Mr. BENTON] in presenting this case to the House speaks from his personal knowledge or from his own examination and estimate of the testimony. His information is from the committee of the Senate who examined the case. Now, this is altogether too loose a mode of legislation. A coupon bond passes by delivery, and in whosoever hand it is it constitutes a valid claim against the Government.

This bill, before we act upon it, ought to be referred to a suitable committee of this House, that the testimony may be analyzed and that we may have a written report presenting to us the evidence in such a form that we can act intelligently on the case.

This case is unlike that upon which we passed a few moments ago. That was the case of a registered bond; and there seemed to be some little plausibility in the measure from the fact that the bond in the hands of a third party might not very conveniently be used to the prejudice of the Government. But here the case is different. I move, therefore, that this bill be referred to the Committee of Claims.

The SPEAKER. Does the gentleman from New Hampshire [Mr. BENTON] yield to allow the gentleman from Tennessee [Mr. MAYNARD] to make the motion to refer the bill to the Committee of Claims?

Mr. BENTON. I do not yield for that purpose.

Mr. Speaker, I have myself seen the testimony in this case, and I regard it as proving conclusively the destruction of this bond. It was a bond for \$1,000, constituting all the property that this poor man had in the world. He undertook to keep it in his cellar—the most secret place that was at his command. The bond went to pieces. A portion of it was produced before the committee.

The gentleman from Tennessee says this is unlike the case of a registered bond. Now, I understand that a registered bond might be assigned, and there is just as much chance of the Government being called upon to pay a registered as a coupon bond. The security the Government has under this bill is that an indemnity bond is required to be filed.

Mr. MAYNARD. In the case of a registered bond the assignment would be shown on the books of the Treasury.

Mr. WARD. I desire to ask the gentleman from New Hampshire [Mr. BENTON] whether the date and number of this lost bond are known and proved?

Mr. BENTON. They are both proved, both the number and date of the bond.

Mr. WARD. Then it perhaps cannot do any harm to grant the relief.

Mr. SCOTFIELD. I understand the gentleman to say that enough of the bond was preserved to identify it.

Mr. BENTON. I said there were pieces shown to the committee.

Mr. SCOTFIELD. Under the practice of the Treasury whenever a bond can be identified they reissue a new one under general legislation, and they employ experts in the Treasury for that purpose.

Mr. BENTON. I understand there was not sufficient of the bond presented. The case was before the Department for a considerable time, and it was recommended that application should be made to Congress for this act. The matter has been fully considered by the Senate committee and unanimously reported upon. It seems to me there can be no risk at all about it. I move the previous question.

The previous question was seconded and the main question ordered.

Mr. SCOTFIELD. Unless the gentleman will allow this to go to a committee I shall move to lay it on the table.

Mr. INGERSOLL. To send it to a committee would be the death of it.

The question being put on laying the bill on the table, there were—ayes 22, noes 54; no quorum voting.

Tellers were ordered; and Messrs. SCOTFIELD and BENTON were appointed.

The House divided; and the tellers reported—ayes 38, noes 78.

So the House refused to lay the bill on the table.

The question recurred upon the passage of the bill; and being put, there were—ayes 45, noes 26; no quorum voting.

Mr. WASHBURN, of Wisconsin. This is establishing an important precedent; and I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 77, nays 37, not voting 108; as follows:

YEAS—Messrs. Anderson, Delos R. Ashley, Barnes, Beaman, Benton, Bingham, Blair, Benjamin F. Butler, Cary, Sidney Clarke, Clift, Coburn, Corley, Dodge, Driggs, Eggleston, Ela, Thomas D. Eliot, James T. Elliott, Ferriss, Ferry, Fields, Garfield, Getz, Goss, Gove, Gravelly, Grover, Harding, Heaton, Higby, Hopkins, Hutchkiss, Ingersoll, Jencks, Johnson, Alexander H. Jones, Judd, Kellogg, Kitchen, Laffin, George V. Lawrence, Lynch, Mallory, Marvin, McCarthy, Moore, Moorhead, Morrell, Myers, Niblack, Norris, O'Neill, Orth, Perham, Peters, Pile, Poland, Robertson, Roots, Sawyer, Smith, Starkweather, Stevens, Stewart, Stokes, Taylor, Tift, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Whittemore, William Williams, and Woodward—77.

NAYS—Messrs. Arnell, Beatty, Bromwell, Broomall, Buckland, Buckley, Calk, Cobb, Cook, Dixon, Donnelly, Eckley, Goldsaday, Hawkins, Holman, Chester D. Hubbard, Hulburd, Hunter, Knott, Maynard, McCormick, McKee, Menor, Miller, Mullins, Paine, Pomeroy, Price, Scofield, Sitgreaves, Stone, Thomas, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, and Stephen F. Wilson—37.

NOT VOTING—Messrs. Adams, Allison, Ames, Archer, James M. Ashley, Axtell, Bailey, Baker, Baldwin, Banks, Barnum, Beek, Benjamin, Blackburn, Blaine, Boies, Boutwell, Bowen, Boyden, Boyer, Brooks, Burr, Roderick R. Butler, Callis, Chanler, Churchill, Reader W. Clarke, Cornell, Covey, Culom, Dawes, Delano, Deweese, Dickey, Dockery, Edwards, Eldridge, Farnsworth, Fox, French, Glessbrenner, Griswold, Haight, Halsey, Hamilton, Haughey, Hill, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Thomas L. Jones, Julian, Kelley, Kelsey, Kerr, Ketcham, Koontz, Lash, William Lawrence, Lincoln, Loan, Logan, Loughridge, Marshall, McCullough, Morrissey, Mungen, Newcomb, Newsham, Nicholson, Nunn, Pettis, Phelps, Pierce, Pike, Plants, Polsley, Prince, Bruyn, Randall, Staehle, Robinson, Ross, Schenck, Selye, Shanks, Shullabarger, Spalding, Stover, Sypher, Taber, Taffie, John Trimble, Lawrence S. Trimble, Trowbridge, Van Aiken, Van Trump, Vidal, Elihu B. Washburne, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Windom, Wood, Woodbridge, and Young—108.

So the bill was passed.

Mr. BENTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JUDGMENTS IN CAPITAL CASES.

The next business on the Speaker's table was the bill (S. No. 753) to provide for the execu-

tion of judgments in capital cases; which was read a first and second time.

Mr. McKEE (at ten o'clock and thirty minutes p. m.) moved that the House adjourn.

The SPEAKER. The Chair has information from the Senate that the legislative and executive appropriation bill is nearly completed, with a very few amendments.

Mr. SCOFIELD. The House cannot possibly act upon it to-night. It may be well enough to have it referred to the committee.

Mr. BUTLER, of Massachusetts. I hope the House will hold on till we can get the bill over here and have it referred to the committee.

Mr. McKEE. I withdraw the motion.

The bill was read. It enacts that wherever a judgment of death has been or shall hereafter be rendered in any court of the United States, and the case has been or shall hereafter be carried to the Supreme Court of the United States by appeal or writ of error in pursuance of law, it shall be the duty of the court rendering such judgment by order of court to postpone the execution thereof from time to time and from term to term until the mandate of the Supreme Court in such case shall have been received and entered upon the records of the lower court, and in case such judgment is affirmed by the Supreme Court it shall be the duty of the court rendering the original judgment to appoint a day for the execution thereof; and in case of a reversal by the Supreme Court such further proceeding shall be had in the lower court as the Supreme Court may direct.

Mr. SCOFIELD. I move to refer that bill to the Committee on Revision of Laws of the United States with leave to report at any time.

Mr. WOODWARD. I think that bill ought to be referred to some committee.

Mr. MAYNARD. It seems to me that we might as well act upon it now as at any other time. There is not a lawyer in the House who does not understand it, I imagine.

Mr. MILLER. It is perfectly plain upon its face.

Mr. HOLMAN. I hope the bill will be put upon its passage.

The SPEAKER. The motion to refer with leave to the committee to report at any time requires a two-thirds vote. It requires a suspension of the rules.

The question was put on Mr. SCOFIELD's motion; and (two-thirds not voting in favor thereof) the motion was rejected.

Mr. MAYNARD. It seems to me there ought to be no trouble about this bill. I understand that a case has arisen, perhaps more than one, which has given the Attorney General's office a great deal of trouble arising out of the present state of the law. This bill proposes that when a writ of error is prosecuted in the Supreme Court in a capital case the party shall not be executed pending the examination of his writ of error. It seems to me that we might pass the bill.

Mr. WOODWARD. It struck me, in hearing the bill read, that it is objectionable in this respect: the execution of a capital judgment is an executive duty, under the control of the executive department, and with which the judiciary has nothing to do and ought to have nothing to do. My objection to this bill, if I heard it correctly, is that it vests in the judiciary the execution of an executive trust.

The SPEAKER. The Clerk will again report the bill, as that may possibly settle the doubt upon the subject.

The bill was again read.

Mr. WOODWARD. When a court renders a judgment of death the executive authorities carry that judgment into execution. The judgment is executed under the authority of the executive department and not the judicial department.

Mr. HOLMAN. I would ask the gentleman if the court does not fix the day of execution?

Mr. WOODWARD. I do not know how it is in the Federal courts; in the State of Pennsylvania the court never fixes the time, but the Governor of the Commonwealth fixes the time. The court pronounces judgment of death, and

then the duty of executing that judgment attaches to the executive department of the Government. That is the legitimate and constitutional mode in all constitutional Governments. The only objection to this bill is that it makes the postponement of the execution a judicial duty instead of an executive duty. If the bill provided that the President should postpone the execution I should have no objection to it, but it provides that the court shall do it.

Mr. JENCKES. It seems to me that the bill ought to pass. The law of the courts of the United States is different from the law of Pennsylvania. I remember a case where a court in Georgia sentenced a man to death, and although a writ of error was sustained in the Supreme Court of the United States it did not save the man's life. It is to prevent the recurrence of any such case as that that this bill is proposed. It may not do it in the best manner, but it is a thing that ought to be done. If a writ of error is granted by the court which tries a case in which a citizen is sentenced to death it ought to be obligatory upon the judge to postpone the execution of the sentence until after the writ of error shall have been heard and determined by the tribunal of last resort.

Mr. WOODWARD. Then provide that the President shall postpone the execution of the sentence.

Mr. JENCKES. The President has nothing to do with it under the laws of the United States. It is the judge who pronounces the sentence and fixes the day for the execution. It is for him to postpone it in case of a writ of error, and this bill requires him to do it. I hope the bill will pass, and I move the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. JENCKES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GEORGE FOWLER ET AL.

The next business on the Speaker's table was Senate bill No. 891, for the relief of George Fowler and the estate of De Grasse Fowler, deceased, or their assigns; which was taken up, and read a first and second time.

The question was on ordering the bill to be read a third time.

The bill, which was read, provides that George Fowler and the administrators of the estate of De Grasse Fowler, or their assigns, have leave to make application to the Commissioner of Patents for an extension of the letters-patent for improvement in machine for punching metal, issued to the said George Fowler and De Grasse Fowler for the term of fourteen years from the 17th day of April, 1855, in the same manner as if the petition for said extension had been filed at least ninety days prior to the expiration of said patent, and that the Commissioner he authorized to consider and determine said application in the same manner as if it had been filed ninety days before the expiration of the said patent.

Mr. JENCKES. I am instructed by the Committee on Patents, who have had this case under consideration, to ask that this bill be now put upon its passage. I will yield to the gentleman from Connecticut, [Mr. STARKWEATHER,] to explain the circumstances of this case.

Mr. STARKWEATHER. The facts in the case are these: the time required by the law at present for applications for renewals of patents is at least ninety days before the expiration of the original patent. Under the old law the time was sixty days. These parties are living in the country; one is a widow who cannot be expected to be very well acquainted with the law. They did make application within the time allowed by the law, and lacked but one day even under the present law. The

Committees on Patents of the Senate and of the House have examined this bill, and are of the opinion that there can be no objection to it. The parties are poor, and this is merely to reimburse them for their expenses in perfecting this patent.

Mr. WARD. I would inquire how many accidents of this kind are there? This is the third or fourth one for to-night. There seems to be a great many accidents in these patent cases.

Mr. JENCKES. I will answer the gentleman. Out of each thousand cases which come before the Patent Office probably there are ten in which there are these accidents. In some cases relief should be granted and in some it should not be. The Committee on Patents think this is a case where relief should be granted.

This is a pure accident, one which I think the Commissioner of Patents might himself have relieved if he had chosen to exercise the power given to him by the law as it now stands. But he did not act, and a sufficient time has run against these parties to take from the Commissioner the power to waive the delay. There is no way to remedy this difficulty except by the passage of some such bill as this. The Committee on Patents think this bill can be passed without injury to any one. I call the previous question on the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was read the third time.

The question was on the passage of the bill; and on a division there were—ayes 81, noes 81.

So the bill was passed.

Mr. JENCKES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTIONS IN WASHINGTON AND IDAHO.

The next business on the Speaker's table was Senate bill No. 810, to regulate elections in Washington and Idaho Territories; which was taken up, and read a first and second time.

The question was on ordering the bill to be read a third time.

The bill, which was read, provides that elections in the Territories of Washington and Idaho for Delegates to the House of Representatives of the Forty-Second Congress shall be held on the first Monday of June, A. D. 1870, and afterward biennially on the first Monday of June; and such officers in said Territories as are now elected at the same time with their Delegates shall be elected for offices thereafter to be filled at the times herein specified unless otherwise provided by the laws of said Territories.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. HIGBY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EQUAL RIGHTS IN THE DISTRICT.

The next business on the Speaker's table was a bill (S. No. 228) for the further security of equal rights in the District of Columbia; which was read a first and second time.

The bill provides that the word "white," wherever it occurs in the laws relating to the District of Columbia or in the charter or ordinances of the cities of Washington or Georgetown and operates as a limitation on the right of any elector of said District or of either of said cities to hold any office or to be selected and to serve as a juror, be repealed; and it is declared unlawful for any person or officer to enforce or attempt to enforce such limitation after the passage of this act.

Mr. INGERSOLL. I desire to have this bill put upon its passage, and I demand the previous question.

Mr. HOLMAN. I move that the bill be laid on the table.

The motion was not agreed to.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading, and was accordingly read the third time.

The question being on the passage of the bill, Mr. HOLMAN called for the yeas and nays. On ordering the yeas and nays there were—
ayes 17, noes 81.

Mr. GETZ. I call for tellers on ordering the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

Mr. TRIMBLE, of Kentucky. I call for tellers on the passage of the bill.

Tellers were not ordered.

The bill was passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CELESTIA P. HARTT.

The next business on the Speaker's table was the bill (S. No. 836) for the relief of Celestia P. Hartt; which was read a first and second time.

The bill authorizes and directs the Secretary of the Treasury to pay to Celestia P. Hartt, widow of the late naval constructor Samuel T. Hartt, the sum of \$3,000 out of any money in the Treasury not otherwise appropriated, the same to be in full and complete compensation and satisfaction for the use of a gun-elevating screw invented by said Samuel T. Hartt, and which has been used on the iron gun-carriages of the United States Navy.

Mr. HOLMAN. I raise the point of order that this bill contains an appropriation and must receive its first consideration in the Committee of the Whole.

Mr. LYNCH. I ask the gentleman to withdraw that objection until he hears the report of the Committee on Naval Affairs of the Senate.

Mr. HOLMAN. I will reserve the point of order till the Clerk has read the report.

The Clerk read as follows:

The Committee on Naval Affairs, to whom was referred the bill (S. No. 836) for the relief of Celestia P. Hartt, have had the same under consideration, and after examining the papers connected therewith, beg leave to report:

It appears by the papers that Celestia P. Hartt is the widow of Samuel T. Hartt, deceased, late a naval constructor at the Norfolk navy-yard. That in 1854 the said Samuel T. Hartt invented a gun-screw elevator, known as "Hartt's screw elevator," which was and still is adopted and used by the Government. That during his lifetime Mr. Hartt, being in the Government employ, forebore to ask any compensation for the use of his invention or to apply for a patent therefor; that he died leaving his said widow and four children with very limited means of support; and she asks from the Government some compensation for the use by the Government of her husband's invention.

The value of that invention to the Government is shown very clearly in the papers submitted to the committee.

Naval Constructor J. Hainscom, at the Norfolk navy-yard, says:

"The invention, I can say from personal knowledge, is of great value to the Government, and is now used on all large naval ordnance; and rather than be deprived of its use I have no doubt the Government would not hesitate to recommend its purchase for \$10,000 or even \$20,000."

Admiral Farragut says:

"I am thoroughly acquainted with the invention of the elevating screw for great guns by Samuel Hartt, and have had ample opportunities of testing its merits. I consider it the best elevating screw for certain guns we have in the service."

The late Rear Admiral A. H. Foote says, in a letter to Mrs. Hartt:

"This screw was placed on board the United States ship Portsmouth during my cruise in the East Indies and the China sea. I am happy to be able to state, as a matter of simple justice, that the Hartt screw elevator answered the purpose intended most admirably during our cruise. It had the severest of tests, in the discharge of seven hundred guns loaded with shells, in our fight with the Canton 'Barrier Forts,' and I was so much pleased with it, as a substitute for the old and awkward quoin, that I referred specially to it in my official report of the engagement in these words: 'I am happy to add that the new elevating screws of Constructor Hartt, with which her guns are fitted, stood the severest test of the heavy firing during the several actions to my entire satisfaction.' I trust that you may soon succeed in obtaining some material aid from the Government for the valuable screw

introduced into the service by your late noble-hearted and highly-gifted husband."

The chief of the Bureau of Ordnance of the Navy Department, in a letter addressed to the Secretary of the Navy, said:

"The Bureau believes that Mr. Hartt never received any compensation whatever for this invention; and as the screw has been and is now being used by the Government it recommends the claim of Mr. Hartt to the favorable consideration of the Department."

In view of these evidences the committee are of opinion that simple justice requires that the Government should not avail itself of the benefits flowing from the use of this invention without making compensation therefor, particularly as the death of the inventor prevented his resorting to the only method—the obtaining of a patent—whereby he could have made the invention valuable to himself. They therefore ask leave to report back the bill without amendment, and recommend its passage.

Mr. LYNCH. I yield to the chairman of the Committee on Naval Affairs, [Mr. PIKE.]

The SPEAKER. Does the gentleman from Indiana [Mr. HOLMAN] waive his point of order?

Mr. HOLMAN. I will reserve it till the chairman of the Committee on Naval Affairs has explained the bill.

Mr. PIKE. I merely wish to state to the House that this claim was examined during the last Congress by the Committee on Naval Affairs of this House, and after a full consideration was reported upon favorably, was passed by the House, and sent to the Senate. It failed in the Senate for want of time for its consideration. The Senate has now passed a bill to pay this claim and sent it to us for concurrence.

Mr. HOLMAN. I waive the point of order.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. LYNCH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, announced that the Senate had agreed to the amendments of the House to the bill (S. No. 167) granting lands to the State of Oregon to aid in the construction of a military wagon-road from the navigable waters of Coos bay to Roseburg, in said State.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. No. 1881) regulating the reports of national banking associations; had agreed to the conference asked by the House on the disagreeing votes of the two Houses; and had appointed Mr. CATTELL, Mr. WILLIAMS, and Mr. CONNESS the conferees on the part of the Senate.

The message further announced that the Senate had agreed to the amendments of the House to the amendments of the Senate to the bill (H. R. No. 596) granting a pension to Mary A. Davis, widow of William P. Davis, a private in the eighteenth regiment of Indiana volunteers in the war of 1861.

The message further announced that the Senate had passed House bills of the following titles, with amendments, in which the concurrence of the House was requested:

An act (H. R. No. 2006) to establish certain post roads; and

An act (H. R. No. 2009) to authorize the Secretary of War to place at the disposal of the National Lincoln Monument Association, at Springfield, Illinois, damaged and captured ordnance.

The message also announced that the Senate had passed without amendment a joint resolution (H. R. No. 468) authorizing the Union Pacific Railway Company, eastern division, to change its name to the Kansas Pacific Railway Company.

The message also announced that the Senate had passed a bill and a joint resolution of the following titles, in which the concurrence of the House was requested:

An act (S. No. 863) relating to telegraphic communication between the United States and foreign countries; and

Joint resolution (S. No. 339) more efficiently to protect the fur trade in Alaska.

TREATMENT OF UNION PRISONERS.

Mr. SHANKS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the report and accompanying evidence of the special committee of the House appointed under resolution of July 10, 1867, touching the treatment of prisoners of war and Union citizens held by the confederate authorities during the recent rebellion, be printed.

SURGICAL HISTORY OF THE REBELLION.

The next business on the Speaker's table was Senate joint resolution No. 217, for printing the Medical and Surgical History of the Rebellion; which was taken up, and read a first and second time.

The joint resolution directs that there be printed at the Government Printing Office five thousand copies of the first part of the Medical and Surgical History of the Rebellion, compiled by the Surgeon General, under the direction of the Secretary of War; and five thousand copies of the medical statistics of the Provost Marshal's Bureau, compiled and to be completed by Surgeon J. H. Baxter, as authorized by an act of Congress approved July 28, 1866, which also provides that the editions of both publications thus ordered shall be disposed of as Congress may see fit to direct.

Mr. LAFLIN. This is an old acquaintance. The proposition to print this report was brought into this House originally by an appropriation introduced out of order in an appropriation bill.

Mr. KERR. I see that this is described as the first volume. How many volumes are there to be?

Mr. LAFLIN. At the time this matter was introduced I warned the House that before this work was completed it would cost at least \$500,000; and I say here, on my responsibility as chairman of the Committee on Printing, after having made a full investigation of the whole subject, that I repeat that statement. And, Mr. Speaker, I wish to say right here that in spite of the efforts our committee have been able to give in reducing the expenditures for public printing at this session of Congress, as I am informed by the Public Printer, there has been ordered more printing than at any previous session. I do think, and I believe the House will agree with me, that a matter which promises to involve such a large expenditure, before it is decided upon, should be referred to a committee, the Committee on Printing or the Committee on Military Affairs, as the House may determine. I will say this much, that it was referred to the Committee on Printing in the Senate, and I am sure that I am not guilty of any breach of etiquette in asking its reference to that committee in this House.

Mr. MAYNARD. How many volumes are to be printed?

Mr. LAFLIN. It will be impossible to tell how many volumes will be printed. The gentleman from Maine asks how much it will cost? I received an estimate from the Surgeon General at the time.

Mr. MAYNARD. How much?

Mr. LAFLIN. I forget now. I know that at the time I made a close calculation, and I satisfied myself that it would cost \$500,000. I wish the House to bear in mind that the next Congress will meet on the 4th of March.

Mr. MAYNARD. Has the Surgeon General anything to do with the preparation of this work?

Mr. LAFLIN. He has.

Mr. MAYNARD. I thought we took it out of his hands and put it under the charge of Dr. Baxter.

Mr. LAFLIN. We did not.

Mr. CLARKE, of Kansas. Is it to be printed in the same style with the copies already printed?

Mr. LAFLIN. I do not know how that is.

Mr. CLARKE, of Kansas. How did you make the calculation?

Mr. LAFLIN. I took the calculation from the Surgeon General himself. I wish to say that this matter which involves so large an expenditure should be referred to a committee

of the House and thoroughly investigated. It has never been regularly before any committee.

Mr. HOLMAN. We have not yet heard how many volumes there are to be.

Mr. LAFLIN. I have endeavored to answer that question. I do not know how many volumes there are to be. It is to be an extended work, and I wish to say that the members of the Fortieth Congress cannot get this work, as it cannot be printed in time. I hope that every single member of this House who desires economy and care in the public expenses will think twice before he votes to pass this bill.

Mr. MAYNARD. I desire to ask the gentleman a question. I find this joint resolution provides for publishing "five thousand copies of the first part of the Medical and Surgical History of the Rebellion, compiled by the Surgeon General under the direction of the Secretary of War; and also five thousand copies of the Medical Statistics of the Provost Marshal's Bureau, compiled and to be completed by Surgeon J. H. Baxter, as authorized by act of Congress." Does the Surgeon General know anything about it?

Mr. LAFLIN. I do not know; but he has the care of the compilation of the first part as provided in the resolution and Dr. Baxter has the care of the latter part.

Mr. MAYNARD. I may be wrong about the matter, but my information is that the whole will not cost exceeding \$20,000, all told.

Mr. GARFIELD. I yield two or three minutes to the gentleman from Illinois.

Mr. LOGAN. Mr. Speaker, I do not know how much this work is going to cost, as I am not a practical printer; nor do I think the chairman of the Committee on Printing knows very much about it, judging at least from his statement to the House. Now, if the gentleman will examine this work he will not antagonize it, in my judgment, as he does. I believe it is one of the most valuable works that can be published. It is a history of the surgery of the late war. We have a sort of history of it exhibited in the medical museum. I have examined the advance sheets of this work to some extent. It is a history furnished by every soldier in the Army, giving the character of wounds and diseases incident to soldiers and their treatment. It has been pronounced by the most eminent surgeons and medical men of Europe and elsewhere wherever it has been examined the finest surgical work the world has ever seen. If the chairman of the Committee on Printing will examine it for himself and the notices that have been given of it he will find what a valuable work it is. It is looked for by all the surgical and medical colleges of Europe with a great deal of interest. If we should ever have another war it will be worth many times more to the sick and wounded in the field than all the money that can possibly be spent in its publication. I have not examined it recently, but I do know something about it. It will not make more than three or four volumes, and if we print five thousand copies its cost will not possibly amount to the sum that the gentleman says it will. But, sir, to me it makes no difference what it is going to cost. Knowing the value of it I shall vote to print it.

Mr. GARFIELD. I desire to occupy the floor for a few moments, and then I will yield to the gentleman from Massachusetts, [Mr. BURLER.] I hope no mere consideration of the question as to what committee this bill ought to go to in this House will divert the minds of members from the merits of the bill itself. I am quite as willing that my friend the chairman of the Committee on Printing [Mr. LAFLIN] should have charge of it as any other gentleman, only I want the House to act upon the bill, and I took charge of it only because it is so directly related to the war and the Army as to come properly into the hands of the Committee on Military Affairs.

As to the cost of the printing I have here a communication from the Public Printer, as reported in the debate in the Senate, in which he says:

"The medical and surgical history of the war will

be composed of three parts. The first part contains two volumes of nine hundred pages each and is now ready for the printer. The engravings for it have been obtained under an appropriation made by Congress and are now in the Surgeon General's Office ready to be placed in the books when the text is printed. It is the first part alone (that is the first of the three parts) which the Surgeon General wishes to have printed. The cost of the printing will be as follows: Printing five thousand copies, two volumes, nine hundred pages each, \$24,625; binding the same in cloth covers, \$2,800 more. Total, \$27,425."

We have there a definite statement of the actual cost as estimated by the Public Printer of the publication of two volumes, being the first third of the whole set of the Medical History of the War.

And now, Mr. Speaker, I desire to say that in the annals of medical history there is not anything more creditable to a nation than the record of our medical operations during the war. Everywhere where a knowledge of the work of our surgeons has gone it has received the most flattering commendations of professional and scientific men. In the course of an inquiry before the Committee on Military Affairs it was ascertained that during the whole war, notwithstanding the great number of sick and wounded and the enormous preparations for their care, our comparatively new ambulance system and our vast outlay for medical supplies, the average cost of medical attendance upon our soldiers was but ten dollars a year; and that, I venture to say, is less than the cost of medical attendance for any other army in modern times.

This has resulted from the fact that we have a most admirable medical organization. And, sir, from the beginning of the war to its close the scientific gentlemen who had charge of the medical department of our Army have preserved all the most remarkable medical and surgical results of the war. We have to-day in this city, filling the old Ford's theatre, probably the most perfect and valuable medical museum in the world. Professional men and representatives of learned societies at home and abroad concur in pronouncing it the most valuable medical museum ever yet collected. But the materials now ready for publication are even more valuable than the museum.

I hold in my hand a report of a recent meeting of a leading medical association in Paris in which the medical results of the two great wars in modern times are discussed, the Crimean war, as seen in both the French and English Army, and similar results of our war. The rate of mortality resulting from capital operations is exhibited in the following table:

"The ratio in the three armies are:

	English Army.	American Army.	French Army.
Mortality.	Mortality.	Mortality.	Mortality.
Disarticulations at the shoulder.....	33.3	39.2	61.7
Amputations of the arm.....	24.5	21.2	55.5
Amputations of the forearm.....	5.0	16.5	45.2
Disarticulations at the hip.....	100.0	85.7	100.0
Amputations of the thigh.....	64.0	64.4	91.8
Disarticulations at the knee.....	57.1	55.1	91.3
Amputations of the leg.....	35.6	25.0	71.9
	40.2	33.9	72.8

"In thigh amputations, then, while the American and the British lost 64 in 100, the French lost 91.8. The former lost but 25 per cent. in leg amputations, and we lost 71.9. Such a result is heartrending; it is essential to discuss the cause of such a state of things, for the welfare of French soldiers and the honor of French surgery demand imperiously that they be removed."

It will be seen from this that while the average mortality in the British Army was 40.2 per cent., and in the French Army it was 72.8 per cent., yet in our Army it was only 33.9 per cent.—vastly less than in either of the armies of those two great nations.

Mr. ELA. I wish to know if this is the work that was printed at an expense of about thirty-seven thousand dollars, and of which a great number of copies were required to be printed on the ground that it would be in great demand, but of which only two or three hundred dollars' worth were sold. It was so full of inaccuracies that almost every line of it had to be altered.

Mr. GARFIELD. I do not know what work the gentleman is speaking of. He cannot be speaking of this, which has not yet been printed.

Mr. ELA. I saw a portion of it, and it was the greatest abortion in the shape of a preparation for the press that I ever met with.

Mr. GARFIELD. I was going on to say that in this report of the Surgical Society of Paris, with the whole record of the Crimean war before them as reported by the medical authorities of Great Britain and France, and with only this preliminary report bearing the modest title of a "circular" from the medical department of the Army of the United States, I find the following testimony to the value of the "circular":

"One might be astonished to see these 'circulars' of the Surgeon General referred to in comparison with the voluminous and formal reports of the British and French armies, since they were printed simply as a preface to the general medical and surgical history of our war, and are modestly entitled by the Surgeon General 'reports on the extent and nature of the materials available for the preparation of a medical and surgical history of the rebellion.' Yet M. Lefort only concurs with other leading European reviewers in his estimate of these well-known documents, of which the chief medical quarterly, the British and Foreign Medico-Chirurgical Review, declares that, 'professedly only a preliminary survey, it will itself long form an authentic book of reference, both to the military and civil surgeon.'"

Even a mere *résumé* of the materials in our possession is looked upon as of more value than the completed record, both French and English, of the medical results of the Crimean war. I cannot leave this report without quoting one other passage, in which the comparison is still further carried out:

"The English surgeons kept their wounded at their field hospitals, at Balaklava, at the monastery of St. George, and only sent them to their hospitals on the Dardanelles when they were able to be moved. Why were our wounded so little cared for? M. Chenu replies that the French army had six times the effective force of the English. Then the necessities of the former were six times greater. It is a culpable want of foresight to send a numerous army far from the mother country with inadequate supplies. The question reduces itself to this: now, who was responsible? Was it our army surgeons? Surely not. Eighty-two officers of the French medical staff laid down their lives in consequence of epidemics brought about by maladministration and the neglect of hygienic precautions—dangers encountered by the entire medical staff with that courage and abnegation which everywhere characterize the true physician. But, alas! in France the medical service of the army is not directed by medical men, and such men as MM. Levy, Larre, Serice, and Legouest have no voice in the arrangements indispensable to the physical well-being of our soldiers. When the medical director of the army of the East wished to erect a few pavilion field-hospitals, he had for weeks to exhaust his patience in demonstrating their necessity to intelligent, well-meaning men, who were quite incapable of comprehending his reasoning, and who followed his advice or not according to their personal prejudices or predilections."

"Happier than the French army, the Americans have no system of military 'intendants'; and though their medical officers had to grapple with difficulties very far greater than those we encountered in the Crimea; although their theater of war embraced a territory larger than the whole of France; although in the first two years only of the war the enormous aggregate of 143,318 wounded was one of the problems with which they had to deal, the American military surgeons, left to themselves, free to display all their energy, to avail of all opportunities, to profit by their special training, found means to open to the sick and wounded soldiers two hundred and five general hospitals containing 133,894 beds; to tend these so that they lost but thirty-three per cent. of those operated on; whereas the French surgeons under the tutelage of the military administrative offices had at their command in the Crimea inadequate hospitals and supplies which were a mockery, and lost seventy-two per cent. of the patients operated on."

"And yet France was supposed to possess before the campaign began a complete medical organization and sufficient supplies, while in America it was necessary to organize everything."

Now, Mr. Speaker, I desire to say that when our nation occupies so proud a position, when we have in our hands the most priceless materials that the history of science has ever afforded on this subject; when we are in a condition to exhibit what will be of more value to the world and of more credit to the American medical profession than any other document ever possessed by any nation in the world, it seems to me a small business for us to chaffer about the matter of a few hundred dollars of expenditure. Were the cost of publication all that gentlemen suppose, I should be in favor of printing this work. Even far-sighted economy

demands this expenditure. We have already, by the authority given by Congress, ordered the plates; they are engraved and paid for, ready to be set up with the type. The materials are all here, and a little over twenty-seven thousand dollars will give us five thousand copies of one third of the whole of this magnificent work. I should regret it more than I can express if this Congress should omit the opportunity to give this work the publicity which it deserves and take to our country the credit which we have so justly earned.

I now yield for a few moments to the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BUTLER, of Massachusetts. Whenever it is possible for me to say anything which shall give credit to the operations of the Army I am always very glad to do so. And I am glad to say in connection with this subject that I think the operations of the medical staff of the Army during the late war, assisted by the thousands of helping hands of our sanitary and Christian commissions—the scientific part of their duties being substantially done by the Army with the aid of the contract surgeons—show an equal efficiency with any other portion of the staff department, however high the rank they may justly take; and the results of their labors show that there was very much greater efficiency in the operations of the medical staff of our Army than of the medical staff of any other army in the world. It is a well-known fact that where one dies by bullets in actual battle eighty and a fraction die of disease. Yet in this very city this most remarkable fact took place: ninety thousand men within a certain time passed through the Army hospitals here with every kind of disease and every character of wound, and there were but six per cent. of deaths among that number.

And in this connection let me again call the attention of this House to a fact stated by the chairman of the Committee on Military Affairs, [Mr. GARFIELD.] I refer to the success of the capital operations; that is to say, all that class of operations like amputating the thigh, and in some cases amputating both thighs. With the best surgical skill of the French army, and under the best conditions, not over thirty per cent. of such operations are successful. But of the like operations performed by the surgeons of our Army sixty-six per cent. were successful.

Now, all the means by which this extraordinary success was attained, all the appliances which gave this efficiency to our service, all the accumulated learning and experience of this great work are to be preserved in this history. The manner and character of these operations are compiled and fully illustrated for the first time in the history of the world. The aid of photography has been brought to show the exact conditions of the wounds and the character of the surgical operations performed. We have now what never before could be obtained—a perfect history of every disease that afflicts an Army and its manner of treatment; a perfect history of every kind of wound to which a soldier is liable and its manner of treatment. And we have the comparative results of all the different methods of treatment.

I should consider it a great loss to the world, to say nothing of the loss to this country alone, if this history should not be preserved in such a manner that it will be of use to us hereafter. In the event of any war in the future, however little we in this country may be afflicted by it, we should save over and over and over again in a single year the whole of the cost of printing this work, even should it be so great as my friend, the chairman of the Committee on Printing, [Mr. LAFLIN,] seems to suppose it will be. And the benefits of this work will be not only for this country and for this age, but it will be for the whole world and for all time. Let me state a single instance of the great request in which are held even the circulars of the Surgeon General, which are a mere epitome, mere specimens of what this work will be when completed. A while since I received a request for

one of these circulars to be placed in the hands of the first surgeon of Greece. He had heard of it, perhaps had seen it, and desired to obtain it. He desired a copy, and it was to be obtained at whatever cost and forwarded to him. I was happy to have it in my power to send it to him as some token of his kind treatment of one who had formerly been an officer of my staff, and had received in Crete fighting for freedom one of the most serious wounds which a man can receive, and who had recovered under the skillful treatment of this surgeon.

Not only is this work of the most valuable assistance in time of war, but because it describes the treatment of diseases, not only the ordinary diseases which afflict mankind, but also the extraordinary—for we had them all in our armies of millions of men—all this will make the work of great value to civilians; and the medical and surgical establishments of this country and of the world will make it a text work for all coming time. I trust it will not be considered that we are throwing away money uselessly by appropriating a few dollars to print this valuable document.

Mr. BINGHAM. Mr. Speaker, if I am correctly informed, no publication hitherto made by the Congress of the United States has equaled in importance to the people of our country and the people of the civilized world the proposed publication of the medical register of the treatment of disease in our armies, and the surgical operations arising out of the casualties of war. After what has been so well said by the honorable gentleman from Massachusetts [Mr. BUTLER] it is not needful that I should do more than make a single statement. Toward the close of our late war one of the first surgeons of Europe came to this capital and passed *in cogo*, through our hospitals. He finally presented himself to the Surgeon General of the United States and made the statement that, having visited all the principal hospitals of Europe, having acted, I believe, as assistant surgeon general in India under appointment from the British Government, he felt himself justified in saying that such suitability of medical arrangements combined with such surgical skill as he had seen in America during the progress of the war, had no parallel in the history of the world.

The achievements of science in connection with the medical and surgical history of the rebellion form a record honorable to the country, and one that ought to be preserved. Gentlemen say, "Let this measure be referred." For what purpose? The simple result would be to kill the bill, and thereby delay the publication of this very valuable information. I believe, Mr. Speaker, that education after all is the cheapest defense of nations; and that education which constitutes the art of preserving life and ameliorating the misfortunes and sufferings of humanity is among the highest of all the forms of education. I am for this bill; and I trust that my colleague [Mr. GARFIELD] will call the previous question on it and let us have a vote.

Mr. GARFIELD. I should be quite willing to prolong this debate if my friends around me were not so anxious to vote. I will, therefore, call the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

The House divided on the passage of the joint resolution; and there were—ayes 70, noes 24.

Mr. LAFLIN demanded tellers. Tellers were ordered.

And then, on motion of Mr. SCOFIELD, (at twenty minutes past eleven o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CORLEY: The petition of M. C. Welch, a citizen of South Carolina, for removal of political disabilities.

By Mr. ELIOT, of Massachusetts: The petition of Charles Alvery and others, of New Bedford, Massachusetts, praying for legislation to prevent frauds in naturalization.

By Mr. GOSS: The petition of Elias Wall, of Spartanburg county, South Carolina, for removal of political disabilities.

By Mr. SYPHER: A memorial from the Chamber of Commerce of New Orleans, protesting against the further extension of the bankrupt law, and especially the "fifty-per-cent. provision."

IN SENATE.

WEDNESDAY, March 3, 1869.

Prayer by Rev. Dr. Osgood, of New York city.

On motion of Mr. HARLAN, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

PETITIONS AND MEMORIALS.

Mr. CONKLING presented a petition of the German Republican central committee of New York, praying for an amendment of the naturalization laws; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. CATTELL, from the Committee on Finance, to whom was referred the petition of F. P. Salas, praying a return of certain duties on merchandise imported per Spanish brig Castilla, in August, 1865, reported it adversely.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the motion submitted by Mr. BUCKALEW on the 2d instant, to print two thousand additional copies of the report of the Select Committee on Representative Reform, reported in favor of printing the same; and the motion was agreed to.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 2007) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, reported it with amendments.

SYMPATHY WITH SPAIN.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the amendment of the House of Representatives to the joint resolution (S. R. No. 178) tendering sympathy to the people of Spain, have had the same under consideration, and have directed me to report it back to the Senate with a recommendation that the Senate non-concur in the amendment of the House. I ask for action now.

Mr. POMEROY. I hope the amendment of the House will be read.

Mr. SUMNER. I hope there will be no question about it. It has been considered by the committee. It will only take time.

Mr. POMEROY. I want to hear it.

The CHIEF CLERK. The amendment is to strike out all after the resolving clause of the resolution and to insert:

That the people of the United States sympathize with the patriotic people of Spain in their efforts to establish the liberties of the Spanish nation.

SEC. 2. *And be it further resolved*, That the people of the United States sympathize with the people of Cuba in their efforts to secure political independence, and that they will welcome to the family of independent nations any Government that guarantees the liberty of all men and represents the principle of the absolute sovereignty of the people.

SEC. 3. *And be it further resolved*, That the President is hereby authorized to recognize the independence of Cuba, whenever in his opinion a republican form of government shall have been established.

The House also proposed to amend the title by adding thereto the words "and Cuba."

The PRESIDENT *pro tempore*. The question is on agreeing to the report of the committee to non-concur in the amendment.

The report was agreed to.

W. W. CORCORAN.

Mr. HARLAN. The Committee on the District of Columbia, to whom was referred the joint resolution (H. R. No. 413) in relation to lands and other property of W. W. Corcoran, in the District of Columbia, used

by the United States Government during and since the war of the rebellion, have instructed me to report it back with an amendment. I ask the unanimous consent of the Senate to consider the bill at this time.

By unanimous consent, the joint resolution (H. R. No. 413) in relation to lands and other property of W. W. Corcoran in the District of Columbia used by the United States Government during and since the war of the rebellion was considered as in Committee of the Whole. It is an instruction to the Secretary of the Treasury to withhold any and all payments of money to W. W. Corcoran for the use of lands and buildings in the District of Columbia, supposed to belong to him and taken possession of by the War Department during and since the rebellion for national purposes, until the further action of Congress.

The Committee on the District of Columbia proposed to amend the resolution by striking out the words "all further action of Congress" and inserting:

"Until the said W. W. Corcoran shall have taken and subscribed before some person duly authorized to administer oaths the following oath: I, William W. Corcoran, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement, either personally or by agent, to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto; and I do further swear that to the best of my knowledge and ability I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will render true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion. So help me God. And that said oath so taken and subscribed shall be filed with the Secretary of the Treasury in connection with all payments of money for the purposes above mentioned."

The amendment was agreed to.

Mr. BAYARD. I shall ask for the yeas and nays on the passage of that bill.

Mr. HOWARD. I wish to put an inquiry to the honorable Senator from Iowa respecting this matter. I understand that Mr. Corcoran, a man of large property in this District, quit it, abandoned it at the commencement of the war, and went off to reside in a foreign country, remaining abroad until the close of the war and a considerable time afterward, and he has always been reputed, so far as I have heard, as, if not a direct rebel, one who sympathized fully with the cause of the rebellion. I should like to have more explanation of this resolution from the honorable Senator who introduces it.

Mr. STEWART. Inasmuch as this is going to take time, I move to lay it on the table and to take up House bill No. 1880, the disability bill.

Mr. SUMNER. I hope not. It is a question whether certain money shall be paid to this gentleman.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the joint resolution to be read a third time. The joint resolution was read the third time.

Messrs. BAYARD and HOWARD called for the yeas and nays on the passage of the bill; and they were ordered.

Mr. DAVIS. Mr. President—

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had elected Hon. THEODORE M. POMEROY, one of the Representatives from the State of New York, Speaker, in the place of Hon. SCHUYLER COLFAX, resigned.

The message further announced that the House had appointed Mr. E. C. INGERSOLL, of Illinois, one of the managers on the part of the House of Representatives at the conference on the bill (H. R. No. 1881) regulating the re-

ports of national banking associations, in place of Mr. T. M. POMEROY, elected Speaker.

The message also announced that the House requested of the Senate a duplicate copy of the bill (S. No. 588) for the relief of the Mount Vernon Ladies' Association of the Union, passed in the Senate July 10, 1868, the original having been mislaid.

The message further announced that the House had passed the joint resolution (S. No. 217) for printing the Medical and Surgical History of the Rebellion, with an amendment in which it requested the concurrence of the Senate.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 1808) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1870, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. F. C. BEAMAN of Michigan, Mr. J. G. BLAINE of Maine, and Mr. J. A. NICHOLSON of Delaware, managers at the conference on its part.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 1672) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1870, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. B. F. BUTLER of Massachusetts, Mr. WILLIAM H. KELSEY of New York, and Mr. C. E. PHELPS of Maryland, managers at the same on its part.

DUPLICATE COPY OF A BILL.

Mr. SUMNER. I move that the Senate send a duplicate copy to the House of the bill (S. No. 588) for the relief of the Mount Vernon Ladies' Association, according to the request just received.

Mr. DAVIS. I believe I have the floor.

The PRESIDENT *pro tempore*. These are incidental motions, and are almost always entertained at this period of the session; and the question is on returning the bill according to the request of the House.

The motion was agreed to.

MEDICAL AND SURGICAL HISTORY.

The PRESIDENT *pro tempore*. The Senator from Kentucky has the floor.

Mr. ANTHONY. Will the Senator from Kentucky allow me to move to concur in a verbal amendment of the House?

Mr. DAVIS. I shall vote against this joint resolution for the benefit of Mr. Corcoran for this reason: I believe he is entitled to his property without any oath or condition, and I will not vote for a bill that imposes such an oath upon him.

Mr. ANTHONY. A joint resolution has just been returned from the House with the correction of a clerical error, to strike out the word "surveyor" and insert "surgeon." I move that the Senate concur with the House. It is Senate joint resolution No. 217, for printing the Medical and Surgical History of the Rebellion.

Mr. CONKLING. What is the amendment?

Mr. ANTHONY. "Surgeon General" was engrossed "surveyor general." The amendment is to strike out the word "surveyor" and put in "surgeon."

The amendment was concurred in.

POST OFFICE APPROPRIATION BILL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 1808) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1870, disagreed to by the House of Representatives; and

On motion by Mr. TRUMBULL, it was

Resolved, That the Senate insist on its amendments to said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. CONKLING, Mr. RAMSEY, and Mr. DAVIS.

LEGISLATIVE ETC., APPROPRIATION BILL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 1672) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1870, disagreed to by the House of Representatives; and

On motion by Mr. MORRILL, of Maine, it was

Resolved, That the Senate insist on its amendments, disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. MORRILL, of Maine, Mr. HOWE, and Mr. WHYTE.

REVENUE FRAUDS.

The PRESIDENT *pro tempore* appointed Messrs. CHANDLER, KELLOGG, and MORGAN the committee of conference on the part of the Senate on the bill (H. R. No. 375) to repeal an act approved March 2, 1867, entitled "An act to regulate the disposition of fines, penalties, and forfeitures received under the laws relating to the customs, and for other purposes," and to amend certain acts for the prevention and punishment of frauds on the revenue, and for the prevention of smuggling.

THE PUBLIC CREDIT.

Mr. SHERMAN. I ask consent to make a report from a committee of conference.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses to the bill (H. R. No. 1744) to strengthen the public credit, and relating to contracts for the payment of coin, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

They recommend that the House recede from its disagreement to the first amendment of the Senate, and agree to the same with an amendment as follows: insert in lieu of the words stricken out the words: "obligations of the United States not bearing interest known as United States notes, and of all the interest-bearing."

They recommend that the House recede from its disagreement to the second amendment of the Senate, and agree to the same with an amendment, as follows: insert in lieu of the words stricken out the words: "but none of said interest-bearing obligations not already due shall be redeemed or paid before maturity unless at such time United States notes shall be convertible into coin at the option of the holder, or unless at such time bonds of the United States bearing a lower rate of interest than the bonds to be redeemed can be sold at par in coin. And the United States also solemnly pledges its faith to make provisions at the earliest practicable period for the redemption of the United States notes in coin."

They recommend that the Senate recede from their third and fourth amendments to the bill of the House.

JOHN SHERMAN,
GEORGE H. WILLIAMS,
Managers on the part of the Senate.
ROBERT C. SCHENCK,
WILLIAM B. ALLISON,
Managers on the part of the House.

Mr. BAYARD. I am necessarily opposed to the adoption of this report; and though I am reluctant to detain the Senate it will take me some time to state my objections to it. I am very loth at this period of the session, with the pressure of business, to do so, but the act is one of public importance, and as I view the second section, which is restored by this committee of conference to the form in which the House of Representatives originally passed it, it is far more dangerous than will any result to be derived from the first section be beneficial. I must therefore necessarily oppose the bill, though to the first section I have no objection.

Mr. TRUMBULL. It is impossible to hear a word that is said by the Senator from Delaware, there is so much confusion in the galleries.

The PRESIDENT *pro tempore*. There must be less noise in the galleries.

Mr. BAYARD. The first section I have no specific objection to except one, and that is that it is declaratory law, and I hold that within the terms of the Federal Constitution declaratory laws by Congress, if not absolutely unconstitutional, are certainly unwise and im-

proper. This Congress has no more authority to declare what was the intent and meaning of a law passed by a previous Congress, or give a pledge of faith to the country without any new consideration connected with the bonds in reference to which the first section relates than a subsequent Congress would have a right to undo it. My own opinions on the technical question are very plain. When under their former laws the United States authorized the issue of six per cent. bonds with interest payable in coin, redeemable at their option after five years or absolutely payable at the end of twenty years, without specifying that the principal should be paid in coin, I have never doubted that the United States could not in good faith, pay a promise to pay, and on which they were to pay interest until it was paid by money, with another promise to pay which they chose to call money. In other words, I never doubted that the United States were to pay value, if they wanted to retain their good faith, in a currency of value and not in a currency of mere credit. There are no circumstances but one under which any Government would be justified in what is called repudiation of a debt. There perhaps is one, founded upon the principle of bankruptcy as regards individuals. Where an individual, be it even from his own extravagance, from want of care, from want of intellect or business capacity, becomes involved in debt the laws of your own and other countries permit him to be discharged from the obligations of his debts on surrendering his property; and the principle of that is very apparent to me—his future labors are left to himself. In the case of a Government having authority as trustees for the people at large to contract loans the case might arise—I do not pretend to say it has arisen here—in which a Government might contract such a debt that the interest upon the debt would amount to more than the net earnings of the aggregate people during each year, and in such an event as that there would be an inability to pay consistent with the welfare or even the organization of the society, and in such an event as that Government would be compelled, just as the individual would be, to refuse to pay such an amount. I do not say that that applies to the present case. On the contrary, I think that with a growing country like ours, with so enterprising a population, the remedy is not declaratory legislation by Congress, but the reduction of expenditure, economy in public expenditure, reduction of useless organizations, of a portion of the Army, the abandonment of your Freedmen's Bureau, and a thousand other things not necessary to specify. Economy in the conduct of public affairs, a revision of your entire revenue laws, internal and external, for the purpose of making them as little oppressive as possible to the people, while they raise the greatest amount of revenue, is the mode in which the good faith of this country is to be preserved. This Congress may pass what resolution it pleases on the subject of the payment of the debt in coin, that debt will ultimately be repudiated if what I mention is not resorted to, a proper revision of the revenue system of the country, external and internal, and a reduction of expenditures, because otherwise the burden will press so heavily on the people that they will throw it off their shoulders.

To the second section, however, I have a distinct objection that it really in my judgment is intended to prevent a return to the normal currency in this country which it professes to be intended to effect. Nearly a year ago, when the question was still what the lawyers would call a moot question, a doubtful question, as to whether a contract made specifically payable in gold could under the legal-tender act, as it is called, be paid in paper, the Senate agreed to pass a proposition giving validity without regard to any existing law to all contracts of that kind hereafter made. It went to the House of Representatives. It lay there during the rest of the session. They would not act upon it. They would not pass it. During the present session, within the last three weeks, the

Supreme Court of the United States have made a decision that governs entirely the whole question; that is, they have decided virtually in principle that all contracts, whether made before or after the passage of that law, if made specifically payable in coin, can be enforced according to their terms and the party so contracting may be made to pay in a currency of value and not in a currency of credit.

There is, therefore, no necessity for this second section. It makes a profession of providing that a contract hereafter made specifically payable in coin may be enforced; but it couples it with a system of inquiry into the consideration that would utterly destroy all confidence, promote litigation, and prevent contracts of that kind being made. Where a party gives his promissory note on the purchase of property payable in coin the right is given under this section to question the consideration on this ground: whether the value of the article which he purchased was adjusted on a gold basis or a paper basis. Any one can see at once that with such a provision in the law it entirely destroys the effect of the decision of the Supreme Court in the confidence it would impart to the community in making contracts payable in coin. It prevents in the higher branches of trade a return to the normal currency. It subjects men to the danger of a want of good faith on the part of the individuals with whom they contract.

Let me give an instance. Suppose a man sells a horse for \$600 or a house for \$10,000; he gives his note payable in coin in either case. When that note is called upon for payment he says, "No; I shall pay it in legal tenders." If he is sued upon it this provision which professes to authorize contracts of this kind gives him liberty to go into a court of justice and dispute whether the price of that horse or the price of that house was adjusted on the gold basis or the currency basis. It will lead to innumerable law suits. I do not know what extent of evidence the courts might require in the case of a horse. They might bring forward jockies to prove that the value of the horse at \$600 was its paper value and not its coin value, and the jury would have to weigh the facts. In other words, the result of the second section is simply to destroy the effect upon the country of the decision of the Supreme Court giving validity to contracts of that kind. It is an encouragement to bad faith on the part of parties making contracts payable in coin. It is intended to discourage payments in money, although it professes to authorize them. It has duplicity on its very face. Its object is to keep up in this country a currency of credit as contradistinguished from a currency of value, for the purpose of aiding speculators to plunder the people; or it may be, for aught I know, that the object in now retaining it is some personal speculation of individuals and their influence.

But, sir, it is very probable that that which the House refused to do at the last session before the decision of the Supreme Court, or to touch now when that decision has been made, rendering any legislation on that subject unnecessary, they now seek to emasculate the decision of the court by coupling it with a provision which will give rise to ceaseless law suits, which will encourage perfidy on the part of individuals where contracts have been made on the gold basis, which will prevent a return at the earliest practical period to the normal currency of the country; and unless you return to it before any great length of time all the declarations you make in the first section as to the intentions of Congress to pay their debts, principal and interest, in coin will be vain.

I do not wish to detain the Senate longer in reference to this bill, but I trust if this report of the committee of conference should pass the Senate at least the Executive will not permit it to pass without his veto; and as he has the power to prevent such pernicious legislation that he will exercise that power in the present instance for the good of the country.

Mr. CONKLING. I ask that the bill be

read as it will stand if we agree to the report of the conference committee. That the Secretary is able to do with the papers before him.

The Secretary read as follows:

That in order to remove any doubt as to the purpose of the Government to discharge all just obligations to the public creditors and to settle conflicting questions and interpretations of the laws by virtue of which obligations have been contracted it is hereby provided and declared that the faith of the United States is solemnly pledged to the payment in coin or its equivalent of all obligations of the United States not bearing interest, known as United States notes, and of all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver. But none of said interest-bearing obligations not already due shall be redeemed or paid before maturity, unless at such time United States notes shall be convertible into coin at the option of the holder, or unless at such time bonds of the United States bearing a lower rate of interest than the bonds to be redeemed can be sold at par in coin. And the United States also solemnly pledges its faith to make provision at the earliest practicable period for the redemption of the United States notes in coin.

SEC. 2. And be it further enacted, That any contract hereafter made specifically payable in coin, and the consideration of which may be a loan of coin, or a sale of property or the rendering of labor or service of any kind the price of which as carried into the contract may have been adjusted on the basis of the coin value thereof at the time of such sale or the rendering of such service or labor, shall be legal and valid, and may be enforced according to its terms; and on the trial of a suit brought for the enforcement of any such contract proof of the real consideration may be given.

Mr. SHERMAN. If the Secretary will send the report and the bill to me I will explain in a very few words the result of the conference. The Senate made four amendments to this short bill. The first amendment was designed to extend the pledge of the first section to the United States notes as well as the bonds. In the House bill the obligations were described as "all interest-bearing obligations," but there was no pledge to pay in coin United States notes. The Senate by striking out the words "interest-bearing" intended to extend the pledge to all obligations of the United States; but the House conferees feared that this would include obligations not intended to be embraced by this claim. In order to avoid all ambiguity we now say that the pledge shall extend to the payment of all United States notes in coin and all interest-bearing obligations except those where other provision was made, so as to prevent including other obligations not intended to be reached by this measure; and in that respect I think the report of the conferees is decidedly an improvement because it is more specific.

The second amendment of the Senate was to strike out the proviso to the first section. The objections made in the Senate to the proviso were these: that it tied up the power of the Government to pay the debt or do anything toward reducing the rate of interest until after the return of specie payments. This provision is stricken out, and instead of it we have inserted a provision that we will not attempt to pay the principal of this debt until either we resume specie payments or we can sell a bond bearing a lower rate of interest than the bonds to be redeemed at par in coin. Then we are at liberty to proceed to pay off the outstanding bonds even if specie payments have not been resumed.

Mr. FESSENDEN. Please read that.

Mr. SHERMAN. Yes, sir.

But none of said interest-bearing obligations—
Five-twenties—

not already due shall be redeemed or paid before maturity, unless at such time United States notes shall be convertible into coin at the option of the holder, or unless at such time bonds of the United States bearing a lower rate of interest than the bonds to be redeemed can be sold at par in coin.

Then there is this clause:

And the United States also solemnly pledges its faith to make provision at the earliest practicable period for the redemption of the United States notes in coin.

I think that this is a great improvement. The United States postpones payment of this debt until we can pay it at par in coin, either by the sale of bonds or by the resumption of specie payments, and we also announce to the

country that we will take steps as early as practicable to specie payment of the notes.

Mr. MORRILL, of Vermont. Would the last provision prevent the United States notes from being funded?

Mr. SHERMAN. Not at all. I will state in regard to the third amendment that I did not agree to the conclusion in regard to it. The third amendment of the Senate was made on motion of the honorable Senator from New Jersey, [Mr. FRELINCHUYSEN,] to strike out the last clause of the second section. That clause allowed, by implication at least, the consideration of a negotiable note to be inquired into between others than the original parties. In order to avoid that construction the Senate struck out that last clause, leaving the question of inquiring into the consideration to depend upon the general and local law in each State. That is the way it ought to be; but the House conferees were not willing to agree to this report unless this provision was retained. I myself was not disposed to yield that, but a majority of the Senate conferees thought it was better to yield in order to secure the passage of the bill. The words which are retained and which the Senate struck out are these:

And on the trial of a suit brought for the enforcement of any such contract proof of the real consideration may be given.

That would seem to imply that this proof could be given in a suit brought by a *bona fide* holder on a note where there was usury between the original parties; but as this clause does not state the effect of the evidence on the real consideration we thought it better, or at least a majority of the conferees against my opinion thought it best, to leave that clause in rather than endanger the passage of the bill.

Mr. SPRAGUE. Mr. President, I desire in one word, in behalf of the industries, so far as I know them, of this country to enter my solemn protest against the passage of this act, a measure calculated, in my judgment, more to repudiate the national debt than any measure that has yet been enacted, and as certain to result in that direction if the people are true to themselves. It seems, sir, that the industries of this country, crushed to the very earth in the past three years, are not crushed sufficiently, but they must have this staggering, this most outrageous blow dealt upon them. If there is any measure calculated to prostrate whatever there is in the present profitable occupation of this country this is it. I affirm to this Senate and to this country, and I shall be borne out in it, that there is no industry, commencing three years ago, that is at all in a profitable condition except those who are receiving to-day the pap of Government appropriations. Why tamper with this most sacred and most delicate instrument? Sir, I have not words to express the feeling of outrage that is in me at this constant manipulation of the finances, first of the Government and then of the people, for what purpose? You have contracted your currency nearly four hundred million dollars in three years for the purpose of enhancing its value. What has been the result of it? Have you enhanced the value of the nation's credit? Not one cent. You have prostrated every interest and every industry in consequence of that most suicidal and most damnable policy. I protest, therefore, in the name of the industries of this country and in their behalf, representing them as I do, and as I know they at present exist, against the additional load that will be put on them by this most unholy and most inconsiderate legislation.

Mr. HENDRICKS. Mr. President, I do not intend again to discuss this question, but to ask of the Senate whether this body is now prepared to change the contract between the Government and its creditors as is proposed by this report? In my judgment the measure has not been improved by the action of the committee of conference. By this proposition we now undertake to waive permanently the right to redeem the five-twenty bonds during the period of twenty years allowed by the original law to the discretion of the Government,

and to provide that the Government shall not redeem at all unless Treasury notes are equal with gold in value.

This, sir, is now the distinct proposition; and as far as we can in the absence of a new consideration we undertake to bind the Government to a material modification of the contract to the benefit of the creditor and to the prejudice of the people. After the contract has been made by the law and by the language of the bonds, and before the maturity of the bonds, why shall we undertake to change the nature and extent of that contract? Why not leave it as it stood at the time the Government made the contract? There were some merits in the funding bill urged by the Senator from Ohio last year and urged by the Committee on Finance in its elaborate report of December, 1867. There was some compensation in that measure. In that bill it was proposed as a compensation to the tax-payers that there should be a reduction of the interest, that the six per cent. bonds should fall to four and four and a half per cent., making a large saving annually to the people in interest and a very great relief to the burdened interests of the country; but, as I thought, not sufficient to justify then a change of the contract.

But now, Mr. President, abandoning the idea of compensation, it is proposed, without consideration, as far as we now can do it to change the contract and to make obligations which may be redeemed within a specified period in the legal-tender notes of the Government gold obligations. Where is the return? The present proposed policy is in strange contrast with the policy that was adopted at the time this debt was contracted. As I read to the Senate the other evening from the report of the Committee on Finance, the policy of Congress in 1862 and 1863 was to reduce the value of the paper currency issued by the Government so as that there should be an inducement on the part of the persons holding that currency to invest it in the bonds. Depreciation was then the policy of the Government—a depreciated currency made necessary, in the language of the committee, by the fact that the bonds would not sell under the act of February 25, 1862. The depreciated currency was the consideration the Government received for its bonds, and that depreciation was brought about upon a purpose and a policy. To secure a sale of bonds then the currency was purposely depreciated; but when the Government comes to assume and to provide for its payment, then the opposite policy is to be adopted and the currency is to be by special legislation appreciated, or if it cannot be appreciated, then that the bonds shall not be paid until the Government can pay in gold. Why this reversal of policy? If it was right that the Government should be paid for these bonds in a currency purposely depreciated, why is there an obligation that we shall provide for an appreciation of the currency when the Government comes to redeem the bonds? I desire that there shall be an appreciation of the currency; but as I said the other evening, I look to that only through a restored prosperity in the business of the country.

I sympathize with the sentiment of the Senator from Rhode Island, [Mr. SPRAGUE.] We want stability, that business may prosper, that productions may increase, that the current of gold may settle in again to our own shores instead of running from our shores, and when we have an appreciation of the currency brought about by such influences there is no injustice done to any persons or to any interest in the country. But when Congress by artificial means proposes to give a value to a currency simply with a view to pay a particular class of obligations that the Government owes, then, as the Senator from Rhode Island has so earnestly expressed it, there is injustice done to many of the interests of the country. Why not leave this contract, covering such large interests, so many hundreds of millions of dollars, where it was left when it was made? And if the business of the country shall bring the

currency up to a par value, then all will participate in the benefits of that appreciation, not the bondholder alone, but all the men of the country engaged in industrial pursuits will be blessed by that result; but an artificial value given by legislation for the benefit of a particular class is not just to the other classes of society. In my judgment this is a very unjust measure. It is unjust to the people to bind the Government as far as we now can by a voluntary resolution to a mode of payment not contemplated when the contract was made.

I do not expect that any discussion of this measure will change the views of the Senate. To my judgment the measure is not improved by the action of the committee of conference. If possible it is made more objectionable. Does it add anything to the obligation of the Government that we now say that we will give if possible a par value to the legal-tender notes? When the legal-tender notes were used in the purchase of the bonds they were not worth so much as they are now as compared with gold; and the parties who paid for the bonds in legal tenders when they were worth forty, fifty, sixty, or seventy cents on the dollar have made a large gain in the appreciation of that currency already, a profit and a speculation almost unknown in the moneyed transactions of the world. Why, then, shall we interfere to give an artificial and stimulated value simply for the purpose of accommodating one class of business men? I shall be very glad if the paper currency of the country shall come to par as compared with gold. I shall be glad if that is brought about by the influences of business, of trade, and of commerce, for then I will know that every interest of the country has participated in the advantage. But I feel that if it be brought about for a special purpose, for the benefit of a particular class in our society, for foreign moneyed men, it is not just.

Mr. President, I shall not continue the discussion, for I feel that the vote the other evening was so decidedly in favor of this measure that discussion is not likely to change it; and I do not wish by anything I may say to interfere with the passage of any of the important bills, but I have felt it to be my duty to say thus much against the proposition.

Mr. DOOLITTLE. Mr. President, we have less than twenty-four hours to the end of the session when this report of the committee of conference comes here. It has not been printed. It contains new provisions which have not been discussed, and very important provisions bearing upon the subject under consideration. I think it exceedingly unwise, under these circumstances, to attempt to press this matter to a vote in the Senate. As all your appropriation bills are yet unsigned, have not gone to the President for examination, and some of them are not yet passed, and the President can hardly have time to read the bills that are to go before him, there can be no reasonable expectation that a measure like this, if it passes, can be examined by the President and receive his signature. It is, therefore, a waste of the time of the Senate, in my judgment, to undertake to press this matter to a vote upon the report of the committee of conference.

Sir, it introduces new provisions, entirely new provisions, which have not been discussed in the Senate in connection with this bill, and this report has not been printed. No Senators, except those who have been upon the committee of conference, have had a fair opportunity to examine and understand the precise bearing of this bill as it comes to us now, and for this reason it seems to me unreasonable that it should be pressed.

I shall not open the discussion of those questions which were discussed the other evening when the bill passed the Senate. I have no desire to repeat the argument then made or discuss the questions which were then discussed before the Senate. But here is a new bill at this late hour which, upon the first reading as it seems to me, pledges us to the redemption of all the obligations of the United States in coin as they fall due. There is a provision that

you shall not pay them before they become due unless a bond bearing a lower rate of interest can be sold at par in coin; or unless the notes of the United States shall then be convertible into coin; but the first pledge, as it strikes me, pledges the good faith of the Government at once to redeem these obligations in coin, all that are due. Are these Treasury notes due?

Mr. SHERMAN. No bonds are due and payable until 1882.

Mr. DOOLITTLE. But are not Treasury notes payable on demand?

Mr. SHERMAN. There are no Treasury notes on demand now.

Mr. DOOLITTLE. Are not the legal tenders payable on demand?

Mr. SHERMAN. The pledge is to pay them in coin.

Mr. DOOLITTLE. I may be mistaken, as I have not had opportunity to examine it, but as I heard the report read, it seems to me there is a provision there very much like pledging the good faith of the Government to pay those notes in coin if they are due. They are obligations of the Government certainly. It pledges the payment of all obligations in coin; true; it contains a proviso that you shall not pay them before they are due, unless a bond bearing a lower rate of interest shall command par in coin or unless specie payments shall have been resumed.

Mr. President, whatever may have been the purpose or the policy intended, the fact was that when we sold the bonds we depreciated the currency in order to sell them; and now the substance of this proposition is that we shall contract the currency and appreciate the currency when we come to pay them. We depreciate the currency to make bonds cheap when we sell them; we appreciate the currency to make bonds dear when you come to pay them. And in whose interest is this? In the interest of the bondholder; in their interest when we sold our bonds, and now again to be in their interest when we come to pay them.

Mr. President, as I said the other night, Congress is no party to these bonds, although it may be there are many members of Congress who are bondholders. It seems to me if I had \$100,000 in bonds of the United States in my pocket and were called upon to vote on this question I should feel that I was voting in my interest, I should feel that I was voting to put money in my pocket, and I do not see how any person can look upon the effect of this measure in any other light than that it is to increase the value of the five-twenty bonds.

Mr. POMEROY. I agree with what the Senator says, but how is it with the greenbacks? The Senator has some greenbacks, if he votes for this bill now he votes to make the greenback equal to a gold dollar.

Mr. DOOLITTLE. I hold that Congress is to act, not as a party to this contract nor as having any interest in it, but Congress is to act in the position of a judge to decide between the bondholders and the bondpayers, between those who pay the taxes and those who receive them; for Congress represents both and should look to the rights of both and not legislate in the interest of one at the expense of the other.

I shall not take another moment of the time of the Senate, but I hope that the majority here who control the business will not press to a vote this measure, when, as it seems to me, it can in no human probability result in any practical legislation; for, as I suggested, there is not time to present this bill with the appropriation bills to the President and give the President an opportunity so much as to read it, much less to form a judgment upon it and approve it.

Mr. MORRILL, of Vermont. The Senator from Wisconsin has announced, as by authority, that this measure will not receive the signature of the President. I desire to say that it is of no sort of consequence; I do not think it will add anything to the credit of the measure either in the Senate or with the American people whether his signature is obtained to it or not.

Mr. DOOLITTLE. The honorable Senator in stating that I have announced by authority that this bill will not receive the signature of the President is entirely mistaken. I have not made any such announcement by authority, nor am I authorized to make it. What I stated was that with the appropriation bills all yet behind there will be no opportunity given to the President to examine this measure to give to it his approval.

Mr. CORBETT. It has been said that this measure is in the interest of foreign bondholders. There were two kinds of bonds in this country, Mr. President, during the rebellion. There were the southern bonds, bonds issued by the confederate government, and those issued by the Union. They were both pledged to be paid in gold coin of the United States, and were introduced into the foreign markets, principally at Frankfort. The confederate bonds were being sold under a pledge to be paid in coin. Our agents went to Frankfort and pledged the faith of our Government that our bonds should be paid in coin. Those who purchased took the chances. The friends of the Union took the bonds of the United States Government. The question is whether we shall stand by those people and pay them as we agreed to pay. Those who took the chances of the confederate bonds bought bonds which are worth nothing. The friends of the Union will be sustained; the friends of the rebel government will not be sustained. That is the question.

Mr. MORTON. Mr. President, I was a member of the committee of conference, but I could not sign this report for the reason that it would commit me to a construction of the law and the contract in regard to the five-twenty bonds from which I have always dissented. I believe that under the law the Government had as much right to pay those bonds in legal-tender notes as it has to pay any other debt, and that this declaration is substantially a change of the contract, and it is committing the Government to a payment in coin which is not required by the original contract. Therefore I cannot and will not vote for it.

But, Mr. President, this report contains one important statement which I would be very glad to vote for if I could do so without voting for the rest of it. It is, "and the United States also solemnly pledges its faith to make provision at the earliest practicable period for the redemption of the United States notes in coin." This I regard as a very important statement upon the part of the conference committee. It prescribes the way by which the Government shall return to specie payments, and the Government solemnly pledges its faith that it will make provision at the earliest practicable period for the redemption of the greenback currency in coin. The Senator from Vermont a little while ago asked a question of the chairman of the committee whether this would interfere with the funding of these notes. I say unquestionably it will. If these notes can be funded and disposed of in that way after the passage of this bill it would be a direct violation of the solemn pledge that is here given. What is the pledge that is given? It is a pledge given to the whole country that the Government will make provision at the earliest practicable moment not to fund these notes, not to return to the old policy of contraction, which has been condemned most solemnly by Congress, but that it will make provision to redeem these notes in coin. If this pledge is treated as a nullity before it has even been passed we need not place much importance upon it hereafter.

But, sir, here is the faith of the Government pledged to take immediate steps at the earliest practicable moment to redeem these notes in coin. That is a principle that I have had much at heart, and I shall be glad to see it incorporated in this report, although it contains other things that I cannot agree to. If this part of the report shall be carried out in good faith it will go far to relieve the evil consequences of the rest of it; but if it is to be trampled upon from the beginning, to be treated as a nullity

before it is passed, then, of course, it amounts to nothing; it is a mere delusion. The chairman of the committee says that it would not be a violation if the holders of the notes consent to the funding. That is not the question. The holders of the bonds are not alone interested. It is the policy of the country that we are talking about. Of course, if we allow men to fund these notes in ten-forty bonds or five-twenty bonds they will do it. We can make it their interest to do so, so that the last one of them will be funded, resulting in contraction, resulting in almost the destruction of the interests of this country. But let it be understood that this commits the Government to a different policy, not to return to specie payments by funding the notes, not to return to specie payments by contraction, but to return to specie payments by preparing to redeem these notes in coin according to the contract. Sir, that is the starting point, and this pledge, if carried out in good faith, will do more to strengthen the credit of the Government, in the language of the original title of this bill, than all the rest of it. That is valuable. I regard the rest of it as pernicious and false in its principle as in the fact. I should be glad to vote for that if I could take it by itself; but as I cannot I must vote against the entire report, because it commits me to a construction of the law that I believe to be violent, that cannot be sustained by the ordinary rules of construction. It is in substance making a new contract, for which there is no necessity and, in my humble judgment, there is no excuse.

Mr. WILLIAMS. Mr. President, notwithstanding this bill has been denounced as a piece of damnable legislation I suppose I am particularly responsible for this report, for it was only by agreeing with one member of the committee as to one part and with another member as to another part of the bill that we were able to agree at all and make this report. In my judgment it is a necessary and desirable piece of legislation; and if I have not misjudged the expression of public opinion it is a piece of legislation that is demanded by the people of this country, and they would be grievously disappointed if this Congress should adjourn without some such legislation; and I was unwilling because the other members of the committee could not agree with me as to details to defeat this great and salutary measure.

Now, it is said by the Senator from Indiana—and his objection goes upon that ground—that it changes the contract the Government made with the bondholder at the time the bonds were issued. I have misunderstood the honorable Senator heretofore if his position at this time is altogether correct on that subject. I have understood the Senator to hold to the doctrine that it was the duty of the Government to resume specie payments and make the Treasury notes equal in value to gold before these bonds should be paid, because in his judgment the spirit of the contract, at any rate required the resumption of specie payments before the bonds could be rightfully paid.

Now, the simple question is as to this part of the bill, did the people of the country expect when these bonds were issued, did those who supported the Government during the rebellion and the men who gave their money to the Government and took these bonds—did they expect that they would be paid in depreciated paper? Was it the general expectation of the country that these bonds would be canceled by promises of the Government depreciated in value, or was it the general understanding that they would be paid in gold or its equivalent? Suppose you admit, for the sake of the argument, that they are payable in Treasury notes, then the other conclusion necessarily follows that these notes, when payment was to be made, were to be worth their face in gold. That was the general opinion on the subject at the time the bonds were issued, and it is for the purpose of carrying out that understanding in good faith that this bill is enacted, and I do not understand that in any respect it changes the nature or even the form of the contract.

It is simply a pledge on the part of the Government that these bonds when they are paid shall be paid in gold or its equivalent, and that pledge is accompanied by another that the Treasury notes shall also be paid in gold; so that all the obligations of the Government, without any distinction, shall be so paid. No preference is given to the bondholders by this bill, none given to those who hold Treasury notes of the Government; but here is a solemn pledge of this nation made at this time, to be noticed by the whole world, that the Government of the United States will redeem all its promises without distinction in the money that is recognized as such by the world. This is the promise that is made, and this is all there is of it.

Now, sir, as to the second section, it is not precisely in the form that I should desire to have it, but it was impossible to agree unless this second section was incorporated in the report as it was adopted by the House; and as it is a piece of legislation which contains no pledge or promise whatever to anybody it may, if it is found to be bad in operation, be changed, by subsequent legislation. If this provision as to gold contracts is not satisfactory to the people, if it is found to be defective in any way, the section does not estop Congress at its next session, or at any future time, from passing a law that will change it and make it conform to the necessities and circumstances of the country.

I do not wish to consume the valuable time of the Senate, but I wish simply to say, as a member of the committee making this report, that it seems to me that in its adoption we accomplish a great good, we vindicate the honor and integrity of the country, and we declare that the people, whoever they may be or wherever they may be, who talk of repudiating the public debt of these United States and bringing everlasting shame and dishonor upon the faith of this nation, find no sympathy in this Congress, but that we will stand by the faith and the honor of the nation.

Mr. COLE. Mr. President, I desire in the fewest possible words to express my disapproval of the report of the conference committee and of the principles contained in the bill as it has been amended. My friend, the Senator from Oregon, expressed the real object of the bill—that it was for the benefit of the foreign bondholders, the bankers of Europe.

Mr. WILLIAMS. I made no such expression, if the Senator attributes any such remark to me.

Mr. COLE. I refer to the Senator from Oregon nearest me, [Mr. CORBETT.]

Mr. CORBETT. I stated that it was alleged that it was for the benefit of them.

Mr. COLE. I understand from the Senator that such was the object, to insure them payment in coin for that which cost them greenbacks at a very low figure. It seems I did not misunderstand the Senator at all. One provision incorporated in the bill by the conference committee is this:

And the United States also solemnly pledges its faith to make provision at the earliest practicable period for the redemption of the United States notes in coin.

I should like to ask the Senator from Oregon farthest from me [Mr. WILLIAMS] or the chairman of the Finance Committee when they expect that period will arrive after this sort of legislation? If we declare our debt to be all payable in coin, making it instead of a debt of \$2,500,000,000, equivalent to some \$3,800,000,000, as we ordinarily estimate money, when under such legislation do they expect this solemn pledge that they are now about to make will be redeemed? Not in our time, I fear.

Mr. WILLIAMS. I should like to ask the honorable Senator from the State of California, the land of gold, where they make and pay all their contracts in gold, if he is in favor of paying the public debt of the United States in its depreciated promises or whether he is in favor of paying the debt in money?

Mr. COLE. I can answer the gentleman in

a moment. I am in favor of paying the debt of the United States according to the contract under which it was incurred, nothing more and nothing less. If when this debt falls due, the United States are paying their debts in coin, their current and ordinary obligations, then these bonds will be paid in coin; but if they fall due before that time, let me ask the Senator from Oregon if he would obtain gold by the sale of other bonds for the purpose of paying these, and thus increase the bonded indebtedness of the country? When, under such legislation, does he expect that the country will get out of its bonded indebtedness? It certainly will not be during this century or the next.

Mr. President, this is entitled "A bill to strengthen the public credit." It will, in my judgment, be a step directly against the public credit, and have a tendency to destroy the public credit. So far as the second section is concerned, which relates to contracts made payable in coin, it is intended to restrict, partially nullify, a decision of the Supreme Court lately made upon that subject. That decision authorizes the enforcement of contracts made specifically payable in coin. This section of the bill is intended, in my judgment, to restrict the operation of that decision of the Supreme Court, and I am equally opposed to that as to the first section.

Mr. NORTON. Mr. President, I presume I am as reluctant as any one to consume the valuable time of the Senate, but I think that the remaining twenty or twenty-four hours of this Congress cannot be devoted more profitably to the interests of the country than in the discussion of the report of this committee of conference. It would be far better for the people of this country, for the men who pay the expenses and taxes of the Government, if the residue of the time of this session of Congress were spent in the discussion of this report. It would be better that the appropriation bills yet to be considered should all fail than that a bill which commits the Congress and the Government of the United States, as this does, to the bondholders, that commits the labor of the country into the hands of the capital of the country, as this does, should become a law.

In my judgment this controversy which has been opened for a year or two years between the capital and the holders of the public debt of the country on the one side and the taxpayers of the country on the other is now coming to a point. On the 16th day of December last the chairman of the Committee on Finance brought into the Senate a proposition in the form of a resolution which committed the Government to the payment in coin of these five-twenty bonds, or practically had that effect. That resolution, as proposed, I will read:

That neither public policy nor the good faith of the nation will allow the redemption of the five-twenty bonds until the United States shall perform its primary duty of paying its notes in coin or making them equivalent thereto; and measures should be adopted by Congress to secure the resumption of specie payments at as early a period as practicable.

Mr. SHERMAN. I desire to say to my friend from Minnesota that that is the exact substance, only in condensed form, of the present proposition.

Mr. NORTON. I am aware of the fact that that is the substance of this proposition. On the 16th day of December last the chairman of the Committee on Finance brought that resolution into this body, and from that day to this it has never been moved, nor has this body been asked to consider it, and why? Because it was an evasion of the doctrines that the chairman of the Committee on Finance held in regard to the payment of the five-twenties; it was an evasion of the position that was claimed during the canvass last fall as to the legitimate construction of the Chicago platform, and all of it tending to the point that the public debt should either be made permanent or should not be paid until it was paid in coin.

Now, the proposition that is reported by this

committee is substantially the resolution introduced in December last, and what is it?

That none of said interest-bearing obligations not already due shall be redeemed or paid before maturity, unless at such time United States notes shall be converted into coin at the option of the holder.

And what does that mean? It means that the Congress of the United States pledges the faith of the Government to the men who hold the bonds that it will not pay one of these five-twenty bonds until the greenbacks, the lawful money in which the bonds may now be paid, shall be paid in coin; and, as the Senator from California suggested, how long will that be? How long will it be, when the indebtedness of the Government is raised from \$2,500,000,000 to \$3,300,000,000, until they pay these bonds in coin?

Sir, the effect of it is to make the debt permanent and to fix upon this country the permanency of the public debt which the holders of these bonds say is a public blessing; or the other alternative is, "unless at such time bonds of the United States bearing a lower rate of interest than the bonds to be redeemed can be sold at par in coin." That is the funding proposition over again. Either alternative brings permanency of the public debt. It will become permanent if we increase the debt to the amount that it will be increased by undertaking to pay it in coin or if we fund it at a lower rate of interest. The chairman of the Committee on Finance says it is at the option of the bondholders; if they do not care to fund let them hold the bonds forever, or if they choose let them accept a new bond at a lower rate of interest.

The objection that I have to this funding proposition is that the bondholders will accept it. They will agree to take a bond running forty or fifty years at a lower rate of interest rather than to have one that is now due and may be paid at the pleasure of the Government or that runs a shorter period. I do not say that it looks anything like repudiation if the bondholders agree to take it; but I object in the name of the people who pay the taxes to this proposition that the bondholders will accept it, and thus for forty or fifty years or whatever time you fix the debt becomes permanent. Sir, what does a permanent public debt mean? It means nothing but taxation; it means a permanent burden upon the people of the country; that no matter what may be their resources or their ability to discharge the debt they are to be at the mercy of the holders of the bonds, and they cannot pay a dollar of it until the men who hold the bonds are willing to receive it. Why, sir, under the funding bill that passed at the last session, if it were a law, we might be able to discharge every dollar of that debt, and yet we could not pay a cent of it for forty long years, and for that length of time the people would have to bear the burden of that debt imposed upon them.

My objection to this proposition is that it looks to and inevitably brings about a permanency of the public debt. What is the interest of the Government in regard to the public debt? It is that it should be in the control of the Government. The Government, acting for and representing the people, should have the debt in their control, and when they were able to pay it they should be permitted to do it. The interest of the bondholders is that it should be in their control, and that the Government should not pay any of it until they are willing to receive it, and in the mean time the people bear the burdens in the shape of taxation.

Then this proposition brings to an actual issue, as I think, the interest of the people who pay the taxes and the interest of the men who hold the public debt and pay comparatively none of the taxes; and because I see in it a question between the men who hold the debt and the people who pay the taxes, and because I believe that Congress should look to the interests of the people quite as much as to the interests of the bondholders, I believe the residue of this session of Congress cannot be more

profitably spent than in discussing this very measure. It would be far better for the interests of the country that all the appropriation bills should fail than that this proposition should pass. The Senator from Oregon talked about this Congress pledging the faith of the nation and that nothing of repudiation should be heard of. Sir, when this Congress pledges the faith of the nation to pay the five-twenties in coin they repudiate the interests of the people and impose upon them burdens that they ought not to be required to bear.

I know it is said that the men who took these bonds under the requirements of the Government for money deserve some credit; that they were as meritorious as were those who went into the armies and fought the battles of the Government during the recent war. They may have some merit, but, sir, their merit was the merit of doing that which it was their interest to do. As has been said, the currency of the country was depreciated in order to make it more to their interest to take these bonds, and now when they come to be paid you appreciate it and make the payment that they receive larger. I think the whole policy of the Government on that subject was wrong. Sir, I believe if there was any interest in this country that was especially interested in the successful prosecution of the war and the suppression of the rebellion it was the capital of the country. If there was any class of men who ought to feel more interest in the stake than another it was the capitalists of the country. If it had been possible the Government should have compelled the money of the country to contribute its share and its proportion of the burdens of the war, just as it compelled the laboring classes to contribute their services and their lives in its defense. I do not see, therefore, that the merit of this class is so great in that regard.

I believe I have said all that I care to say on this subject. My desire was to call the attention of the Senate and the country to the fact that the issue is now made between the holders of the Government debt and the people who pay the taxes. The bondholders, looking after their own interest, want some legislation that will give permanency to the public debt; while the interest of the people is that the debt should be kept so far as it can within the control of the Government, that they may pay it just as fast as they are able to do so. Between these two what should Congress do? Between the laborers and the tax-payers of the country on the one hand and the bondholders on the other what should Congress do? Certainly, in view of their professions of patriotism and interest in the prosperity and welfare and faith and credit of the Government, they ought to have some regard for the men who bear the burden, at least as much as they affect to have for those who hold the obligations of the Government.

Mr. THAYER. Mr. President, I do not rise to discuss this report of the committee, but simply to appeal to the Senate to let us have a vote or to lay aside the subject. We are in the waning hours of the session with two more appropriation bills undisposed of; and yet we discuss these questions hour after hour. Do Senators suppose that they can influence the minds of other Senators now and make votes for or against their peculiar views? I do not think they can; and I appeal again to the Senate to let us vote on this subject or lay it aside and dispose of the necessary legislation of the session.

Mr. SPRAGUE. It was not nor is it now my intention to discuss the details of this bill. My protest in the beginning was launched against this, that its effect was to enhance the value of capital in this country and the cost of capital to the people of this country when, as now, it is so high that there is not an industry within the reach of my vision that can afford to employ it.

Mr. BUCKALEW. I have but a remark to make in consequence of what has been said. I remember at the last session of Congress, at the closing hours of the session, the Senator

from Ohio brought in a report from a committee of conference, very much as he does now, upon the subject of the public debt. It was a proposition to renew the five-twenty bonds and make them permanent; to make them a thirty or forty years' loan at a reduced rate of interest, and there were some other conditions, and we were hurried to a vote without discussion. Then the same reason prevailed which is now urged upon us for an immediate decision of this report. We were told that there was not time to examine the subject; there was not time for debate. That report was adopted. So far as Congress was concerned the forms of enacting it into a law were passed through, but the bill was not signed by the President and no result was produced.

Now, sir, observe the spectacle presented. Although the bill was passed through in that manner without debate in the closing hours of the session, under the allegation that it was important to the public interests that such a measure should be enacted here in this new session of Congress, commencing in December last, now ending in March, that measure has not been renewed, it has not received the approval of Congress at this session; and we are to adjourn without having placed upon the statute-book any such measure, without having even gone through the forms of passing it through the two Houses of Congress. This may admonish us of the impropriety of pressing this measure now reported by the committee of conference through the Senate without consideration, without debate.

The second branch of the bill, as reported back to us in relation to coin contracts, we all understand is unnecessary. We all understand that the Supreme Court has made a decision recently that obviates all necessity of providing by law that coin contracts shall be enforced. It is unnecessary to invoke the law-making power now to render such contracts valid. But, sir, not only is this part of the measure unnecessary, in my opinion it is evil and pernicious so far as it has any effect. It makes provisions which will complicate this question of coin contracts. It will render it more difficult to enforce those which should be enforced. It will exclude from enforcement, if it have any effect at all, certain contracts which without its enactment would be enforced by the courts. In other words, it will complicate this question of coin contracts, which can be acted upon, which can be carried into operation much better by the courts if left alone.

The other measure, pledging the faith of the Government to pay the public debt in a certain manner, both the bonded debt and the greenbacks, in my judgment, for the reasons which have already been stated, ought not to be approved. As a matter of course it is impossible for gentlemen rising under the circumstances here to discuss the report of the committee of conference intelligently; at all events, to discuss it fully. We have not an opportunity of examining this measure. It is not even in print. We must take a glance at it and form our conclusions as we best can.

There is another consideration. A member of the committee of conference has informed us that this report did not receive the concurrence of all the members of the committee of conference representing the two Houses, and that the result was arrived at by the course which he thought proper to pursue, voting with one class of members upon one question and with another class upon other questions; so that a majority could thus be secured for several propositions without obtaining for the whole of them the assent of the same minds. This shows the impropriety of legislating in this manner, legislating through the action of a committee of conference. Here we must take what the committee report to us in gross. It is impossible to discriminate between the different matters contained in this report and select those which we may approve and to reject those which we disapprove. We must take the report entire; and it is a report sent to us from a committee of conference which was not itself in

point of fact agreed upon the several matters which it contains. However, I will not delay the Senate by further observations on this subject.

Mr. BAYARD. This bill reminds me of Hamlet's comment upon the professions of the player queen when she was about to poison her husband:

"The lady doth protest too much, methinks."

The object of the bill is stated to be, in the title, "to strengthen the public credit, and in relation to contracts in coin." The first section is merely declaratory law which cannot bind any subsequent Congress in its view of the contract. It holds out a false expectation that must depend on the good faith of the country, irrespective of any such legislation as this; and it provides that the public debt is not to be paid until the irredeemable paper money of the country is redeemable in coin.

The second section, on the contrary, tends to retard a return to specie payments. It tends to encourage bad faith in contracts made payable in gold between individuals, and of course the necessary effect of that must be to retard the return to specie payments. The mode in which to return to a normal currency in this country, if you mean to do it with the least possible pressure, is by encouraging contracts of that kind in all the higher branches of trade until they gradually descend into all the business of the community. I, for myself, consider that the second section of the bill, independent of the first altogether, which I look upon as impracticable and unwise legislation, is quite sufficient to condemn it, because it is intended to destroy the legal effect and import of the decision of your own Supreme Court, and to prevent men using the normal currency of this country for the purposes of their contracts by imposing a mode of inquiry into the character of the contract which will be utterly destructive of all confidence in the commercial community. I trust, therefore, that the report will not be adopted, and I shall ask for the yeas and nays on its adoption.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. WILSON, (after voting in the affirmative.) I paired off with Mr. HENDERSON on this subject, and as I do not see him here I withdraw my vote.

The result was announced—yeas 31, nays 24; as follows:

YEAS—Messrs. Abbott, Anthony, Cameron, Cattell, Chandler, Conkling, Connors, Corbett, Cragin, Dixon, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Harris, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Ramsey, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Warner, Willey, and Williams—31.

NAYS—Messrs. Bayard, Buckalew, Cole, Davis, Doolittle, Fowler, Hendricks, Keniog, McCreery, McDonald, Morton, Norton, Osborn, Patterson of Tennessee, Robertson, Ross, Sawyer, Spencer, Sprague, Thayer, Tipton, Vickers, Wade, and Whyte—24.

ABSENT—Messrs. Grimes, Harlan, Henderson, Howe, Pomeroy, Pool, Rice, Saulsbury, Welch, Wilson, and Yates—11.

So the report was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 473) relating to the pay of the Sergeant-at-Arms, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 1570) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1870, and for other purposes;

A bill (S. No. 264) for the relief of Henry C. Noyes;

A bill (S. No. 661) for the relief of Lieutenant Colonel John W. Davidson, of the United States Army;

A bill (S. No. 679) to amend an act entitled

"An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State;"

A bill (S. No. 705) further to provide for giving effect to treaty stipulations between this and foreign Governments for the extradition of criminals;

A bill (S. No. 760) for the relief of Rev. D. Hillhouse Buel;

A bill (S. No. 781) for the relief of Alpheus C. Gallahue;

A bill (S. No. 844) for the relief of Captain Charles Hunter, United States Navy;

A bill (S. No. 862) amendatory of the act providing for the sale of the arsenal grounds at St. Louis and Liberty, Missouri, and for other purposes, approved July 25, 1868;

A bill (S. No. 228) for the further security of equal rights in the District of Columbia;

A bill (S. No. 753) to provide for the execution of judgments in capital cases;

A bill (S. No. 810) to regulate elections in Washington and Idaho Territories;

A bill (S. No. 836) for the relief of Celestra P. Hartt;

A bill (S. No. 891) for the relief of George Fowler and the estate of De Grasse Fowler, deceased, or their assigns;

A bill (S. No. 584) relating to the time for finding indictments in the courts of the United States in the late rebel States;

A bill (S. No. 612) relating to the proof of wills in the District of Columbia;

A bill (S. No. 665) respecting the organization of militia in the States of North Carolina, South Carolina, Florida, Alabama, Louisiana, and Arkansas;

A bill (S. No. 711) relating to the Metropolitan Railroad Company;

A bill (S. No. 712) to define the fees of the recorder of deeds and to provide for the appointment of warden of the jail in the District of Columbia, and for other purposes;

A bill (S. No. 722) to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," by extending certain penalties to accessories;

A joint resolution (S. R. No. 200) reappointing Louis Agassiz a regent of the Smithsonian Institution;

A bill (S. No. 167) granting lands to the State of Oregon to aid in the construction of a military wagon-road from the navigable waters of Coos bay to Roseburg, in said State;

A bill (S. No. 871) to authorize the transfer of lands granted to the Union Pacific Railway Company, eastern division, between Denver and the points of its connection with the Union Pacific railroad, to the Denver Pacific Railway and Telegraph Company, and to expedite the completion of railroads to Denver, in the Territory of Colorado;

A joint resolution (S. R. No. 219) giving the assent of the United States to the construction of the Newport and Cincinnati bridge; and

A joint resolution (S. R. No. 217) for printing the Medical and Surgical History of the Rebellion.

RESOLUTIONS OF INDIANA.

Mr. MORTON. With the permission of the Senate, I desire to present certain resolutions of the Legislature of Indiana, which I ask to have read.

The Secretary read the joint resolutions, as follows:

[Joint resolution No. 10.]

Be it resolved by the General Assembly of the State of Indiana, That our Senators in Congress be instructed, and our Representatives requested, to oppose by their influence and votes the passage of any bill that shall specially legalize coin contracts until the United States shall redeem its Treasury notes in coin, and to oppose the enactment of any law which shall have the effect to reduce the present volume of paper money in use among the people of the United States.

WILLIAM CUMBACK,
President of the Senate.

A. P. STANTON,
Speaker of the House of Representatives.

[Joint Resolution No. 7.]

Resolved by the General Assembly of the State of Indiana, That our Senators in Congress be, and they are hereby, instructed, and our Representatives requested, to vote for and otherwise promote the repeal of the act of Congress commonly known as the tenure-of-office law.

WILLIAM CUMBACK,

President of the Senate.

A. P. STANTON,

Speaker of the House of Representatives.

The resolutions were ordered to lie on the table.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 2009) to authorize the Secretary of War to place at the disposal of the Lincoln Monument Association at Springfield, Illinois, damaged and captured ordnance.

The message further announced that the House had disagreed to the amendments of the Senate to the bill of the House No. 1911, making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. G. W. SCOTFIELD of Pennsylvania, Mr. WILLIAM LAWRENCE of Ohio, and Mr. STEVENSON ARCHER of Maryland, managers at the same on its part.

DEFICIENCY BILL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 1911) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes, disagreed to by the House of Representatives.

On motion by Mr. MORRILL, of Maine, it was

Resolved, That the Senate insist upon its amendments disagreed to by the House, and agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. HOWE, Mr. CRAGIN, and Mr. NYE.

REPORTS OF COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 2008) in addition to an act entitled "An act to relieve from legal and political disabilities certain persons engaged in the late rebellion," approved July 27, 1868, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred several petitions of citizens of the United States, praying for such an amendment to the Constitution of the United States as will fully recognize the obligations of the Christian religion, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom were referred the following report and resolutions, asked to be discharged from their further consideration; which was agreed to:

Resolutions of the Chamber of Commerce of New Orleans, Louisiana, protesting against any further extension of that section of the bankrupt act known as the fifty per cent. provision;

A report of a special committee of the Ohio Legislature, remonstrating against the extension of admiralty jurisdiction by judicial construction over the navigable waters of the interior of the country, and in favor of congressional legislation to restrict such jurisdiction to tide-waters and sea-going vessels; and

Resolutions of the Board of Trade of Charleston, South Carolina, remonstrating against the revival of extinct provisions of bankrupt laws.

Mr. CONKLING, from the Committee on the Judiciary, to whom was referred the bill (S. No. 843) to designate the place of confine-

ment for persons convicted of offenses against the laws of the United States and sentenced to imprisonment in certain States, asked to be discharged from its further consideration; which was agreed to.

ARMY APPROPRIATION BILL.

Mr. MORRILL, of Maine. I call for the order of the day.

Mr. MORTON. I ask the Senate now to consider and take a vote upon the resolution before discussed, which was laid over with the understanding that it should be disposed of, in regard to the compensation of Senators from the reconstructed States. There will be no further discussion upon it, I presume.

The PRESIDENT *pro tempore*. The bill regularly before the Senate is the Army appropriation bill.

Mr. HARLAN. I ask the chairman of the committee if he will not allow the roll to be called on the bill which was pending during the morning hour? I think there will not be a word of discussion upon it.

Mr. MORRILL, of Maine. I should be very glad to oblige the Senator; but I am appealed to on the other side, and it would require unanimous consent to take up the subject to which he refers.

Mr. CONNESS. I shall insist, for one, on going forward with the Army appropriation bill. The sooner that is disposed of the sooner we shall get to other business. I hope the Chair will direct the Clerk to proceed with that bill.

Mr. MORRILL, of Maine. I am appealed to on both sides. I think I shall have to insist on the regular order.

The PRESIDENT *pro tempore*. The unfinished business is before the Senate, being the bill (H. R. No. 1803) making appropriations for the support of the Army for the year ending June 30, 1870, and for other purposes, and the pending question is on the amendment offered by the Senator from Massachusetts, [Mr. SUMNER.]

Mr. HARLAN. What is that amendment? The PRESIDENT *pro tempore*. The amendment is the amendment offered by the Senator from Massachusetts with regard to paying the claim of Massachusetts incurred during the war of 1812.

Mr. HARLAN. Would it be in order to offer an amendment to that amendment?

The PRESIDENT *pro tempore*. There is an amendment to the amendment pending, offered by the Senator from Iowa, [Mr. GRIMES.]

Mr. HARLAN. I should like to hear the amendment to the amendment read.

The Secretary read as follows:

But interest shall be allowed to the States of Massachusetts and Maine on such sums only on which the said States of Massachusetts and Maine either paid interest or lost interest by the transfer of an interest-bearing fund.

Mr. SUMNER. The Senator from Iowa has already agreed to accept my modification of that amendment.

The PRESIDENT *pro tempore*. Let the modification be read.

The SECRETARY. The amendment, as modified, now reads:

And be it further enacted, That the Secretary of the Treasury be authorized and required to audit and fix the interest accounts of Maine and Massachusetts for advances made by Massachusetts, then including Maine, for the United States during the war of 1812-15 with Great Britain upon the basis that the claim of these advances belonged, after the separation of the two States, one third to Maine and two thirds to Massachusetts, and reckoning interest at six per cent. per annum, and according to the rules and limitations directed to be applied to the case of Maryland by the twelfth section of the act approved March 3, 1857, entitled "An act making appropriations for certain civil expenses of the Government for the year ending June 30, 1858," and that he is hereby authorized and directed to pay to Maine and Massachusetts, out of any money in the Treasury not otherwise appropriated, such sums as he shall ascertain to be due to those States, as herein directed to be audited and fixed: *Provided*, That in lieu of payment in money the Secretary of the Treasury may at his discretion issue to these States bonds of the United States payable in thirty years and bearing interest at the rate of six per cent. per annum, payable semi-annually; the principal and interest of such bonds to be made payable in lawful money of the United States.

Mr. GRIMES. I am inquired of whether with this modification of the proposition the amendment proposed by the Senator from Massachusetts is satisfactory to me. I desire to say that it is no more satisfactory now than it was before it was modified; and not only shall I vote against it, but I will vote against the Army bill itself rather than submit to be forced to vote on a question of this sort upon a general appropriation bill.

Mr. CHANDLER. I had hoped that the Senator from Massachusetts would withdraw this amendment and enable us to pass this appropriation bill.

Mr. SUMNER. I am perfectly willing that it should be passed.

Mr. CHANDLER. Are you willing to withdraw the amendment?

Mr. SUMNER. Does the Senator appeal to me to withdraw it?

Mr. CHANDLER. I said I had hoped you would. I do not care whether you do or not.

Mr. DRAKE. I appeal to the Senator from Massachusetts to withdraw this amendment.

Mr. SUMNER. Will the Senator vote upon the amendment and let the Senate vote upon it? That is all I ask. I do not wish to add another word or to make any explanation or to adduce any further authorities.

Mr. CHANDLER. I do.

Mr. CONKLING. So do I.

Mr. SUMNER. Let Senators vote upon it.

Mr. CHANDLER. No, sir; you talked about four hours on the subject and I must answer you. You have detained the Senate for two or three days, and it cannot pass now without your speeches being answered.

Mr. President, I stated when this bill was last up that Massachusetts never had a real claim against this Government, and in the next place that her pretended claim had been paid in full; and this I shall proceed to show. In the next place the Government never owed her a dollar of interest in the world, and in my judgment never will pay her a dollar of interest. I propose, as briefly as possible, to give a history of this claim on the part of the State of Massachusetts.

The claim has been now for more than fifty years before this body. It has been for more than fifty years under discussion. I will correct myself in that statement, for I believe she did not present any claim for more than twenty years, nor did she dream that she had a claim; and therefore that will reduce the time that this pretended claim has been before the body to at least thirty years.

Mr. President, during the war of 1812 the Government of the United States employed its own troops for defense, employed its own troops in repelling the enemy, employed its own troops for the national defense. But certain States, towns, and cities deemed themselves in peril, and in their alarm, in their supposed peril, they called out their militia. We were told the other day by the Senator from Massachusetts that one hostile foot did tread the soil of that State and that some little village was burnt. I had forgotten that circumstance until it was stated by him. But the majority of these claims sprung up in this way: a wild rumor would be raised; a haystack would be burned; a barn would be set on fire; a strange vessel would be seen in the offing; and immediately an alarm would be raised that the British were coming, and the militia would turn out and rush to the supposed point of danger, generally upon their own responsibility, not even at the call of the State of Massachusetts. Those militiamen never dreamed that they were entitled to pay, even from the State of Massachusetts, for a long time. They rushed out for their own defense, to protect, as they supposed, their own homes from danger. Those Massachusetts troops were not officered by officers of this Government. They were officered by officers of the Massachusetts militia. Other States did the self-same thing, and other States were in danger during those perilous times. The State

of Maryland was invaded; battles were fought upon her soil; and she called out troops in the same way for her own defense, in addition to the Government forces that were upon her soil. And yet the State of Maryland made no claim for compensation to those troops of hers during those times of peril. They had no claim against the Government. They were Maryland militia, called out for the defense of Maryland by the laws of Maryland, and not being called out by the United States no claim existed for their payment. The States all along the Atlantic coast did the self-same thing. Wherever a strange sail was seen in the distance there was supposed to be danger, and nearly every one of the States lying on the coast finally trumped up claims of this description against the Government. Not one of those claims was presented for many, many years.

Finally, after a long time, the Government in its magnanimity concluded to refund these sums to the several States, not as in justice due to those States, because the money in most instances had been injudiciously expended, and not in accordance with the will of the commander of the American forces; yet, says the report on those claims, as these funds were expended for a patriotic purpose, therefore the Government will refund them. After a considerable time these several amounts were placed upon the books of the Treasury of the United States to the credit of the several States. An account was opened with those States. They were credited with the amount of the claims that were allowed, but no word was ever uttered about interest on those claims; and as the Treasurer of the United States had money from time to time he paid it upon those claims—sometimes \$20,000, and sometimes \$50,000, and so scattered the amounts around among the different States and upon the different claims. This process continued year after year until the claims were paid in full, and then the books were closed and the final settlement was had. So far as the books of the Treasury showed the accounts were settled and the transaction ended, no thought ever having entered the mind of any individual that interest would ever be demanded on those claims, it being considered a gratuity.

But after many years, years after the last dollar had been paid to those States, as was supposed, a claim was brought in for interest upon this gratuity. That claim was pressed year after year, and finally the Government was induced to pay interest to those States and cities where interest had been lost or had been paid by those States and cities. The books were reopened. Interest was cast upon the original amount of the claim, whatever it might be, down to the date of the final payment of that claim, at six per cent. Then, on the opposite side of the ledger, interest was cast at six per cent. upon every single item of debt that had been made against that State. There was six per cent. upon the one side, and six per cent. upon the other; the amount brought down to the bottom, the one deducted from the other, the interest paid at six per cent., and the account finally and forever closed. Here, sir, was final settlement, No. 2, never again, as was supposed, to be disturbed. The thing was ended, principal and interest having been paid where interest had been paid by the States, and the whole thing closed.

But, sir, in 1857, as I said the other night, the late Mr. Pearce, of Maryland, on the last day of the session, on the 3d of March, precisely as is the case now with the claim of Massachusetts, moved an amendment to a general appropriation bill reopening the account of the Government with the State of Maryland, and ordering it to be settled upon the basis of mercantile usage, as I said the other night, and although that is not the exact language, that is the idea. That amendment was in these words:

"That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed

to reexamine the account between the United States and the State of Maryland as the same was from time to time adjusted under the act passed on the 15th of May 1826, entitled 'An act authorizing the payment of interest due to the State of Maryland, and on such reexamination to assume the sums expended by the State of Maryland for the use and benefit of the United States, and the sums refunded and paid by the United States to the said State and the times of such payments as being correctly stated in the account as the same has heretofore been passed at the Treasury Department; but in the calculation of interests due under the act aforesaid the following rules shall be observed, to wit: interest shall be calculated up to the time of any payment made. To this interest the payment shall be first applied, and if it exceed the interest due the balance shall be applied to diminish the principal.'

They then cast interest up to the time of the first payment, deducted the interest from the payment, and credited the balance upon the amount due to the State of Maryland, thus compounding the interest to the State of Maryland instead of paying six per cent. interest as the Government had agreed to do. But, sir, they did worse than that, and the Senator from Massachusetts insists that the account of Massachusetts shall be opened and settled upon the basis of this settlement with Maryland—they not only compounded the interest, but they compounded compound interest; for these payments were frequently made two or three times in a year, and they would cast the interest if the payment was made this month, the next month, and the month following; they would compound the interest twelve times a year if the payments were made in that time. Then, after having compounded compound interest against this Government for claims that were never due and were a gratuity from the first, they cast interest for fifty years upon the compound interest compounded. That was the proposition that was put through on the last day of the session in 1857, on motion of the then Senator from Maryland; and that is the proposition that the Senator from Massachusetts now proposes to force through this body on the afternoon of the last day of the session of this Congress.

Sir, he served this notice upon us: he says, "You may pay it now or you may wait; I shall continue to press this claim; I shall press it to-day; I shall press it to-morrow; I shall press it this year; I shall press it next year; and I shall keep pressing it until it is paid." Well, sir, I expect to sit in the Senate of the United States as long as the Senator from Massachusetts, and I serve this notice upon him: I will resist this unjust claim to-day; I will resist it to-morrow; I will resist it next year; I will resist it the year following; I will resist it while I am in the Senate with that Senator; and if he is reelected to press it for six years more, I will try to be reelected to resist it for another six years. [Laughter.]

Sir, there is no justice in the claim whatever. There never was any justice in it. But I have a little account that I should like to settle with the State of Massachusetts. In 1836 the State of Massachusetts received from this Government, and owes it to-day, with the exact rate of interest that she charges or attempts to charge this Government, \$1,338,175. It stands charged to her on the books of the Treasury to-day and belongs to all the States of this Union. If the Senator proposes to collect compound interest he certainly will not object to paying it; and if this claim is to be pressed I propose to offer an amendment that interest on that \$1,338,175 shall be cast in the same way, and that the amount shall be deducted that she claims for interest, and that she shall pay the balance which amounts to-day to three millions and some odd thousand dollars due to the Government for money advanced to Massachusetts. That is not a fraudulent claim. We will make you pay every dollar of it if you press this claim; and I propose to cast the interest in the self-same way upon that little sum of \$1,300,000, and then I want Massachusetts to pay the difference.

Mr. President, I repeat there is no justice in this claim. There never was any justice in it. It was a gratuity at the start, and the

claim is monstrous to be brought in here at this late day, after sixty years. Why, sir, suppose Massachusetts had a claim originally, is there no outlavery to a claim; is there no time when a claim shall cease to be a valid claim? She has had more than fifty years to press this claim. When the General Government was distributing money around among the States because it knew not what to do with it, why did not Massachusetts present her claim and collect it, and not come here when we owe \$2,500,000,000, when the Treasury is absolutely struggling under the load of debt that now oppresses it, and press an unjust claim?

The Senator from Indiana [Mr. MORTON] said the other night, why not charge interest? Sir, the Government protects the individual. After six years, I believe, in every State in this Union every liability is absolutely barred by the statute of limitations, but there is no statute of limitation on the Government. It depends on the honor of the Government, and runs for all eternity for aught I know. Now, take the case of a claim for \$100,000. Suppose Massachusetts had advanced \$100,000 in the war of 1812. Computing compound interest upon it, you would have \$200,000 in 1824, \$400,000 in 1836, \$800,000 in 1848, \$1,600,000 in 1860, \$3,200,000 in 1872, \$6,400,000 in 1884, \$12,800,000 in 1896, \$25,600,000 in 1908, and in 1968 \$912,000,000, or thereabouts. This is the way that interest runs up against the Government, and yet the Senator says, why not pay interest forever and ever? Why, sir, take ever so small a sum and let the interest run for a thousand years, and where would the finances of any Government be? It is for the very reason that this interest is running night and day and all the time, for the very reason that there is no end to the payment of interest, that no Government on earth has ever paid interest except where it has contracted to do so. Interest is just as much a matter of contract as the principal is. No Government ever did or ever will pay interest unless it has contracted to pay it; and this Government never contracted to pay the interest or the principal of this debt until it was finally entered on the books of the Treasury. I will not detain the Senate longer upon this proposition. I hope it will be voted down.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

Mr. SUMNER. The modified amendment to the amendment I have accepted. The amendment is within my power.

The PRESIDENT *pro tempore*. Then the question is on the amendment as modified.

Mr. CONKLING obtained the floor.

Mr. CHANDLER. If the Senator will pardon me, I desire to add that the Senator from Massachusetts voted against this Maryland claim when it originally passed. I have the yeas and nays before me. The Senator from Massachusetts then voted "no" very properly, as I shall now, and I hope he will, to be consistent.

Mr. DAVIS. With the permission of the Senator from New York, I desire to offer the following amendment to the amendment:

And the Treasury officers are hereby authorized to audit and pay to the loyal owners of the slaves that were drafted or enlisted into the military service of the United States during the late rebellion the bounty to which such owners may be entitled.

Mr. CONKLING. Mr. President, some time ago, after a large space in a short session of Congress which was crowded with important measures needing attention had been devoted to the consideration of one or more railroad schemes, I encouraged myself with the hope that propositions, covert or avowed, for railroad subsidies were at an end for this session. Now, however, as the sands of the Fortieth Congress have almost run, we are met with a new proposition to subsidize a railroad company, and to do it upon grounds and in circumstances which to my mind, after such investigation as I have been able to give the case, present the most preposterous and baldest instance of an attempt of this sort which I have yet witnessed in Congress. The tables here and in the other branch are loaded with bills

which it concerns the management of the Government that we should complete; and yet upon an appropriation bill, in palpable defiance of the rules of this body, an attempt is made to ingraft a provision like this. Not only is it in defiance of the rules of the Senate, but repugnant to every precedent to which reference has been made. I say that in view of the fact that the Senator from Massachusetts has hunted up now nineteen instances, which might have been swelled to nineteen score of instances, in which by consent, no objection being made, appropriations in the nature of private claims have been tolerated upon general appropriation bills; but as the Senator from Pennsylvania [Mr. BUCKALEW] took occasion to show from the Journal of the Senate, when the question of order was made, as certainly as the report follows the flash so certainly followed the decision of the Chair and the adjudication of the body that the rules of the Senate would not tolerate such a perversion of its proceedings. Then, in defiance, I repeat, of the rules of the Senate, we have an attempt to force upon an appropriation bill a subsidy of about one million three hundred thousand dollars for a railroad company which only two sessions ago received from the Treasury of the United States, upon a claim more than doubtful, \$140,000. My honorable friend from Massachusetts [Mr. WILSON] looks alarmed at that statement. Does he dispute it? No, sir, he does not; more than one hundred and forty thousand dollars were voted upon grounds which I repeat were more than doubtful, in my estimation, to the railway company, through the name of which I see a pencil has been run, as it appears, in the draft of this amendment. Confessedly the State of Massachusetts is not here, but a railroad company is here which fights under the *nom de guerre* of Massachusetts for \$1,250,000 upon a pretense—I say it respectfully—which, in the light of the conceded facts in this case and the law applicable to it, vanishes before a fair investigation.

Mr. President, the State which honors me with a seat in this Chamber bears, I believe, about one third of the public burdens. Of the revenues contributed to this nation the State of New York pays at least one third, so that \$400,000 is a sum not larger than that which this railway company proposes to take from the people of the State of New York. That fact alone, I think, will warrant me in discarding all obligation to abstain from debate, because a time and an opportunity have been selected which propriety forbids to attempt the successful consummation of this plan. If any member of this body can justify himself in insisting that an appropriation bill at this hour shall be the vehicle of carrying through a claim like this, I submit that a member of this body whose constituents are to be called upon to furnish \$400,000 toward the sum required will be pardoned even in the circumstances and in view of the occasion for assigning such reasons as occur to him why the exaction should not be made.

Now, Mr. President, look a few moments at the conceded facts in this case. Long years ago, for purposes of local defense, the State of Massachusetts made outlays of divers sums of money. I beg Senators to bear in mind that the allegation now is that Massachusetts paid interest or lost interest upon those sums. That is the *gravamen* of the allegation, let it never be forgotten, in measuring the law and the equity of this case. Then, as early as 1815, Massachusetts had made disbursements and expenditures—I borrow the words from an act of Congress to which I shall refer—for the purpose of defending her domain from the foot of a foreign enemy. She had paid interest or lost interest upon her advances made then. That is the allegation. Upon that it is argued a claim arose in behalf of the State of Massachusetts against the national Treasury. I waive for the purpose of my argument the question discussed by the Senator from Michigan whether in truth that claim arose or not. I prefer for my argument to concede that it did. I reject

the fact that the troops of Massachusetts, under the order of the Governor of Massachusetts, were not to leave the State. I reject the fact that Massachusetts denied the right of the Federal Government to call out the militia of the State of Massachusetts save and except only by her consent and approbation. I discard from view the fact that Massachusetts assumed the position that when a call had been made and she had consented that her troops should be called, still they could not be ordered under the authority or command of the Government of the United States save only by the President of the United States alone; and I put this claim in all respects upon a footing with the most favored claim of this description.

Mr. President, was it a liquidated claim? Has any Senator here argued that it ever became liquidated until 1836? The amendment on your table proposes a computation of interest without regard to the time when it was liquidated, and going back, as I understand it, all the way to the time when these advances were made. Let us examine that briefly in the light of two propositions which I submit to the Senate. First, I affirm that if not one shilling had ever been paid to Massachusetts, if the question were all open now, as it was at first, interest is no part of this debt. Interest is not a matter of course as an incident to the debt; far from it, and I venture to say that no lawyer will affirm, taking all the facts as stated most favorably for the claimant, assuming that no discord or dissatisfaction had ever taken place, that interest either was a part of this debt or by operation of law an incident to the debt. Last I may seem to speak without authority on this proposition let me refer to one of the early opinions of the Attorney General of the United States, an opinion carefully and elaborately considered on a very important case by that gifted son of the Republic, William Wirt, when he was Attorney General. He says:

"To come more closely to the subject interest is not a thing of course; it is in no case a part of the debt nor is it a necessary consequence of the debt. By the polity of many nations it is forbidden in all cases."

I ask Senators to observe this—

"and by those whose laws allow it in cases between individuals it is not allowed as a matter of right in every case; on the contrary, it is allowed only where the character of the contract expressly covers the claim of interest, as in penal bonds, where the penalty exceeds or equals the claim; or where the parties have, by their contract, expressly stipulated for its payment; or where the circumstances of the case call for its allowance as a matter of equity in the particular instance. In whole classes of cases it is as a general rule disallowed; and one of these classes is the case of unliquidated damages. These principles are nowhere more clearly stated nor more ably and amply illustrated than in Mr. Jefferson's correspondence with Mr. Hammond in 1792."

Now, will any member of this body put himself upon the proposition that it was ever agreed specially in this case that Massachusetts, as a matter of specific stipulation, should receive interest upon her advances made during the war of 1812? If it is not will some Senator tell me—rejecting entirely now the matter of payments and accounts stated—as an original question between Government and citizen or Government and State, upon what principle we are to adjudicate that Massachusetts was entitled to interest upon this claim? Let me proceed a step further. Let me suppose the law were otherwise; that I am mistaken in this proposition. Will any Senator affirm that upon unliquidated and unascertained claims the State of Massachusetts was entitled to interest upon any construction, however latitudinarian? And yet this amendment applies just as much to a period confessedly anterior to all liquidation as to any other period in the history of this ancient demand. Upon what principle, I ask again, is that even if interest at all were allowed?

But go a step further. In 1836, according to the allegation, Massachusetts had paid and lost interest upon her advances. I do not insist upon the argument made by the Senator from Michigan the other night, although that argument, I think, was strictly true and unan-

swerable in that regard. I do not insist that the interest account in an ordinary case is a matter of disbursement or expenditure to be charged. We know that it is in the universal business understanding of Christendom, but I do not insist upon it. The point to which I ask Senators at this moment to attend is this: if a man in an account which he is making up is called upon to state his disbursements, and the truth is that he has actually paid interest, as the State of Missouri and many other States did during the war lately closed, would any man stultify himself so far as to doubt for one moment that that was one of the specific things called for when notice was given to him to make up his expenditures and disbursements? Can any man doubt that? In the light of that question I ask the attention of Senators to this joint resolution of May 14, 1836:

"That the Secretary of War, in preparing his report pursuant to a resolve of the House of Representatives, agreed to on the 24th of February, 1832, be, and he hereby is, authorized, without regard to existing rules and requirements, to receive such evidence as is on file and any further proofs which may be offered tending to establish the validity of the claims of Massachusetts."

That means all of them—

"upon the United States or any part thereof."

That certainly was an expression of range enough to be searching. For what?

"for services, disbursements, and expenditures during the late war with Great Britain."

There, in 1836, the State of Massachusetts, the alleged but unreal claimant here, was distinctly notified, not by the action of some bureau officer, which has been referred to here as something which liquidates damages between the Government of the United States and a claimant, but notified by act of Congress, by act of the law-making power, to put in her appearance and file her claims, with the evidence, for services, expenditures, and disbursements. She did so; and undoubtedly she did so with diligence and with accuracy. Those claims were examined by the Secretary of War, and his report has been read here as evidence that that liquidation took place which establishes the proper commencement of an interest account. Very well. The amount being ascertained, in 1859 the same power which had notified Massachusetts to appear, namely, the Congress of the United States, having up to that time remained unsatisfied of the validity and sufficiency of these demands, took action, avowing its satisfaction in their accuracy and directing them to be paid. They were paid and the State of Massachusetts received that payment.

Now, Mr. President, I have heard it argued here, and nothing in this case has surprised me more, that such a payment worked no extinguishment of interest; but that afterward a claim could be put in for interest independent of the principal, and that upon the usages of war that claim could be maintained. The honorable Senator from New Jersey [Mr. FRÉLINGHUYSEN] the other day called attention to this point, and he was answered by the Senator from Maine [Mr. FESSENDEN] positively and fully that such was not the law. Without having looked very far since that time for authorities on this subject I have taken pains to have brought here some of the familiar cases on the subject; and before referring to one or two of them I beg to submit what I understand the law to be upon this point; and if it goes further, or not so far, I wish some Senator would present from some text-book or some other book of authority countervailing evidence. Now, sir, I undertake to say that wherever the principal is paid and received in satisfaction of the principal, there being no pretense that it satisfies interest, that accord and satisfaction extinguishes interest unless one of two things be true: unless, in the first place, the obligation upon which the payment was made upon its face stipulates for interest; or, in the second place, when the payment is made the parties themselves stipulate that the claim for interest shall survive. Inasmuch as this proposition was denied by one of the Senators from Maine I

sent for a volume of Maine Reports, thinking that perhaps a case from Maine might be locally more satisfactory than some other case; and I call the attention of the Senate to the case of *Howe vs. Bradley*, reported in 19 Maine Reports, in which the opinion of the court was given by Shepley, justice. There was a dissenting opinion; and I ask the attention of the Senate to the point which the court decided and the distinction taken by the judge who dissented. The court say:

"Interest is regarded as incidental to the principal debt and not as a part of it. The interest accruing before an act of bankruptcy cannot be added to the principal to form a sufficient petitioning creditor's debt. *Ex parte Burgess*, 8 Taunt., 660; *Cameron vs. Smith*, 2 B. & A., 505." It has been decided that an action cannot be maintained to recover the interest after payment of the principal."

Citing cases both in England and in this country.

Mr. Justice Emery dissented from the opinion in this case, the facts of which I do not stop to state; and now I ask the attention of the Senate to the criticism which the dissenting judge made upon the law as laid down in the language I have read. He says:

"In New York, too, notwithstanding the decisions cited from Johnson and Cowen, which last states the rule there of casting interest, in *Stevens vs. Barringer*, 13 Wendell, 639, it was held that an action may be sustained for the recovery of interest, although the principal of a debt has been paid, when the payment of interest is stipulated for in the contract. It is only where interest is not stipulated for in the contract, and is recoverable merely as damages or as an incident to the debt that a creditor is precluded from sustaining an action for its recovery after accepting the principal."

Again he says:

"In *Fake vs. Eddy's Ex.*, 15 Wendell, 76, the same doctrine was maintained, and the chancellor said 'the counsel for the plaintiff are wrong in supposing that the rule of law that an action cannot be sustained for the interest of a demand after the principal has been paid is applicable to this case.' The cases of *Tillotson vs. Preston*, 3 Johns. R., 229; *Johnston vs. Brannan*, 5 ib. 263; and *The People vs. The County of New York*, 5 Cowen's R., 333, were all cases in which there was no contract for the payment of interest, and it could only be recovered as damages for the non-payment of the principal debt when it became due."

There the acceptance of the principal extinguishes the claim for interest. Is there any doubt about it in the experience or reading of any lawyer in this body? Did anybody ever hear that you could reopen and reexamine an account upon a question of interest unless there was fraud or surprise in the case? I undertake to say never in the history of jurisprudence in this country or in England for more than one hundred years.

I have another case, a very leading case in my own State, a case decided by the court of errors, the highest court known to us, upon this very proposition; and what did the court say? That the acceptance of the principal, no matter how or why or wherefore, worked an absolute extinguishment of all claim for interest unless expressly the parties reserved that claim and provided that it should survive. My honorable friend from Missouri [Mr. DRAKE] says that that is unquestionable law. Certainly it is; and I would not have ventured to read authorities in the hearing of the Senate to establish such a proposition if I had not heard my honorable friend from New Jersey contradict with great plainness of speech because he affirmed that it was the law.

Mr. President, I ask honorable Senators—I care not what their wish may be to see this railroad built without private subscription—to answer me one proposition. Let us suppose that Massachusetts had a claim triumphant and overmastering in its equity and its facts; let us suppose that claim was liquidated in 1814, if you please; then take the fact that Massachusetts was called upon in 1836 to present all her claims for services, disbursements, and expenditures, that she did so, that payment was made and not one syllable said, as pretended by anybody, as to the survivorship of interest. Take that proposition and tell me how any Senator who sits here to administer trust funds can vote as a matter of law or as a matter of conscience that now a claim for interest can be predicated of the principal paid so long ago?

I undertake to say, Mr. President, that there is not a court of equity in Christendom, taking the whole case as stated in favor of the claimants without diminution or addition, which would decree that the Commonwealth of Massachusetts or the Canadian Railway Company has the shadow of a claim against the Government of the United States for interest upon these advances. And yet, sir, we find ourselves in a very extraordinary, a very unusual position. There comes from the Committee on Foreign Relations a verbal report in favor of this claim. I wonder that we have not heard during this debate what the Committee on Foreign Relations had to do in theory of law or in possibility of fact with a claim of this description. The honorable Senator from Massachusetts who leads the effort to establish it is chairman of that committee. Second upon it is the equally distinguished Senator from Maine, [Mr. FESSENDEN,] and the proposition is to attach it to a bill coming from a committee which is led by the other Senator from Maine, [Mr. MORRILL,] and which is dignified by the presence of the other Senator from Massachusetts, [Mr. WILSON,] and my honorable friend from New Hampshire, [Mr. PATTERSON,] and who by his action in the other branch was committed to this claim, happens also to be a member of the Committee on Foreign Relations; and thus we are brought to an accidental condition of things which was described by another person on a somewhat different occasion as a "fortuitous combination of unforeseen contingencies."

Mr. DRAKE. I would like to furnish the honorable Senator from New York with a little information just at this moment in connection with the point that he is now discussing if it would be agreeable to him that I should do so.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) Does the Senator from New York yield to the Senator from Missouri?

Mr. CONKLING. Yes, sir.

Mr. DRAKE. I have been very much puzzled to comprehend how it could be that this subject could properly emanate from the Committee on Foreign Relations, and I have just got the explanation of it. A bill was presented on the 11th of March, 1867, by the Senator from Maine, [Mr. FESSENDEN,] read twice, and referred to the Committee on Foreign Relations, entitled "A bill to provide for the defense of the northeastern frontier," as if it were menaced! That bill was reported the day after it was referred to that committee, "reported by Mr. SUMNER without amendment," and it proposed, not that the interest claim of Massachusetts against the United States should be transferred to this European and North American Railway Company, but that the proceeds of all the claims of Massachusetts against the United States arising prior to the year 1860 should be transferred to that company. That is the way that this thing comes into the hands of the Committee on Foreign Relations and is reported by that committee—reported the day after the bill is sent to that committee, and reported without amendment. I give this for the information of the honorable Senator from New York.

Mr. CONKLING. Mr. President, it is not for me certainly to animadvert, except so far as properly and necessarily the facts are before us, upon the reasons, upon the considerations, upon the arrangements which have led to the presentation of this measure. The zeal with which Senators feel called upon to press forward in the advocacy of local interests behind them present questions, of course, in the case of each Senator to be determined for himself. But I refer to this matter to say that it will be an evil day, a day of misfortune when the fate of particular claims, the interests of particular States or corporations are to depend upon the attitude which may be held upon committees having particular measures in charge by the local representatives from the sections in which those claims arise.

Now, sir, I cannot believe that any committee of this body to which this claim naturally would have gone would not have made to us a

written and explanatory report so as not to leave us in the situation in which we are found by the circumstances of this case. Certainly no committee to which it had naturally been referred would have reported it so late that it must be discussed at the hazard of all the legislation of the session. Certainly no such committee would have reported it when it was least expected as an appendage to a bill in connection with which nobody could have been prepared to consider or discuss it; and certainly it would not have come without a written report, without one word of explanation except that afforded by the arguments made in the Senate by particular Senators chancing to be members of this committee.

So much, I think, I have a right to say. It is not the good fortune of the State of New York to be able to avail herself of this movement in reference to \$3,000,000 which she advanced during the war lately closed, and as to which I want an investigation of interest accounts if a principle of this sort is to be established. I believe, sir, that any member of this body investigating this claim in the light of the facts conceded to exist, and called upon to make report upon the considerations which I have endeavored imperfectly to suggest, would never fail to establish as far as a report could establish it the proposition of law that receiving in 1859 the principal of this claim, in the absence of all agreement to pay interest before or at the time, bars all claim for interest. At all events it is a question, I submit, worthy of the examination of a committee of this body, a question which ought not to be whistled down the wind by the accident, by the haste of an occasion of this sort, so untimely, and I must be permitted to say so inappropriate as conducive to fair and considerate legislation.

And, Mr. President, I ought not to fail to remind the Senate that interest in this case is barred, not as a technicality, not as the statute of limitations steps in and bars a claim—because that at times has been held to be technical, although I never believed that that was the philosophy even of a statute of limitations—but this bar is more philosophical, more equitable even than that. It proceeds upon the wholesome presumption that when the minds of the parties have met upon an agreement, the intentment, the effect of which is thoroughly established by the law and the understanding of the commercial world, it concerns good morals, it concerns the just composition of differences among men, that each party should stand to and abide by the terms and the conditions he has made. It proceeds upon the idea long embalmed, both in the civil and in the common law, that it is hurtful that afterward, except upon grounds of surprise or fraud, either party should be permitted to invent, to conjure up, to conceive in good faith or bad, new elements in the account, and bring them in, to the end that controversy may be opened.

In this connection, and before I take my seat, I wish to allude to one other thing, only one of the many things upon which I should have been glad to comment, which I have heard in the course of this debate. The honorable Senator from Massachusetts has repeated more than once, as a part of his case apparently, that this interest had not been paid for nearly half a century, or whatever the time may be; that during all these many years Massachusetts had been kept out of this interest. Why, sir, as upon the point which I just left, so here is, I submit, a total perversion, a total reversal of the whole theory of law. Until now, in every horn-book of the law could be found denunciations of stale demands; and in many of the States of this Union—New Jersey for one, if I am not mistaken—it is at least a misdemeanor, and sometimes has been made a felony, to transfer at all by assignment a claim so old as this. Statutes leveled against fraud, against undue advantage, have denounced as a crime the transfer of demands much younger than this. So in every system of jurisprudence with which we are familiar

the diligent creditor has been encouraged and stale demands have been stamped with the disapprobation of every species of judicial courts.

But here we are told that if the State of Massachusetts and the Northeastern Railway Company, or the European and North American Railroad Company, if that be the title, have lain by year in and year out, although children then unborn have grown gray in the mean time, although payments have been received on account and finally the last installment of principal has been paid and accepted, and no breath breathed of a claim of interest, yet so far from that working an extinguishment, so far from discrediting and disproving this demand, the equities of Massachusetts only mount higher because for half a century she has slept upon her rights. That is a new idea, is it not? Did any lawyer ever hear before that in law or in equity half a century of silence was a recommendation, an increase of the probability and equity of a claim? It simply makes the current of authority run up hill to contend for any such doctrine.

Mr. President, I conclude my comment upon this amendment with this statement:

First, by universal law and American law Massachusetts never had, to begin with, a claim to the interest as following by right the principal of this demand.

Second, if such a right existed it could exist only from and after the time when the demand was liquidated.

And, third, after that time confessedly there never having been a demand for interest or promise to pay it, an account, some account, I care not what, was stated of the claims of Massachusetts for services, disbursements, and expenditures, which account was allowed, every penny of it was paid to and received by Massachusetts; and now if every penny of it was principal, if it was received only as principal, the truth existing that no promise was made at the time to pay interest, by the universal concurrence of authority, to which I respectfully challenge an example to the contrary, it was an accord and satisfaction, in spite of which no court of equity could decree and no court of law could adjudge that a shadow of right exists to demand interest upon the principal sum paid. On the contrary, that accord and satisfaction stands as an insurmountable barrier against every known approach but one. If it be true or if it be insisted that the party to that accord was imposed upon, that fraud or surprise entered into it, that suffocates the right, in the quaint language of an old judge; fraud unravels and vitiates everything, and in the presence of fraud you may talk about reopening and reexamining an account stated; but when the principal has been paid, and the proposition is that interest not stipulated for at the time shall be demanded afterward, the law and equity and truth all concur in saying never, never according to law.

Mr. SPRAGUE. Mr. President, I have not been seen by any one from the lobby in reference to this measure. My vote must be governed and will be governed by the information that I have received through the declarations and speeches of the different Senators, and I must confess that it is a very difficult thing for me to make up my mind as to the vote I shall give from those speeches. I must, therefore, be governed by my own judgment and reflection in the matter; and being governed by that, I have come to the conclusion from the speech uttered by the Senator from New York that my duty leads me to vote for the claim presented by the State of Massachusetts; and while coming to that conclusion I must beg leave for a moment to pause in the contemplation of the remark which fell from the lips of that eminent Senator, that New York pays one third of the income of the Government. Now, in my judgment it is susceptible of the clearest demonstration that the people of New England to-day pay as much of the revenue derived from the State of New York as the people of the State of New York themselves. That remark of the honorable Senator has led me to

this reflection, which had not entered into my calculations before upon this question: whether it has struck him or the Senate it has struck me, that the opposition from the Senator or the influence which has resulted in his opposition has been in the contemplation of the effort made by New England at this time and in this way to extricate herself from the tributary relation which exists between her and the city and State of New York. That relation will certainly be severed, and it is the interest of this whole country, South and North, East and West, that that relation shall in some respects be severed, and that the growing progress of the great State of New York shall not come here to dictate the legislation of the country as well as its politics.

Sir, I am proud of the history of that State and of her eminent men. They belong to the country; they belong to New England as much as they do to any other portion of the country. The enterprises of New England and the public spirit of her men engaged in those enterprises have contributed to the greatness of the State and the people of New York; they share alike in their glory and in their prosperity. New England must protect herself against the charges that are made. Although the people of Rhode Island, whom I have the honor to represent, care but little for the people of Massachusetts or of Maine upon this or any other question, except when engaged in developing the enterprises of the country and in contributing to the honor and to the glorious destiny in store for us all, they yet feel that it is becoming and will be becoming in them to defend the reputation of New England, of which Rhode Island and the people of Rhode Island are a part.

I have sat here for the last four or five days and listened to the shafts leveled against that people, and I am unwilling to sit here longer without entering a solemn protest against such language. The war of 1812 is held up to the country and to the Senate as a stigma, and all the glory that there is in soldiery is supposed to be handed down to our own time. I tell the Senate and the country that the same act was performed by the boasted honor and chivalry and soldierly qualities of the men engaged in the present rebellion in my own experience. It will not do to go back sixty years and cast a stigma upon that people who lost more by the results of that war, that timid, ineffective, most cowardly prosecuted war in the history of the world—that people contributed more and lost more than any similar people the world has seen. Sir, she had no soil on which to subsist a population; she had by her energy and skill established for herself and for the nation its commerce; and what was the result? A war was brought upon her by men in the interior, who cried "war," "war," when war would injure them but little, but would contribute to their trade, to their prosperity, and to their advancement. Beleaguered New England stood firm. She was beleaguered from all her borders, from the Canada side and from the water side. New York, with but a small entrance, was uninjured in fact. New Jersey was in fact uninjured. The great power of Great Britain was standing against New England, and Senators stigmatize her for refusing, as she ought to have refused, to permit her only defense to go—where? Where there was no danger and stay where danger was.

Sir, I am astonished at the words uttered here by the Senator from Michigan, [Mr. CHANDLER.] He belongs to New England. For him to go back and visit upon that people the language that he has used profoundly affects me with astonishment and surprise; and especially so when I have been on the Committee on Commerce in this Senate and when from time to time appropriations increased two or threefold have been given to his State without any possible national advantage.

Mr. CHANDLER. Mr. President.—The PRESIDING OFFICER. Does the Senator from Rhode Island yield the floor?

Mr. SPRAGUE. No.

The PRESIDING OFFICER. The Senator declines to yield. The Senator from Rhode Island is entitled to the floor.

Mr. SPRAGUE. Investigate the appropriations. I know about them. But here in my judgment, not fully known possibly to the projectors of this enterprise, is a work of great national importance; and I have been led to believe and to realize, since listening to the remarks made by the different Senators, that if there is any project more entitled than another to their candid consideration and investigation, considering the whole country, this is the one. I will not speak of the men who aided in that most disastrous and cowardly war of 1812-14, but I will say that the men who led the rank and file engaged in whatever of honor there was in it came from the schools located in New England; and the only naval fleet victory to-day that the nation has to boast of came from the little State of Rhode Island commanded by Perry. So it will not do for men who understand the true history of that people and the true relations which subsist between the energetic people of New England and the rest of this country to indulge in such comments as we have heard here; but I forbear further to comment on that subject.

My remarks have been extended longer than I intended when I rose, and I will not longer detain the Senate.

Mr. CHANDLER. The Senator from Rhode Island has drawn upon his fancy for his facts, and it is a poor draft for he has not caught anything. I made no charge against New England, not a word of it, not a syllable, except upon the men who are pressing this fraudulent claim. I charged that upon them; but not one word did I say of the soldiers of New England in the war of 1812, nor did I cast a reflection upon them.

Now, sir, while I am up I wish to make one single statement that I forgot when I was up before. I stated then how these accounts were opened on the 3d day of March, 1857. I likewise stated that the Senator from Massachusetts very properly and justly voted against that proposition, deeming it then as I do now a fraudulent one.

Mr. SUMNER. No.

Mr. CHANDLER. Well, an improper one. On the 31st day of May, 1858, that was followed by this amendment—and this is a repetition of what I stated the other night—moved to an appropriation bill:

"And be it further enacted, That the proper accounting officers of the Treasury be authorized and directed to examine the accounts between the United States and the several States which have been or may be allowed interest upon claims against the United States which have accrued during or since the war of 1812 with Great Britain, and apply in such examination the provisions and principles of the twelfth section of the act of March 3, 1857, entitled 'An act making appropriations for certain civil expenses of the Government for the year ending June 30, 1858,' and that any money found upon such re-examination to be due any State shall be paid to such State out of any money in the Treasury not otherwise appropriated."

This proposition, had it passed in May, 1858, would have opened all the accounts of all the States that furnished money during the war of 1812 to readjustment on the basis of the settlement of the claim of Maryland the year before; but that did not pass. In the following year, on the 26th of February, 1859, the self-same proposition was made in an enlarged form. It was in these words:

"That all the States which have had or shall have refunded to them by the United States moneys expended by such States for military purposes during or since the war of 1812 with Great Britain, which have not already been allowed interest upon the moneys so expended, shall now be allowed interest so far as they have themselves paid or lost it; said interest to be computed by the proper accounting officers of the Treasury according to the provisions and principles directed to be applied to the case of Maryland by the twelfth section of the act of March 3, 1857, entitled 'An act making appropriations for certain civil expenses of the Government for the year ending June 30, 1858,' and that all the States which have been allowed interest upon claims against the United States, accruing during or since said war of 1812, shall be entitled to have their interest accounts re-examined and restated by the proper accounting officers of the Treasury according to the provisions

and principles of the twelfth section of said act of March 3, 1857; and that those provisions and principles shall govern the computation of interest in all cases in which interest may hereafter be allowed to any of the States. Any money found to be due to any State, as directed by this section to be computed and ascertained, shall be paid to such State out of any money in the Treasury not otherwise appropriated."

That did not become a law, but it was pressed by all the old States which had an interest in these claims, and the amount then, on the 26th day of February, 1859, was over \$17,000,000. The old States which would receive these \$17,000,000, of which \$1,070,000 was to go to the State of Virginia alone, combined to make this a law. Here let me say that if this rule is to be applied to Massachusetts there will be no power to resist its application to every other State having a claim against the Government. The amount to-day is not \$17,000,000, as it was on the 26th of February, 1859, for there is ten years' interest to be added, so that if you allow this claim to Massachusetts accruing from the war of 1812 there is no way on earth that you can resist any other claim of any other State upon the same basis, and that whole amount to-day, for compound interest on claims arising in the war of 1812, not of \$17,000,000, but of over \$20,000,000, will have to be paid. If we are going to pass this claim and give this amount to Massachusetts let us take the amendment offered in 1859 and give it to all the States and settle the whole thing at once. Let us pay the whole twenty or twenty-four or twenty-five millions, whatever it is, and have done with it, and not have it pressed upon us year after year until it is all finally to be allowed.

I state that the total amount is over twenty millions to-day of compound interest on these old claims, and if we allow this we shall have to go the whole figure. When we combined all the new States then and settled it they gave it up and said "this question is settled forever and will never again be pressed;" but it now comes up; it is the same old monster in another form, but now it is for a railroad company in Maine, presenting a claim for the States of Massachusetts and Maine, not for all the States. Why not bring in the whole thing? Let us take at once the whole dose. It is a bitter dose, but we may as well swallow it at once as have it given to us piecemeal year after year. I hope the proposition will be rejected.

Mr. CONNESS. Mr. President, I do not rise to deliver a lecture to anybody. Senators have a right to discuss as long as they please every question here; but it does appear to me that Senators opposed to this amendment might allow us to take the vote on it, so that if it be not the will of the Senate that it shall be voted down there may be then some reasonable excuse for attempting to defeat the bill, it having been adopted; but if the Senate shall vote it down those Senators will have no complaint to make, and it is the last time the amendment can be offered. I hope we shall be allowed to vote.

Mr. CONKLING. There is some wisdom in that suggestion.

Mr. CONNESS. I do not know whether there is or not. I do not speak it for the wisdom there is in it. I do not hope to enlighten anybody. I hope we shall be permitted to vote and go on with the public business. If this bill must be lost because this amendment shall be adopted let it be lost after it is adopted; but let us not fight the time away until that is done.

The PRESIDING OFFICER. The question is on the amendment to the amendment moved by the Senator from Kentucky.

Mr. SUMNER. Let that be read.

The PRESIDING OFFICER. It will be read.

The CHIEF CLERK. It is proposed to amend the amendment by adding thereto the following:

And the Treasury officers are hereby authorized to audit and pay to the loyal owners of the slaves that were drafted or enlisted into the military service of the United States during the late rebellion the bounty

to which such owners may be entitled under the law of Congress.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Massachusetts, [Mr. SUMNER.]

Mr. SUMNER and others called for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 16, nays 25; as follows:

YEAS—Messrs. Cattell, Corbett, Fessenden, McDonald, Morrill of Maine, Nye, Patterson of New Hampshire, Pomeroy, Ross, Sawyer, Sprague, Sumner, Van Winkle, Vickers, Warner, and Wilson—16.

NAYS—Messrs. Buckalew, Chandler, Conkling, Conness, Davis, Drake, Edmunds, Frelinghuysen, Grimes, Harris, Henderson, Hendricks, Howard, Howe, McCreery, Morgan, Morrill of Vermont, Patterson of Tennessee, Rice, Robertson, Sherman, Stewart, Trumbull, Willey, and Williams—25.

ABSENT—Messrs. Abbott, Anthony, Bayard, Cameron, Cole, Cragin, Dixon, Doolittle, Ferry, Fowler, Harlan, Kellogg, Morton, Norton, Osborn, Pool, Ramsey, Saulsbury, Spencer, Thayer, Tipton, Wade, Welch, Whyte, and Yates—25.

So the amendment was rejected.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following joint resolutions and bills, in which it requested the concurrence of the Senate:

A joint resolution (H. R. No. 474) authorizing the Secretary of the Treasury to admit free of duty a certain submarine telegraph cable;

A joint resolution (H. R. No. 475) for the appointment of Thomas A. Osborn as manager of the National Asylum for Disabled Volunteer Soldiers;

A bill (H. R. No. 2022) to repeal the first section of an act relating to appeals to the Supreme Court; and

A bill (H. R. No. 2023) to amend an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 2009) to authorize the Secretary of War to place at the disposal of the National Lincoln Monument Association at Springfield, Illinois, damaged and captured ordnance; and the enrolled joint resolution (S. R. No. 217) for printing the Medical and Surgical History of the Rebellion; and they were signed by the President *pro tempore*.

RAILROAD IN OREGON.

Mr. HENDRICKS. With the permission of the Senate, I wish to report back a bill from the Committee on Public Lands. I am directed by that committee, to whom was referred the bill (S. No. 918) explanatory of the act of July 25, 1866, granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon, to report it back. I had desired to make a written report on the case expressing my views from the committee but I have not been able to do it. It has been impossible. I regret to be compelled to report the bill back without any recommendation on the subject. My impression is that the questions between the two companies are judicial questions, and that all that it is the duty of Congress to do is to remove the condition on which the grant is made so that the rightful grantee under the authority of the State of Oregon shall enjoy it. This view I desire to express, as I was not able to do it in the form of a report.

ISSUE AND PRINTING OF SECURITIES.

Mr. EDMUNDS. I ask unanimous consent to make a report at this time from the joint Committee on Retrenchment.

The PRESIDENT *pro tempore*. Is there objection? The Chair hears none.

Mr. EDMUNDS. I report from the Committee on Retrenchment on the subject of a resolution instructing that committee to make an examination of the methods adopted in the Treasury Department in printing bonds, notes, and other securities of the United States; what guards have been adopted to prevent fraud and mistakes; what additional measures, if any, ought to be adopted to prevent frauds and mistakes; whether there has been any fraudulent or erroneous issue of bonds, notes, or securities; and if so, by whose fault or negligence, and the proper remedy and prevention thereof; and especially to examine the official conduct of those charged with printing, registering, and issuing any notes, bonds, or other securities of the United States. I make this report covering a great deal of ground and a great amount of treasure, and accompanied by a large amount of statistics and evidence which will be filed with the Secretary; and I ask leave of the Senate, if there be no objection, to make such additions in the way of explanations and completion of the tables as shall be necessary to have the subject perfectly understood. The committee have been so pressed for time, covering so much ground, that the report is not in that complete state that it ought to be to be perfectly understood. I therefore ask that permission.

The PRESIDENT *pro tempore*. No objection being interposed, leave will be granted to the committee to make any further additions to their report.

Mr. EDMUNDS. I move that it be printed. The motion was agreed to.

RECESS.

Mr. DRAKE. I move that the Senate take a recess to-day from half past four to seven o'clock.

The motion was agreed to.

HOUSE BILLS REFERRED.

The following bills and joint resolutions received from the House of Representatives were severally read twice by their titles, and referred as indicated below:

The bill (H. R. No. 2022) to repeal the first section of an act relating to appeals to the Supreme Court—to the Committee on the Judiciary.

The bill (H. R. No. 2023) to amend an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868—to the Committee on Finance.

The joint resolution (H. R. No. 475) relating to the pay of the Sergeant-at-Arms—to the Committee on Appropriations.

The joint resolution (H. R. No. 474) authorizing the Secretary of the Treasury to admit free of duty a certain submarine telegraph cable—to the Committee on Finance.

THOMAS A. OSBORN.

The joint resolution (H. R. No. 475) for the appointment of Thomas A. Osborn as manager of the National Asylum for Disabled Volunteer Soldiers was read twice by its title.

Mr. WILSON. I ask unanimous consent to put the House joint resolution appointing Thomas A. Osborn manager of the National Asylum for Disabled and Volunteer Soldiers on its passage.

There being no objection the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 475) for the appointment of Thomas A. Osborn as manager of the National Asylum for Disabled Volunteer Soldiers. It provides for the appointment of Mr. Osborn in place of and for the unexpired term of Richard J. Oglesby, of Illinois.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, communicating the report of the trus-

tees of schools of the cities of Washington and Georgetown; which was ordered to lie on the table.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1744) to strengthen the public credit and relating to contracts for the payment of coin, in which it requested the concurrence of the Senate.

W. W. CORCORAN.

Mr. HARLAN. I move now that the Senate proceed with the consideration of the joint resolution (H. R. No. 413) in relation to lands and other property of W. W. Corcoran, in the District of Columbia, used by the United States Government during and since the war of the rebellion.

The motion was agreed to; and the Senate resumed the consideration of the joint resolution.

The PRESIDING OFFICER, (Mr. POMEROY.) The question is on the passage of the joint resolution, upon which the yeas and nays have been ordered.

The question being taken, resulted—yeas 34, nays 3; as follows:

YEAS—Messrs. Buckalew, Cattell, Chandler, Cole, Conkling, Conness, Cragin, Drake, Fessenden, Harlan, Harris, Henderson, Hendricks, Howard, Kellogg, McCreery, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Rice, Robertson, Ross, Sumner, Trumbull, Van Winkle, Vickers, Whyte, Willey, and Wilson—34.

NAYS—Messrs. Stewart, Thayer, and Wade—3.

ABSENT—Messrs. Abbott, Anthony, Bayard, Cameron, Corbett, Davis, Dixon, Doolittle, Edmunds, Ferry, Fowler, Frelinghuysen, Grimes, Howe, Morton, Norton, Nye, Osborn, Pool, Saulsbury, Sawyer, Sherman, Spencer, Sprague, Tipton, Warner, Welch, Williams, and Yates—29.

So the joint resolution was passed.

REPORTS OF COMMITTEES.

Mr. WILLEY, from the Committee on Claims, to whom was referred the petition of citizens of Martinsburg, West Virginia, members of the German Evangelical church of that town, praying compensation for their church destroyed by fire while it was occupied and used by United States troops, ask to be discharged from its further consideration, and that the petitioners have leave to withdraw their petition and papers; which was agreed to.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 2022) to repeal the first section of an act relating to appeals to the Supreme Court, asked to be discharged from its further consideration; which was agreed to.

Mr. VAN WINKLE, from the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 900) granting a pension to William B. Looney, of Alabama, reported that the committee had met, and after full and free conference had been unable to agree.

On motion of Mr. RAMSEY, it was Ordered, That the Committee on Post Offices and Post Roads be discharged from the further consideration of all matters heretofore committed to them and not reported upon.

NORMAN WIARD.

Mr. NYE. I move that the Senate proceed to the consideration of House bill No. 2021, for the relief of Norman Wiard.

Mr. GRIMES. I do not think that matter can be disposed of between this time and the hour for a recess.

Mr. NYE. I will say a single word. I do not suppose it will lead to debate.

Mr. GRIMES. It will. It is a claim with which I am quite familiar, and I have several documents that I desire to refer to.

Mr. NYE. I do not suppose the honorable Senator's familiarity with it changes the nature of the claim. The claim rests upon the report of a joint committee of both Houses, known, I believe, as the Committee on Ordnance, and the bill has passed the House with great unan-

imity. I submit that after that the honorable Senator from Iowa will hardly propose to oppose it. It is a claim that, if it is due at all, has been due a good while, and the individual to whom it is due is suffering.

Mr. GRIMES. It is very true that it is reported at the suggestion of the Committee on Ordnance, and amounts to \$130,000.

Mr. NYE. One hundred and twenty-five thousand dollars.

Mr. GRIMES. It is also true that I have in my possession a statement of the account to which Mr. Norman Wiard agreed, amounting to \$4,080, which he accepted over his own signature as being a discharge of all the claims embraced in the bill.

Mr. NYE. That may be so; but I think if it was so I could avoid that admission on the ground of lunacy.

Mr. GRIMES. If you want to go on with it I am content.

Mr. NYE. I do not think this committee have stumbled over such an obstacle as that, and from the amount of guns he furnished it was entirely impossible that that could have been his intention.

Mr. GRIMES. How many did he furnish?

Mr. NYE. I will submit the question. I desire to take up the bill.

The PRESIDENT *pro tempore*. The question is on taking up the bill for consideration.

The motion was not agreed to.

REMOVAL OF DISABILITIES.

Mr. STEWART. I move that the Senate proceed to the consideration of House bill No. 1880, to remove disabilities. It has been read and discussed, and I suppose we can have a vote on it very soon.

Mr. CONKLING. We can do that, I think, after the recess. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Sergeant-at-Arms was directed to clear the galleries.

Mr. McCREERY. I ask as a favor, while the galleries are being cleared, that the vote be taken on House bill No. 1880. It is the last request I expect to make of this Congress. Other gentlemen have occupied a great deal of time in speaking; but I simply ask while the galleries are being cleared that the vote may be taken on this bill.

The PRESIDENT *pro tempore*. That may be done by unanimous consent.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1880) to relieve certain persons therein named from political disabilities.

The PRESIDENT *pro tempore*. The bill has been read and the reported amendments agreed to.

The bill was reported to the Senate, as amended, and the amendments were concurred in.

Mr. EDMUNDS. I want to know before I vote for or against this bill how many men are included in it?

Mr. McCREERY. There are four gentlemen from Kentucky, and I indorse them all as peaceable and law-abiding citizens.

Mr. EDMUNDS. Are they all that are in the bill?

Mr. McCREERY. Four from that State.

Mr. EDMUNDS. Who are the others?

Mr. STEWART. It is a House bill. We have added names to it. I do not know the exact number.

Mr. EDMUNDS. I understand it comes from the Judiciary Committee. I make no objection.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business; and at half past four o'clock the doors were reopened, and the Senate, pursuant to order, took a recess until seven o'clock p. m.

EVENING SESSION.

The Senate reassembled at seven o'clock p. m.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report from the Secretary of the Interior, communicating, in compliance with a resolution of the Senate, information concerning the remnant of the tribe of the Seminole Indians in south Florida; which was referred to the Committee on Indian Affairs, and ordered to be printed.

IMPORTATION OF SCIENTIFIC APPARATUS.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of House joint resolution No. 327, which I think will take no time.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 327) authorizing the Secretary of the Treasury to remit the duty on certain meridian circles, the pending question being on the amendment reported by the Committee on Finance, to strike out all after the resolving clause and in lieu thereof to insert the following:

That all books, maps, charts, statues, statuary, busts, and casts of marble, bronze, alabaster, and all paintings and drawings, etchings, specimens of sculpture, cabinets of coins, medals, regalia, gems, and all collections of antiquities, and mathematical, philosophical, and scientific apparatus imported into the United States since the 1st day of May, A. D. 1863, be admitted free of duty: *Provided*, That the same be specially imported in good faith for the use of any society incorporated or established for philosophical, literary, or religious purposes, or for the encouragement of the fine arts, or for the use or by the order of any college, academy, school, or seminary of learning in the United States.

Mr. TRUMBULL. I will ask to leave out the amendment, and then the resolution will apply only to the meridian circle at Harvard and the one at Chicago. I ask the Senate to disagree to the amendment of the Finance Committee, as it will lead to debate.

Mr. SUMNER. Had we not better adopt the amendment?

Mr. TRUMBULL. We cannot do it. It will lead to debate. The Committee on Finance have reported an amendment which I ask the Senate to disagree to, because there is objection to it and we cannot get it through at this session.

The amendment was rejected.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BRITISH STEAMER LABUAN.

Mr. MORRILL, of Maine. I move that the Senate proceed to the consideration of the bill making appropriations for sundry civil expenses of the Government.

Mr. SUMNER. I would appeal to my friend to allow action—

Mr. MORRILL, of Maine. Let this bill come up and then I will see what I can do.

The motion was agreed to.

Mr. SUMNER. Now, I ask the Senate to be good enough to take up the bill (S. No. 528) to carry into effect the decree of the district court of the United States for the southern district of New York in the case of the British steamer Labuan.

The motion was agreed to by unanimous consent; and the bill was read the second time, and considered as in Committee of the Whole.

It provides for the payment to William Bailey, William Leetham, and John Leetham, of England, or their legal representatives, owners of the British steamer Labuan, of \$131,221 30, with interest from June 2, 1862, to the time of payment, and \$5,000 without interest; also, to Messrs. De Jersey & Co., of England, or their legal representatives, part owners of the cargo of the same steamer, \$3,613 92, with interest, from May 21, 1862, to the time of payment; and to Francisco Amendiaz, of Matamoros, Mexico, or his legal representatives, part owner of the cargo of the same steamer, \$2,067 17, with interest from June 6, 1862, to the time of payment; such sums being due

under a decree of the district court of the United States for the southern district of New York, pronounced March 25, 1868, on account of the illegal capture of the British steamer Labuan and her cargo by a cruiser of the United States.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, was read the third time, and passed.

BRITISH VESSELS VOLANT AND SCIENCE.

Mr. SUMNER. There is another similar bill, the bill (S. No. 551) to carry into effect the two several decrees of the district court of the United States for the district of Louisiana in the cases of the British vessels Volant and Science.

Mr. STEWART. I hope that will not be taken up.

Mr. SUMNER. There can be no objection to it. It is to carry out a decree of our own Supreme Court.

Mr. STEWART. I understand that, and I am opposed to doing it. Until Great Britain does some affirmative act toward the settlement of the Alabama claims I am opposed to paying anything to British subjects for losses during the war, no matter how incurred.

The PRESIDENT *pro tempore*. It can only be taken up by unanimous consent. Does any Senator object?

Mr. STEWART. I object.

Mr. SUMNER. Do I understand the Senator objects to that class of cases?

Mr. STEWART. I object.

Mr. SUMNER. This is one affecting a French—

Mr. MORRILL, of Maine. I think we had better proceed with the bill regularly before us.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 1744) to strengthen the public credit and relating to contracts for the payment of coin; and it was signed by the President *pro tempore*.

CIVIL APPROPRIATION BILL.

The PRESIDENT *pro tempore*. The bill (H. R. No. 2007) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, and for other purposes, is before the Senate as in Committee of the Whole. The amendments reported by the Committee on Appropriations will be acted on in their order as the bill is read if there be no objection.

Mr. MORRILL, of Maine. As the Senate is thin I think the bill had better be read through, and then the amendments acted on.

The PRESIDENT *pro tempore*. That course will be pursued.

The bill was read.

STATIONERY CONTRACTS.

Mr. ANTHONY. As the reading of this bill is concluded and there seems to be no great pressure for going on with it just now, I will appeal to my friend from Maine to allow me to call up a bill which I think is of very considerable importance, and in which I have no greater interest than every other Senator, and which is intended to correct gross and flagrant abuses in the Departments. It has been discovered in some investigations of the Committee on Printing of the House of Representatives that in some of the bureaus the stationery amounts to from four to ten times the actual fair and proper cost of those supplies. A bill has been passed by the House of Representatives and reported from the Committee on Printing to remedy the evil. It is House bill No. 1601, and I desire to call it up.

The PRESIDENT *pro tempore*. Is there any objection to the consideration of the bill named?

Mr. MORRILL, of Maine. If it will lead to no debate and will simply involve the reading and passing of the bill, I shall make no objection; but if it leads to debate I must in-

sist upon the Senate going on with the appropriation bill.

Mr. ANTHONY. Of course I recognize the supremacy of the appropriation bills at this time, and if the bill to which I have referred shall lead to debate I will not urge it now.

Mr. THAYER. There will be objection to that bill; it will lead to discussion.

Mr. ANTHONY. I do not wish to take any unfair advantage. Does the Senator from Nebraska say that he proposes to discuss the bill?

Mr. THAYER. There will be objection to that bill, and it will lead to discussion.

Mr. CONNESS. Let it be read.

Mr. ANTHONY. I do not think there will be any objection to the bill after I have spoken about five minutes.

The bill (H. R. No. 1601) to provide stationery for Congress and for the several Departments, and for other purposes, was read.

Mr. ANTHONY. I can best show the necessity of this bill by an exhibition of some papers before me.

Mr. MORRILL, of Maine. The Senator will allow me to suggest that I am informed this bill will lead to debate, and if so I think it ought not to be pressed now.

Mr. ANTHONY. I certainly will not do so if Senators object; and if, after I make a statement which I can make in five minutes, anybody objects, I shall then withdraw the request for the consideration of the bill. I wish to say one word to show the necessity of this bill or of some bill of this kind, and I can best do it by illustrating what has been done.

A piece of paper like that which I now exhibit to the Senate, bearing six words in print, is supplied to the Patent Office, or was before the present Commissioner came in, who is a thoroughly honest man I have no doubt, for forty dollars a thousand, and supplied in five times the quantity necessary. I could get rich on printing them at two dollars a thousand. I have here a blank-book that is called a caveat book. The Patent Office generally uses two of these books a year, and this year they have commenced upon the third; they never use three. The law requires that it shall be made at the Government bindery. It would cost there fifteen dollars. If three were required the total cost would be forty-five dollars. Last year there were forty-eight supplied at from forty to forty-one dollars a piece; three were used, and there is not one in the office.

Mr. TRUMBULL. What office is that?

Mr. ANTHONY. The Patent Office. The cost of this book for the Patent Office last year was nearly two thousand dollars, and the fair cost is not over forty dollars. This is a single illustration. The contractor testified before our committee that he gave eighteen dollars for the books and sold them to the Government for forty dollars, and we had two very able lawyers attempting for two days to prove to us that it was a fair contract, and that we ought to pay more of the same kind. This has been paid.

I will not detain the Senate. If any Senator desires to take the responsibility of putting over this bill after this statement, which is but an illustration of frauds that amount to more than seventy-five thousand dollars in one bureau of this Department, be it so. It is a bill which in the opinion of one of my colleagues in the House, and a colleague of my friend from Vermont on the Retrenchment Committee, will save the Government \$250,000 a year. That is more than I think it will save; I think it will save about half that sum. I could go on for an hour showing that things like this large envelope which I now exhibit, are supplied in from five to ten times the number required at ten times a fair price. The same thing prevails to a greater or less extent in the other Departments. Last year, with considerable difficulty, we got through Congress a bill to have this sort of printing done at the Government Printing Office. It was resisted on the ground that it could not be done at the Government Printing Office. I have now in my

hand a specimen of the way it was done by Government contract and the way it is now done by the Government Printing Office, and the difference in cost is \$75,000 a year. The whole stationery business of the Departments is full of corruptions of this kind; and I wish to say that it affords me very great gratification to learn that our Secretary, who has the purchase of some of the stationery for the Senate, is in favor of this bill.

Mr. MORTON. Mr. President, this is a very important bill and makes very radical changes in regard to the purchase of all the stationery for the Government, giving it substantially to one man. It is a bill that will be resisted and lead to very general debate, I am satisfied, for which there is no time to-night. A bill of this kind ought not to be pressed just at the last hours of the session.

Mr. ANTHONY. I will correct my friend from Indiana. It gives it to the joint Committee on Printing, composed of three Senators and three Representatives. Everything is to be done under their direction. I will not persist, however, in urging the bill now.

Mr. MORRILL, of Maine. I call for the consideration of the bill regularly before the Senate.

ARMY APPROPRIATION BILL.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 1803) making appropriations for the support of the Army for the year ending June 30, 1870, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. J. A. GARFIELD of Ohio, Mr. F. C. BEAMAN of Michigan, and Mr. G. M. DODGE of Iowa, managers at the same on its part.

The Senate proceeded to consider its amendments to the bill (H. R. No. 1803) making appropriations for the support of the Army for the year ending June 30, 1870, and for other purposes, disagreed to by the House of Representatives.

On motion by Mr. MORRILL, of Maine, it was

Resolved, That the Senate insist upon its amendments disagreed to by the House, and agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore* of the Senate.

The PRESIDENT *pro tempore* appointed Mr. WILSON, Mr. SPRAGUE, and Mr. CONNESS.

CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 2007) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, and for other purposes.

The first amendment reported by the Committee on Appropriations was to strike out from line eight to line one hundred and thirty-two, in the following words:

For the following expenses in carrying into effect the several acts of Congress authorizing loans and the issuing of Treasury notes:

In the Secretary's office:
For two clerks at \$2,500 each, \$5,000; two clerks at \$2,000 each, \$4,000; twenty clerks at \$1,800 each, \$36,000; fifteen clerks at \$1,600 each, \$24,000; ten clerks at \$1,400 each, \$14,000; eight clerks at \$1,200 each, \$9,600; three messengers at \$840 each, \$2,520; six laborers at \$720 each, \$4,320; seventy-five female clerks at \$900 each, \$67,500; contingent expenses, \$1,000; in all, \$167,940.

In the Treasurer's office:
For four clerks at \$1,800 each, \$7,200; fourteen clerks at \$1,600 each, \$22,400; eleven clerks at \$1,400 each, \$15,400; ten clerks at \$1,200 each, \$12,000; three messengers at \$840 each, \$2,520; six laborers at \$720 each, \$4,320; four laborers at \$432 each, \$1,728; fifty female clerks at \$900 each, \$45,000; contingent expenses, \$1,000; in all, \$111,568.

In the Register's office:
For five clerks at \$2,500 each, \$12,500; fourteen clerks at \$1,800 each, \$25,200; nine clerks at \$1,600 each, \$14,400; one clerk at \$1,200; five messengers at \$840 each, \$4,200; four laborers at \$720 each, \$2,880; one hundred and forty female clerks, at \$900 each, \$126,000; in all, \$184,880.

In the First Comptroller's office:
For three clerks at \$1,400 each, \$4,200; eight female clerks, at \$900 each, \$7,200; in all, \$11,400.

In the First Auditor's office:

For two clerks, at \$1,800 each, \$3,600; three clerks, at \$1,600 each, \$4,800; five clerks, at \$1,400 each, \$7,000; six clerks, at \$1,200 each, \$7,200; in all, \$22,600.

In the Bureau of Engraving and Printing of the Treasury Department:

One chief of bureau, at \$3,000 per year; one chief clerk, at \$2,000 per year; two clerks, at \$1,800 per year each; one clerk, at \$1,200 per year; one superintendent of plate printing, at \$2,400 per year; one master machinist, at \$2,400 per year; one superintendent of transferers, at \$3,000 per year; one superintendent of engravers and custodian of dies, at \$3,000 per year; one prover, at \$1,800 per year; one superintendent of numbers, at \$1,800 per year; three foremen of divisions, at \$1,500 per year; five transferers, at \$2,000 per year; two engravers, at \$2,500 per year; one engraver, at \$2,000 per year; three engravers, at \$1,800 per year; one engraver, at \$1,200 per year; one engraver, at \$1,000 per year; one hundred and seventeen plate printers, at \$2,100 each per year; forty valve-tenders, at \$585 per year; seventeen female operatives, at \$720 per year; four female operatives, at \$600 per year; one hundred and sixty-six female operatives, at \$500 per year; one hundred female operatives, at \$375 per year; nine male operatives, at \$1,200 per year; four male operatives, at \$1,125 per year; twenty male operatives, at \$900 per year; thirty male operatives, at \$625 per year; forty male operatives, at \$500 per year; twelve male operatives, at \$300 per year.

For material for the supply of the Bureau of Engraving and Printing of the Treasury Department:

For chemicals, glue, and other material for paper-mill, \$6,000; for straw boards for boxes and other materials for bindery, \$5,000; for material for bond-indorsing division, \$3,000; for freight, expressing, and hauling material, \$4,000; for bronze for fractional currency, \$45,000; for steel plates, rolls, tools, &c., and miscellaneous engraving, \$20,000; for hardware, fuel, tools, oil, brushes, brooms, paints, benzine, turpentine, machinery, material for repair of machinery in machine shops, \$45,000; for sheeting, tawling, and washing rags and towels, \$16,000; for colors of various kinds for manufacturing inks, \$27,000; for bank-note and manilla paper, \$82,000; for pure sheet rubber and other material used in plate printing, \$40,000; for miscellaneous articles, \$4,000; for contingent expenses, \$3,000; being a total amount of \$300,000; and the compensation of the United States examiner of chemicals and drugs at Boston since hereafter be \$2,000 per annum.

And it is hereby provided, That until the further order of Congress there shall be no more persons employed and no additional amounts paid for carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes than those herein specifically provided for.

To pay for express charges on transportation of money and bonds, \$25,000. And no greater amount shall be paid for express charges in any one year.

And in lieu thereof to insert:

For necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes, \$1,250,000.

The amendment was agreed to.

The next amendment proposed by the Committee on Appropriations was to strike out from line one hundred and seventy-six to one hundred and seventy-eight inclusive, as follows:

To defray the expense of a preliminary survey of the site for the proposed navy-yard at League Island, \$5,000.

Mr. BUCKALEW. I ask that that amendment may be passed for a short time. The Senator from New Jersey [Mr. CATTELL] is not in his seat.

Mr. MORRILL, of Maine. I have no objection.

The PRESIDENT *pro tempore*. The amendment will be passed over, and the next will be read.

The SECRETARY. The next amendment is to strike out lines one hundred and seventy-nine, one hundred and eighty, and one hundred and eighty-one, as follows:

For the completion of a bridge over the Dakota river and to locate and survey the road from said bridge to the Vermillion bridge, \$1,000.

Mr. HARLAN. I inquire the reason for striking out this item?

Mr. MORRILL, of Maine. It was principally because the committee had no information on the subject.

Mr. HARLAN. It is new to me, but I am of the impression that it is to complete a wagon-road authorized by a previous act of Congress, so as to connect with the railroad at Sioux city and Yanceton in Dakota Territory; and if it be for that purpose, and be only \$1,000, I think it had better stand.

Mr. MORRILL, of Maine. That would put it on too vague a basis for an appropriation of any kind.

Mr. HARLAN. I ask that it be passed

over for the present until further information can be had.

Mr. MORRILL, of Maine. Very well. Let it be passed over.

The PRESIDENT *pro tempore*. It will be passed over. The next amendment will be read.

The SECRETARY. The next amendment is after line one hundred and ninety to insert:

For collection and payment of bounty, prize money, and other legitimate claims of colored soldiers and sailors for the fiscal year ending June 30, 1870, and for salaries of agents and clerks, \$145,000.

For rent of offices, fuel, and light, \$25,000.

For office furniture, \$3,000.

For stationery and printing, \$20,000.

For mileage and transportation of officers and agents, \$18,000.

For telegraphing and postage, \$3,000; being in all \$214,000.

The amendment was agreed to.

The next amendment was to strike out from line two hundred and four to two hundred and eight, as follows:

To enable the Secretary of the Interior to pay Winnie Ream the sum now due her on the contract authorized by joint resolution approved July 28, 1866, for a statue of the late President Lincoln, \$5,000.

Mr. MORRILL, of Maine. This sum has been appropriated in the legislative, executive, and judicial appropriation bill, and therefore is struck out here.

The amendment was agreed to.

The next amendment was to strike out from line two hundred and nine to two hundred and fourteen, as follows:

For this amount to pay B. A. Shepherd the sum due him on a lost check drawn by Robert S. Neighbours, United States special Indian agent, on the 2d of June, 1859, on the Assistant Treasurer of the United States at New York city, for supplies furnished the Indian department, \$1,200.

The amendment was agreed to.

The next amendment was to strike out from line two hundred and forty-five to two hundred and forty-nine, as follows:

To procure a survey and report, and for repairing wharf at the site for the navy-yard on the river Thames, near New London, Connecticut, deeded to the United States for naval purposes, \$10,000; but no further amount shall be contracted to be paid for this purpose.

Mr. FERRY. I trust that this amendment will not be concurred in; and I would appeal to the chairman of the Committee on Appropriations that he will not insist upon this amendment after a statement of the circumstances under which the appropriation was placed in the bill by the House of Representatives.

Some two or three years ago an act of Congress was passed inviting the State of Connecticut to purchase and give to the Federal Government a site for a navy-yard or a naval station on the Thames river near the city of New London, in Connecticut. The State of Connecticut accordingly purchased a very valuable site for that purpose and deeded it to the Government of the United States. Last year an appropriation for the purpose of making a survey and completing the exterior inclosures of the station was placed upon an appropriation bill in the Senate but failed in the House. Since that time the commandant of the navy-yard at New York has desired to make use of this naval station for the purpose of transferring to it a portion of the vessels now crowded together at the navy-yard in New York and in danger from fire.

The front is about a mile in length, with an average depth of thirty feet, wharfed to a considerable extent, but the wharf dilapidated and out of repair, needing at this time repairs for the purpose of being used for the objects which I have mentioned.

I ought to add that the Secretary of the Navy recommended an appropriation of \$10,000 last year, and it failed between the two Houses, as I have stated. This year it has been put into the bill by the committee on the part of the House and passed by the House. I have here a letter from the commandant of the navy-yard at New York, referring to the facts which I have stated. I will read a short portion of it:

"The wharf is wanted, first, for the purpose of safely securing vessels that are placed in ordinary

and which from their present proximity to each other are subject to frequent removals, adding to their cost besides the danger in case of fire."

He says that if vessels could be sent there it would in many cases obviate the necessity of putting them in a regular dock-yard for repairs, and adds:

"The waters of New London harbor are resorted to by all nations, particularly for ships of heavy drafts. It is the favorite cruising ground for naval school ships."

All that is desired here is to make the proper survey and repair a wharf already existing and needing repair upon this Government property. I hope the Senate will not concur in the amendment.

Mr. MORRILL, of Maine. The committee had no fixed opinion about this matter. There seemed to be an entire want of special information on the subject; and for that reason, perhaps, more than any other, it was non-concurred in. I shall make no further remarks about it.

Mr. GRIMES. I should like to know how much of this appropriation is for a survey and how much to repair the wharf.

Mr. FERRY. I cannot tell how much is for the survey and how much is for the repairs of the wharf. Of course no more will be expended than is needed for this purpose.

Mr. GRIMES. We may just as well look this thing in the face first as last; it is simply the starting of a new navy-yard. This appropriation will be followed next year by an appropriation of ten times the amount. Now the question is whether we want one, and whether the fact that an admiral who is in command of one of the navy-yards has been induced to write a letter in favor of this appropriation shall cause us to make it without any investigation by any organ of this body that would justify us in acting upon it?

Mr. FERRY. The argument from possible contingencies in the future seems to be one which is not applicable to this case. The appropriation is necessary to preserve public property which the Government has invited a State to cede to it for naval purposes.

Mr. GRIMES. Is the survey necessary? What is the object of the survey?

Mr. FERRY. I cannot tell anything further than that the Secretary of the Navy recommended last year and recommends again this year that this survey be made for the purpose, I suppose, of ascertaining what may be necessary to be done in order to adapt this property ceded to the Government for Government purposes.

Mr. GRIMES. Confessedly, according to the Senator's statement, we are acting wholly in the dark in this matter. It has not been investigated by anybody at all. We do not know how much of this appropriation is to be made for a wharf and how much is for a survey, nor why a survey is necessary. All this survey has been made once by the coast survey. I have no interest in the matter. I will say, though, in regard to the Government inviting this session, that I think the State of Connecticut and the city of New London were the parties that invited it.

Mr. POMEROY. I think, with the Senator from Iowa, that Congress ought to decide which one of these navy-yards, if we are to start a new one, we shall make an appropriation for.

Mr. GRIMES. This bill provides for both.

Mr. POMEROY. I know there is in the bill as it came from the House of Representatives a small appropriation for League Island and another for this station on the Thames. These two sites have been in conflict here for several years. I do not know that we have ever given one the preference over the other, though I have always voted for the site on the Thames when I could, because I have thought that was the best. I think Congress ought to decide not to start two navy-yards, but to start one. This making a report and a survey is paving the way for commencing a navy-yard. There is no doubt about that. I think there should be one, and I believe we ought before we make the appropriations to decide which of these sites we shall

have, and to that end I believe there ought to be a report. Both sites are deeded to the Government now. There was a contest for several years in this body upon the point of purchasing them, but they are now both deeded to the Government. I do not think it is expedient to commence both, but I am willing to vote an appropriation for one, and I have always preferred the one on the Thames, because of the reasons which were given at great length at the last Congress. It is more accessible to the ocean, it is in the midst of a fine mechanical section of the country, it is accessible to timber, it is within striking distance of New York, the great commercial center. All these reasons were urged here before. I do not suppose the Senate can decide to-night on an appropriation bill where the new navy-yard shall be, but if they could decide which of these points they would make appropriations to and make them, and thus settle the question, I think it would be for the public interest. To keep these two sites running along, running parallel with each other, contesting with each other, each claiming precedence every year, the result will be only to weaken instead of strengthening the naval service. Before we appropriate a dollar there ought to be some decision reached on the question.

The PRESIDENT *pro tempore*. The question is on the amendment of the Committee on Appropriations to strike out the clause which has been read.

The amendment was rejected.

The next amendment of the committee was to strike out from line two hundred and seventy-six to two hundred and seventy-nine, as follows:

For commissions at two and a half per cent. to such superintendents as are entitled to the same under the provisions of the act of March 3, 1854, \$20,000.

The amendment was agreed to.

The next amendment was to strike out from lines two hundred and eighty to two hundred and eighty-two, as follows:

For fuel and quarters for officers of the Army serving on light-house duty, the payment of which is not made or provided for by the quartermaster's department, \$10,000.

The amendment was agreed to.

The next amendment was in line three hundred and three to strike out "fifty" and insert "forty," so as to make the appropriation for rebuilding a first-class light-house at Cape Hatteras, North Carolina, in addition to former appropriations, \$40,000.

The amendment was agreed to.

The next amendment was to insert after line three hundred and thirty-three:

For the construction of a light-house on Spectacle reef, Lake Huron, \$100,000.

The amendment was agreed to.

Mr. POMEROY. The committee ought to assign some good reason for appropriating \$100,000 up there. I suppose there must be some good reason.

Mr. MORRILL, of Maine. We put it in as it is estimated for. That is the only reason.

Mr. POMEROY. Estimated for by the Light-House Board?

Mr. MORRILL, of Maine. Yes, sir.

The PRESIDENT *pro tempore*. The amendment will be read.

The SECRETARY. The next amendment is to strike out from line three hundred and forty-seven to three hundred and fifty-two, as follows:

And the unexpended balance of the appropriation for the improvement of the harbor of Ogdensburg, New York, shall be applied, under the direction of the engineer department, on such dredging at Ogdensburg as will be most beneficial and advantageous to the existing commerce.

The amendment was agreed to.

The next amendment was to strike out the following proviso from line three hundred and sixty-eight to three hundred and seventy-two:

Provided, That the Secretary of the Treasury shall have power, after one week's notice to the public, to sell and convey any real estate no longer used for light-house purposes, the avails of such sale to be paid into the national Treasury.

The amendment was agreed to.

The next amendment was to strike out line three hundred and eighty-eight, being in the following words under the appropriations for the revenue-cutter service:

For commutation for quarters, \$5,000.

Mr. FESSENDEN. Why is that struck out? Mr. MORRILL, of Maine. Commutation of quarters the committee understand not to be applicable to this service. It is a new principle, as the committee supposed, applicable to this service. That commutation applies only to the Army, and has never been extended beyond it.

Mr. FESSENDEN. I only wanted to understand it. I did not know why the clause was put in myself.

The amendment was agreed to.

The next amendment was to strike out lines four hundred and four and four hundred and five, in the following words:

For fire-proof vaults for depositories, \$25,000.

Mr. FESSENDEN. I wish to ask the chairman of the Committee on Appropriations if he has any information about that, if he knows that the appropriation is not necessary?

Mr. MORRILL, of Maine. No, Mr. President; we had not. We acted upon this presumption: no appropriation was made for this item last year, and the committee had no information that the service had suffered for the want of it.

Mr. FESSENDEN. Is there an estimate for it?

Mr. MORRILL, of Maine. There is an estimate for it.

Mr. FESSENDEN. I should suppose it might be necessary in some cases. The depositories of the public money where they have not buildings specially erected for the purpose, but hire tenements, may require vaults. I should think it very doubtful whether it would be wise to strike out the appropriation, and I should advise that it be retained. It must have been put in for that purpose. There are several depositories which occupy buildings that are not fire-proof, not erected for that purpose, and the Government might suffer very great loss by fire if there were not fire-proof vaults. I should advise the committee not to strike out that clause unless they have investigated it thoroughly.

Mr. GRIMES. We did not know anything about it.

Mr. MORRILL, of Maine. The committee had no decided information about it. It was not appropriated for last year; but it will be seen from the nature of the item that it can be hardly expected to be an annual appropriation. All that my colleague says about it may be true, and very likely is true, but it was stricken out simply because the committee had no special information on the subject and found that it was not appropriated for last year. If the Senate should take a different view of it the committee can have no objection.

The amendment was rejected.

The next amendment was to strike out from line four hundred and six to four hundred and nine, in the following words:

For fuel and miscellaneous items for custom-houses and other public buildings belonging to the United States under the supervision of the Secretary of the Treasury, \$40,000.

Mr. FESSENDEN. I should like to know why that is stricken out. Is it not a customary appropriation?

Mr. MORRILL, of Maine. No, sir; the facts in regard to this item are the same as in regard to the previous one. We had no special information on the subject.

Mr. FESSENDEN. Is it estimated for?

Mr. MORRILL, of Maine. Yes, sir.

Mr. FESSENDEN. It must be necessary unless it is provided for elsewhere.

Mr. MORRILL, of Maine. I believe the impression of the committee was that appropriations are usually made for the public buildings specifically, and this seems to be a general item for fuel and miscellaneous expenses for the custom-houses and other buildings belonging to

the United States under the supervision of the Secretary of the Treasury. That I suppose would cover all the public buildings in the country. It was a little difficult for the committee to understand precisely what an item so general in its phraseology really means. If my colleague has special information on the subject so as to render it absolutely certain he perhaps can advise us better.

Mr. FESSENDEN. I have no special information; but it is perfectly obvious to anybody who has any knowledge of the subject that all this must be provided for, especially fuel, and unless the appropriation is found in some other bill I should think it to be necessary.

Mr. MORRILL, of Maine. I do not think it is in any other bill.

The amendment was rejected.

The next amendment was to insert after line four hundred and twenty-five:

For post office and court-house at Columbia, South Carolina, \$75,000: *Provided*, That the site for the same shall be given to the United States.

The amendment was agreed to.

The next amendment was after line four hundred and thirty-two, to insert:

For custom-house at Portland, Oregon, \$50,000.

The amendment was agreed to.

The next amendment was to insert after line four hundred and thirty-four:

For construction of court-house and post office at Des Moines, Iowa, \$25,000.

The amendment was agreed to.

Mr. CONKLING. At the end of line four hundred and twenty-one there should be printed an amendment which has been omitted. Although it was adopted by the committee it is not reported in the printed bill. I therefore move to amend the bill by inserting at the end of line four hundred and twenty-one this proviso:

Provided, That the Secretary of the Treasury and the Postmaster General are hereby authorized, with the assent of the State of New York, to exchange a part or a whole of the point at the southerly extremity of the park, now the property of the United States, with the city of New York for an equal or greater amount of land further up said park, with public places on the northerly and southerly sides of the lands so acquired: *Provided*, That no money shall be paid for such exchange.

Mr. CORBETT. I do not exactly understand that. I should like to have an explanation.

Mr. CONKLING. Perhaps I can make an explanation to the Senator which will satisfy him. A site for a post office has been acquired by the Government in the city of New York. The precise position of that site is at the lower extremity of the park, so that the post office would be quite adjacent to the public streets. It is not a very good situation in the park, and there is or there may be a willingness to allow the building to be located a little further from the union of those streets, a little further up the park. The effect of this amendment is to enable the Secretary of the Treasury and Postmaster General to exchange the land which has been bought for the same or a greater quantity of land in the same park, but withdrawn a little further from the point of the park, so as to give a little more space around the post office building.

Mr. CORBETT. The same quantity?

Mr. CONKLING. The same or a greater quantity.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was to insert after line four hundred and forty-one:

For purchase of building known as "The Club House," at Charleston, South Carolina, and the fitting up thereof for the use of the United States courts, \$46,000, or so much thereof as may be required; and the Secretary of the Interior is hereby authorized to make such purchase and fit up said building for the said purpose, provided the same can be done at an expense not larger than the said \$46,000.

The amendment was agreed to.

The next amendment was in line four hundred and fifty-one, to strike out "fifteen" and insert "fifty," so as to increase the appropria-

tion for court-house and post office at Portland, Maine, to \$50,000.

The amendment was agreed to.

The next amendment was after line five hundred and sixty-three, to insert:

And such construction shall be given to the joint resolution No. 30, approved 25th April, 1862, as shall not abridge the grant under the act of June 3, 1856, for a railroad from Fond du Lac northerly to the State line, and the Chicago and Northwestern Railroad Company may select their lands along the full extent of the original route of said road as filed under the said act.

Mr. GRIMES. I should like to hear some explanation of this amendment. I do not understand what it means.

Mr. MORRILL, of Maine. I ask the Senator from Wisconsin, [Mr. Howe,] who drew the amendment, for the explanation.

Mr. HOWE. This amendment was drawn by the Commissioner of the General Land Office, and it was drawn to meet a difficulty which I will state. In 1856 Congress granted to the State of Wisconsin and several other States lands to aid in the construction of certain railroads. The road to be constructed in Wisconsin was a road from Fond du Lac northerly to the State line. The State located that road from Fond du Lac around the west side of Lake Winnebago down on the Fox river as far as Appleton, and then struck due north to the State line, the Secretary of the Interior having decided that that word "northerly" required the location of the road as near a due north line as the geography of the country would permit. The lake obliged the State in locating the line to deflect from a due north line to the west until they got down below the lake, and then they struck the due north line at a place called Appleton, on the Fox river. From there the road was located due north right through the wilderness. They went on and built on that line until they got to Appleton, but the line as located carried the road away from the harbor at the mouth of Fox river. The people in the interior of the State wanted to get to that harbor and the Legislature petitioned Congress to allow the location of the road along the river and bay; and in 1862 this act was passed:

"That the word 'northerly' in the first section of the act entitled 'An act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State,' approved June 3, 1856, shall, without forfeiture to said State or its assigns of any rights or benefits under said act, or exemption from any of the conditions or obligations imposed thereby, be construed to authorize the location of the line of railroad in said first section provided for upon any eligible route within ranges sixteen or twenty-three inclusive east of the fourth principal meridian."

That allowed them to build down the river.

"And the line of railroad as now located, according to the records of the General Land Office in pursuance of said act, is hereby authorized to be changed to within the above specified limits: *Provided*, however, That upon the construction of said railroad upon the new line, or of a sufficient part thereof, according to the terms of said act, the State of Wisconsin, its grantees or assigns, shall receive upon the route originally located and in the manner prescribed by the act the same quantity of lands, and no more or other, except as hereinafter provided for, as it or they would have received if such railroad had been constructed upon the line originally located."

The provision "hereinafter" made is a provision giving the State eighty acres out of the military reservation at the mouth of the Fox river, through which the new location of the road was made. They were to have the same amount of lands on the old line, and no more or less, with the exception of that eighty acres, as if the road had been built on the line first located. That provision was made because all the lands on the new line had been purchased and were then owned along that line, and no lands could be had. They have gone on and built the road down to the mouth of the river. I drew this act myself, and my intention was to give the company the same amount of lands per mile that they would have if they built the old line; but the north line of the State runs from the northwest to the southeast, so that on the new line they struck the State line in a less number of miles than on the old line. The Commissioner of the General Land Office, when this act came to be submitted to him the other day for construction, came to the conclusion

that all the lands the company could have would be the quantity there was on the old line south of the point which the new line would cover if swung right around on to the old line.

It happens that the lands on the south end of the line first located for a long distance are almost all purchased and were at this time. Within the first twenty miles there are but forty acres of land secured, and within the next twenty miles there is but very little, and in the whole distance they get but a very small quantity of land. Upon stating to the Commissioner what my purpose was in drawing the act the Commissioner was satisfied that he had made a mistake in the construction of it; but the Secretary of the Interior could not see his way clear to change the construction, and so I have been obliged to come to Congress. This amendment was drawn by the Commissioner of the Land Office himself for the purpose of enabling the State to have the same number of acres per mile of road to be built which she would have had if she had built on the old line, that being, as I supposed, the express declaration of this act, as I know it was the express purpose with which the act was drawn.

Mr. HARLAN. I will inquire of the Senator how many acres per mile they would be entitled to under the law if this amendment should be adopted?

Mr. HOWE. A quantity equal to one half of six sections in width on each side of the line of the road. They will not get that whole quantity because there is not that quantity. That is what they would have been entitled to if that amount of land was on the line.

Mr. HARLAN. If the amendment be adopted the company will receive no greater quantity than six sections per mile.

Mr. HOWE. They will not receive that. That is all they would have been entitled to if the lands were all in the market and were unsold.

Mr. POMEROY. I do not suppose it is possible to have this amendment understood in the Chamber, though I believe I understand it; but I should not if it had not been considered in the Committee on Public Lands, of which I am a member. The only objection that can be raised to it is that in changing this route you propose to take the lands on the old route and appropriate them to building the road on the new route. The only injustice that I have thought could be urged against that was this; the even-numbered sections on the old route were settled with the understanding that they were to have a railroad, and I suppose they have made their improvements and bought their lands and paid for them with the expectation of having a railroad. Now, if Congress allows the road to be changed and the odd-numbered sections to be taken to build a road elsewhere I have thought it would, perhaps, work hardship to those settlers who have bought with a view to a road.

Mr. HOWE. Allow me to suggest that the act which I have read was passed while the Senator from Iowa [Mr. HARLAN] was chairman of the Committee on Public Lands, and that very difficulty was provided for at the time.

Mr. POMEROY. What was provided for?

Mr. HOWE. The settlers were allowed—

Mr. POMEROY. To change their locations?

Mr. HOWE. Those who had taken lands on the old line were allowed to enter without any further payment anywhere within the Menasha land district in the State of Wisconsin an additional quantity of public lands subject to private entry at \$1 25 an acre equal to the quantity entered by them at \$2 50 an acre, so that the lands originally entered by them should thus be reduced to the rate of \$1 25 an acre.

Mr. POMEROY. That might make it equal or it might not; it would depend very much on the kind of land they were able to get. I do not care to make any particular opposition to this proposition; but it is a change of the location of a road, which is generally against

the public interest and against the settlers on the line.

Mr. HOWE. It was against the interest of the settlers, but they never made any remonstrance, and in point of fact there were very few of them who purchased lands on the old line after the location of it, and they never have made any remonstrance, and the road is built on the new line.

Mr. POMEROY. If the Senator from Wisconsin, who knows more about the facts than I do, is willing to take the responsibility of passing this proposition I will not object, though I am rather opposed to it.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was to strike out the proviso to the appropriation for gas for lighting the Capitol and President's House, in line six hundred and eighty-two, as follows:

Provided, That no greater sum than \$2 80 cents per one thousand cubic feet shall be paid for the gas for which this appropriation is made.

The amendment was agreed to.

The next amendment was to strike out from line six hundred and ninety-seven to seven hundred and one, as follows:

For the purchase of a portrait of the late President Abraham Lincoln, to be placed in the Executive Mansion, \$3,000, or so much thereof as may be necessary. *Provided, That said portrait shall be selected by the incoming President of the United States.*

The amendment was agreed to.

The next amendment was in line seven hundred and three, to strike out "two" and insert "one;" so as to read:

For improvement, care, protection, and repair of seats and fountains in the Capitol grounds, \$1,000.

The amendment was agreed to.

The next amendment was in line seven hundred and sixteen, to strike out after the word "education" the words "in some institution to be selected by him;" so as to make the clause read:

To enable the Secretary of the Interior to provide for the education and maintenance of such deaf and dumb of the District of Columbia as cannot command the means to secure an education, \$15,000.

The amendment was agreed to.

The next amendment was to strike out from line seven hundred and twenty-six to seven hundred and thirty, as follows:

For the purchase by the Secretary of the Interior, for the agricultural and economical purposes of the institution, one hundred and fifty acres of land, more or less, with the buildings thereon, lying directly east of the present grounds of the hospital, \$23,000.

The amendment was agreed to.

The next amendment was to insert after line seven hundred and thirty-four:

For the Sisters of Mercy in Charleston, South Carolina, in recognition of their services toward Union prisoners during the late rebellion, \$20,000.

Mr. WILSON. It seems to me that \$20,000 is a large sum for such a purpose. I would suggest that we put it at \$10,000, unless there is some very special reason why we should vote this large amount.

Mr. SAWYER. I desire to say a word in reference to this amendment. These ladies, as is well known to a very large number of the soldiers of the Army, were untiring in their devotion to the wants of the Union prisoners in Charleston. Where there was sickness and suffering among our men they were busy at all times in administering to their relief. Month after month, I may say year after year, these good women were at the hospitals in attendance upon the sick, carrying delicacies and the necessities of life; and there is no question that they saved the lives of large numbers of Union soldiers in that city. I do not say that it is incumbent on the United States to pay these ladies for services which their religious vocation impelled them by a sense of duty to perform; but I do say that if there are persons who are deserving of recognition at the hands of the United States Government for service of that kind it certainly is these ladies. I hope the amendment will be adopted. I wish to move a slight addition to the amendment, to insert in line seven hundred

and thirty-seven after the word "dollars" the words "to be disbursed by the Secretary of the Treasury."

Mr. POMEROY. If this appropriation is to be made, some one ought to have the responsibility of the disbursement. It is not a corporation; they have not boards of contractors; and some public officer should be charged with the responsibility of the disbursement. I do not know who is the proper officer—there should be some one.

Mr. DRAKE. I do not understand why an appropriation of this kind should be made. I have no recollection of ever seeing an act of Congress appropriating money heretofore as a gift to people in recognition of their services. Here are ladies whose whole vocation in life is to administer to the wants of the distressed and the sick and the wounded and the afflicted; and we are called upon now to make a gift to them of \$20,000, not to reimburse expenses that they have been put to, but in recognition of their services toward Union soldiers which their profession and vocation in life and the vows that bound them in their sisterhood required them to render toward all persons who stood in need of their charitable services.

All over this country; wherever the sick and wounded soldiers were found, there were bands of charitable women. Are we to begin with them in detail and go through and make donations of money out of the public Treasury to them in recognition of their services? If not, why single out the Sisters of Charity or of Mercy in Charleston, South Carolina, as the special objects of the benefaction of this Government for those services?

But, sir, what better claim have they to recognition for their services than the thousands of volunteer Union women of the country who went into the hospitals and into the camps and wherever the sick and wounded soldier was found and rendered their service without fee or reward, without the obligation of a religious vow, purely out of consideration for their suffering brothers and fathers, purely out of patriotism for the country that was in peril and in defense of which those fathers and brothers were wounded and sick and dying? Shall we make no recognition of their heroic and motherly and sisterly service in that dark hour of the Republic, but pass them all by, martyrs, as many of them were, and pass by the orphan children of those martyred mothers, and give to this institution which is supported already by other funds and is under obligations by its vows to minister to the wants of the afflicted everywhere? Sir, I object to this singling out of one institution among the many of a similar kind, and selecting out one set of Sisters in this country to the utter exclusion and neglect of the thousands of other sisters who went as these did to minister to the wants of the sick and the wounded and the dying. If this amendment is passed I shall call for the yeas and nays upon it.

Mr. SAWYER. I did not desire to debate this amendment; but I wish to say one word in reply to the honorable Senator from Missouri. It is in evidence before the committee of the Senate that the orphan asylum of which these Sisters of Mercy have the charge was completely destroyed during the bombardment of the city of Charleston; a large and valuable structure capable of accommodating two or three hundred orphan children was ruined so that it has since that been entirely untenanted. We are well aware that they cannot come before the Congress of the United States and ask remuneration for the destruction of a building in the city of Charleston during that bombardment; but we submit that when these women were attending our sick and nursing our wounded at the very time when those walls were being battered down by our missiles of war it is becoming in the United States to recognize the services of these women to our sick and wounded soldiers.

They do not come here and make a claim for the destruction of their property; for they know full well that such a claim could not be

recognized; they come here and make no claim at all; but the loyal soldiers of our Army, our generals and our colonels and our privates, ask for them that they shall be recognized by the Congress of the United States as having that merit in the actions which they performed there. I know that it is their vocation to exercise this mission of charity; but I know, on the other hand, that they were in a community almost the whole of which had its sympathies enlisted on the other side, and that they were made the medium of large charities which passed through their hands and which would not have reached our prisoners but for their kindly offices. Large numbers of them were continually engaged in this labor of love, and while I admit as much as the honorable Senator from Missouri does that their vocation called them to these deeds, I submit, in view of the loss of property by this institution, it would be graceful on the part of the United States, it would be just on the part of the United States, and it could not form a dangerous precedent on the part of the Congress of the United States to grant to them this slight gratuity.

Mr. NORTON. I understand the basis of this appropriation is, that during the progress of the war and the military operations in front of the city of Charleston the building or the asylum of these Sisters of Mercy was destroyed. Whether it was the result of the inevitable prosecution of the war or military operations in that locality is not material. Their building was destroyed, and this appropriation is proposed to be made to them in some measure to compensate them for what they lost. I do not understand it to be urged as a claim; I understand it to be simply a charity. They make no claim. They do not urge that their property was destroyed, and for that reason they should be compensated in the way of an appropriation for an amount sufficient to make them whole. I understand it to be simply a gratuity.

I must express my surprise at the course of the Senator from Missouri on this question. I am well aware that he has often told the Senate, and through the Senate, the country, that he has no sympathy and no charity for any of those who aided, as far as their facilities allowed them, the rebellion. He will not relieve their disabilities. He will do nothing except to impose upon those people what he seems to assume to be the burden of their transgressions. But I cannot forbear expressing my surprise that that Senator on this occasion, when we have before us a mere matter of charity, should bring his political prejudices and hatreds, aye, sir, his malice, to the consideration of the question.

Sir, it is a fact that these Sisters of Mercy ministered to the wants of Union soldiers and Union prisoners just as they did to all others suffering. They knew no creeds, no religions. Can it be possible that the Senator from Missouri supposes that they made distinctions because of creeds and religious beliefs? I know what has been done, and I need only suggest it for the Senate to remember what has been done in the State of Missouri, and especially in the city of St. Louis, upon the subject of religious creeds and beliefs. But there is no suggestion of that sort in this case. These Sisters of Mercy saw our Union soldiers suffering and in want, and they came in the spirit of Christian charity to their relief. They did relieve them; and of all those who ever came within the reach of those Sisters, no one has ever suggested that they withheld a cup of water or a piece of bread. They went among our prisoners and ministered to their wants and sufferings. They come here now and ask—they make no claim, but they ask as a gratuity, and appeal to the charity of Congress to make them whole for what they lost, not because of what they did for Union soldiers and Union prisoners, but because by the inevitable accident of the war they lost their building, and it cannot be repaired. They come and ask a gratuity, and they say to the Congress of the United States, "because we did

this for your soldiers, for your prisoners, for your wounded in the war, give us this as a matter of charity." Sir, what sort of record will it make among the records of the nations of the world if it should be said that this great Republic of ours turned its back upon those who had ministered to its suffering and needy soldiers and said to them, "We have no sympathy and no charity for you."

Sir, this is not a claim. I do not support it in any sense as a claim; but it is a simple charity. Shall I be told that the Government of the United States has no charity; that it may not in proper cases and under proper circumstances extend its charity? I believe we have the power to do it, and that in this instance, whatever other cases may arise, if the Government of the United States owe a charity, if they owe gratitude, if they should feel grateful and should express it, they should make to these Sisters of Mercy this small compensation of \$20,000.

Mr. HOWARD. The claim which is now under discussion has once been before the Committee on Claims of this body, if I recollect rightly, as a claim for compensation, presented by the ladies who go by the name of the Sisters of Mercy, I think. The committee considered it in the light of an ordinary claim presented by persons resident within the territories of the rebellion, and they rejected it. If I recollect rightly such is the report of the committee, although there may be no written report furnished to the Senate.

Mr. MORRILL, of Vermont. Yes, there is; here is a copy of it.

Mr. HOWARD. I hold in my hand the report of the committee on this subject. They say:

"Among the papers is a letter from George W. Williams, of a firm of grocers and bankers in Charleston, addressed to Hon. H. McCulloch, February 27, 1867, strongly appealing to the more favored people of the North for assistance in behalf of the orphans as well as those who have them in charge. This letter is earnestly indorsed by Hon. William Aiken, George S. Bryan, United States district judge, and General R. K. Scott. It should be observed, however, that this letter and its indorsements were rather intended to appeal to the sympathy and charity of our citizens generally to whom it might be presented than to Congress. To the consideration of individuals the case presents great demands for liberality and generous treatment.

"The committee, however, are compelled to examine the petition in a different attitude and to decide whether the United States can be properly held to make reparation for all damages sustained under similar circumstances. They reluctantly conclude that the petition comes within a class of cases where justice to the nation must deny relief."

Then it goes on to lay down the principle upon which it is recommended by the committee to be rejected. I concurred in that report of the committee, and I am of the same opinion still. The Sisters of Mercy were the occupants of a building which seems to have been destroyed by the fire of the Union artillery at the bombardment of Charleston. Of course I will not undertake to state positively who was the real owner of the property thus destroyed, but according to the usages and the ecclesiastical laws of the Roman Catholic church the title of the property was not in the Sisters of Mercy, but in the bishop of the diocese, under an ancient decree or rather usage of the Roman Catholic church, which prohibits any layman to own church property within the diocese. I fancy it will turn out that the title of this property is in the bishop of that diocese. That, however, is not a very material circumstance in the case. This property, like any other property, was exposed to be destroyed by the operations of war. Its destruction became an inevitable necessity, and it met with the same fate that many and many a residence met in the bombardment of Charleston and at other places where the war was raging; and for one I cannot, except under extremely peculiar circumstances, give my consent to make any reparation for the destruction of such property. This item in the bill, although at present it passes under the engaging and enticing name of a charity, is nothing but a pecuniary claim for indemnity for the destruction of that property.

Mr. DAVIS. I ask the honorable Senator to give way that I may offer a resolution with the general consent of the Senate.

Mr. HOWARD. I do so with pleasure.

THANKS TO PRESIDENT PRO TEMPORE.

Mr. DAVIS. Mr. President, the present Congress will close to-morrow at noon. Before we separate I feel myself personally and I feel that the Senate has a debt to pay its Presiding Officer. I therefore ask leave, with much real satisfaction, to present to the Senate a resolution which I will send to the Chair to be read, and I hope that the Senate will receive it in the same feeling that prompts me to offer it.

The PRESIDING OFFICER, (Mr. THAYER in the chair.) The resolution will be read. The Secretary read it, as follows:

Resolved, That the thanks of the Senate are due, and they are hereby tendered, to Hon. BENJAMIN F. WADE, for the ability, impartiality, and justice with which he has discharged the duties of Presiding Officer of the Senate during the time he has occupied the chair.

The resolution was unanimously adopted.

REPORTS OF COMMITTEES.

Mr. SHERMAN. I ask general consent to be allowed to make some reports. I am directed by the Committee on Finance to report back the bill (H. R. No. 2023) to amend an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868. This bill came to us to-day and was referred to the Committee on Finance. The committee have given it the most careful consideration, and advise, on account of the importance of the subject and the provisions contained in it, that no action be had at the present session owing to the want of time.

The PRESIDING OFFICER. The bill will lie on the table.

Mr. SHERMAN. I am also directed by the same committee, to whom was referred the joint resolution (H. R. No. 474) authorizing the Secretary of the Treasury to admit free of duty a certain submarine telegraph cable, to report it back without amendment. It is precisely similar in effect to a bill reported some days ago from the Committee on Finance, and if there be no objection I ask to have it passed now. An objection as a matter of course will throw it over.

The PRESIDING OFFICER. The Senator from Ohio asks the unanimous consent of the Senate to consider the joint resolution now.

Mr. EDMUNDS. Let it be read for information if we are to act upon it.

The PRESIDING OFFICER. The question is on taking it up for consideration.

Mr. EDMUNDS. Before that question is put I want to know what the resolution is, and I ask that the body of the resolution be read.

The PRESIDING OFFICER. It will be read at length.

The Secretary read as follows:

Be it resolved, &c., That the Secretary of the Treasury be, and he is hereby, authorized to deliver to the Western Union Extension Telegraph Company the submarine telegraph cable made to form a part of the overland telegraph line to unite the United States with Russia and Great Britain, intended to be laid in the Behring's sea, without the payment of customs duty thereon.

Mr. NYE. I will state to the Senator from Ohio that I desire to offer an amendment to that resolution before it passes.

Mr. SHERMAN. If the Senator really objects to its consideration it must go over.

Mr. NYE. I do not want to object to its consideration, but I desire to amend it.

Mr. SHERMAN. I trust the Senator will not add anything to it. It will inevitably defeat the resolution. If there is any objection to it it ought not to pass.

Mr. MORRILL, of Maine. It will have to be laid aside.

Mr. CAMERON. I object to the passage of that resolution.

The PRESIDING OFFICER. Objection being made, it cannot be considered.

POST OFFICE APPROPRIATION BILL.

Mr. CONKLING. I ask leave to make a

report from a conference committee. The committee of conference on the disagreeing votes of the two Houses on the Post Office appropriation bill have directed me to make the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 1803) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1870, having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses, as follows: That the Senate recede from their first amendment.

That the House of Representatives recede from their disagreement to the second amendment of the Senate and agree to the same with an amendment, as follows: strike out all of said amendment and insert in lieu thereof "\$100,000;" and the Senate agree to the same.

That the House of Representatives recede from their disagreement to the third amendment of the Senate, and agree to the same.

ROSCOE CONKLING.

ALEXANDER RAMSEY,

GARRETT DAVIS,

Managers on the part of the Senate.

F. C. BEAMAN.

JOHN A. NICHOLSON,

Managers on the part of the House.

The report was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 476) for the payment of Caleb S. Hunt and J. Willis Menard, in which it requested the concurrence of the Senate.

The message further announced that the House had appointed Mr. J. G. BLAINE, of Maine, one of the managers of the conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1803) making appropriations for the support of the Army for the year ending June 30, 1870, and for other purposes, in place of Mr. F. C. BEAMAN, of Michigan, excused.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bill and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 2006) to establish certain post roads;

A joint resolution (H. R. No. 327) authorizing the Secretary of the Treasury to remit the duty on certain meridian circles; and

A joint resolution (H. R. No. 475) for the appointment of Thomas A. Osborn as manager of the National Asylum for Disabled Volunteer Soldiers.

CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 2007) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, and for other purposes, the pending question being on the amendment reported by the Committee on Appropriations, to insert after line seven hundred and thirty-four the following:

To the Sisters of Mercy in Charleston, South Carolina, in recognition of their services toward Union prisoners during the late rebellion, \$20,000.

Mr. HOWARD. I had nearly finished my remarks when I gave way to the Senator from Kentucky, and I will detain the Senate but a moment in what I have to say. I trust that I know how to appreciate the services of the ladies interested in this claim; but, sir, it is not to be forgotten that their profession is the doing of good to persons in distress, the poor, the sick, the naked, the destitute. To this object they are by their profession devoted. They are set apart for those purposes. They are as much, however, subject to the control of their ecclesiastical superior, the bishop of the diocese, as are any other of his subordinates; and I apprehend that although we may make this gratuity, as it is called, to them personally they will derive no benefit from it whatever. It will be to them no compensation; but the fund, if it should be thus appropriated, will be applied according to the direction of their ecclesiastical superior and to such

purposes as he may see fit to apply it to. The question would be somewhat different if the money which we are called upon to appropriate was to go into the pockets of these devoted women. I suppose, however, it will not.

Now, sir, I am unwilling to make a distinction between the Sisters of Mercy or the Sisters of Charity, ladies belonging to the Roman Catholic church devoted to these deeds of well-doing, and other ladies belonging to Protestant churches at the North and at the South who have evinced an equal spirit of devotion to the country and to the offices of humanity and of Christian kindness. There are all over the country thousands and thousands upon thousands of those devoted ladies who in our hour of need gave their services, and many of them their fortunes, their healths, and their lives to the cause of the country who have not come forward here to ask any such plausible recognition as this on the part of Congress, but whose services, compared with those rendered by members of the Roman Catholic church, certainly are equally meritorious and, in my humble judgment, incalculably more meritorious to the cause of the country. I think the truth demands of me to state it here in my seat.

Mr. President, I have not forgotten, I do not think you have forgotten, and I know that the people of this country have not forgotten, the famous circular letter addressed by the Pope of Rome to the Roman Catholic bishops in the United States in the year 1863, when the war was flagrant, when our cause in Europe was regarded as almost hopeless, appealing to the Roman Catholic bishops of the United States to see to it that peace was restored between the two sections of the country; and what did that mean as used by his Holiness in his circular letter? It meant nothing less than this: that they were to see to it that peace was brought about upon the principle of a recognition of the independence of the southern confederacy—an object toward which he was persuaded undoubtedly by the secret emissary established at his court by the confederate government. And after that event, so potent, so influential upon the minds of the members of that communion, we saw but very few enlistments from that church. We had to go forward and offer large bounties in order to fill up our armies, to recruit them, and to make headway against the rebellion. It is not too much to say that, with a few most honorable and brilliant exceptions, the whole influence and power of the Roman Catholic bishops of this country and of the Roman Catholic priesthood was brought to bear against the cause of the Union, not to say in favor of the rebellion. These Sisters, whatever may have been the character of their acts, and I am not here to question their character, belong to that same communion; while the Protestant churches of the North throughout almost unanimously were devoted, heart and soul, hand and purse, to the prosecution of the war for liberty and the preservation of our nationality. Here are some staring facts which ought not to be forgotten or thrown out of sight. I see nothing meritorious in this claim at all, and I shall therefore feel compelled to vote against it.

Mr. HENDRICKS. I am very much surprised at the attack which the Senator from Michigan has thought himself justified in making upon one of the churches of the country. I do not agree at all with his statement of fact. To the extent of my observation it was not true that there were but few enlistments in the Army from the members of the Catholic church. On the contrary, I observed the fact that there were very many in the State of Indiana. How it was where the Senator is I do not know.

Mr. HOWARD. If the Senator will allow me, what I said was that after the publication of the circular letter of the Pope there were very few enlistments from that communion.

Mr. HENDRICKS. Mr. President, there were influences during the war that made enlistments difficult, and to secure enlistments

high bounties became necessary, and those bounties were received and demanded by men of all churches and men who belonged to no church at all. So far as that is concerned it was common to all. The Senator is not sustained by the facts in the charge, that he has made, that there were not enlistments on the part of that church. He is not sustained either in regard to the conduct of the clergy of that church. They are not to be charged as he has stated, for I recollect very well that the most distinguished churchman of the Catholic church, Archbishop Hughes, went as a representative of that church, perhaps as a representative in some sense of the Government of the United States to Europe, to exercise his great influence in behalf of the cause of the Union. I believe that he was called upon by President Lincoln to go upon that mission, and I have always understood that to him and to Bishop McIlvaine, of another church, and some others maintaining the like relation to the American society and the American churches, the country was under very great obligations for an influence felt in Europe. So that the charge made by the Senator from Michigan, as I think, is not sustained at all by the facts.

But, sir, the only difficulty that presents itself in this case, as I think, is this: that property which is destroyed in battle, whether the property of the enemy or the property of the supporters of the Government, is not to be paid for. That is the general proposition; and the proposition is absolute in regard to individuals of the enemy's country as in a war between independent nations. But I think that doctrine ought not to be applied or need not be applied to the case of a charitable institution destroyed. Among nations a charitable institution would not be regarded and could not be regarded as a public enemy. I suppose that if a great Power were to conquer a country and in the progress of the war had destroyed one of the institutions of charity it would not be inconsistent with the duties of that nation in taking possession of the resources of the country conquered to restore that charitable institution. While we would not at all think of making up to individuals the losses sustained in the war, it would seem to me very proper to restore an institution of charity which had fallen under the prosecution of the war, for the reason that an institution of charity cannot be regarded as an enemy. Its nature forbids it; its mission forbids it.

Now, Mr. President, this institution, worth more money, as I understand from the Senators from South Carolina, than the appropriation proposed, was destroyed during the bombardment of Charleston. I understand, as suggested by a Senator near me, that the institution was worth twice the amount that we propose to appropriate. What was that institution? The Senator from Michigan says it was owned by the bishop. I do not know who owned it and I do not care who owned it. It is enough to know that the little children, who are to be protected by men with hearts in their bosoms, of all nations and under all circumstances, that little orphan children without fathers to care for them, the children of the State, were fed and clothed in that institution. It was not established, it was not maintained, it was not continued for the purpose of giving aid to the military power of any section; but it was maintained, by whomsoever owned, for the purpose of feeding and clothing little children; and he and that Government that provides for the orphans has God's blessing. It is not unbecoming the Government of the United States, when in the dreadful casualties of the war a charitable institution like this has fallen, that it shall help to rear it again. It is proper for the reason that it is a charity. We do not bestow charities by appropriations made by Congress, but we may restore that which the prosecution of the war has destroyed.

Now, let me ask the Senator from Michigan this question: if we were making war upon a foreign Power, and in its prosecution necessarily we should destroy the home of the orphans

and we were to take possession by conquest of that country, appropriating its public property, appropriating its treasure, appropriating its public resources, what obligation would rest upon us as a Christian people? The obligation to restore that charity, because in regard to it we would then assume the relation that the conquered Power had before occupied in relation to it?

Mr. HOWARD. Does the honorable Senator refer to the laws of war as practiced between nations, and does he rest the obligation of which he speaks upon that law? If he does, then I must take the liberty of saying that in my opinion he is mistaken; that the law of war would not require us to perform any such obligation, if it exists; that is, to rebuild any such property or restore it.

Mr. HENDRICKS. I did not say that the laws of war imposed it as a duty. I said that it is not forbidden by the laws of war and the usages of war. It is forbidden, as we understand and practice the laws of war in this country, to restore private fortunes that are lost during the war by its immediate prosecution; but I say that the laws of war do not forbid that the conquering Power taking possession of a conquered country shall restore an institution of charity which has fallen in its prosecution.

Mr. HOWARD. I do not say that the laws of war forbid such a restitution at all.

Mr. HENDRICKS. No, sir; the laws of war do not forbid it. The laws of war not forbidding it, the law of charity, Heaven's law, God's law, requires it. We have destroyed in the necessary prosecution of this war an institution of charity. It is not forbidden by the usages of this country and the laws of war that we shall restore it. The persons who had charge of that institution did not give their efforts in favor of the cause of the South. On the contrary, according to the evidence before the Senate, they gave their endeavors to the extent of their ability to relieve the suffering of the soldiers of the North while in that city.

Mr. DRAKE. Will the honorable Senator point to the evidence that is before the Senate of that fact?

Mr. HENDRICKS. I refer to the speech made twenty minutes ago by the distinguished Senator from South Carolina, [Mr. SAWYER,] in which he stated as a fact that the charitable kindness to our soldiers of these Sisters saved the lives of very many of them. That is the evidence to which I refer.

Mr. DRAKE. If the honorable Senator will allow it now I will present evidence directly to the contrary; and if he will not allow it now I will do it when he gets through.

Mr. HENDRICKS. The Senator can do it when I have closed my remarks. I do not care about having two speeches going on at once. I have referred to the statement made by the Senator from South Carolina. He is acquainted with the facts, and has made his statement. Then these Sisters, as I claim the fact to be, upon the statement of the Senator from South Carolina, have extended their kindness to the soldiers of the United States. There is no question of loyalty or disloyalty involved. It is a question of a destroyed home of the orphan, destroyed in the prosecution of the war, destroyed in the taking of a city which it became necessary, in the prosecution of the war, to capture. Shall we make this appropriation of \$20,000? I do not care whether that charity in its legal ownership belonged to the bishop or belonged to the Sisters. There is no question that the institution was used properly for the highest purposes, and it is not for the individual benefit, when it is restored, either of the bishop or of the Sisters; it is for the benefit of the orphan; and being consistent with the laws of war, and required by the laws of charity and kindness and morality, I choose to respond to the appeal that is made.

Mr. FRELINGHUYSEN. I do not look at this subject in a sectarian view or desire to invoke those feelings and prejudices. I look upon it as a proposition to take so much money out of the Treasury, and as guardians of the

Treasury the question for us to determine is whether it is our duty to vote it or not. Now, this is either a legal claim against the United States or it is a gratuity. It is not both.

Mr. MORRILL, of Maine. If the Senator will allow me, the committee put it simply on the latter ground, that it is nothing more nor less than a gratuity.

Mr. FRELINGHUYSEN. But the Senator from Indiana puts it partly on the one ground and partly on the other. It is either the one thing or the other. Is it a claim against this Government to pay for the bombardment of property in Charleston, of all places in this world for a legal claim to come from? The Senator says that we are not forbidden by the law to pay for the destruction of institutions of charity. Neither are we forbidden by the law to pay for private property. The question is whether there is any obligation of law upon us to pay for either in enemy's country.

Then the Senator from Indiana plays with that word "orphan;" and a man must be very callous whose heart does not make some response whenever that word is mentioned; but I would remind the Senator that within the last ten days the Committee on the Judiciary, on an appeal being made to the Senate to vote money for the orphans of the soldiers who were killed at Gettysburg, for institutions which are there established, not sectarian in their character, felt it their duty to report and advise this Senate not to make the appropriation. As to its being a gratuity, all I have to say on that subject is that if we enter upon that line of gratuities we enter upon a line which has no limit; for there is not a State in the Union, there is hardly a neighborhood at the North, that has not had similar institutions to promote the welfare of the patriotic soldiers of this country; but they never have thought of coming here to ask the Government to reimburse them for their charity. Why should we not make an appropriation to the Christian Commission, to the American Bible Society, to the Tract Society? Why not to the hundreds of nurses and surgeons and chaplains who went voluntarily to the field? Mr. President, this war has been a weight upon the nation; it has furrowed the whole land with graves; and the people now groan under the burden of taxation; and I trust that that which was done in charity will remain a charity, and that they may seek their reward from that source from which they expected to receive it, when the charity was performed.

Mr. SAWYER. I beg to call the attention of the Senate to this fact: that in the southern States during the war a whole race of people were taken from the protection of those who had before that cared for their animal wants; that the nation, looking at their condition, passed a law, called them the wards of the nation, and appropriated immense sums in charity to those men; that the whole southern land was spread over with the charities of the United States to those people, who had become in a certain sense orphans; and that here we have the amplest precedent for a charity of this kind. In this case the orphans were turned out of house and home upon the world, and their guardians deprived of the power of protecting them by the accidents of war, while those guardians at that very time were ministering to our wounded and sick. When the honorable Senator from Missouri denies that they were the means of saving the lives of our own soldiers I point him to the testimonials of General Scott, General Sickles, General Sherman, and other distinguished officers of the American Army, whose names are all appended, not to this claim, for these ladies make no claim; not to any petition to Congress that they may be reimbursed for the loss of their property; but those officers do petition Congress that the services of these ladies may be recognized, and that they may be put in a position again to do that charitable work which the accidents of war have taken from them the power to do.

Mr. MORRILL, of Vermont. I think a plain

statement of this case will show very clearly that it ought not to be considered by the Senate of the United States. The papers came here more than a year ago. The Sisters of Mercy started upon a mission to procure aid from the North, and obtained letters from various individuals with that view. They started out for no other purpose. But when they reached Washington some kind friend, rather than put his hand in his own pocket and contribute, advised them to come to Congress for relief. That was the character of the papers which were referred to the Committee on Claims; and being considered by the Committee on Claims, the case was unanimously reported against. It seems that these Sisters of Mercy had a building in Charleston for the instruction of orphan girls and a residence for themselves, both of which were more or less damaged during the bombardment of that city. The Government, through its officers then stationed there, repaired their dwelling-house and made it complete again. Such was the evidence that was before the Committee on Claims.

Now, Mr. President, if this claim is to be allowed as a gratuity or in any other form, why cannot the owners of any school-house or of any church in the city of Charleston, or in any other spot that has been destroyed by the armies of the United States, come forward with equal grace for a gratuity on the part of Congress? I do not understand that we are the almoners, the dispensers of the charity of the people of the United States. If there is any charity to be bestowed let us put our hands in our own pockets.

Mr. POMEROY. I listened to the remarks of the honorable Senator from Michigan, and remember to have seen the circular letter to which he has referred; but the effect of that letter in the section of country in which I live was entirely different from its effect as represented within the knowledge of the Senator from Michigan. I saw that that letter, counseling peace and pursuing the things that made for peace, had very little effect in deterring our adopted citizens in my State from entering the Army. We have in the West, in my own State particularly, a large class of adopted citizens, and we have found that by dealing with them in the most cordial and liberal manner they responded with equal cordiality and liberality. We do not proscribe them. They are citizens when they arrive in the State for all practical purposes. The moment they declare their intentions to become citizens and take the oath they enter upon the public lands and have all the rights of native-born citizens. They can go directly to the ballot-box if they have been in the State six months or a year, and they are required to have no papers except their first declaration of intention, and they are eligible to office. And I will say that during the struggle we had on the frontier we had no more cordial supporters from any section than from our adopted fellow-citizens of the Catholic church.

Living in eastern cities I imbibed early prejudices that other men had there; but when I saw that we had in the Army, and in every way where citizens were called upon to act, a larger proportion of adopted citizens than we had of native born, my prejudices began to vanish. In this war to which the Senator refers the people of every nation under heaven fought, bled, and died together. The Swede, the Norwegian, the Irishman, the German, the African, all nations mingled in this conflict and fought out here the liberties of mankind.

I would not approach this subject in any sectarian or narrow spirit. These are American citizens from choice, not from necessity. The Senator from Michigan and myself were born here, but we could not help it. There is no great merit in being born where you cannot help it. We could not avoid being American citizens. But there is a class of men among us who are Americans from choice, who have seen the struggle on this continent to establish a civil government for mankind and a government of freedom and liberty, and who

longed to identify themselves with us in the struggle, and they have left home and country and fatherland, and they are American citizens from choice and not from necessity, and I as much honor him who chooses to be an American as I do him who is obliged to be.

I know that this is somewhat foreign to the subject before us, and I will close my remarks, as I see the chairman of the committee is anxious to take a vote, by saying in response to what the Senator from New Jersey has said that I will not stop doing a charity to one class because I cannot do it at the same time to all classes. I know there are others equally meritorious. I have read and seen tales of suffering and trial and sorrow and destitution that I would gladly alleviate, and with the Senator from Vermont would gladly have put my hand in my pocket to alleviate; but this case is one, and providing for one is no hinderance to providing for many. I have thought myself that if this appropriation was confined to \$10,000, as we appropriated for other institutions, it would be perhaps within the reach of those appropriations we usually make; but because we cannot provide for every case why should we say we will turn a cold shoulder upon this one? I should favor this proposition more cheerfully if it was reduced to \$10,000.

Mr. BUCKALEW. The fact stated by the Senator from Vermont as to the action of his committee in my judgment goes for nothing in this debate. Of course the Committee on Claims could only report to the Senate bills where there were legal demands against the Government, but I understand this case is put upon grounds somewhat different from those of a strictly legal demand, which, if you sent it to the Court of Claims, would be enforced there under the principles of general law. I say, then, the fact that the Committee on Claims did not report this appropriation to us in my opinion goes for nothing in this debate. It does not touch the ground upon which this case has been placed before the Senate.

Mr. MORRILL, of Vermont. Then, if a claim should be rejected by the Committee on Claims, all the party has to do is to approach the Committee on Appropriations and ask for a gratuity.

Mr. BUCKALEW. He would have to do a great deal more. He would be compelled to obtain the assent of the judgment of that committee, which is somewhat difficult, for so far as my experience and observation go that committee is habitually rigid in money matters.

But what I rose to speak upon was this: the Senator from Michigan has intruded into this debate—and I use that word in no unkind or offensive sense—a topic which I observe introduced into proceedings of public debates always with regret. He has alluded to one of the churches of the country, and has pronounced from his point of view a criticism upon it, upon its spiritual head in another part of the earth, upon its leading officials in this country, and to some extent, by way of inference at least, upon the great body of its membership. Now, sir, I always deprecate discussions of this kind. I think that in this country we should sedulously avoid them upon all occasions where our convictions of public duty will permit. The effect and the influence of debates of this sort, in my judgment, must be pernicious, always tending, as they do, to inflame the dormant passions of our people, to produce bitterness, heart-burning, ill-will, enmity, and all uncharitableness among them; and especially must this effect be produced when these words proceed from this place and from a Senator so distinguished, so widely and favorably known, as the Senator from Michigan.

What was the letter of the head of this church to which the Senator has alluded? Why, sir, it was nothing more than a general invitation to peace. It was nothing more than putting into form a principle of the Christian religion, a thing done often before by those who preceded him in his great spiritual office, directed not to the people of the United States, but to the people of other countries who at various times have

been engaged in civil convulsions, and who required advice and counsel looking to peace and the cultivation of the arts of peace.

Mr. HOWARD. Will the honorable Senator from Pennsylvania tell me whether he himself and the Roman Catholic church and priesthood, including of course the Pope of Rome, holds it to be immoral or irreligious or improper for the Government to defend its existence against an armed rebellion? Is there any principle in the Christian religion which forbade the loyal part of the people of the United States to defend their Government when attacked by traitors? I do not understand that there is any such principle.

Although I would deprecate as much perhaps as the honorable Senator the introduction of any sectarian topic into our discussions here, I referred to the letter of the Pope of Rome, addressed to the bishops of the United States, impressing it in very strong terms upon the bishops to exert their influence in their various dioceses in favor of peace in the United States. At a moment when we were, as the French say, *aux prises* with the rebels, when it was not perfectly certain that we should succeed in overcoming the rebellion, at a moment when the darkness was the thickest, when discouragement was the greatest; at a moment which was the most uncertain of all the hours of the rebellion as to our final triumph; at that particular critical moment the Pope of Rome, a foreign potentate with whom we were at peace, exercising, as the honorable Senator knows, an influence next to Omnipotence over his subordinates and over his people, came forward and invoked, commanded the American bishops to see to it that peace was restored; a recommendation which had in contemplation nothing short of a cessation of the war and a recognition of the confederate States as one of the independent nations of the world—a matter in which the Pope of Rome, I will undertake to say, had no business to intermeddle. It was on his part an act entirely unfriendly to this Government, and entirely gratuitous, performed in complete hostility to this Government and to the principles of liberty upon which it rests. If this be introducing sectarianism into our discussions here I have only to say that I take the responsibility as an American Senator and as a free citizen of the United States, fearless of the Pope of Rome or any other foreign potentate or any other people, to indulge in the expression of it.

Mr. BUCKALEW. Mr. President, I did not assert that good morals or religious principles require a nation to suffer itself to be torn to pieces, to suffer revolt in its limits to go unchastised. No such thing has been asserted by me, nor was any such doctrine or idea contained in the letter of which the Senator from Michigan complains. I was about to say, when the Senator interrupted me, that the letter about which so much has been said was addressed to the dignitaries or officials of the church, not in the northern States alone, but in the States of the North and South both, in all parts of the United States—an invocation to cultivate the spirit of peace, directed just as much to the men who were engaged in rebellion against us as it was directed to the men in the North who were putting forth efforts to subdue that rebellion; and it would be just as legitimate for a confederate of the southern States who admitted the authority of the confederate government over him to complain of interference from abroad as for a citizen of the North to make such complaint in connection with this letter. He might say, "You ask and invoke us to cultivate the spirit of peace; to do so far as the circumstances of the case will permit, the works of peace; to pray for and labor for its return in this country." What does that mean? It means that we shall lay down our arms; that we shall submit to Federal power; that we shall give up this revolt upon which we have entered; that we shall take back over us the dominion of that flag against which we have raised our arms; that we shall give up a struggle upon which we have staked everything that is dear

to man as a member of a social community; and what business has the head of the church in a foreign country to address us in that manner?" Why, sir, such language from the South, from the adherents of the rebellion, would have had just the same logical force that the language of the Senator from Michigan now has, directed to the same quarter, and pronouncing a criticism *pari passu* with that, exactly similar to it, only coming from a different source.

Sir, the voice of the Christian church speaks impartially to all peoples in time of war and in time of peace. Its mission is peace. The mission of its founder was peace; and amid the very storm of war, when human passions rage over a country and deluge it with blood, it always speaks to them in the same language, which, though but a still, small voice, has power to reach the human heart, to operate upon human conduct and to restore again, when war has disturbed nations, that normal condition of peace in which the nations rejoice, which is their crown of glory and the security of their happiness and of their advancement in all the arts of progress and civilization.

Sir, I tell the Senator from Michigan that he speaks from too narrow a position. This letter was not written by a citizen of the United States. It was not written by one who owed allegiance to our Constitution and laws, as a citizen who was bound to take part in the struggle as an active partisan either by his voice or by his arms. It was from an ecclesiastical authority in another country, standing impartial, so far as regarded our struggle here, not bound to have an opinion upon the political aspects of it, and who had none, or at least expressed none in the letter which the Senator from Michigan criticises; who from his standpoint could address both parties to the struggle, or rather could address those who held his own faith, who believed his own doctrines, who acknowledged his spiritual supremacy, his advisory power in both sections of the country, and call back their attention amid the very storm of the conflict to those great principles, true and benevolent always, upon which the salvation of nations and of man depend. He did that. He did no more. Although I have no sympathy with his church, no communion and no connection with it, although my ancestors fled from persecution abroad in which that church was implicated and came to this country as to an asylum and a refuge, nevertheless I speak the words of justice in its behalf when assailed here, and when I think it is against public policy, against the fitness of things, against the truth of the case for the Senator from Michigan to rise here and attempt to raise and inflame the passions and feelings that exist among our churches. It was to perform that duty that I rose.

One word, sir, as to this amendment. I am indisposed to vote for it as it is presented here. I think the appropriation is rather large. I should like it to be put in a somewhat modified form, so as to conform to the argument which has been made in its behalf. If it be so changed I will vote for it. However, I shall not enter into a discussion of the amendment. I have, so far as I could for the moment, attempted to do my duty to a great principle of toleration, which is fundamental, which is necessary in this country, and which we must maintain in Congress and out of it if we are to live together a united and happy people.

Mr. HARLAN. I ask the chairman of the Committee on Appropriations if he will not permit this amendment to be passed over for the present for the purpose of enabling me to offer an amendment in which my State is interested? I make this appeal to the honorable Senator from the fact that my colleague is not well this evening and must necessarily leave the Senate Chamber in a short time, and it will be necessary for me to be absent, perhaps, for some hours on account of the duty imposed upon me by the Senate to serve on a committee of conference. If this amendment could be disposed of by the Senate it would enable

my colleague to retire, and enable me to discharge the other duty assigned me.

Mr. MORRILL, of Maine. If it will take no time and can be done by general consent I have no objection.

Mr. HARLAN. I hope it will not take any time. It ought not to.

Mr. SHERMAN. What is it?

Mr. HARLAN. An amendment that I desire to offer to this bill to come in under the head of "miscellaneous."

Mr. SHERMAN. I desire to know what it is before I consent.

Mr. HARLAN. It will take no more time here and now than it will after awhile.

The PRESIDING OFFICER. The amendment will be read for information.

The Secretary read as follows:

For reimbursing the State of Iowa for expenses incurred and payments made during the rebellion, as examined, audited, and found due the State by General Robert C. Buchanan, commissioner, under the act of Congress approved July 25, 1863, \$229,848 23.

Mr. SHERMAN. That will evidently take time. I think we had better finish the pending amendment. I think it is rather extraordinary, in the first place, to introduce a claim of this kind while an amendment is pending.

Mr. HARLAN. I think it is not extraordinary for the Senate to accommodate its business to the duties of its own members. Several members of the Senate will be compelled to withdraw to serve on a conference committee. I am one of those. I should regret to be unable to offer this amendment. I feel it to be a duty that I owe to the State which I in part represent, and I have already stated that my colleague will be unable to remain much longer in the Chamber on account of ill health.

Mr. ABBOTT. I desire to ask the Senator from Iowa whether this amendment has been submitted to the Committee on Appropriations?

Mr. HARLAN. It was offered yesterday and referred to the committee.

The PRESIDING OFFICER. Is there any objection to the consideration of the amendment?

Mr. ABBOTT. I object to it.

Mr. HARLAN. I do not understand that one objection carries it over.

Mr. SHERMAN. Let us have a vote on the pending amendment.

Mr. MORRILL, of Maine. I hope we shall have a vote on the pending amendment. This is not a claim. This is not presented here as a claim. It is simply a gratuity. It rests simply on the idea, in the minds of the committee, to say the least of it, that these Sisters of Mercy, so described in the bill, had rendered meritorious services; that they had rendered a great charity to the soldiers of the country, and that while they were in the performance of that charity the Government, whose soldiers they were nursing and caring for, destroyed their property. Now, they come here not as claimants, for they have been elsewhere as claimants and they have been told their claim does not rest in that principle of law which we are bound to recognize. If the Senate of the United States say this is not an obvious gratuity, then I ask them to vote and simply to say that, and we shall be content; for these people are not here urging this as a claim in any sense whatever. All I ask is for the Senate to vote upon it; and if I had the power to do it I would withdraw it, but I have not. If the Senate intimate their sense that it is not a safe and proper thing to do give to either \$10,000 or \$20,000 in this case, let them so vote; but I beseech the Senate to vote. I ask the Senate just to say whether this is a proper thing or not. Now, let us have a vote.

Mr. DRAKE. Not yet.

Mr. ROBERTSON. I wish to add a few words in support of the amendment reported by the Committee on Appropriations. It seems to me so obviously just and proper that I must express my surprise at the opposition that has been made to it in the Senate. Here is an institution devoted to the care and maintenance of orphans in the city of Charleston, under the charge of the Sisters of Mercy, who, according

to the evidence presented, performed many acts of kindness to the Union prisoners in that city. During the bombardment of the city the building was almost destroyed. General Sickles, when he was in command at Charleston, would have had the building repaired, but upon an examination it was ascertained that it could not be repaired, it having been so much injured by the shells of our forces. The Sisters of Mercy now ask to have their building restored in order that they may be enabled to take care of the orphans in their charge. This is surely one of the greatest charities in the world. These orphans need the protecting arm of the Government. Their former institution being untenable from the destruction caused by our shells, they are now confined in a small, narrow building, in an unhealthy part of the city, where a great many of them will suffer and probably die from disease contracted in that unhealthy locality. These Sisters simply ask enough aid, enough charity from this Government to enable them to restore their buildings, and I sincerely hope that the Senate will grant their request.

The PRESIDING OFFICER, (Mr. THAYER in the chair.) The question is on agreeing to the amendment of the Senator from South Carolina to the amendment reported by the committee.

Mr. DRAKE. Let it be read.

The SECRETARY. The amendment of the committee is to insert the following clause after line seven hundred and thirty-four:

For the Sisters of Mercy in Charleston, South Carolina, in recognition of their services toward Union prisoners during the late rebellion, \$20,000.

It is proposed to add to the amendment the words "to be disbursed by the Secretary of the Treasury."

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment reported by the committee as amended.

Mr. FERRY. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SHERMAN. As we are called upon to vote by yeas and nays on this question it is but right that the Senate should know the precise facts. The papers on which this matter rests have not been referred to in the course of the debate. I desire very briefly to call attention to them so that Senators may vote understandingly.

This is an appeal to the generosity of the Senate, and unless the case were unusually clear and strong I would not vote for it; but it seems to me that if any Senator will take the pains to read these letters he will be satisfied that his duty to his country would be promoted by voting for this appropriation for a reasonable amount, \$10,000 or even \$20,000.

Mr. STEWART. Can you not have them read?

Mr. SHERMAN. Here is a letter from Governor Scott, who was known to be a brave and excellent officer of the Army, who served for a long time at Charleston, was himself a prisoner, was very harshly treated by the rebels, and is now Governor of South Carolina. He writes as follows about his personal experience with these ladies:

"I was personally cognizant, during my imprisonment in Charleston and subsequently while I was stationed in that city, of the active and unceasing benevolence of the Sisters of Mercy, their charitable offices being freely dealt out to all who needed them without reference to class, condition, or nationality; and I know of many of my friends and acquaintances in the Federal Army who were the recipients of their beneficent and kindly attentions. Many a sick and wounded Federal prisoner was indebted to them for necessary nourishment and attention, and frequently their drying pillows were soothed and comforted by pious consolations of the Sisters of Mercy."

This letter is rather of a general character.

Mr. EDMUNDS. What is the date of it?

Mr. SHERMAN. It is a recent date—January 27, 1869. Here is a letter from an officer of Connecticut volunteers who signs himself as having belonged to the seventh Connecticut volunteers.

Mr. DRAKE. What is his name?
Mr. SHERMAN. F. R. Jackson. He speaks of his imprisonment on his arrival at Charleston:

"Soon after our arrival in Charleston we were visited by Sister M. Xavier, accompanied by another Sister of Mercy, each bearing comforts for us, the wounded Union prisoners. Sister Xavier came to the hospital prison daily, accompanied each time by another Sister, and each day went to all of our number and gave fruit, corn-bread, cake, meat, gruel, arrow-root, and sometimes chicken and chicken-broth. She brought me daily either a bottle of wine or of brandy, &c. There were eight wounded men confined in our cell, only one of whom, Captain Lawler, was a Roman Catholic. All received the same attention at the hands of Sister M. Xavier and companion. The great majority of our number were of the Protestant faith, but there was no distinction made between us on account of religion or nationality."

He then goes on at some length, giving the details of the services of these Sisters of Mercy to him and his comrades.

Mr. DRAKE. Does he state when that occurred?

Mr. SHERMAN. In 1862.

Mr. EDMUNDS. What is the date of that letter?

Mr. SHERMAN. This is an affidavit sworn to by this gentleman recently.

Mr. DRAKE. When was it sworn to?

Mr. SHERMAN. February 6, 1869. I have here another sworn statement dated June 7, 1867, two years ago, by an officer of the Army, John M. Hammill, late colonel of a New York regiment and brevet brigadier general of volunteers. This gentleman, after describing his being captured and his being taken to a hospital, says:

"It was at this time I met the Sisters of Mercy from Charleston, who almost daily visited the hospital, not only cheering us with words of consolation, but substantially administering to our wants by bringing us food and clothing secured by them at their own expense, and furnished to us brandy."

And so he goes on at length. I have in addition a letter signed by an officer of some distinction, whose name is familiar to me—L. S. Payne. I think he was of the Connecticut volunteers. He states:

"This hospital was assigned exclusively to and for our wounded prisoners, and all citizens were forbidden permission to visit the hospital; but the Sisters of Mercy, after much opposition, succeeded in obtaining permission to visit the hospital for the purpose of dispensing their truly Christian charity and relieving the sufferings of the wounded and dying. I need not particularize, but will state that the attention of these angels of mercy to our wounded soldiers were at this time incessant and unceasing, never failing to call daily, and some one or more of them (of whom there seemed to be many) calling oftener and administering to the severe cases. In their supplies of palatable food and changes of clothing furnished to those destitute, and in all their ministrations they made no distinction between rank, color, or creed; but their efforts of relief were directed to all alike. The excessively hot weather, the insufficient supply of medicines and other necessities, together with the little nursing help, induce me to believe that through the aid of these kind people the lives of many of our soldier prisoners were saved. After being transferred from Charleston to Columbia, and since my return home, I have met with many of the officers and soldiers who had been in Charleston as prisoners, and they all universally speak of the unbounded kindness of these Sisters of Mercy of Charleston."

He then goes on at some length to state other facts. There are a great number of officers who recommend in the very strongest possible language this appeal to the charity and the benevolence of Congress, and among them is General Gillmore, who was in command for a long time of that department. I will read his brief statement:

I most cheerfully add my name to this appeal in behalf of the "Sisters of Our Lady of Mercy, of Charleston," having in view the reconstruction of their buildings nearly destroyed by the bombardment from Morris Island. The aid rendered by the Sisters to Union prisoners during the war was unremitting, and I have no doubt that many valuable lives were saved to the Union cause thereby. I most earnestly commend the cause of the society to my friends and others in Congress, and hope that an appropriation for the object in view will be made.

Q. A. GILLMORE,
Late Major General United States Volunteers
and Brevet Major General United States Army.

There is also a statement made by General Sickles to the same effect in his own handwriting, and another by General Hardie. There are quite a number of testimonials of this kind. I have also a number of other papers which it

is not necessary to read. It appears, in addition to the extraordinary services rendered by these ladies, that their property was necessarily destroyed by our troops when bombarding the city of Charleston. That does not give them any ground for a claim to rebuild their building; and the Committee on Claims were justified in rejecting it on the ground of a claim; but it is an additional ground for the appeal now made to our generosity. With these letters before me, and having also conversed with the lady who is now here pressing this matter, Sister Xavier, one of the Sisters of Mercy, I cannot refuse on behalf of the people of the United States at least a reasonable response to this demand. I am willing to vote an appropriation of \$10,000 or \$20,000, not on the ground that this property was destroyed, but because these ladies in Charleston in the midst of the war, after the bull of the Pope of Rome referred to by my honorable friend from Michigan, expended their time, their money, their labor, and risked their lives in saving the lives and relieving the wants of our distressed countrymen there. I should think myself wanting if I did not respond to that appeal. I believe the people of the United States would respond to it. I do not care whether that relief was rendered by Catholic or Protestant, white or black, slave or free, it equally appeals to our generosity; and unless it appeals so strongly that we would be willing to take our own money under the same circumstances as a matter of course we should vote no; but from the facts stated in these papers I am inclined to vote whatever the Committee on Appropriations think reasonable, \$10,000 or \$20,000.

Mr. FESSENDEN. I wish to ask the honorable Senator from Ohio, the chairman of the Committee on Finance, under what clause of the Constitution or whereabouts it is that he finds the right to make appropriations of this kind as a charity to people outside of the District of Columbia?

Mr. SHERMAN. I should find it very clearly in the right to declare war if there were no other. We sent soldiers down there, and I think we have a right and I can furnish the honorable Senator with many precedents where we have actually paid for gratuitous services rendered to our own soldiers. There was one about a year ago. I do not recollect the circumstances.

Mr. FESSENDEN. I did not ask the Senator for cases. I asked him, as I merely want to be informed and of course he knows all about this, whereabouts the idea is found in the Constitution of a right to make charitable appropriations like this?

Mr. SHERMAN. In reply, I am rather surprised that my friend from Maine should make a constitutional point of this kind. I would expect it rather to come from the other side. I think, according to our theories and construction of the Constitution, the Congress of the United States may appropriate for those expenditures incurred in the ordinary prosecution of the war for the defense of the country or anything of that kind without having the express clause pointed out in the Constitution. That has been the practice of the Government.

Mr. FESSENDEN. I have received the answer I expected and it amounts to this, that there is no power anywhere to make such an appropriation.

Mr. DRAKE. Mr. President, this debate has taken a much wider turn than I supposed it would take when I began to express my views against this appropriation. The Senate will bear me witness that I have not turned it into the wide field in which it has been expatiating. I simply wish, in a few concluding words, to state the exact position of the matter. Here is a body of ladies, doubtless earnest, charitable, every way respectable Christian ladies. They constitute an association, a part of the organization of the church with which they are connected. They are bound by the vows of their organization to devote themselves to works of charity all the days of their lives. In pursuance of those vows they administered

in charity to the Union prisoners in the city of Charleston, thereby doing nothing more than their religious obligations; that the vows of their sisterhood demanded that they should do for all persons in distress. We are asked, in view of this voluntary rendition of services of that kind, to which their whole lives have by special vows been dedicated, to give them this donation of money in recognition of those services as it appears upon the face of the amendment. I am desirous of knowing when and where the Congress of the United States have engaged in work of this kind before, and even if they have engaged in it, where it is to end.

But, sir, when we come to sift this matter what do we find? That the claim or the appropriation is urged upon the Senate on the ground that the house occupied by these Sisters of Mercy in the city of Charleston was destroyed by the bombardment of that city by the Union forces. That is the foundation that is laid for this claim, and that foundation having once before been examined by the Committee on Claims it was totally rejected. Sir, if we are going to pay for the institutions of charity that were destroyed by the bombardments made by the Union soldiers where shall we end? How many of them are there? Does not every Senator here know that we are not only under no obligation to rebuild such fabrics but that it is altogether contrary to our duty in the premises? Let those who founded the charities look after them when they have met the fortune of war, not the conquering Government that in fighting a rebellion was compelled to destroy them.

But it seems that this is not a sufficient foundation. We have paraded before us "the orphans," "the poor little children," "the little orphan children," tenderly spoken of, affectionately and affectingly mentioned here in the Senate Chamber; that because these ladies have charge of these orphans we should give this \$20,000 from the national Treasury. Sir, apply the principle asserted as the basis of this appropriation on a wider field and see what you will come to. Are these ladies the only ones in the United States that ministered to the wants of the Union soldiers? Are they the only associated ladies who ministered to those wants? The whole country knows that they were not. I can point you to associations of American women, not bound by any vows to charity for a life, but bound by higher vows, the charity of home, of the wife and the mother, that left them all and went abroad into the field, into the camp, into the tent, into the hospital, and at the deathbed of the soldier and at his grave, impelled not by any vows of charity, but by the dictates of patriotism. I demand of this Congress, I demand of this nation, if you pass this amendment, that there shall be a recognition of the glorious heroism and self-sacrifice of the wives and mothers and daughters of the Republic to the dying sons of the Republic in that war.

But suppose you put it upon the ground of the destruction of the house. Mark you, sir, it was in enemy's territory. It shared the fate of the other houses that surrounded it. You want now to pay for it, do you? Where is the ghost of the Sue Murphey claim? A loyal woman, claiming to be loyal, supported here as loyal—you tore down her house to make way for your cannon balls to shoot in the ranks of the enemy; and when you did that and she came here you spent three weeks in debating the claim and turned her away from the door of Congress. A loyal woman, too, mark you! What do you know of the loyalty of these South Carolina Sisters of Mercy? Have you any proof of it? Not a syllable. The locality is *prima facie* evidence against their loyalty. Why not turn around now and go and hunt up the loyal men and women of this country whose property has been destroyed by thousands of millions by the Army of the Union for military purposes and pay them all?

But, sir, if you put it upon the ground of the orphans, where are the thousands, nay, perhaps hundreds of thousands of the orphans of the dead Union braves who saved your coun-

try? Will you do nothing for them? Will you do nothing for the asylums for them, located all over the country, based upon the charities of loyal men and women—pay nothing for them, but give it all to the Sisters of Mercy for their orphans? Ah, sir, let the Senate of the United States do such a deed as that once and how many more will they have to do?

Sir, I forbear to consume time in the discussion of this matter. I trust that under no circumstance whatever could the Congress of the United States be induced to pass such an appropriation as this.

Mr. NORTON. Mr. President, I should not trouble the Senate again except for the fact that the Senator from Vermont said a few moments ago that a plain statement of this matter ought to determine the judgment of the Senate against the proposition. Sir, I think a plain statement of the matter ought to determine the judgment of the Senate for it; and what is it? These Sisters of Mercy for whom this appropriation is proposed to be made, living there in the enemy territory, could do nothing actively in aid of the Government; they could not take up arms; they could not enlist in the service of the General Government; but there in the enemy's country, when our friends, our soldiers came within their reach they came and relieved them. In the progress of the war their building was destroyed. They do not come here and make a claim for that; and let me inquire of the Senate what would be the first question asked if they came here and made a claim for the destruction of their property? Why, sir, it would be as to their loyalty. That was the question made on the claim of Sue Murphey, of which the Senator from Missouri just now spoke. That was the question as to her, and upon that her case turned.

If these Sisters of Mercy made a claim and the question of their loyalty was raised, and the proof was that all they could do there in the enemy's country they did for our friends and for our sick and our disabled and our wounded, who would say that they were not loyal?

The Senator from Missouri says they were enlisted in a cause for which they had pledged their lives and had made sacred vows; that they devoted their lives to that purpose. Sir, it was not a question with them of loyalty to the Government; it was a question of loyalty to humanity. Your sick came within their reach and they relieved them; your wounded came there and they ministered to their wants and they relieved them; your hungry came there and they fed them; your naked, came within their reach and they clothed them. In obedience to the dictates of Him who endeavored to establish on earth peace, of which we have heard so much this evening, they sought to do what they could to bring about peace.

Sir, the plain statement of the case is that they relieved our sick and our wounded, and they come here now and ask that we should acknowledge that in the way of a substantial compensation or remuneration which will be of benefit to them.

I think the Senator from Maine [Mr. FESSENDEN] asked of the Senator from Ohio [Mr. SHERMAN] a moment ago what clause in the Constitution would authorize this appropriation. Sir, there is no such clause there any more than there is one that authorized the appropriation of millions for charities in the southern States. As was said by the Senator from South Carolina a few moments ago, we have spread these southern States all over with the ministers of our charity, and millions have been appropriated as matters of charity. Now, merely the small pittance of \$20,000 is asked; and it would be a scandal among the nations of the world if this American Congress could not do this little charity of \$20,000.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment as amended, upon which the yeas and nays have been ordered.

Mr. BUCKALEW. I desire to say one

word in explanation before I vote. I find on looking at this amendment that it is urged quite differently from what I supposed from the character of the debate. It does not propose to make an appropriation in consideration of the destruction of property, but for services rendered to the Union soldiers.

The yeas and nays were taken.

Mr. EDMUNDS. On this question I have paired off with the Senator from Indiana, [Mr. HENDRICKS,] who is necessarily absent at this moment. If he were present he would vote for the amendment, and I should vote against it.

Mr. COLE. I am paired off on this question with the Senator from Tennessee, [Mr. FOWLER.] He would vote for it and I against it.

The result was announced—yeas 20, nays 22; as follows:

YEAS—Messrs. Abbott, Buckalew, Conness, Davis, Harris, McCreery, McDonald, Morrill of Maine, Norton, Pomeroy, Ramsey, Rice, Robertson, Sawyer, Sherman, Spencer, Sprague, Van Winkle, Wade, and Warner—20.

NAYS—Messrs. Cameron, Chandler, Conkling, Drake, Ferry, Fessenden, Frelinghuysen, Henderson, Howard, Howe, Morgan, Morrill of Vermont, Osborn, Stewart, Sumner, Thayer, Tipton, Trumbull, Vickers, Whyte, Williams, and Wilson—22.

ABSENT—Messrs. Anthony, Bayard, Cattell, Cole, Corbett, Cragin, Dixon, Doolittle, Edmunds, Fowler, Grimes, Harlan, Hendricks, Kellogg, Morton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Pool, Ross, Saulsbury, Welch, Willey, and Yates—24.

So the amendment was not agreed to.

The next amendment of the Committee on Appropriations was to insert after the seven hundred and thirty-seventh line the following:

Columbia Hospital for Women and Lying-in Asylum:

For the support of the asylum, over and above the probable amount received for pay patients, \$10,000.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was to strike out in line seven hundred and forty-seven the word "twelve" and insert "six;" so as to read:

For the care, support, and medical treatment of sixty transient paupers, medical and surgical patients, in some proper medical or charitable institution in the city of Washington, under a contract to be formed with such institution, \$6,000, or so much thereof as may be necessary.

The amendment was agreed to.

The next amendment was to insert after line seven hundred and fifty-nine the following new section:

Sec. —. *And be it further enacted*, That the Clerk of the House be directed to pay out of the contingent fund the sum of \$400 to W. S. Morse, and the sum of \$100 to Charles S. Shambaugh, which shall be in full of all claim by them on account of services rendered to the Committee on Military Affairs in collecting during the recess of the Thirty-Ninth Congress the papers and evidence respecting artificial limbs furnished to soldiers.

The amendment was agreed to.

The next amendment was to add the following as a new section:

Sec. —. *And be it further enacted*, That the sum of \$7,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the relief of the Mount Vernon Ladies' Association of the Union, to be applied to the repair and preservation of the property at Mount Vernon under the direction of the military officer in charge of the public buildings and grounds.

The amendment was agreed to.

REMOVAL OF DISABILITIES.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House further insisted on its disagreement to the amendment of the Senate to the bill (H. R. No. 1746) for the removal of certain disabilities from the persons therein named, asked a further conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. H. E. PAINE of Wisconsin, Mr. F. C. BEAMAN of Michigan, and Mr. JAMES BROOKS of New York managers at the same on its part.

The Senate proceeded to consider its amendments to the bill (H. R. No. 1746) for the removal of certain disabilities from the persons therein named, disagreed to by the House.

On motion of Mr. STEWART, it was

Resolved, That the Senate further insist upon its amendments disagreed to by the House, and agree to

the further conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore* of the Senate.

The PRESIDENT *pro tempore* appointed Mr. WILLIAMS, Mr. EDMUNDS, and Mr. ROBERTSON.

HOUSE BILL.

The joint resolution (H. R. No. 476) for the payment of Caleb S. Hunt and J. Willis Menard was read twice by its title, and ordered to lie on the table.

CIVIL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 2007) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, and for other purposes.

The PRESIDENT *pro tempore*. There are some amendments of the Committee on Appropriations passed over which will now be read if the Senator from Maine desires.

Mr. HARLAN. I have the consent of the Senator from Maine to offer an amendment now. It is to add to the first section:

For reimbursement of the State of Iowa for expenses incurred and payments made during the rebellion, as examined, audited, and found due to the State by General Robert C. Buchanan commissioner under the act of Congress of July 25, 1866.

Mr. SUMNER. I will offer an amendment to the amendment:

Provided, That the claim of any State for expenditures in aid of the United States during the war of the rebellion shall be paid out of any money in the Treasury not otherwise appropriated, where such claim has been audited and found due by any commission appointed for that purpose under the authority of Congress.

That is the Iowa case, and I believe there is one other case that is like it. The language is simply to make the Iowa proposition applicable to any other State that shall be in the same situation; that is, if the claim has been examined, audited, and found due by any commission acting under the authority of Congress it shall be paid.

Mr. SHERMAN. It seems to me that is extraordinary. Congress appoints a commission to examine a claim and report to Congress; and now, without knowing what that claim is or what the report is or how many cases there are, it is proposed to confirm that report, whatever it may be, and pay the amount.

Mr. SUMNER. It is the same with the original proposition.

Mr. SHERMAN. But the original proposition has not been voted upon. I suppose some explanation will be given of that before we act on it. I appeal to the Senator himself whether he thinks it proper that an appropriation should be made without the report being before us?

Mr. SUMNER. Where a claim has been audited and found due by a commission acting under the authority of Congress, what more does the Senator ask?

Mr. SHERMAN. The commissioner is appointed to examine the matter and report to Congress. The amount is found due, is reported to us and referred to our committee, and we proceed to act. This proposition is precisely as if a judge should say to a master or commissioner, "Go on, find out what there is due, report back to me, and without any action or looking at the report or knowing what it is I will confirm it."

Mr. SUMNER. The point is, as I understand, that a certain sum is found due to the State of Iowa, having been duly audited. Shall it not be paid?

Mr. SHERMAN. If it is found to be due by a committee of this body and then by a vote of the Senate, it will be paid.

Mr. SUMNER. In this case it is found due by a commission appointed under the authority of Congress.

Mr. SHERMAN. There were many commissions appointed during the recent war. One in the case of Missouri, where they allowed some claims and disallowed others. The matter

came before Congress and Congress passed a bill authorizing payment of a portion of the claims passed on by the commission. This principle would go back of the action of Congress and allow in that case all the claims that had been allowed by the commission but were rejected subsequently by Congress. Is that what the Senator wishes?

Mr. SUMNER. No; I do not ask for that. Mr. SHERMAN. There is a case in my mind that would be covered by the amendment of the Senator from Massachusetts.

Mr. SUMNER. Do I understand the Senator from Ohio to be against the Iowa proposition?

Mr. SHERMAN. I want to know something about it.

Mr. SUMNER. The proposition I move upon it is identical in character. The two should go together.

Mr. SHERMAN. I have not heard anything about the Iowa proposition. When I hear about it I shall answer.

Mr. CONKLING. It strikes me the difference between the Iowa proposition and this may be thus stated: the Iowa proposition we can understand, at least we can know after it is explained, the length and breadth and possible effect of it; this proposition we know nothing about. There is no enumeration of the cases which it may cover; it is a leap entirely in the dark; and its action may be such as its mover does not at all contemplate. At all events, if we are to enter upon the payment of claims of this sort I hope, they will be enumerated that we shall know at the time we vote whether they be greater or less in number and be furnished without some sort of yardstick by which we can measure the amount and not undertake in the lump to pay we know not whom for claims we know not what.

Mr. EDMUNDS. Mr. President, I wish to ask the Chair, as a matter of order, whether the amendment offered by the Senator from Iowa is in order? It proposes an additional appropriation. It is not reported by any committee. It is not to carry out the provision of any existing law. I raise the question of order that it is in the very face of the express rule—Rule 30 of the Senate. If there is any statute which directs this sum to be paid to the State of Iowa I should like to see it.

Mr. MORRILL, of Maine. I understand the ground of the Senator's motion is that it is to execute a law.

Mr. EDMUNDS. I should be glad to see the law it is to execute.

Mr. MORRILL, of Maine. I have called on the Senator to show that fact.

Mr. EDMUNDS. There is no such law to my knowledge.

The PRESIDENT *pro tempore*. If the amendment is not reported by a committee, is not to carry out a statute, or is not estimated for by one of the Departments, it is not in order.

Mr. HARLAN. Before the decision is rendered I wish to call attention to the fact that the amendment itself refers to the law which is intended to be carried out by the amendment.

Mr. EDMUNDS. Let us see the law.

Mr. HARLAN. It is the act of Congress approved July 25, 1866.

The PRESIDENT *pro tempore*. That is the matter in dispute.

Mr. EDMUNDS. If my friend from Iowa will be kind enough to turn us to the statute we shall see whether there is any act of Congress which authorizes the payment of any such thing. All the act of Congress contemplated, as I recollect it, was to provide for a commission to inquire into this claim of Iowa and report to Congress. The law made no provision for the payment of any sum to the State of Iowa. It made no acknowledgment of any debt to the State of Iowa. It was merely a law directing an inquiry, as I recollect it. Now, my friend can refer to it and we can see exactly what it was.

Mr. HARLAN. I cannot lay my hands on the statute at this time.

Mr. EDMUNDS. I will find it.

Mr. HARLAN. But it seems this objection

is rather technical than real. Congress passed a law directing an investigation to be made to ascertain what amount is justly due to the State of Iowa. That commissioner appointed in pursuance of law makes his report. He finds that this exact sum is due the State, and this amendment is intended to carry into effect that law authorizing this investigation to be made.

Mr. MORGAN. While gentlemen are finding the papers I wish to offer an amendment.

Mr. EDMUNDS. As soon as I can find the statute I will submit it to the Chair on the question of order.

Mr. MORGAN. The amendment I offer is in line six hundred and seventy-eight, after the word "garden," to insert:

And the erection of suitable iron stands for plants in new conservatory, \$4,000, to be expended by the architect of the Capitol, under the direction of the joint Committee on the Library.

The amendment was agreed to.

Mr. FESSENDEN. I should like to offer a similar amendment from the Committee on Public Buildings and Grounds, to insert after line six hundred and seventy-three:

For continuing the work of grading and filling the Capitol grounds, \$15,000.

The amendment was agreed to.

Mr. WILLIAMS. I expect to be absent very soon, and while the Senator from Iowa is looking up the law I should like to offer an amendment.

Mr. HARLAN. I have the law. The act referred to in the amendment offered by me reads as follows:

"That the President of the United States be, and he hereby is, authorized and required to appoint a commissioner, whose duty it shall be to examine and report, on or before the 1st day of December next, upon the claim of the State of Iowa for forage, transportation, subsistence, and clothing furnished by said State to certain volunteers of said State who, under the command of Colonels Morledge and Edwards, and at the request of certain officers commanding troops of the United States in the State of Missouri, marched into the State of Missouri to cooperate with the troops of the United States in that State in suppressing the rebellion. Also the claim of the State of Iowa for repayment of certain moneys paid by said State in raising, arming, equipping, paying, and subsisting certain troops of the State maintained by the State on the southern and northwestern borders thereof during the late rebellion, for the purpose of defending the State against attacks by bushwhackers and Indians. And also the claim of said State for compensation for certain forage procured and barracks built by the State on the northwestern border thereof and turned over by the State to and used by the United States."

In pursuance of this law a commission was appointed, discharged its duty, and found due the State under these various heads the amount named in the amendment, the exact number of dollars and cents, and this amendment, therefore, is necessary in order to carry into effect this provision of the statute itself. I ought to state perhaps a word or two on the merits of the claim itself. These troops were called for by—

Mr. EDMUNDS. What has this to do with the question of order?

Mr. HARLAN. Troops were called for by the general in command of the United States troops in Missouri. They marched down into that State and performed service there in connection with the volunteers of the State of Missouri, for whose services the United States has already paid the State of Missouri more than seven million dollars. These troops served with those troops that have been thus paid, and were only relieved after a sufficient number of regular troops were marched into that State. On the northern border a part of the claim is for barracks, buildings, and forage collected to support the volunteers. These buildings and barracks afterward were sold and the money covered into the Treasury of the United States, and this is merely to reimburse the State of Iowa for these expenditures.

Mr. EDMUNDS. I inquire of my friend from Iowa what that has to do with the question of order? The rule says—and it is intended to protect the Treasury against sudden raids upon it—that no amendment of this kind shall be received to a general appropriation bill unless it is to carry into effect the provisions of some existing law. Then the question

is whether this amendment is to carry into effect the provisions of that law. What are its provisions? The provisions are merely that a commissioner shall be appointed who shall report to us. Is this to carry those provisions into effect—to appoint a commissioner and pay him for his report? Not at all; something altogether beyond that; and therefore it does not come within any possible construction that can be fairly put upon that rule.

I do not raise this question because I am opposed to or in favor of the amendment of the Senator from Iowa on its merits. I do not know what the merits are. I wish to know what they are; but the last night of the session of Congress, without examination by a committee, is not the time to ascertain them. That is the ground on which I make the objection.

Mr. HARLAN. I have only this remark to make: if the original law had provided for the payment of the money my amendment would be unnecessary. It is only necessary for the purpose of carrying into effect the law I have read.

Mr. EDMUNDS. But the law creates no obligation; that is the ground of objection.

The PRESIDENT *pro tempore*. The Chair is of opinion that the amendment is in order, inasmuch as it seems to be to carry out the provisions of this law, it being asserted that the amount is ascertained by the very commission provided for by law. There was no order to pay the amount found due, and this amendment makes that provision. The question is on the amendment of the Senator from Massachusetts to the amendment of the Senator from Iowa.

Mr. SUMNER. Allow me to say that that presents precisely the same case that is presented by the amendment of the Senator from Iowa, except that it is the case of Massachusetts instead of Iowa.

Mr. CONNESS. Let the Clerk read it again.

The SECRETARY. The amendment to the amendment is as follows:

Provided, That the claim of any State for expenditures in aid of the United States during the war of the rebellion shall be paid out of any money in the Treasury not otherwise appropriated where such claim has been found due by any commission appointed for that purpose under the authority of Congress.

Mr. EDMUNDS. Is that amendment in order?

Mr. SHERMAN. I inquire of my friend from Iowa whether the report of the commission has been made and sent to Congress?

Mr. HARLAN. It has been made and sent to Congress; but my colleague, who is more conversant with the matter than I am, has been compelled to retire from the Chamber on account of sickness.

Mr. SHERMAN. Was the report of the commission referred to any committee of this body?

Mr. HARLAN. I do not know whether it was referred to a committee of this body or not.

Mr. SHERMAN. In the case of Missouri, the case of Indiana, the case of Kansas, and in many other cases, the reports were submitted here, referred to the Committee on Claims, and then reported in the form of resolutions or bills from the committee. Any other course would be extraordinary, I think. The commissioner may be a very dull man or he may be a very bright man; he may be a very liberal man; his reports may be absurd. Such a report is always referred to a committee of this body for the purpose of ascertaining whether it is a proper claim or not.

Mr. EDMUNDS. Nobody has seen the report yet that I can find.

Mr. SHERMAN. It would be evidently wrong to vote hundreds of thousands of dollars from the Treasury on a matter never acted on by a committee of this body, and of which now the honorable Senator from the very State from which the claim comes cannot tell us anything about. He does not know what committee it is before, where it is, whether it has been considered, or whether it has been reported adversely upon.

Mr. HARLAN. I perhaps ought to say one

word in reply to the remarks of the honorable Senator from Ohio. If the committee did not examine it it was not the fault of the Senator from Iowa. It was referred to the committee.

Mr. SHERMAN. What committee?

Mr. HARLAN. The Committee on Appropriations, under the rules of the Senate itself, in ample time.

Mr. EDMUNDS. You do not mean the claim, but the amendment.

Mr. MORRILL, of Maine. I should like to ask the Senator how these figures are ascertained? The sum appropriated here is \$229,848 23. The amendment is in this language:

For reimbursement of the State of Iowa for expenses incurred and payments made during the rebellion, as examined, audited, and found due to the State by General Robert C. Buchanan, commissioner, under the act of Congress of July 25, 1866, \$229,848 23.

Mr. HARLAN. That is the exact amount found to be due by the commissioner under the law that was read.

Mr. EDMUNDS. I call for the reading of the report of the commissioner. Let us see what it is.

The PRESIDENT *pro tempore*. No such report is here.

Mr. EDMUNDS. Do I understand the Chair to say that the document is not before this body?

The PRESIDENT *pro tempore*. It is not before the Chair. The Chair cannot undertake to judge of the facts. It is said that the amount was ascertained. That is a question for the Senate, whether it is ascertained or not.

Mr. EDMUNDS. That is not my point. I ask that the public document referred to in the amendment may be read for the information of the Senate.

The PRESIDENT *pro tempore*. It is not in the possession of the Secretary, I believe.

Mr. CONNESS. I suppose if the Senator will send it to the Secretary he will read it.

Mr. EDMUNDS. Yes, sir; but the Senator is entirely unable to find any such document, and he supposes, inasmuch as the Senator from Iowa states in his amendment that there has been such an official report made to this body, that this body is in possession of it and that it can be used on this question. If no such report has been made then my honorable friend from Iowa is mistaken in moving the amendment at all. If it has been made and is a part of our proceedings I wish to have it read in this connection; but I understand the Chair to say it is not in the possession of the Senate.

Mr. MORRILL, of Maine. It seems to me the difficulty about the case is that it is not made out on the facts. I understand the Chair to rule that the amendment is before the Senate. The question is whether the Senator from Iowa, offering his amendment, makes out his case on the facts. The amendment is that a certain sum of money be paid as found due according to a certain report. There is no evidence here; there is no evidence the committee could act on as to such a report.

Mr. HARLAN. I think it is a little unkind for the chairman of the very committee to whom the case was referred to say they have not reported on it, when if I could say publicly what has been said to me privately it is a mere oversight that it was not reported and carried into the bill by that committee.

Mr. MORRILL, of Maine. Does the Senator refer to the chairman of the Committee on Appropriations?

Mr. HARLAN. I do refer to him; but perhaps, judging from a suggestion made to me by my honorable friend upon the right, the Senator may be talking about one amendment and I about another.

Mr. MORRILL, of Maine. I was not talking about the notice given; that was all right; but the Committee on Appropriations had no evidence furnished to verify the statement in this amendment, and the suggestion I make to the Senator is that he does not furnish the Senate with evidence to verify the fact stated in the amendment.

Mr. HARLAN. I would inquire of my hon-

orable friend if that is the reason the Committee on Appropriations did not report in favor of the amendment formally?

Mr. MORRILL, of Maine. No, sir, it was not; because the truth is my attention was not called to it personally.

Mr. HARLAN. It was an oversight.

Mr. MORRILL, of Maine. It was an oversight on the part of the committee; but we had no evidence before us and I saw no amendment. So far as the rule is concerned the Senator from Iowa performed his duty when he sent it to the committee. The Senator's colleague is a member of that committee.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts to the amendment of the Senator from Iowa.

Mr. SUMNER. I was explaining the amendment to the amendment. I said that it stood on precisely the same ground with the proposition moved by the Senator from Iowa. If that can be sustained by the Senate then my amendment can be sustained. The only difference between the two is that one concerns Iowa and the other concerns Massachusetts. The case of Massachusetts is identical with that of Iowa. There were troops employed there at considerable expense to the State during the war of the rebellion, especially for the defense of the coast, and the expenditures of the State on that account have since the war been examined, audited, and found to be due by a commission acting by the authority of Congress, precisely as in the case of Iowa. Therefore, if the Senate can recognize the validity of the Iowa claim, it must also recognize the validity of the Massachusetts claim. I see no difference between them. I would say, however, that I do not move this now with any idea of embarrassing the amendment of my friend, the Senator from Iowa. I do it only to take advantage of the proposition he has made in order to secure the rights of my State.

I have had too much occasion for the last two days to see in this Chamber that a claim presented from Massachusetts hardly receives the favor that a claim from another State might expect and actually receives. There is a difference. Senators are disposed to attack Massachusetts, to vote against her claims. The Senator from Ohio smiles. He led in an attack on Massachusetts which was utterly unjustified. Now, here is another opportunity for him to lead in an attack on Massachusetts. I insist that the two cases shall go together, identical as they are in their character. You cannot vote for one without voting for the other. You cannot reject the one justly without rejecting also the other.

Mr. HARLAN. Mr. President, I now have in my hand the report of the commissioner which seems to be so much desired by the honorable Senator from Maine and the honorable Senator from Vermont. I can read now the items. I could read the whole report, but I prefer to confine myself to the substance of it. General Buchanan reports:

"My examination of these accounts shows me that they are carefully made up in accordance with the laws of the State, verified on oath, and though not in the forms used by the Treasury Department, yet sufficiently like them for all practical purposes. I therefore did not attempt to apply to them the regulations of the accounting officers of the Treasury, for had this been possible it did not seem likely that Congress would have provided by law for a commissioner 'to examine and report upon' claims that could have been as well decided upon by those officers themselves. The letters of the Secretary of the Treasury and the Second Comptroller, hereto appended, sanction this opinion."

The commissioner then proceeds to make a detailed statement of the amounts that he finds due under the various heads, of which this is an example:

<i>Colonel Morledge's regiment.</i>	
On account of pay of officers and men.....	\$14,405 11
On account of subsistence.....	1,206 56
On account of transportation.....	1,988 60
On account of forage.....	206 35
On account of other expenses.....	105 02

Amount claimed on all accounts.....\$17,911 64

Then he states minutely the amount found

due under the head of Colonel Edwards's regiment; then again under Captain Jones's company; then the southern border brigade, northern border brigade, northwestern frontier guard, and summing up the whole claim it amounts to \$229,848 23, and is signed "Robert C. Buchanan, Brevet Major General United States Army, Commissioner."

I hope this will be satisfactory to the two honorable Senators who have called for it.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts to the amendment of the Senator from Iowa.

Mr. FRELINGHUYSEN. I supposed that if claims for expenditures during the war were such that the Department could not under existing laws settle them they underwent some investigation in the Senate; that they were referred to a committee of the Senate and reported upon. This claim has been submitted to no investigation in the Senate. The report of the commissioner I really do not think amounts to anything. My point is, that it must either be a claim of that character that the Department may settle it, or if it is to be passed upon by the Senate it must be submitted to a committee of the Senate and we not forced to take the mere report of a commissioner.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

Mr. WILLIAMS. I would inquire if that is in order? I make a point of order on the amendment of the Senator from Massachusetts and ask the decision of the Chair. It seems to be a general provision for all States, making appropriations for the benefit of all the States—a piece of general legislation. It seems to me to be out of order.

The PRESIDENT *pro tempore*. The amendment to the amendment seems to the Chair to be in order. The question is on the amendment to the amendment.

The amendment to the amendment was rejected.

Mr. EDMUNDS. I do not feel at all encouraged in favor of voting this large sum of money instantly on the first inspection by this report. The document which my honorable friend from Iowa has produced purports to be a report made in the House of Representatives by Mr. GARFIELD from the Committee on Military Affairs.

Mr. HARLAN. He copies the whole report of General Buchanan.

Mr. EDMUNDS. Perhaps he does. I do not know whether he does or not. But that purports to give a report dated "Commissioner's office Iowa Claims, Washington, District of Columbia, December 6, 1867," which proceeds to set out under a variety of accounts what the claim is, not undertaking to pass upon it, because he had no authority to pass upon it; he was merely to report to us; he pursued his duty if he did report it. The act under which he was to proceed expressly provided that he should report on or before the 1st day of December, 1866. His authority, therefore, was entirely exhausted for more than a year before he undertook to report at all, because he did not report until December, 1867.

Congress had a purpose in providing for some immediate limitation in the examination of these accounts; but the matter was allowed to lie for more than a year, and then it is said we have this report. Now, in what I say I do not mean to express myself as opposed to this claim or any other of the State of Iowa. I only mean to say that the Senate has no right to dispose of the tax-payers' money on the jump here, the last night of the session, without any investigation, which is impossible now; and saying that, I appeal to the Senator from Iowa if it is right to press a claim that has not been audited and allowed by anybody, that the statute never authorized to be audited and allowed by anybody, that has not been examined by any committee, without any opportunity of examination, but which is only reported to us as a claim of the State of Iowa by this officer.

Now, without expressing any opinion on the ultimate merits of the claim, I appeal to the honorable Senator if it is consistent with our sense of what is good policy and justice to the people as well as the States to press an amendment of this kind at this late hour?

Mr. HARLAN. Well, Mr. President, if the Senator's vote depends on my judgment in the matter I will say to him that I think it is right and that it ought to be paid. The officer appointed by the President has attempted to carry into effect the law. He is a high officer of the Government acting on his official responsibility. He goes to the ground or to the proper Departments, finds all the papers, examines them minutely, and makes his report on his official responsibility to Congress.

What did the law mean? It certainly intended that if anything was due to Iowa it should be paid. The President appointed the commissioner provided for in the law. The commissioner proceeded to perform his duty, and has made his report, and has reported the exact amount of money due the State of Iowa under these various heads, which is mentioned in the amendment I have offered, and which was referred to the proper standing committee of this body. I do not think it at all conclusive that the honorable Senator from Vermont may not have examined this particular claim and that he may have some doubts whether he might not have found some objections to its payment if he were to examine it. Why, Mr. President, as great as the honorable Senator is it is impossible for him individually to examine all the cases that come before this body. He examines, I have no doubt, carefully and minutely and ably everything that is submitted to him or submitted to a committee of which he is a member, but he not happening to be a member of the committee to which this was referred the Senate has not the benefit of the light which he could have thrown on this subject; but as it is impossible for any one Senator to do all the business that is necessary to be done for this country, he ought not to complain of the rest of us who have examined subjects if we desire the judgment of the Senate on them, even though he may not feel perfectly clear in regard to them.

Mr. EDMUNDS. Mr. President, I congratulate my honorable friend from Iowa upon the successful demonstration he has made, so far as I am personally concerned. I admit that the Senate cannot wait for my investigations, but I do submit that they ought to wait for his. It was not fifteen minutes ago that he was apologizing for knowing nothing at all about this claim because his associate was away.

Mr. HARLAN. Mr. President, I hope the Senator will not do me injustice.

Mr. EDMUNDS. No; justice.

Mr. HARLAN. I only gave my colleague credit for knowing more than I did on the subject. That was all.

Mr. EDMUNDS. Very well. I think it very likely that my friend is correct in his statement. I hope so, at any rate. [Laughter.]

Now, what I was objecting to was not the fact that I was unacquainted with this claim myself, except as one sixty-sixth part of this body. What I did object to was that the Committee on Appropriations had not investigated this claim; whether it was their fault or not is not for us or for the tax-payers. The Senate has not had the benefit of anybody's investigation except that of the two Senators whose State is claiming the money. That is the trouble.

Mr. MORRILL, of Maine. I ask my honorable friend whether he understands it to be the duty of the Committee on Appropriations to investigate all possible claims of which they have notice that some other committee will move them on their bills?

Mr. EDMUNDS. No, Mr. President; I do not think it is. I do not care whether it is or not. I am not imputing any blame to the Committee on Appropriations. I think they did right. Here was this amendment sent to them,

with no document before this body upon which it was founded, no evidence furnished to which they could refer, and therefore they did not report upon it. But no matter how that may be, this body is entitled and the people who have to bear the burden are entitled to have every claim investigated, by somebody besides the claimant before this body. This claim has not been investigated, confessedly; no committee has looked into it at all; and here it is offered by my honorable friend at the last moment of the session and he desires the Senate to pass it, so far as I can study his argument, upon the sole ground that the Senator from Vermont is not satisfied with it.

Mr. HARLAN. Why, Mr. President, I am amazed at the Senator. He says it has not been examined by anybody when it has been examined by the very officer provided for by the law itself. Congress, both branches of Congress, passed a law directing the President to appoint a commissioner to examine this claim of Iowa; the President appointed the commissioner, and the officer thus appointed has examined the claim. It was not intended by Congress that the payment of this claim should depend on the investigation of a committee or it would have been referred to a committee; it was intended that it should depend on the report of the commissioner appointed under the provisions of the law itself.

Mr. EDMUNDS. The honorable Senator is entirely mistaken in his construction of the law. The law expressly requires this commissioner to examine these claims and report them to Congress for its action. This statute does not admit any liability at all to the State of Iowa; none can be wrung out of it by any amount of construction or pressure. It is merely to have the amount stated and reported to this body or the other body for their consideration.

Now, the Senator says that it being reported we have no right to consider it; the report of this officer is conclusive, and we have nothing to do but put our hands in our pockets and take out the money and pay it. If no further investigation is required why did not Congress provide in the same act that this officer should certify to the Secretary of the Treasury and he should draw his warrants for the amount? The statutes are full of laws of this kind, where Congress, in order to facilitate its own investigations, appoints a commission to report to it the evidence and the statement of a claim. When we have got that report we, through our own committees, investigate the grounds upon which it is based. It is because we have not had that investigation in this case that I object to this amendment.

Mr. HARLAN. The Senator cannot put words in my mouth and I take it silently. I said no such thing. I did not say that the Senator or any member of the Senate had no right to examine this claim. I only said that the Senator's suggestion that it had never been examined was not according to the facts as I understood them, for it has been examined and the evidence is before the Senator's eye. It has been examined as provided by law, under the very law for which I doubt not the Senator himself voted.

Mr. EDMUNDS. The law provided that it should expire a year before he made his investigation, so that it was not under the law plainly.

Mr. HARLAN. If a claim thus examined and presented to Congress cannot be paid I do not know what claim can be paid. When a special act is passed authorizing the appointment of a high officer of the Government to examine into the merits of a claim, and when that report has been made and is laid on the desk of every member of Congress and has been lying there for weeks and months, if it is to be defeated by this kind of snap argument I should despair of ever getting a just claim through. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 18; as follows: YEAS—Messrs. Buckalew, Conness, Drake, Har-

lañ, Henderson, McDonald, Morgan, Norton, Pomeroy, Ross, Sumner, Thayer, Tipton, Van Winkle, Vickers, Wade, Warner, Welch, and Williams—19.

NAVS—Messrs. Abbott, Conkling, Edmunds, Ferry, Fessenden, Frelinghuysen, Harris, McCreery, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Pool, Rice, Sawyer, Sprague, Stewart, Whyte, and Wilson—18.

ABSENT—Messrs. Anthony, Bayard, Cameron, Cattell, Chandler, Cole, Corbett, Cragin, Davis, Dixon, Doolittle, Fowler, Grimes, Hendricks, Howard, Howe, Kellogg, Morton, Nye, Osborn, Patterson of Tennessee, Ramsey, Robertson, Saulsbury, Sherman, Spencer, Trumbull, Willey, and Yates—29.

So the amendment was agreed to.

Mr. HENDERSON. I offer the following amendment as a new section:

*And be it further enacted, That to enable the President to carry out the provisions of the third article of the treaty of November 15, 1861, with the Pottawatomie Indians, as modified by the treaty of March 29, 1866, by passing to certain members of said tribe who have elected to become citizens in accordance with said treaties the proportion of the cash value of the Pottawatomie annuities to which they may be entitled, the sum of \$233,163 80 in currency and the sum of \$123,699 73 in gold, to be paid out of the funds belonging to said tribe of Indians, or so much of said sums as may be necessary to pay the members of said tribe who have actually withdrawn from their tribal relations and under said treaties have become citizens of the United States, be, and the same is hereby, appropriated: *Provided*, That no part of said money due or belonging to minor children shall be paid to any person for such children until such person shall have been duly appointed the guardian or curator of such children and shall have executed a bond of security as required by the laws of the State of Kansas.*

Sec. — And be it further enacted, That before the President shall cause any money to be paid under the preceding section or any patents to be issued he shall cause evidence to be taken and shall be satisfied that the recipients are entitled to the same under the aforesaid treaties, and he may require the Secretary of the Interior to cause to be sold such proportion of the bonds held by him in trust for said Indians as may be necessary to comply with said provisions.

Mr. MORRILL, of Maine. I raise the question of order.

Mr. HENDERSON. There is not a dollar appropriated from the Treasury by the amendment. There are funds belonging to the Pottawatomie Indians held in trust, and under the treaties alluded to there whenever any portion of them shall separate from the tribe and take their lands in severalty, the President is required to sell a certain proportion of their stocks, that is an amount to give to each one his proportionate part so as to set him up in life as a citizen of the United States. In the Indian appropriation bill this matter was overlooked. That bill is now before a conference committee, but nothing having been said on this subject in either of the Houses of course it is impossible to get it into that bill. It is a matter of considerable importance. Some six hundred and seventy-four of these Indians have taken their lands in severalty. We provided for six hundred of them last year. Six hundred and seventy-four more have now separated from the tribe and have taken their lands in severalty and desire their proportion of the funds. It is but right that the stocks held in trust should be sold, or a sufficient amount of them sold, in order to give these Indians the proportion they are entitled to. The amendment does not take a dollar from the Treasury, and it is not worth while to object to it on that ground. The Indian Committee have unanimously recommended it.

Mr. POMEROY. I hope the Senator from Maine will not object to it. They are citizens and vote in our State.

Mr. MORRILL, of Maine. If the amendment makes no appropriation I do not object.

Mr. HENDERSON. It comes out of their own money.

The amendment was agreed to.

Mr. WILLIAMS. I move to amend the bill on page 26, line six hundred and fourteen, by striking out all after the word "provided," as follows:

That for surveying the timbered lands lying west of the coast range of mountains the same pay may be allowed for township and section lines as is allowed for standard lines.

And inserting in lieu thereof:

That the Commissioner of the General Land Office in his discretion may authorize public lands in said State densely covered with forests of thick undergrowth to be surveyed at augmented rates, not exceeding eighteen dollars per mile for standard par-

allels, fifteen dollars for township, and twelve dollars for section lines.

This amendment is simply changing the form of the bill, not affecting it particularly.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I have an amendment to offer to which I presume the chairman of the Committee on Appropriations will not object, as it is to carry out more precisely the amendment on page 27. It is to insert after the word "made" in line six hundred and forty-three:

And the act entitled "An act to amend the charter of the Washington Gas-Light Company," approved January 30, 1865, be, and the same is hereby, repealed.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I have another amendment to come in on page 29, after line six hundred and ninety-one:

To aid in supporting the National Association for the Relief of Destitute Colored Women and Children of this District, \$5,000, to be expended under the direction of the executive committee of its board of managers.

The amendment was agreed to.

Mr. CHANDLER. I am instructed by the Committee on Commerce to offer two amendments. The first is to insert after line two hundred and forty-four:

For improvement of the mouth of the Mississippi river, \$50,000.

Mr. TRUMBULL. Are you going to put on the river and harbor bill?

Mr. CHANDLER. No, sir; only two items.

The amendment was agreed to.

Mr. CHANDLER. I move to insert the following, to come in after the amendment just adopted:

For improvement of the St. Clair flats, Lake St. Clair, \$159,000.

Mr. MORRILL, of Maine. This is from the Committee on Commerce, I suppose.

Mr. CHANDLER. Yes, sir; and I served notice on the Senator. It has the unanimous recommendation of the Committee on Commerce.

Mr. MORRILL, of Maine. Is this the same amount that was agreed upon by the Committee on Commerce in the bill reported to the Senate?

Mr. CHANDLER. Yes, sir.

The amendment was agreed to.

Mr. THAYER. I offer the following amendment, to come in after line seven hundred and fifty-nine:

For deficiency in the appropriation for the relief of the Navajo Indians, now at or near Fort Sumner, to be expended under the Secretary of the Interior, \$80,813 58.

Mr. MORRILL, of Maine. I ask the Senator if that is the same item which the Senate put on the Indian appropriation bill?

Mr. THAYER. Yes, sir; it has passed this body twice.

Mr. CONNESS. My recollection is that that is contained in the Indian appropriation bill.

Mr. MORRILL, of Maine. That is just what I am inquiring about.

Mr. CONNESS. If so, certainly it should not be here.

Mr. HARLAN. That makes it necessary. I suppose, if I have leave to do it, that I can make a verbal report from the joint committee of the two Houses in regard to the Indian appropriation bill. The committees of conference have met, and after a conference have come to the conclusion that it will be impossible for them during the brief remaining hours of the session to consider the various points of difference of the two Houses. They therefore agreed not to make the attempt, but to recommend to their Houses respectively, immediately after the reorganization of the next Congress, that the whole subject of Indian affairs be referred to a joint committee of the two Houses.

The amendment was agreed to.

Mr. SPRAGUE. I offer an amendment from the Committee on Commerce, to come in after line three hundred and seventy-two:

For life-boat station on Narragansett beach, Rhode

Island, to be expended under the direction of the Secretary of the Treasury, \$5,000.

The amendment was agreed to.

Mr. BUCKALEW. I believe there is an amendment of the Committee on Appropriations on page 8 which has not yet been acted upon.

Mr. MORRILL, of Maine. There are two amendments not yet acted upon reported by the Committee on Appropriations. I should like to have the Clerk read them.

The *PRESIDENT pro tempore.* The amendments which have been passed over will now be taken up.

The *SECRETARY.* After line one hundred and seventy-five the Committee on Appropriations propose to strike out the following clause:

To defray the expense of a preliminary survey of the site for the proposed navy-yard at League Island, \$5,000.

Mr. BUCKALEW. I asked that this amendment should be laid over until the Senator from New Jersey was present, and he is now here. This is an appropriation of only \$5,000 for the survey of League Island, which the Senate will remember was purchased by the city of Philadelphia and donated to the General Government and accepted for naval purposes. I suppose there can be no objection now to retaining this appropriation and voting down the amendment, especially since the appropriation has been made for New London.

Mr. CATTELL. I trust the appropriation will be made. The city of Philadelphia has not only fulfilled its original contract with the Government, but in addition has at an expense of over one hundred thousand dollars bought the shore line. The Secretary of the Navy recommends this appropriation simply for a survey and for a preparatory report. I sincerely hope the amendment will not be agreed to.

Mr. MORRILL, of Vermont. How many times has it been surveyed?

Mr. CATTELL. Never at the Government expense, I will say, if the gentleman wants a categorical answer.

Mr. MORRILL, of Maine. I wish to make a statement about that to remind the Senate of what I said when I was up before. When my attention was called to it I said the committee had no especial information on the subject and so struck it out; the committee were not confident whether it was right or wrong, but having no information on the subject they deemed it best to strike out the clause. Now, I understand the Senator from New Jersey to say that it is important, and if so, I think it would be well, perhaps, for the Senate not to strike it out.

The *PRESIDENT pro tempore.* The question is on the amendment to strike out the appropriation.

The amendment was rejected.

The *PRESIDENT pro tempore.* There is one more reserved amendment of the Committee on Appropriations which will be read.

The *SECRETARY.* It is to strike out from line one hundred and seventy-nine to one hundred and eighty-one, as follows:

For the completion of a bridge over the Dakota river, and to locate and survey the road from said bridge to the Vermillion bridge, \$1,000.

Mr. RAMSEY. That is an old matter. I do not know why this action should be taken now. The Senator from Connecticut [Mr. FERRY] had it in charge some time ago as a member of the Committee on Territories. The bridge is over the Dakota river, in the Territory of Dakota. It seems a very moderate appropriation; and really, in view of the wants of these new communities, it seems but a small contribution from the Government. I should like to know from the chairman why the committee recommend striking out so moderate and reasonable an appropriation.

Mr. HARLAN. The Senator from Connecticut had this matter in hand a year ago, and I hope he will explain it to the Senate.

Mr. FERRY. The question, as I understand, is upon agreeing to the amendment

reported by the Committee on Appropriations striking out the appropriation for the completion of a bridge over the Dakota river; and the chairman of the Committee on Appropriations, when that amendment was first reached, stated that the reason of the amendment proposed by the committee was that the committee had no information where or what this bridge was or why any such appropriation was needed.

A year ago a bill was reported by myself from the Committee on Territories, which I have before me, providing—

"That so much of the unexpended balance of an appropriation made March 3, 1865, for the construction of certain wagon-roads in the Territory of Dakota as shall not exceed the sum of \$6,500 be, and the same is hereby, applied to the completion of the bridge over the Dakota river on the line of the Government road leading from Sioux City, in the State of Iowa, to the mouth of the Cheyenne river, in Dakota Territory."

That bill, as reported from the Committee on Territories, applied so much of an unexpended balance of \$11,500 as might be necessary to the completion of the bridge, and on the motion of the Senator from Vermont [Mr. EDMUNDS] the appropriation was limited as it stands in the bill to \$6,500, against my remonstrance, I then stating that I did not believe that sum would be sufficient; but the limitation was inserted by the Senate, and the Delegate from the Territory, rather than risk the bill at that time, took it as it was with the intention, if it proved insufficient, to ask for a further appropriation. He called upon me a few days since and stated that the amount had been expended and it would require about one thousand dollars more, and it would be upon one of the appropriation bills, and asked me to look at it when it came in. I had not observed it until my attention was called to it by the chairman of the Committee on Appropriations. This is undoubtedly the appropriation referred to.

The amendment was rejected.

Mr. STEWART. I offer an amendment, to come in after line five hundred and four:

For continuing the collection of statistics of mines and mining by Professor R. W. Raymond, \$10,000, to be expended under the direction of the Secretary of the Treasury; and the sum of \$2,500 appropriated for said purpose by the act of July 20, 1868, shall be transferred by the Commissioner of the General Land Office to the Treasury Department, to be expended as provided in said act.

The amendment was agreed to.

ARMY APPROPRIATION BILL.

Mr. WILSON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill of the House No. 1803, being an act making appropriations for the support of the Army for the year ending June 30, 1870, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses as follows:

That the Senate recede from their sixth, eighth, and sixteenth amendments.

That the House recede from their disagreement to the first, second, third, fourth, fifth, seventh, tenth, eleventh, twelfth, thirteenth, and fourteenth amendments of the Senate and concur in the said amendments.

That the House recede from their disagreement to the ninth amendment of the Senate and concur in the same, with the following amendment, namely, strike out "eight" and insert "six and one half;" and that the Senate agree to the same.

That the House recede from their disagreement to the fifteenth amendment of the Senate and agree to the same, with the following two amendments, namely:

1. Strike out the first twelve lines and insert in lieu thereof the following:

Sec. — And be it further enacted, That there shall be no new commissions, no promotions, and no enlistments in any infantry regiment until the total number of infantry regiments is reduced to twenty-five; and the Secretary of War is hereby directed to consolidate the infantry regiments as rapidly as the requirements of the public service and the reduction of the number of officers will permit.

Sec. — And be it further enacted, That no appointments of brigadier generals shall be made until the number is reduced to eight, and thereafter there shall be but eight brigadier generals in the Army.

2. Strike out all after and including line fifteen down to and including line twenty-one of the said fifteenth amendment of the Senate.

And that the Senate agree to the said amendments.

That the House recede from their disagreement to the seventeenth amendment of the Senate and con-

cur in the same, with the following amendment, to wit: strike out all after the word "enacted," in line one, and insert: "brevet rank shall not entitle an officer to precedence or command except by special assignment of the President, but such assignment shall not entitle any officer to additional pay or allowances;" and that the Senate agree to the same.

HENRY WILSON.

JOHN CONNESS.

W. SPRAGUE.

Managers on the part of the Senate.

J. A. GARFIELD.

J. G. BLAINE.

G. M. DODGE.

Managers on the part of the House.

Mr. CONKLING. I ask to have again read the provision in reference to the number of brigadier generals.

The Secretary read the section.

Mr. CONKLING. I submit to the chairman of the committee that that language is repugnant. There is to be no appointment made until the number is reduced to eight and thereafter there shall be only eight. When it is reduced to eight the first appointment would make it nine. I am not sure what would be the construction of such a provision.

Mr. CONNESS. I was a member of the conference committee. There is evidently a word left out. "Less than eight" is the language intended to be used; and that being inserted and corrected in the House will make it right.

Mr. CONKLING. We had better change it now.

Mr. CONNESS. They are going to change it. It is a mere clerical error.

Mr. TRUMBULL. The report had better be withdrawn and have it corrected.

Mr. CONNESS. The committee are all present.

Mr. TRUMBULL. The House committee are not present.

Mr. CONNESS. When it goes to the House it can be corrected there also.

The PRESIDENT *pro tempore*. The question is on concurring in the report.

Mr. CONKLING. I suggest that it had better lie over informally until the correction can be made and the managers on the part of each House assent to it. They can do it in a few minutes.

The PRESIDENT *pro tempore*. It will be passed over if there be no objection.

Mr. WILSON subsequently submitted the report corrected by the insertion of the words "less than" before "eight."

The report was concurred in.

CIVIL APPROPRIATION BILL.

The PRESIDENT *pro tempore*. The bill (H. R. No. 2007) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, is before the Senate as in Committee of the Whole.

Mr. THAYER. I submit an amendment to come in after line five hundred and thirty-one:

For the purchase of a site at Omaha, Nebraska, and for the erection upon the same of a building for a post office, the Federal courts, and Federal offices, \$25,000.

Mr. TRUMBULL. That was put into another bill.

Mr. THAYER. It was put on the deficiency bill by the Senate, but it is now stricken out because that bill is for deficiencies alone.

Mr. TRUMBULL. The deficiency bill has not been finally closed.

Mr. THAYER. But this item has been stricken out of that bill, and I move it on this.

Mr. TRUMBULL. But it passed the Senate on the other bill.

Mr. THAYER. Yes, sir; but the conference committee have stricken it out.

Mr. TRUMBULL. The conference committee have not reported yet.

Mr. THAYER. I have just had the information from the members of the committee that that amendment is stricken out.

Mr. TRUMBULL. I have no objection to it, but I do not think we should appropriate it in both places.

Mr. THAYER. The committee of conference are in session, and I went to them and

they told me they had agreed that the Senate should recede from the amendment.

Mr. CONNESS. That is not in order.

Mr. MORRILL, of Maine. I did not know that my friend from Nebraska was going to put this item on this bill. If there is any idea of ever getting this bill concluded I think I shall have to observe some order. It is now twelve o'clock at night and this bill has to go to a committee of conference. If the Senate is to continue to load down this bill between now and sunrise to-morrow morning we shall certainly have to abandon the whole bill. My friend from Nebraska must see that I cannot allow this amendment to go on.

Mr. THAYER. I am obliged to state that it was by the advice of the chairman of the Committee on Appropriations that I offered this item as an amendment to this bill. I consulted him yesterday on the subject.

Mr. MORRILL, of Maine. My friend must certainly be mistaken about it. This is the first intimation I have had of it. It was on the other bill.

Mr. THAYER. I consulted with the chairman of the Committee on Appropriations about it. It has been before the Committee on Appropriations for a week, having been reported from the Committee on Post Offices and Post Roads by my friend from Minnesota, the chairman of that committee. I have complied with every rule of the Senate. I have consulted the chairman of the Committee on Appropriations twice or three times, and he himself suggested—he will pardon me, he has forgotten it—that I might move it on the miscellaneous bill. I unintentionally moved it on the deficiency bill when I ought not to have done so.

Mr. MORRILL, of Maine. I suppose the honorable Senator means to say that he consulted me about which bill he should move it on and I advised him to move it on this; but he really moved it on the other. He does not mean to say that after he moved it on the other I advised him to move it on this?

Mr. THAYER. Not at all, because it was not necessary.

Mr. MORRILL, of Maine. Having moved it on that, and having carried it on that, the misfortune of my honorable friend's case is that he finally lost it.

Mr. CONNESS. And he brings it forward here again.

Mr. MORRILL, of Maine. If the Senate think it a prudent thing for me not to raise questions of order and to allow any gentleman to put on anything he pleases at this late hour, be it so. If it meets the general sense of the Senate that I shall not raise the objection it is better, perhaps, to rescind all rules. I do not wish to stand here against the general sense of the Senate. I am advised by the Senator from North Carolina that if this proposition goes on he has an amendment of a similar character to move for his State.

Mr. ABBOTT. I desire to offer an amendment to the amendment of the Senator from Nebraska.

Mr. CONNESS. The difficulty about this point seems to me to be that it can hardly be right to offer this amendment here, it having been adopted heretofore on another bill and then lost in the conference. Its rejection in a conference, if it has been rejected there, is a rejection by both Houses. Now, is it proposed to go on offering these amendments to every bill that shall be pending after both bodies have rejected them? I do not see where we are to end if we go on in this way. I hope we shall take a vote.

Mr. ABBOTT. I send to the Chair an amendment to the amendment.

Mr. THAYER. I hope the Senator will not load down my amendment.

The PRESIDENT *pro tempore*. The amendment to the amendment will be read.

The Secretary read the amendment of Mr. ABBOTT, which was to add to the amendment of Mr. THAYER:

For court-house, custom-house, and post office at Wilmington, North Carolina, \$50,000: *Provided*, That

the present custom-house and court-house may be sold within such rules as may be prescribed by the Secretary of the Treasury and the proceeds thereof paid into the Treasury.

Mr. ABBOTT. If you will permit me, sir, I will state that the present post office and custom-house building at Wilmington is located near the water, in a very unhealthy place. The building itself is inconvenient. It can be sold for mercantile purposes, I suppose, for about \$30,000. We ask an appropriation of \$50,000 in order to build a new court-house, custom-house, and post office building in a different locality, and I offer that as an amendment to the amendment of the Senator from Nebraska.

Mr. CONKLING. I should like to know from what committee these amendments come.

Mr. ABBOTT. My amendment comes from no committee; neither does the amendment of the Senator from Nebraska. On consultation with the Senator from Maine, the chairman of the Committee on Appropriations, I had agreed to waive my amendment; but since that time the Senator from Nebraska has offered one of precisely the same character, and therefore I offer mine now as an amendment to his.

Mr. MORRILL, of Maine. I have said to the Senator from North Carolina that this amendment at the present time in my judgment would be irregular; but the amendment of the Senator from Nebraska has had the sanction of the Senate on another bill which he now tells us has failed by a disagreement of a committee of conference.

Mr. THAYER. The Senator from New Hampshire [Mr. CRAGIN] is on that committee of conference, and as he has just come in he can state the facts.

Mr. CRAGIN. I suppose I am at liberty to state that that item has been stricken from the deficiency bill mainly because it is not properly applicable to a deficiency bill.

Mr. MORRILL, of Maine. So we have had the judgment of the Senate as to the propriety of the measure, and now the Senator from North Carolina proposes to attach this to it as an amendment. The Senator has informally presented his case to me, and I am satisfied that if his case had been sent to the committee properly his amendment would have been adopted. So that I believe both these measures are proper enough in themselves, but they are irregularly before us. I do not wish to raise the question of order if it is the general sense of the Senate that these items had better go on. I have no desire to raise the rule.

Mr. TRUMBULL. If the rule is not raised on this, is it to be raised on others? I want to know where we are to stop. The chairman of the Committee on Appropriations certainly is not going to raise the rule on one amendment and not on another.

Mr. THAYER. I submit to the Senator from Illinois whether his objection is a good one. I have complied with the rule in every respect; the Senator from Minnesota can bear testimony to that. This amendment has been before the Committee on Appropriations.

Several SENATORS. Let us vote.

Mr. THAYER. Very well; I will not take up time.

Mr. ABBOTT. I wish simply to say that in my judgment this amendment which I offer is for the interest of the Government in the place in which this building is located as much so as any amendment could possibly be; and I have offered this amendment on consultation with the best men in that part of the State. I ask that it be added to the amendment of the Senator from Nebraska.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment, as amended.

The amendment, as amended, was agreed to.

Mr. RAMSEY. I move an amendment, to come in after line six hundred and forty:

For survey of reservation for the Sisseton and Wahpeton bands of Dakota or Sioux Indians, as per third, fourth, and fifth articles of treaty with said

Indians, February 19, 1867, \$45,000, or so much thereof as may be necessary.

Mr. CONNESS. Where is this from?

Mr. RAMSEY. This comes from the Committee on Public Lands.

Mr. MORRILL, of Maine. I raise the question of order on the amendment. The Committee on Appropriations have had no notice of it.

The PRESIDENT *pro tempore*. It is out of order unless reported by a committee.

Mr. RAMSEY. This item was placed upon the Indian appropriation bill, and that bill has gone to a committee of conference, and I understand there is no probability of the committee of conference acting on it.

The PRESIDENT *pro tempore*. It cannot be debated. Does the Senator appeal from the decision of the Chair?

Mr. CONNESS. I rise to a question of order. It is that the Senator from Minnesota is not in his seat and his proper place, and cannot address the Chair out of it. [Laughter.]

The PRESIDENT *pro tempore*. That is overruled by the custom of the Senate from time immemorial. [Laughter.]

Mr. RAMSEY. I appeal to the Senator from Maine to withdraw his point of order.

Mr. MORRILL, of Maine. I desire to propose an amendment based on a communication from the Secretary of State:

For expenses of the commission to run and mark the boundary line between the United States and the British possessions bordering on Washington Territory, \$13,600.

I have a communication from the State Department, in which the Secretary says:

"I have the honor to inclose a copy of a letter of the 8th instant from Archibald Campbell, esq., and for the reasons set forth in that paper recommend that an appropriation of the amount specified by him be made by Congress to enable the joint commission of the northwest boundary to accomplish the object for which it was organized."

The amendment was agreed to.

Mr. MORRILL, of Maine. I have another amendment which I ask the unanimous consent of the Senate, after making the statement, to present.

The PRESIDENT *pro tempore*. The amendment will be read.

The amendment was read, as follows:

To enable the Secretary of the Interior to provide for the proper maintenance and tuition of the beneficiaries of the United States in the Columbia Institution for the Deaf and Dumb, for the year ending June 30, 1869, \$17,500.

Mr. MORRILL, of Maine. I will state the facts. This is what purports to be a deficiency strictly for the support of beneficiaries whom by the law we are bound to support at that institution; and it is not provided for in any of the bills that I have noticed. I hope I shall have the unanimous consent of the Senate to offer it.

The amendment was agreed to.

Mr. MORRILL, of Maine. I have another amendment which I desire to offer:

For the maintenance and tuition of the same, for the year ending June 30, 1870, \$30,000.

I desire to say only a word in regard to this institution. For the deaf, dumb, and blind the Government has uniformly appropriated this sum of money for the support of this institution since I have been in the Senate; and this is the first time there has been a failure to do so. This appropriation should more properly have been on the legislative and executive appropriation bill, but it is not there. It was referred to the Committee on Appropriations informally, but was not passed upon by that committee. I submit it, therefore, to the judgment of the Senate whether they will make the usual appropriation for the next year.

The amendment was agreed to.

Mr. VICKERS. I offer the following amendment, to come in after line three hundred and twenty-seven:

For a light-house on Love point, on the northern extremity of the shoal, Kent Island, mouth of Chesapeake river, Maryland, \$15,000.

Mr. CONKLING. What committee does that come from?

Mr. VICKERS. This appropriation is recommended by the Department, and is also to carry out a law passed in 1854 appropriating similar sums for the same purpose, so that it is in virtue of the recommendation of the Department and also to carry out an existing law. I will only say that it is a very important point. It is at the mouth of a river navigable for fifty miles and five miles wide at its mouth, and is necessary for the protection of the commerce of the bay as well as important for foreign commerce going to the city of Baltimore. I do not think it comes within the rule, and I suppose the honorable chairman of the Committee on Appropriations will hardly object.

Mr. MORRILL, of Maine. It is very unpleasant for me to cite to my honorable friend the thirtieth rule, but I think I shall be obliged to do so.

Mr. VICKERS. No question of order has been raised that I am aware of. As it was not raised on many other cases of less importance than this I hope it will not be raised here.

Mr. WHYTE. It is not raised. The question is on the amendment.

Mr. MORRILL, of Maine. It is not in order.

The PRESIDENT *pro tempore*. Has it been submitted to the Committee on Appropriations.

Mr. MORRILL, of Maine. No, sir.

The PRESIDENT *pro tempore*. Then, if exception is taken, it is out of order.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

Mr. VICKERS. I offer another amendment, which is in order:

And be it further enacted, That the act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, be, and the same is hereby, repealed.

The amendment was rejected.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

EXECUTIVE SESSION.

Mr. CONKLING, (at twenty-five minutes past twelve o'clock.) I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened.

NATIONAL BANK REPORTS.

Mr. CATTELL submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1881) regulating the reports of the national banking associations having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses as follows:

That the House recede from their disagreement to the amendment of the Senate to the bill, and agree to the same with the following amendments, namely: In line fourteen, page 1, after the word "association" insert the words "above required."

Add the following as an additional section: SEC. 2. *And be it further enacted*, That in addition to said reports each national banking association shall report to the Comptroller of the Currency the amount of each dividend declared by said association and the amount of net earnings in excess of said dividends, which report shall be made within ten days after the declaration of each dividend, and attested by the oath of the president or cashier of said association; and a failure to comply with the provisions of this section shall subject such association to the penalties provided in the foregoing section.

And the Senate agree to the same.

ALEXANDER G. CATTELL,
GEORGE H. WILLIAMS,
JOHN CONNESS,
Managers on the part of the Senate.
SAMUEL J. RANDALL,
E. C. INGERSOLL,
JOHN LYNCH,
Managers on the part of the House.

The report was concurred in.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. MORRILL, of Maine. I submit the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 1872) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870, having met, after full and free conference have agreed

to recommend, and do recommend to their respective Houses as follows:

That the Senate recede from their amendments numbered 14, 15, 16, 17, 18, 29, 34, 35, 36, 40, 41, 43, 44, 45, 65, 71, 75, 76, 77, 78, 84, and 90.

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 1, 2, 3, 8, 10, 12, 13, 19, 20, 21, 22, 23, 30, 32, 33, 37, 38, 39, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 67, 68, 73, 79, 83, 85, and 89, and agree to the same.

That the House recede from their disagreement to the fourth amendment of the Senate and agree to the same with an amendment, as follows: strike out of said amendment the words "one thousand dollars" and insert in lieu the following words: "ten dollars" worth for each member, seven hundred and forty dollars;" and the Senate agree to the same.

That the House recede from their disagreement to the fifth amendment of the Senate and agree to the same with an amendment, as follows: strike out of said amendment the words "two thousand dollars" and insert in lieu the following words: "ten dollars" worth for each member and Delegate, twenty-two hundred and sixty dollars;" and the Senate agree to the same.

That the House recede from their disagreement to the sixth amendment of the Senate and agree to the same with an amendment, as follows: in line three of said amendment strike out the word "eleven" and insert in lieu the word "five;" and the Senate agree to the same.

That the Senate recede from their seventh amendment, and on page 10, line fifteen of the bill, strike out the word "five;" and the House agree to the same as so modified.

That the Senate recede from their eleventh amendment, and on page 11, line twenty-five of the bill, strike out the word "legislative;" and the House agree to the same as so modified.

That the Senate recede from their amendments numbered 24, 25, 26, 27, and 28; and on page 17 of the bill strike out all after the word "dollars," in line twenty, down to and including the word "classes," in line twenty-five.

That the House recede from their disagreement to the thirty-first amendment of the Senate and agree to the same with an amendment, as follows: after the word "dollars," in line thirteen, on page 20 of the bill, add the following: "Provided, That the Commissioner of Internal Revenue shall make a detailed report to Congress of the expenditure of this appropriation at the next December session, to whom paid, how much to each, and for what purpose, giving the items of each payment and the number of employees; and hereafter the said Commissioner shall estimate in detail by collection districts the expense of assessing and the expense of the collection of internal revenue."

That the Senate recede from their forty-second amendment, and that the word "and" contained in said amendment be stricken out and the word "at" substituted in lieu thereof.

That the House recede from their disagreement to the sixty-ninth amendment and agree to the same with an amendment, as follows: in lieu of said amendment insert "sixty-eight thousand five;" and the Senate agree to the same.

That the House recede from their disagreement to the seventieth amendment and agree to the same with an amendment, as follows: strike out of said amendment the words "one thousand" and insert in lieu "seven hundred and twenty;" and the Senate agree to the same.

That the House recede from their disagreement to the seventy-second amendment of the Senate and agree to the same with an amendment, as follows: strike out of said amendment the words "seven thousand five hundred" and insert in lieu "fifteen thousand;" and the Senate agree to the same.

That the House recede from their disagreement to the seventy-fourth amendment of the Senate, and agree to the same with an amendment as follows: strike out of said amendment the word "fifteen" and insert in lieu the word "ten;" and the Senate agree to the same.

That the House recede from their disagreement to the eightieth amendment of the Senate and agree to the same, with an amendment, as follows: strike out of said amendment "twenty-five thousand two hundred" and insert "twenty thousand;" and at the end of line fourteen, page 42 of the bill, add the following words: "Provided, That hereafter the salaries of the clerks and messengers employed in this office shall not exceed the sum herewith appropriated."

That the House recede from their disagreement to the eighty-first amendment of the Senate and agree to the same with an amendment, as follows: strike out the words proposed to be inserted by said amendment, and insert in lieu "ninety thousand;" and the Senate agree to the same.

That the House recede from their disagreement to the eighty-second amendment of the Senate and agree to the same with an amendment, as follows: strike out of said amendment the words "twenty-four" and insert "twenty;" and the Senate agree to the same.

That the House recede from their disagreement to the eighty-third amendment of the Senate and agree to the same with an amendment, as follows: strike out of said amendment the word "ten;" and insert the word "eight;" and the Senate agree to the same.

That the House recede from their disagreement to the eighty-seventh amendment of the Senate and agree to the same with an amendment, as follows: strike out of said amendment the word "seven" and insert "five."

That the House recede from their disagreement to the eighty-eighth amendment of the Senate and agree to the same with an amendment, as follows: strike out the words "fourteen thousand eight hundred and fifty" and insert "ten thousand."

That the House recede from their disagreement to the ninety-first amendment of the Senate and agree

to the same with an amendment, as follows: in line six of said amendment, after the word "Departments," insert the following words: "the number of clerks in their several Departments, the number employed therein during the preceding fiscal year, when employed, and when discharged, and the amount of compensation received by each."

L. M. MORRILL.
TIMOTHY O. HOWE.

Managers on the part of the Senate.
BENJAMIN F. BUTLER,
W. H. KELSEY.
CHARLES E. PHELPS.
Managers on the part of the House.

The PRESIDING OFFICER, (Mr. THAYER in the chair.) The question is on concurring in the report of the committee of conference.

Mr. TRUMBULL. I should like to inquire what disposition that makes of the provision as to the compensation of female clerks?

Mr. MORRILL, of Maine. It leaves it as it was before.

Mr. POMEROY. As the Senate agreed to it, or the House?

Mr. MORRILL, of Maine. It does not change the compensation.

Mr. TRUMBULL. The Senate and the House both agreed to do that. The committee then, I understand, has stricken out what both Houses agreed to. I do not think the committee had any authority to do that. Both Houses agreed that the compensation of the females employed in the Departments should be the same as that of males for like service. The bill came from the House in that shape, and to some extent the Senate amended and enlarged it; and now, I understand, a committee of conference has struck it out entirely. I should like to know what authority a committee of conference has to strike from a bill what both Houses have agreed to.

Mr. MORRILL, of Maine. But the Senator does not state the proposition accurately. The House and the Senate were not agreed on the proposition.

Mr. TRUMBULL. They were both agreed to raise the compensation to some extent.

Mr. MORRILL, of Maine. No, sir; they were not agreed upon any one point as to what they would do. It was that disagreement on which we were to confer.

Mr. TRUMBULL. I have the bill before me here as it passed the House. It declares that—

"The compensation of the female clerks authorized by this section shall be the same as clerks of the first class."

The Senate amended that by declaring that the female clerks, copyists, and counters should have the compensation of clerks of the first class. It put in "copyists and counters."

Mr. CONNESS. But it did not say they should have the compensation of clerks of the first class.

Mr. TRUMBULL. The amendment at one time as proposed did. I am not sure that I have the very words that were adopted.

Mr. CONNESS. I can state the substance of the Senate amendment very readily, I think. The Senate amended that provision so that when a female was employed as a clerk of any class she should receive the same compensation that a male clerk of that class received.

Mr. MORRILL, of Maine. That was the proposition.

Mr. CONNESS. And in addition to that it provided that copyists and counters, being females, when they took the place of copyists and counters who were males, and received a higher compensation than the copyists and counters now did, they should receive that higher compensation. That was what the Senate did.

Mr. MORRILL, of Maine. All I intended to say was that the House and the Senate were disagreed on the question of compensation; and having so disagreed the committee of conference could not agree, and so recommend striking out the proposition entirely.

Mr. CONNESS. Of course we are sorry that the ladies are stricken out.

Mr. TRUMBULL. There was nothing clearer than the proposition of both the House and the Senate to place females on the same footing with males to some extent. Both Houses were in favor of that; and the committee have struck

it out. I think it is defeating the will of the two Houses; and I trust the report will not be agreed to; but that the bill will be sent to another committee of conference for the purpose of correcting this report in that respect which misrepresents both Houses.

Mr. STEWART. I think it would be very well if this report were not agreed to. I think the very best provision of the bill has been left out by the committee.

Mr. CONNESS. What was that?

Mr. STEWART. That was a provision to place the business men, bankers, miners, and people of the United States, with regard to refining and parting gold, to some extent on as good a basis as they are in England and France, so as to give them a chance to compete with foreign countries in that regard. There are a few persons, exporters of bullion, who want to buy it cheap in the mines, thereby working as a tax upon the miners, who are opposed to this proposition and who want to put restrictions upon the business of the country. They are loading the Mint unnecessarily with business that does not belong to it, of parting and refining. For two years the Director of the Mint and the Secretary of the Treasury have urged a reform in this particular. The Senate placed it as an amendment on this bill. Last year it was passed by the House and stricken out by the Senate. Now the Senate pass it and this committee has left it out. I believe that a new committee would certainly retain it, and as we are getting along pretty well with our bills, I think we had better have a new committee of conference on this bill to consider those two items.

Mr. POMEROY. I think the two Houses, in the phraseology of the amendment with regard to the compensation of female clerks, did not precisely agree, but I think they did agree substantially; that is, they agreed to raise some class of the clerks. The House agreed to it, and we agreed to it and made some additions. I am surprised at this report of the committee of conference, because that proposition was not resisted in the Senate. No member of this committee and hardly any member of the Senate objected to what the Senate agreed to, which was not only all that the House had agreed to but something more. I confess to great disappointment with this report. I make no particular hobby of this question. There is a point in it that I think every Senator ought to insist upon, and that is that equal and exact justice should be dealt out to all persons in the employ of the Government. I cannot reconcile myself to any other course of procedure. I cannot conceive how Senators can content themselves to discriminate unfavorably against one class of persons employed in the public service. Because it has been an old custom is no justification of it. Because this class of labor is cheap from a necessity, and from a custom that has existed of not paying females half as much as males for the same labor, it cannot be justified on any ground of precedent. I confess I would rather have another committee of conference than agree to this report.

Mr. MORRILL, of Maine. My friend must consider that if this bill goes to another conference it may as well go over until the next session.

Mr. TRUMBULL. Not at all; only two items have to go there.

Mr. MORRILL, of Maine. It will be utterly impracticable to enroll this bill in time if you send it to another committee.

Mr. HOWE. And it opens the whole of it, every disagreement.

Mr. MORRILL, of Maine. It opens the whole of it, of course.

Mr. TRUMBULL. Of course it is well understood in this body that if we disagree to this report it is only in reference to two or three items. The others can be agreed upon in a moment.

Mr. MORRILL, of Maine. The Senate should understand that we have one hundred and four amendments on the bill, and if it is left open it is open as to the whole of them.

Mr. TRUMBULL. As to time the Senate need not be misled, as I think it would be if it acted on the suggestion of the Senator from Maine. There are over one hundred amendments to the bill. There is no objection made in the Senate to the report of the committee of conference upon more than two of them, I think.

Mr. STEWART. That is all.

Mr. TRUMBULL. Now, if a new committee is appointed what will that new committee on the part of the Senate say? They will say at once to the conferees on the part of the House, "We agree to all the report of the former committee of conference except as to two items."

Mr. SPRAGUE. Suppose the House conferees do not agree to it?

Mr. TRUMBULL. If you assume that the House is ready to agree to take the whole of this report certainly they will agree to all of it but two items, and those will be the only matters in dispute. If the House disagree to the report then it throws it all open, of course, if they disagree on the whole substance of the report. We shall gain nothing by adopting the report here if the House disagree to it. But we are acting for the Senate.

Mr. MORRILL, of Maine. The Senator's argument is on the assumption that a new committee of conference would think precisely like the present one on all subjects except as to those two.

Mr. TRUMBULL. Undoubtedly they would after the Senate disagreed to it for specific reasons.

Mr. MORRILL, of Maine. If the Senate so instruct undoubtedly, but the Senate do not propose so to instruct.

Mr. TRUMBULL. I think it would be tantamount to an instruction. I should so regard it if I was on the committee of conference, and I think the Senator from Maine would.

Mr. MORRILL, of Maine. The Senator must understand that when this goes back to the House the House may wish to disagree for entirely different reasons, and that is altogether probable when it is considered that out of one hundred and four amendments a great many of them, I will say to the Senator, are matters of compromise.

Mr. TRUMBULL. I have already replied to that. The House will either agree to this report of the committee of conference or it will not agree. If it does not agree to it our agreeing to it amounts to nothing. If the House does agree to this report of the committee of conference then it is willing to take one hundred amendments that have been agreed upon between the two Houses, and the question will be open as to the others. There can be no difficulty about it if there is a disposition on the part of the Senate to carry out what the Senate deliberately voted; and if there is a disposition on the part of the House to carry out what the House deliberately voted, which disposition by the action of the committee of conference has been thwarted, there can be no difficulty in having another committee and putting this as the two Houses intended it should be.

Mr. MORRILL, of Maine. I ask the Senator whether, as a matter of fact, if it goes to a new conference the whole subject-matter is not open to them?

Mr. TRUMBULL. I have said that it would be and they could consider it unless the Houses instructed them; but I have said that when the action of the Senate, which its committee would bear in mind; was taken into consideration no committee of conference would be justified, when only two of the recommendations were objected to in the Senate, in opening the whole subject.

Mr. MORRILL, of Maine. But the Senator is assuming that the Senate is satisfied with all the other amendments, when as a matter of fact—

Mr. TRUMBULL. I should assume it if no objection be made.

Mr. MORRILL, of Maine. When as a matter

of fact the other amendments have not been brought to the consideration of the Senate particularly.

Mr. TRUMBULL. If nobody objects they are acquiesced in.

Mr. CONNESS. I do not agree entirely with the Senator from Illinois in his view of this case, that there was any agreement between the two Houses on this proposition.

Mr. TRUMBULL. Not in detail, I admit.

Mr. CONNESS. I do not think the propositions of the two Houses were essentially alike. I do not differ from him upon the question itself. I should like to have the Senate amendment sustained, and I will vote with him against the report with a view to that end; but I could not put my vote upon the ground that the conference committee had violated their duty in the course they have taken, because I think they have disposed of a proposition upon which the Houses did not agree at all. But I incline to think that they might have agreed if they had made an effort on that proposition, because the House has shown a disposition to advance the salaries of the female clerks of the higher class; that is, of the more meritorious class as to labor and capacity; and the Senate have shown a like disposition, though they did not at all come near each other in their efforts to attain that end. I could wish, and do wish, that we may have another conference—I think there is time enough for that—with a view of expressing the position of the Senate more clearly, and with a view of doing, as I think, a palpable justice to persons who deserve it at our hands, who have no representation here except in us. I do think that of all the meanness that this Government is guilty of now there is not one more despicable than the refusal to pay a talented woman the same compensation for doing the same work and doing it as well as a man can do it. I call it despicable.

Mr. CORBETT. As I understand this disagreement, the House were willing to raise the compensation of a certain class of clerks. The Senate added to it the copyists and counters, who constitute a very much larger number. When it went to a conference I suppose the House conferees were not willing to include all the female clerks, which brought in quite a large number, some hundreds, and therefore to dispose of the case the committee had to strike out the whole thing. The Senate wished to raise the compensation of all the females employed, and the House only a few; and for that reason they could not agree, and therefore they disposed of the question by striking it out entirely. It seems to me that that was entirely within the province of the committee.

Mr. COLE. We have quite a number of hours yet before the end of the session, and therefore I shall not hesitate to vote in favor of referring this bill to a new conference committee. I suppose if there are only two subjects with which Senators are dissatisfied those two subjects only would be reconsidered by a conference committee that may be appointed. The one which relates more particularly to the Pacific coast I regard as of very great importance. I allude to the amendment relating to the refining of gold, a matter that has been recommended by the Secretary of the Treasury, and which is essential for the benefit of the industrial population of that region of the United States. The committee of conference have seen fit, on the opposition of persons living in the city of New York, and perhaps of Boston, to strike it out. It is a matter of economy to the Government; its aim is economy to the Government, and the adoption of it would save to the Government forty or fifty thousand dollars a year. Unless the proposition is adopted the appropriations for carrying on the branch mint at San Francisco as reported in the bill are certainly inadequate.

Mr. HOWE. What is the authority of the Senator from California for saying that that amendment was stricken out under the influence of opposition from persons living in New York and Boston?

Mr. COLE. It is improper, of course, to mention the names of members of the House here; but the Senator will remember that a member of the House from the city of New York was sent for and came into the committee and entered his protest and left a threat that the bill would be defeated in the House unless that was stricken out. That is my authority so far as that goes. I will not refer to a particular member of the conference.

Mr. HOWE. I beg leave to say that I do remember that there was a member of the House before the committee. I did not know that he was sent for. I do not know that he was not.

Mr. COLE. I know he was.

Mr. HOWE. I do not know that he made such a threat. I did not hear it.

Mr. COLE. I did.

Mr. HOWE. But if there was a member of the House who was opposed to that amendment there, there were two members of the Senate before the committee who were in favor of it.

Mr. COLE. Yes, sir; that is very true, and those two members were from the Pacific coast who were representing the interests of their constituents, or supposed they were. The opposition to it, I believe, has its origin in foreign influence, and for that reason more particularly we were anxious for it. We believe it to be a measure essential to our own people, and particularly those who are engaged in the hardy pursuit of mining. The opposition comes from those who are engaged in the business of exporting the raw material, so to speak, or unparted work. I am in favor of the recommitment of this bill to another committee of conference, that these two subjects may be again considered.

Mr. HENDRICKS. I think this report ought to be concurred in. If the bill is to become a law we had better agree to the report. So far as the pay of female clerks is concerned, I think that was a matter entirely within the power of the committee. I think the compensation of the ladies in the Departments is very handsome indeed as it is, and we had better adopt this report and go on with our business.

Mr. TRUMBULL. There is plenty of time. We have got to meet to-morrow morning, and there will be abundance of time to correct it if the Senate is disposed to carry out its former vote.

Mr. ABBOTT. I desire to say that I am in favor of raising the pay of the female employes in the Departments, and voted for it before; but I shall now vote to concur in the report of the conference committee, so as to get this matter closed up.

Mr. TRUMBULL. We have plenty of time to close it up.

Mr. ABBOTT. We can fix that matter at some other time.

Mr. EDMUNDS. I do not think it best to reject this report on this account, entirely independent of the question whether these particular ladies' salaries ought to be raised. The truth is the whole Treasury Department must be very soon reorganized and the whole service put upon a footing entirely different from what it is now. It has got to be weeded out and corrected and readjusted. I have spent a year every odd day that I had and some that I had not working away there to find out what had become of the bonds and money and securities of the Government; and I have become pretty familiar with the way things go in that Department; and without doing injustice to anybody by singling out specimens I will tell the Senate the result upon my mind and upon the minds of my associates who worked there with me. It is a very bad policy to begin to tinker with the salaries there at this moment, any part at a time or all at a time, until we shall take up, on a bill devoted to that exclusive purpose, the whole subject and reorganize it. The public service calls for it most decidedly.

The PRESIDING OFFICER. The question is on concurring in the report of the committee of conference on this bill.

Mr. TRUMBULL. On that question I ask for the yeas and nays. ["No!" "No!"]

Mr. HENDRICKS. Oh, no; look at the time of night.

The yeas and nays were not ordered.

Mr. TRUMBULL. Then I call for a division, if the Senate will not give the yeas and nays. The report was concurred in; there being on a division—yeas 22, noes 13.

DEFICIENCY APPROPRIATION BILL.

Mr. HOWE. I ask leave to make a report from a committee of conference.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1911) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses as follows:

They recommend that the House recede from their disagreement to the amendments of the Senate numbered 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 22, 23, 24, 28, 29, and 30, and agree to the same.

They recommend that the Senate recede from their amendments numbered 1, 5, 16, 18, 21, 26, and 27.

They recommend that the House recede from their disagreement to the amendment of the Senate numbered 2½ and agree to the same with an amendment, as follows: after the word "compensation" insert "exceeding one eighth of one per cent. in any case."

They recommend that the House recede from their disagreement to the fourth amendment of the Senate so far only as it proposes to strike out the second proviso in said amendment; and the Senate agree to the same.

They recommend that the House recede from their disagreement to the nineteenth amendment of the Senate and agree to the same with an amendment, as follows: insert in lieu of said Senate amendment the words "for the construction of basin and new dock barge office at New York, \$25,000."

They recommend that the House recede from their disagreement to the twentieth amendment of the Senate and agree to the same with an amendment, as follows: strike out the words "fifteen thousand" and insert in lieu thereof "seven thousand five hundred."

They recommend that the House recede from their disagreement to the twenty-fifth amendment of the Senate and agree to the same with an amendment, as follows: insert in lieu of the words stricken out the words "for collecting, preparing, and printing the proceedings at the decoration of the soldiers' graves, under resolution of June 22, 1863, \$2,000;" and the Senate agree to the same.

G. W. SCOTFIELD,
STEVENSON ARCHER,
WILLIAM LAWRENCE,
Managers on the part of the House.
TIMOTHY O. HOWE,
A. H. CRAGIN,
J. W. NYE,
Managers on the part of the Senate.

The report was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had passed a resolution in relation to the printing of the debates of Congress after the 4th instant, in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1803) making appropriations for the support of the Army for the year ending June 30, 1870, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1808) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1870.

REMOVAL OF POLITICAL DISABILITIES.

Mr. WILLIAMS, from the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1746) for the removal of certain disabilities from the persons therein named, reported that having met, the committee after full and free conference were unable to agree.

Mr. POMEROY. I move that that bill lie on the table.

The motion was agreed to.

NATURALIZATION OF ALIENS.

Mr. FRELINGHUYSEN. I move that the

Senate proceed to the consideration of Senate bill No. 654, to regulate proceedings in the naturalization of aliens; and I will state that I make the motion for the purpose of submitting a few remarks upon it if the Senate have nothing better to do. After that is done I shall withdraw the motion.

Several SENATORS. Go on.

The PRESIDING OFFICER, (Mr. THAYER.) The Chair will state that the Senate came into open session for the purpose of receiving a message from the House and to act on reports of committees of conference. What is the pleasure of the Senate?

Mr. EDMUNDS. The doors are open.

Mr. HENDRICKS. The reporter has been here all the time.

Mr. POMEROY. The Senate cannot proceed to the consideration of executive business and order the doors to be closed except by vote.

Mr. TRUMBULL. If the Senator from New Jersey is going to speak I want the doors open.

Several SENATORS. They are open.

Mr. TRUMBULL. They are closed in point of fact.

Mr. CONNESS. The reporter is here.

Mr. WARNER. I move that the doors be opened.

Several SENATORS. The doors are open.

Mr. TRUMBULL. They are not open in point of fact.

The PRESIDING OFFICER. The motion of the Senator from New Jersey is in order.

Mr. BUCKALEW. I hope the doors of the galleries will be opened so as to make the room more pleasant.

Mr. WARNER. I submit the question to the Senate whether we are in executive session or open session. We went into executive session and there has been no order made to open the doors.

The PRESIDING OFFICER. The Senate is in open session; the doors will be opened. The Senator from New Jersey is entitled to the floor.

Mr. FRELINGHUYSEN. It is now manifest, Mr. President, that a measure affecting the well-being of the whole nation and in which the people feel a deep interest must be postponed to the coming Congress. Before handing over the bill "to regulate the proceedings in the naturalization of aliens" to other hands I ask the indulgence of the Senate to say a few words.

The existing evil growing out of the naturalization law is, first, that a large and constantly increasing fraudulent vote is in certain localities being cast, and is defeating in many cases the legitimate will of the people and bringing into contempt American citizenship and suffrage. A second vastly greater evil is that fraudulent and counterfeit naturalization papers are extensively used as the ready and convenient bribe even in the illicit use of the ballot, thereby poisoning and corrupting the very fountains and springs of national life. That this evil exists is too patent to require proof. It is manifest to all the people; and with laws so loose in their enactments and in the provisions for their execution it might naturally be expected that such evils would exist. In some of the courts having jurisdiction over this subject sessions are continued until a late hour in the night. No records are kept. Roughs and bullies are admitted to the exclusion of respectable citizens and the reporters of the press. Large numbers of applicants for naturalization are vouched for by the same witnesses; and the whole proceeding is a disgrace to the nation. Such is the extent to which the evil has grown that courts having no jurisdiction whatever assume the high prerogative of conferring American citizenship; and in one instance a justice of the peace in the State of New York issued seventeen hundred pretended certificates of naturalization.

But the evils resulting from the abuses of some of the courts, great as they are, lose their importance when contrasted with those resulting from the manufacture, sale, and distribu-

tion by individuals of counterfeit certificates of naturalization. In the preliminary proceedings on an indictment in one of the courts recently had one individual appears to have furnished from five to seven thousand fraudulent certificates of naturalization, and there is good reason to believe that there are thousands who hold from year to year large numbers of these certificates to be loaned at elections to those who will use them to promote the party ends they seek to advance.

Mr. President, better far let a law be passed enacting that the very hour an alien places his foot on American soil he shall be a citizen than prostitute this great gift of American citizenship into a means of bribery and corruption. The boastful asseveration of the Roman, *civis Romanus sum*, is tame and unmeaning when contrasted with the full meaning of the declaration, "I am an American citizen." To possess a title to that distinction, the more precious because enjoyed and to be enjoyed by unnumbered millions, is the most priceless temporal gift of God to man. You must spend days in reflection; you must call to your aid the annals of history through long cycles of time; you must hear the cry of the oppressed for ages; you must listen to the tumult of a thousand battles, ending in a deeper degradation, before you can estimate the worth of American citizenship with its immunities from thralldom, its elevating rights and privileges, and its opportunities of dignified usefulness. Contrast our condition with that of those who live and move and have their being in a society where civil affairs are consigned to a pampered aristocracy, religious affairs to the priestly officials, social elevation to the domination of a caste, so that it is treason and sacrilege for the individual man to assume to be more than the food and fuel of a society which is but a grand machine of despotism, and by the contrast thus made learn what it is to be an American citizen. Here is a field of individual exertion which has no limits excepting those imposed by God on the original powers of the man. Here is a field of usefulness so inviting that none but the sordid and besotted can decline to enter it, and so captivating when entered that it requires a special edict of heaven to justify a withdrawal to retirement. If such be American citizenship, heaven forbid that it should be suffered by us to be prostituted to a mere means of corruption.

The acts conferring all civil and political rights on aliens are of two kinds, collective and personal; collective, where a State or country is incorporated with another, as, in 1803, when Louisiana was ceded by France to the United States, the third section of the treaty provided that its citizens should be entitled to all the rights and privileges of citizens of the United States, and a similar effect was produced when the republic of Texas was annexed to and became one of the United States. So in the reign of Queen Anne, when Scotland and England were formed into one kingdom.

Personal naturalization in England is now by special act of Parliament; and when, before the adoption of the Federal Constitution, the right of naturalization was with the States the right of citizenship was conferred for the most part by special acts of State legislation.

In 1787 the Federal Constitution conferred upon Congress the power to establish a uniform rule of naturalization throughout the United States. At the second session of the first Congress, after the adoption of the Constitution, an act authorizing naturalization, after a residence of two years under the jurisdiction of the United States and of one year in the State where the applicant resided, was enacted. In 1795 the period of residence was increased to five years, with a previous declaration of intention to become a citizen of three years. In 1798 the residence was increased to fourteen years, with a previous declaration of five years. In 1802 the residence was reduced to five years, with a previous declaration of three years. In 1824 the declaration of intentions was reduced to two years; and so now stands the law.

After the adoption of the Federal Constitution some of the States claimed concurrent jurisdiction with the Federal Government; but in 1817 the Supreme Court of the United States determined that the power was exclusively in Congress. But now, though no State can confer citizenship, the States can and do confer civil and political rights upon aliens not inconsistent with the laws of the United States; and in most of the States aliens are allowed to hold lands, and in some States to vote. A law establishing a uniform rule of naturalization should be marked by a liberality harmonizing with the spirit of our institutions. We should not forget that one of the acts charged against George III in the Declaration of Independence was that "he has endeavored to prevent the population of these States, and for that purpose obstructed the laws of naturalization." But at the same time the laws should be so guarded with restrictions and sanctions that it cannot be brought into contempt by its violation with impunity, and that this great gift may not be made a means of corruption.

The bill which is reported from the Committee on the Judiciary to the Senate contains these provisions: the jurisdiction over the whole subject of naturalization is conferred upon the courts of the United States and upon a commissioner in each of the representative districts, with authority to the court and direction to the commissioner to hold sessions requisite to afford full and convenient opportunity for naturalization. Second, that one month before the final application the applicant shall file a notice stating when and where the declaration of intentions was made, where he has resided for the year previous, his name, age, occupation, and description of person. The proof of all the facts stated in the notice is to be made at the final hearing, and the applicant and his witnesses to be subject to a cross examination. There is to be a record kept of all the proceedings. The certificate granted is to take effect six months after its issue, thus avoiding the temptation to fraud which the approach of elections occasions.

The Secretary of State is directed to provide blank certificates, so guarded as not to be subject to counterfeit, and of which an account must be carefully kept; that all certificates that have been issued within one year last past shall be subjected to the inspection of the court or commissioner, and if approved to be so indorsed, and then to have the verity of a record; otherwise they are to be void; and that all certificates issued prior to a year last past may be so submitted, and if submitted and approved they are to have the validity of a record; and if not submitted they are to be subject to investigation before whatever tribunal they are presented for use. Provision is also made whereby those possessing fraudulent certificates may be compelled to surrender them. The bill also contains stringent provisions in the nature of penalties and sanctions.

And now, Mr. President, when about to end the pleasant relations which have subsisted between me and my associates here, I commend not so much the bill which I have had the honor to report as the great subject to which it relates to the careful attention of the Senate.

EXECUTIVE BUSINESS.

Mr. CONKLING. I desire to submit a motion to go into executive session, long enough at least to suspend the two-days rule, so that the confirmations shall not die with the session; otherwise all work is lost.

Mr. CATTELL. They do not die.

Mr. CONKLING. I understand that they do.

Mr. WILSON. There is a very small bill which I should like to have acted upon now.

Mr. FESSENDEN. The executive business is not finished. Why not go through with the Calendar?

The PRESIDING OFFICER. We are not in executive session. Does the Senator move to go into executive session?

Mr. WILSON. I hope I shall be allowed

to have a little bill taken up. It will not take a minute.

The PRESIDING OFFICER. The Senator from Massachusetts asks for the present consideration of a bill.

Mr. CONKLING. Let me suggest to the Senator from Massachusetts, will it not answer his purpose just as well if we now go into executive session, and go through some formal matters, and then resume legislative business?

Mr. FESSENDEN. Let us finish the executive business before we do anything else.

Mr. CONKLING. I do not like to press it against the wishes of the Senator from Massachusetts; but if he will allow me I beg to submit a motion to proceed to the consideration of executive business.

Mr. WILSON. Very well.

Mr. POMEROY. If the Senator will allow me—

Mr. CONKLING. We shall be back in a little while.

PRINTING OF DEBATES.

The PRESIDING OFFICER. The question is on the motion of the Senator from New York; but before putting that motion the Chair will lay before the Senate a concurrent resolution from the House of Representatives.

The Secretary read the resolution, as follows:

Resolved, (the Senate concurring,) That the Congressional Printer be directed to report and publish the debates of Congress, commencing at twelve o'clock on the 4th of March, until further and definite action can be had under the joint resolution recently passed.

Mr. SPRAGUE. I move that the Senate concur in the resolution.

Mr. ANTHONY. That is a matter that must be disposed of in some way or other.

Mr. FESSENDEN. The contract covers everything. The parties will go on and report and print as usual.

Mr. ANTHONY. If the Senate will allow me to make an explanation—

Mr. FESSENDEN. The contract will cover everything.

Mr. ANTHONY. There is no contract at all.

Mr. FESSENDEN. You can make one.

Mr. ANTHONY. There is no provision to publish the proceedings of Congress after twelve o'clock to-day.

Mr. CONKLING. They will be published, I suppose.

Mr. TRUMBULL. I saw one of the proprietors of the Globe, and he said they would have reporters here and go on until a contract was made; and I understood him to say that he notified the chairman of the committee to that effect.

EXECUTIVE SESSION.

Mr. CONKLING. I insist upon my motion for an executive session.

The motion was agreed to; and after some time spent in the consideration of executive business, at a quarter to three o'clock a. m., [March 4,] the doors were reopened; and, on motion of Mr. BUCKALEW, the Senate took a recess for fifteen minutes.

At three o'clock a. m., [March 4,] the Senate resumed its session.

Mr. RAMSEY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in the consideration of executive business the doors were reopened.

PRINTING OF DEBATES.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following order:

Ordered, That the Clerk be directed to request the return from the Senate of the concurrent resolution of the House in relation to the printing of the debates of Congress after the 4th instant.

The Senate proceeded to consider the request of the House; and, in compliance therewith, it was

Ordered, That the Secretary return the resolution to the House of Representatives.

MRS. ELLA E. HOBART.

Mr. WILSON. I ask the Senate now to take up House joint resolution No. 280.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 280) for the relief of Mrs. Ella E. Hobart. It provides that Ella E. Hobart, who was appointed as chaplain to the first regiment of Wisconsin volunteer heavy artillery, shall be entitled to receive the full pay and emoluments of a chaplain in the United States Army for the time during which she faithfully performed the services of a chaplain to the regiment as if she had been regularly commissioned and mustered into service.

Mr. HENDRICKS. That is the funniest thing I have ever heard of in my life.

Mr. WILSON. I will state the facts of this case. This lady lived in Wisconsin. She went, like many other women, to help the soldiers and wait upon them in the hospitals; and such was her capacity and her devotion that the regiment elected her as the chaplain of the regiment instead of a man. She performed that duty, and went into the service and served for some time in that capacity, and when she asked for pay Mr. Stanton said there was no law of Congress that would allow a woman to act as chaplain of a regiment, and she received nothing whatever. The House have passed this bill. The evidence is full and complete. The lady is of high character and high standing and a great deal of capacity. I hope there will be no objection to its passage.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WIDOWS OF GENERAL OFFICERS.

Mr. HENDRICKS. Unless there should be serious opposition I should like to take up the bill granting a pension to Mrs. Hackleman.

Mr. TRUMBULL. Is it a House bill?

Mr. HENDRICKS. Yes, sir. The name that was added to the bill when it was last under consideration should be stricken out.

The PRESIDING OFFICER, (Mr. WILLIAMS in the chair.) The question is on taking up the bill.

Mr. EDMUNDS. I do not think it very wise or creditable for this body to be passing bills at this time of night in the condition the business of the Senate is. There is scarcely a quorum here. Senators are not, from their great fatigue, paying much attention to business; and I hope the Senate will not persist in taking up any measure of this sort now. The Senator can call it up in the morning.

Mr. HENDRICKS. Mrs. Hackleman's condition is such as to make it almost my duty to try to call up this bill; and I shall not be here to-morrow to do it.

Mr. EDMUNDS. I will call it up for you, then.

The PRESIDING OFFICER. The question is on taking up the bill mentioned by the Senator from Indiana.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 1741) granting an increase of pension to Emily B. Bidwell, widow of Brigadier General Daniel D. Bidwell, and to Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman.

The PRESIDING OFFICER. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. EDMUNDS. I ask to have the bill, as amended, read. If we are to do business here in this way at this time of night some of us may as well know what is going on.

The Secretary read the bill, as amended, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Emily B. Bidwell, widow of the late Brigadier General Daniel D. Bidwell, for pension at the rate of fifty dollars per month from the 19th day of October, 1864, on which day General Bidwell fell mortally wounded at the battle of Cedar Creek, Virginia, to continue during widowhood.

SEC. 2. *And be it further enacted*, That the pension heretofore allowed said Emily B. Bidwell under general law be discontinued; but the sum received by her under the same shall be deducted from the pension hereby granted.

SEC. 3. *And be it further enacted*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Sarah Hackleman, widow of the late Brigadier General Pleasant A. Hackleman, for pension at the rate of fifty dollars per month from the 3d day of October, 1862, on which day General Hackleman fell mortally wounded at the battle of Cornith, to continue during her widowhood.

SEC. 4. *And be it further enacted*, That the pension heretofore allowed said Sarah Hackleman under general law be discontinued; but the sum received by her under the same shall be deducted from the pension hereby granted.

SEC. 5. *And be it further enacted*, That the pensions hereby granted shall be subject to the provisions of the general pension law, except as to the amount thereof, as above provided for.

SEC. 6. *And be it further enacted*, That an act entitled "An act granting an increase of pension to Emily B. Bidwell, widow of Brigadier General Daniel D. Bidwell, and to Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman," approved July 27, 1868, is hereby repealed.

SEC. 7. *And be it further enacted*, That the Secretary of the Interior be, and he is hereby, directed to pay to Sallie P. Griffin, widow of the late General Griffin, late of the United States Army, now on the list of pensioners, the sum of fifty dollars per month during her widowhood, in lieu of the pension she is now receiving.

Mr. HENDRICKS. I wish to inquire if that last section is an amendment put on in the Senate?

The PRESIDING OFFICER. It is. The question is on concurring in the amendment made in Committee of the Whole.

Mr. EDMUNDS. Now, if the Senate can be restored to order I should like to call attention to this bill.

The PRESIDING OFFICER. Senators will resume their seats.

Mr. MORRILL, of Vermont. I move to lay aside this bill for a single moment in order to pass—

The PRESIDING OFFICER. The other Senator from Vermont has the floor.

Mr. MORRILL, of Vermont. If my colleague will allow me, there is a bill which has passed both Houses—

Mr. EDMUNDS. All right; you shall have your turn, but this bill has got to be discussed. Now, Mr. President, this sum of money which you are going to vote to these three or four persons is not of any very great consequence. I suppose the tax-payers can bear it, particularly as we are perhaps not of that number; but you are establishing a precedent which will justly entitle all soldiers' widows in the country to a similar increase, and they are better entitled to have it. I repeat, Mr. President, that if we are to act on bills of this kind we must act under a certain sense of responsibility; for although it may be a very fine joke to pass bills of this kind to-night the records of the Senate will show it to-morrow and the country will know it to-morrow, and you will have entered upon a line of legislation to which there can be no end. In selecting out these three or four distinguished ladies who come here into the reception-rooms and the marble-room and make very persuasive appeals to us to give them fifty dollars a month, while a colonel's widow or a captain's widow with her little ones is having her ten or fifteen or twenty dollars, I say it may be a very fine thing to do to-night, but it is a thing which we shall all be sorry for to-morrow.

There is no justice in selecting from this great mass of persons, to whom we are paying as much pension as we can, a few favored individuals who happen to be about the Capitol and are pressing their particular claims. If the pension laws now give as much to soldiers' widows as the country can afford to pay then let them stand as they are and let all share alike. If they do not give to the soldiers' widows as much as they deserve and as we can afford to pay then apply it to all alike and elevate the amount of pensions you are to give them all. But what justification is there, I should be glad to be informed, for selecting out of twenty thousand widows in the land, or more, four, if that be the number in this bill, for special favor and consideration over and

above all the others? There is no excuse for it; there is no principle upon which it can rest. That is the fact about it; and I should hope that at these last moments of the session we should not commit ourselves to an act of this kind; that however personally agreeable it may be to us to do it for these particular ladies, and involves in it such a grave impropriety, as it appears to me this does, as to make an invidious discrimination of this character. It ought not to be done.

Mr. MORRILL, of Vermont. I move to lay aside this bill in order to take up House joint resolution No. 474.

Mr. HENDRICKS. What is that?

Mr. MORRILL, of Vermont. It is a joint resolution that passed the Senate once and was considered and hung up. The same measure has now passed the House, and I understand there is no objection to passing it.

Mr. HENDRICKS. What is it about?

Mr. MORRILL, of Vermont. It is a resolution in favor of certain parties who started to lay a cable connecting our country with Russia, and who failed and lost about three million dollars, and who have pulled up about five hundred miles of their cable and have brought it back to New York in a damaged condition; and now in that condition, if they land it, they have to pay duties; and I suppose it may be worth something to them if they can be allowed to land it without paying duties.

Mr. HENDRICKS. Will it be debated?

Mr. MORRILL, of Vermont. No; nobody desires to debate it. It has been approved by the Committee on Finance.

The PRESIDING OFFICER. It is moved that the bill before the Senate be laid aside.

Mr. HENDRICKS. Informally?

Mr. EDMUNDS. Not informally. You cannot lay it aside with my consent in that way.

The PRESIDING OFFICER. It is moved that the pending bill be laid aside for the purpose of taking up the joint resolution indicated by the Senator from Vermont.

Mr. CAMERON. That is a resolution to take money out of the Treasury, as I understand it, and I am opposed to taking it up.

The PRESIDING OFFICER. The joint resolution proposed to be taken up by the Senator from Vermont will be read by its title.

The SECRETARY. A joint resolution (H. R. No. 474) authorizing the Secretary of the Treasury to admit free of duty a certain submarine telegraph cable.

Mr. STEWART. I object to that resolution; and if it is to be taken up I have an amendment that I wish to offer to it.

Mr. CAMERON. I should like to know the reason for the passage of such a resolution as this at this time.

Mr. MORRILL, of Vermont. I trust there will be no amendments made to it and that the Senator from Nevada will not undertake to embarrass it by any amendment. If he insists on offering an amendment I shall not call it up.

Mr. STEWART. I most certainly do insist on offering an amendment. I think it would be a very great outrage to pass any resolution favorable to this monopoly.

Mr. MORRILL, of Vermont. I think the Senator does not understand what monopoly it is.

Mr. STEWART. I think I do. It is the Western Union Telegraph Company.

Mr. MORRILL, of Vermont. No, sir; not at all.

Mr. NYE. Not at all; it is the old telegraph between our country and Russia, of which they have taken up five hundred miles.

Mr. MORRILL, of Vermont. It is a bankrupt affair.

Mr. STEWART. Let the resolution be read, and see if I am not right about it.

The Secretary read the joint resolution, as follows:

Resolved, &c., That the Secretary of the Treasury be, and he is hereby, authorized to deliver to the Western Union Extension Telegraph Company the submarine telegraph cable made to form a part of the Overland Telegraph Company to unite the United

States with Russia and Great Britain, intended to be laid in the Behring sea, without the payment of customs duty thereon.

The PRESIDING OFFICER. The question is on taking up the resolution.

The motion was not agreed to.

Mr. EDMUNDS. I move that the Senate take a recess for ten minutes.

Mr. TRUMBULL. We shall get the civil bill from the House in a moment.

Mr. EDMUNDS. No; we shall not. I move that the Senate take a recess for ten minutes.

Mr. HENDRICKS. I do not think that is exactly the right way to treat these widow women. If the Senate do not want to pass their bill it is an easy thing to vote it down, but to take that sort of advantage of my proposition I do not think is right. I yielded to the request of the Senator from Vermont to call up his resolution as he was so zealous about it.

Mr. MORRILL, of Vermont. It was a public measure, and had previously passed both bodies.

Mr. HENDRICKS. It was claimed that it was a public bill, and of course the telegraph companies had to crowd the widows aside. I do not think this is right.

The PRESIDING OFFICER. The question is on taking a recess for ten minutes.

Mr. TRUMBULL. I should sympathize with my friend from Indiana in favor of the widow women whom he desires to pension if he had not united a short time ago with a conference committee of this body who had made a report in opposition to the expressed wishes of both the Senate and the House in favor not of pensioning widow women, but of paying the same compensation to females for precisely the same work as is paid to men. Now, then, after the Senator from Indiana united with the conference committee of the two Houses to prevent such an act of justice as that, and against the wishes of both Houses, I do not think he is in a position to appeal to the Senate in favor of pensioning widows. I therefore regret very much that I have to vote against the Senator's proposition on account of his inconsistency.

Mr. MORRILL, of Maine. I wish to say a word in reply to the Senator from Illinois, who complains of the action of the committee of conference on the disagreeing votes of the two Houses on the legislative appropriation bill; and I wish to correct an impression which may go to the country and create a misapprehension in the popular mind on that subject. The idea seems to have prevailed to some extent that—

The PRESIDING OFFICER. Will the Senator suspend his remarks to enable the Chair to receive a message from the House of Representatives?

Mr. MORRILL, of Maine. Certainly.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1881) regulating the reports of national banking associations.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1672) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1911) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes.

The message also announced that the House had passed the bill (S. No. 784) to amend the judicial system of the United States.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 2007) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, and for other purposes; asked a conference on the disagreeing votes of the two Houses thereon; and had appointed Mr. RUFUS P. SPALDING of Ohio, Mr. HENRY H. STARKWEATHER of Connecticut, and Mr. S. S. MARSHALL of Illinois, managers at the same on its part.

The message also announced that the House had disagreed to the amendments of the Senate to the joint resolution (H. R. No. 413) in relation to lands and other property of W. W. Corcoran, in the District of Columbia, used by the United States Government during and since the war of the rebellion; asked a conference on the disagreeing votes of the two Houses thereon; and had appointed Mr. GLENNI W. SCOFIELD of Pennsylvania, Mr. HORACE MAYNARD of Tennessee, and Mr. CHARLES A. ELDRIDGE of Wisconsin, managers at the same on its part.

The message further announced that the House insisted on its amendments to the joint resolution (S. R. No. 178) tendering sympathy to the people of Spain; asked a conference on the disagreeing votes of the two Houses thereon; and had appointed Mr. NATHANIEL P. BANKS of Massachusetts, Mr. DEMAS BARNES of New York, and Mr. AUSTIN BLAIR of Michigan, managers at the same on its part.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 1808) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1870; and it was thereupon signed by the President *pro tempore*.

REPORT OF A COMMITTEE.

Mr. THAYER, from the Committee on Military Affairs, to whom was referred the joint resolution (H. R. No. 418) for the relief of John E. Reeside, and his sub-contractors, reported it without amendment.

CIVIL APPROPRIATION BILL.

Mr. MORRILL, of Maine. I ask the Senate to take up the civil bill for consideration with a view to the appointment of a committee of conference.

Mr. EDMUNDS. I withdraw the motion I made for a recess in order that the Senator may make that motion.

Mr. MORRILL, of Maine. I am much obliged to the Senator; I had forgotten that.

The motion was agreed to; and the Senate proceeded to consider its amendments to the bill (H. R. No. 2007) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, and for other purposes, disagreed to by the House of Representatives.

On motion of Mr. MORRILL, of Maine, it was

Resolved, That the Senate insist upon its amendments disagreed to by the House, and agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore* of the Senate.

The PRESIDENT *pro tempore* appointed Mr. MORRILL of Maine, Mr. EDMUNDS, and Mr. HARLAN managers at the same on its part.

WIDOWS OF GENERAL OFFICERS.

Mr. HENDRICKS. I move to take up the bill laid aside a few minutes ago.

Mr. MORRILL, of Maine. We want a conference on another bill.

Mr. HENDRICKS. I move to take up the bill granting a pension to Mrs. Hackleman and other ladies.

The PRESIDING OFFICER. (Mr. WILLIAMS.) The motion is to take up the bill mentioned by the Senator from Indiana.

Mr. EDMUNDS. I hope that will not be done. I do not wish to divide the Senate on

it as things are now situated, but I must do so because I am opposed to this bill on principle.

The PRESIDING OFFICER. The question is on the motion of the Senator from Indiana.

The motion was not agreed to.

SYMPATHY WITH SPAIN.

Mr. MORRILL, of Maine. I move that the bill just from the House be taken up and the action of the House read.

The Secretary read as follows:

IN THE HOUSE OF REPRESENTATIVES.

Resolved, That the House insist on their amendment, disagreed to by the Senate, to the resolution of the Senate No. 178, tendering sympathy to the people of Spain, and ask a conference on the disagreeing votes of the two Houses.

Mr. FESSENDEN. I move that that be laid on the table.

The motion was agreed to.

RECESS.

Mr. EDMUNDS. I move that the Senate take a recess until ten o'clock.

Mr. RAMSEY. Let us dispose of the business on the table.

The PRESIDING OFFICER. It is moved that the Senate take a recess until ten o'clock.

The motion was agreed to; and the Senate, at three o'clock and thirty minutes a. m., took a recess until ten o'clock a. m.

MORNING SESSION.

The Senate reassembled at ten o'clock a. m., [Thursday, March 4.]

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolutions:

A bill (S. No. 860) for the relief of Wright Duryea;

A bill (S. No. 896) confirming certain purchases of land in the Ionia district, Michigan, made by Charles H. Rodd and Andrew I. Campean;

A joint resolution (S. R. No. 238) extending the time for the completion of the first twenty miles of the Cairo and Fulton railroad; and

A joint resolution (S. R. No. 195) requiring the Commissioner of the General Land Office to transfer certain money.

THE GALLERIES.

The PRESIDENT *pro tempore*. The Sergeant-at-Arms will do his duty and have less noise in the galleries or they will be cleared.

Mr. TRUMBULL. Unless the galleries keep silence they will be cleared. I shall make that motion unless the galleries are silent, so that business can be transacted.

HOUSE SERGEANT-AT-ARMS.

Mr. MORRILL, of Maine. I ask leave to make a report. The Committee on Appropriations, to whom was referred the joint resolution (H. R. No. 473) relating to the pay of the Sergeant-at-Arms, have instructed me to report it back without amendment and recommend its passage. I ask unanimous consent to consider it now.

By unanimous consent, the joint resolution (H. R. No. 473) relating to the pay of the Sergeant-at-Arms was considered as in Committee of the Whole. It provides that hereafter the Sergeant-at-Arms of the House of Representatives, in lieu of all fees and mileage for summoning and procuring the attendance of witnesses before committees and the House and the attendance of members upon a call of the House, shall be reimbursed the actual and necessary expenses incurred in rendering the services, to be allowed by the Committee on Accounts and paid by the Clerk upon the presentation of a voucher sworn to by the person performing the service and certified by the committee directing the service to be performed, or by the Clerk of the House of Representatives, when the services are performed by direction of the House.

Mr. DRAKE. Is that a joint resolution?

The PRESIDENT *pro tempore*. It is.

Mr. DRAKE. I should like to know, if anybody can give me the information, why it should not include the Sergeant-at-Arms of the Senate as well as of the House.

Mr. MORRILL, of Maine. It would be quite fatal to amend the resolution at this time. I think we had better secure what there is in it.

Mr. DRAKE. Well, I will not throw any obstacle in the way of that much of reform.

The joint resolution was reported to the Senate.

Mr. CRAGIN. I hope the resolution will not be acted on.

The joint resolution was ordered to a third reading.

Mr. CRAGIN. I object to the third reading of that joint resolution, Mr. President.

The PRESIDENT *pro tempore*. Then it cannot be read a third time to-day.

REPORTS OF COMMITTEES.

Mr. FRELINGHUYSEN, from the Committee on the Judiciary, to whom was referred the resolution (S. R. No. 103) construing and giving effect to the joint resolution entitled "A resolution for the relief of the State of Wisconsin," approved July 1, 1864, asked to be discharged from its further consideration; which was agreed to.

Mr. WILLIAMS, from the Committee on Private Land Claims, to whom was referred the petition of Walter Crane, of Michigan, for recognition of the right of the State of Michigan to escheat of lands which accrued while Michigan was a territorial government, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 1588) for the relief of Solomon Oliver, asked to be discharged from its further consideration; which was agreed to.

Mr. CATTELL, from the Committee on Finance, to whom was referred the bill (S. No. 747) to regulate the price and encourage the production of cotton in the United States, reported adversely thereon and moved its indefinite postponement; which was agreed to.

W. W. CORCORAN.

The Senate proceeded to consider its amendment to the resolution (H. R. No. 413) in relation to lands and other property of W. W. Corcoran in the District of Columbia, used by the United States Government during and since the war of the rebellion, disagreed to by the House of Representatives; and

On motion of Mr. HARLAN, it was

Resolved, That the Senate insist on its amendments to the joint resolution and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That conferees on the part of the Senate be appointed by the President *pro tempore* of the Senate.

The PRESIDENT *pro tempore* appointed Mr. HARLAN, Mr. PATTERSON of New Hampshire, and Mr. VICKERS.

SYMPATHY WITH SPAIN.

The PRESIDENT *pro tempore* laid before the Senate the message of the House of Representatives insisting on its amendments to the joint resolution (S. R. No. 178) tendering sympathy to the people of Spain, and asking a conference thereon.

Mr. DRAKE. That was laid on the table during the night.

Mr. TRUMBULL. Let it be read.

The Secretary read the action of the House of Representatives.

Mr. SUMNER. I move that the Senate agree to the conference.

Mr. DRAKE. I move that the bill be laid on the table.

The motion to lay on the table was agreed to.

PETITIONS.

Mr. POMEROY. I have the honor to present a resolution from the Legislature of the State of Kansas relating to settlers on a portion of the Shawnee lands, in that State, asking that they may have the right to buy those lands at

\$1 25 per acre. I move that it be printed, and referred to the Committee on Indian Affairs.

The motion was agreed to.

Mr. POMEROY. I present several petitions which I have received from the State of Massachusetts, signed by citizens of that State, relating to the right of suffrage, asking that in any change of the Constitution of the United States, or in any effort to make suffrage more general in the District of Columbia, there may be no distinction among American citizens, but that all, native and foreign, male and female, may be admitted to equal participation in the right of suffrage. As this subject has been disposed of, I move that the petitions be laid on the table.

The motion was agreed to.

IMPEACHMENT TRIAL.

Mr. BUCKALEW. Before the session closes I desire to make a brief statement—

The *PRESIDENT pro tempore*. It is impossible to do business here unless we can have more silence in the galleries.

Mr. TRUMBULL. These ladies and gentlemen in the galleries ought to understand that the Senate has business to transact, and unless their sense of propriety will allow the Senate to do its business the Senate will be compelled to clear the galleries. There is important business yet to be transacted; some appropriation bills have not finally passed, and we must have an opportunity to do business.

The *PRESIDENT pro tempore*. The Senator from Pennsylvania has the floor.

Mr. BUCKALEW. Mr. President, at the last session a select committee was appointed by the Senate to inquire and report whether corrupt influences had been used upon the votes of any members of the Senate in the case of the impeachment of President Johnson. That committee had two meetings at the last session, but the adjournment arrived without any report being made. At the present session, by a resolution, the committee was continued. We are now about to adjourn and there will be no formal report made from that committee. I desire to state, however, that neither at the former session nor at the present one has any information been communicated to that committee upon the subject in regard to which they were appointed. From no quarter have we received any information which would even justify us in entering upon any regular investigation, and so far as the committee are concerned I have to say that nothing has appeared to justify any imputation upon any member of the Senate. I need hardly add my own private conviction, although that is very strong, that there was not the slightest ground for imputing to any member of the Senate or to any person connected with any member of the Senate the use of or subjection to any corrupt, illegitimate, or improper influences in connection with the impeachment.

Inasmuch as this committee was appointed at the last session and was continued at the present session, I thought before our adjournment it was proper for me to make this brief statement.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 783) to amend the judicial system of the United States;

A bill (S. No. 896) confirming certain purchases of land in the Ionia district, Michigan, made by Charles H. Rodd and Andrew J. Campean;

A bill (S. No. 860) for the relief of Wright Duryea;

A bill (S. No. 729) to provide for the execution in the District of Columbia of commissions issued by the courts of the States and Territories of the United States or of foreign nations, and for taking depositions to be used in such courts;

A joint resolution (S. R. No. 195) requiring

the Commissioner of the General Land Office to transfer certain money; and

A joint resolution (S. R. No. 238) extending the time for the completion of the first twenty miles of the Cairo and Fulton railroad.

COMMITTEE CLERKS.

Mr. CONNESS. I move that the Senate proceed to the consideration of a resolution I offered a few days ago, touching the compensation of committee clerks.

The Secretary read the resolution, as follows:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized to pay to the committee clerks their *per diem* salary from September 22 to November 11, 1868.

Mr. CONNESS. I wish to explain to Senators concerning this resolution. The committee clerks were paid up to the meeting of the first additional session after the regular session, occurring in September. We made further provision for meetings of Congress to that time, and the clerks of the committees came and remained here as they were bound to do. It is a mere question of whether they shall receive pay for the additional sessions that we provided for and required them to come. It applies to only a very few persons, and I hope that it will be adopted.

Mr. SHERMAN. Has that resolution been reported from the Committee on Contingent Expenses?

Mr. CONNESS. It has not.

Mr. SHERMAN. I understand they reported against it.

Mr. CONNESS. The resolution that was reported against was one which included all the messengers and attachés of the Senate, including the pages. This is entirely another thing, and the chairman of the Committee on Contingent Expenses informed me that he believed this should be paid. It was intended it should be paid, but the Comptroller finds a warrant for refusing to pay. I have just seen the chairman of the Committee on Contingent Expenses. He is a member of the committee of arrangements, and said he had to go. It is a very small matter.

Mr. BUCKALEW. I move for the reading of the resolution.

The resolution was read.

Mr. CONNESS. I will say to the Senator from Pennsylvania that they were paid for the first provisional session.

Mr. MORRILL, of Vermont. The chairman of the committee himself requested me if anything in relation to these committee clerks was brought up to object to it until he could have time to present it.

Mr. CONNESS. That statement certainly does not relate to this resolution. The Senator can scarcely think that I would make a misstatement in this body. I have within ten minutes conversed with the chairman, and he said he would like to remain and support it, but had to be absent on the committee of arrangements for the inauguration.

Mr. EDMUNDS. What is the ground on which you put it?

Mr. CONNESS. That they came. We created and provided sessions and they came. The resolution which he is opposed to is one which includes all the attachés of the body.

Mr. MORRILL, of Vermont. I spoke from information he gave me yesterday, and very likely the Senator from California is correct.

Mr. CONNESS. I am correct, sir.

Mr. BUCKALEW. As a member of the Committee on Contingent Expenses I have never agreed to any such resolution as this. As far as I understand the views of the chairman, they are very different from what have been stated by the Senator from California. As I understand from his statement, these clerks were paid up to the September session, when there was a brief meeting of the two Houses. The effect, then, of this resolution would be to pay them from September until the commencement of the regular session in December. I believe there was a formal, not a substantial, meeting of the officers of the two Houses in

October and again early in November. That was a mere form. There was in fact no session of Congress and none was contemplated; and these officers were not here at all. They had no occasion to come and they did not come. As to the September session, there might be a fair presumption that there would be a session; but as I understand that they were paid up to and including the day or two days of the September session I see no reason for the passage of this resolution. If it was within the rule I would object to its consideration at this time.

Mr. CONNESS. It is up for consideration.

Mr. BUCKALEW. It is simply to pay a class of officers of the Senate who are among the best paid of all of them from September until the opening of the regular session in December, or nearly to that time, for services which they never performed, when they were not here at all in the city of Washington, when there is no reason or pretext in the world for voting the money except that it would be a very graceful and a very pleasant thing for those who are their friends in this body to give them a little gratuity of this sort at the end of the session. For my part I have always resisted here and elsewhere the voting away of public money for services which were not performed. This is clearly a case of that description, and therefore for one I object to it.

The *PRESIDENT pro tempore*. The question is on agreeing to the resolution.

Mr. FOWLER. I move to amend the resolution by adding the words "and messengers" after the words "committee clerks."

Mr. CONNESS. If the messengers should be included the pages should also. The reason why I did not include them in the resolution was that the committee reported against it.

The question being put, there were on a division—ayes 11, noes 15; no quorum voting.

Mr. CONNESS. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 19; as follows:

YEAS—Messrs. Buckalew, Cole, Corbett, Davis, Edmunds, Fessenden, Fowler, Harris, Kellogg, McDonald, Morton, Patterson of Tennessee, Ramsey, Rice, Robertson, Tipton, Van Winkle, Wade, Warner, Whyte, and Willey—21.

NAYS—Messrs. Cameron, Chandler, Conness, Drake, Frelinghuysen, Harlan, Morgan, Morrill of Maine, Morrill of Vermont, Osborn, Patterson of New Hampshire, Pomeroy, Sherman, Stewart, Sumner, Trumbull, Welch, Williams, and Wilson—19.

ABSENT—Messrs. Abbott, Anthony, Bayard, Cattell, Conkling, Cragin, Dixon, Doolittle, Ferry, Grimes, Henderson, Hendricks, Howard, Howe, McCreery, Norton, Nye, Pool, Ross, Saulsbury, Sawyer, Spencer, Sprague, Thayer, Vickers, and Yates—26.

So the amendment was agreed to.

Mr. EDMUNDS. I offer the following amendment, to come in at the end:

Provided, That no person shall be benefited by this resolution who did not actually attend the November session of 1868.

The amendment was agreed to.

The *PRESIDENT pro tempore*. The question is on the resolution as amended.

Mr. BUCKALEW. I demand the yeas and nays on the passage of the resolution.

The yeas and nays were ordered.

Mr. SHERMAN. I should like to know how many messengers and clerks are included in this resolution. There are about fifty or sixty, I believe.

Mr. CONNESS. I cannot answer that question.

Mr. MORRILL, of Vermont. Only a few who lived here in Washington.

Mr. WILSON. That is all now. The amendment of the Senator from Vermont beyond all question settles it that none of the persons who reside outside of this city will receive any pay.

Mr. EDMUNDS. Did they not attend?

Mr. WILSON. My belief is that they did not, though here and there possibly a man did. Many of them held themselves in readiness to do so and governed their business affairs accordingly and had to bear the burden of it. The hour came and they had notification like the rest of us that Congress would not meet. The few who reside in this city will get the benefit of it, but nobody else.

Mr. TRUMBULL. Manifestly the resolution ought not to pass in the shape it is, because it will pay to every person residing in Washington the additional compensation. Certainly they are no better deserving of it than others.

Mr. EDMUNDS. I agree with the Senator from Illinois in a part of his observations. Manifestly the resolution ought not to pass in the shape it is or any other. These clerks of committees get better pay than the regular clerks do who are paid by the year, and they did not come to attend these sessions, and I do not believe the clerks who lived in this city, if there are any, came either. Now the question is whether we are to pay constructive *per diem* to the clerks of committees when everybody over the country, clerks and all, knew that there would be no November session a long time before the period arrived for which it was appointed. I entirely agree with the Senator from Pennsylvania that we shall not be justified in expending the public money for any such purpose.

The PRESIDENT *pro tempore*. The question is on the resolution as amended.

Mr. SUMNER. Do I understand that the Senate has voted on the amendment?

Mr. EDMUNDS. Yes.

Mr. SUMNER. I should like a division on that.

Several SENATORS. Too late.

The PRESIDENT *pro tempore*. The amendment was agreed to. The question is on the resolution as amended.

Mr. ROBERTSON. I move to reconsider the vote on the amendment offered by the Senator from Vermont.

Mr. SUMNER. I hope it will be reconsidered.

The PRESIDENT *pro tempore*. It is moved that the vote by which the amendment was agreed to be reconsidered.

Mr. EDMUNDS. I shall be glad to hear from the honorable Senator from Massachusetts upon what ground it is that he thinks we ought to expend the public money to pay constructive *per diem* to the clerks of committees who were enjoying themselves in Massachusetts and Vermont and elsewhere in November.

Mr. SUMNER. They held themselves in readiness for service here, and it seems to me they have the same title that my friend, the Senator from Vermont, has to his compensation.

Mr. EDMUNDS. Well, Mr. President, I cannot say that I held myself in readiness for service here then; and the Senator perfectly well knows that the law fixes an annual compensation to us and it fixed a *per diem* compensation to them. The result is that you cannot escape the position that you set, the precedent of paying the employés of the Senate constructive *per diem*, covering months of time when they were not here and not performing service, and when they and everybody else knew that they would not be required to come here and perform service.

Mr. SUMNER. And yet the resolution as amended by the Senator from Vermont will apply exclusively to those clerks who reside here in Washington; and it is favoritism to them. I wish to have all the clerks treated alike; those who were here in Washington and those who were not. That is the reason that I assign for the reconsideration of the proposition, which I think was hastily adopted.

Mr. DAVIS. I move to lay the whole subject on the table.

Mr. CONNESS. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 20; as follows:

YEAS—Messrs. Buckalew, Cameron, Chandler, Cole, Corbett, Davis, Dixon, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Grimes, Harris, Hendricks, Howe, Morgan, Morrill of Vermont, Patterson of New Hampshire, Sherman, Sprague, Trumbull, Warner, Wiley, Williams, and Wilson—26.

NAYS—Messrs. Anthony, Cattell, Conness, Fowler, Harlan, Kellogg, Morton, Osborn, Patterson of Tennessee, Pomeroy, Ramsey, Rice, Robertson, Spencer, Stewart, Sumner, Tipton, Van Winkle, Wade, and Welch—20.

ABSENT—Messrs. Abbott, Bayard, Conkling, Cragin, Doolittle, Henderson, Howard, McCreery, McDonald, Morrill of Maine, Norton, Nye, Pool, Ross, Saulsbury, Sawyer, Thayer, Vickers, Whyte, and Yates—20.

So the resolution was ordered to lie on the table.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the joint resolution (S. R. No. 239) more efficiently to protect the fur-seal in Alaska; and the bill (S. No. 875) for the relief of Mathilda Victor.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 1881) regulating the reports of national banking associations;

A bill (H. R. No. 1803) making appropriations for the support of the Army for the year ending June 30, 1870, and for other purposes;

A bill (H. R. No. 1672) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1870; and

A bill (H. R. No. 1911) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes.

CIVIL APPROPRIATION BILL.

Mr. MORRILL, of Maine. I make a report from the committee of conference on the disagreeing votes of the two Houses on the bill making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 2007) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their amendments numbered 7, 8, 9, 15, 26, 32, 34, 37, 47, and 48.

That the House of Representatives recede from their disagreement to the amendments to the Senate numbered 1, 2, 3, 4, 5, 6, 10, 11, 12, 13, 14, 16, 17, 19, 20, 21, 22, 24, 25, 27, 28, 29, 30, 31, 33, 35, 36, 39, 40, 41, 42, 43, 44, 45, and 46, and agree to the same.

That the House recede from their disagreement to the amendment of the Senate numbered 18 and agree to the same with an amendment, as follows: in line nine of said amendment, after the word "paid," insert "and no liability incurred;" and the Senate agree to the same.

That the House recede from their disagreement to the amendment of the Senate numbered 23 and agree to the same with an amendment, as follows: strike out of said amendment the word "fifty" and insert in lieu the words "twenty-five."

That the House recede from their disagreement to the amendment of the Senate numbered 38 and agree to the same with an amendment, as follows: at the end of said amendment add the following words: "Provided, That the proper accounting officers of the Treasury shall review the said claim upon its merits, and allow only so much, not exceeding said sum, as shall be just;" and the Senate agree to the same.

L. M. MORRILL,
JAMES HARLAN,
GEORGE F. EDMUNDS.

Managers on the part of the Senate.

R. P. SPALDING,
H. H. STARKWEATHER,
S. S. MARSHALL.

Managers on the part of the House.

Mr. TRUMBULL. It is impossible to understand that report without an explanation. I hope the Senator from Maine will tell us what the purport of the report is. What is the last proposition about a claim?

Mr. MORRILL, of Maine. It is in regard to a claim for military expenses of Iowa. The House recede and concur with a proviso that it shall be subject to the audit of the accounting officers of the Treasury.

Mr. TRUMBULL. Is that all the change?

Mr. MORRILL, of Maine. That is all. I will answer any inquiry which may be addressed to me as to any other item. There are many minor items which I suppose will not interest the Senate.

The PRESIDENT *pro tempore*. The question is on the report of the committee of conference.

The report was concurred in.

PAY OF SOUTHERN SENATORS.

Mr. MORTON. I move to take up for the purpose of having a vote on it, the resolution with regard to the compensation of the Senators from the reconstructed States.

The motion was agreed to; and the Senate resumed the consideration of the following resolution:

Resolved, That the Secretary of the Senate be directed to pay the Senators from the States of North Carolina, South Carolina, Florida, Alabama, Arkansas, and Louisiana the compensation allowed by law, to be computed from the commencement of the second session of the Fortieth Congress.

Mr. FERRY. I call for the yeas and nays upon that.

The yeas and nays were ordered.

Mr. DRAKE. Mr. President, I feel that it is a mockery to undertake to transact business in this Senate Chamber this morning except so far as it may be absolutely necessary for the interests of the nation. I will therefore do in this case as I shall do in reference to every other piece of business, move to lay it upon the table.

Mr. MORTON. I ask for the yeas and nays upon that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 20, nays 19, as follows:

YEAS—Messrs. Buckalew, Conness, Davis, Dixon, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Grimes, Hendricks, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Stewart, Whyte, Williams, and Wilson—20.

NAYS—Messrs. Cameron, Cattell, Chandler, Cole, Corbett, Fowler, Harlan, Morton, Patterson of Tennessee, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Thayer, Tipton, Van Winkle, Wade, and Wiley—19.

ABSENT—Messrs. Abbott, Anthony, Bayard, Conkling, Cragin, Doolittle, Harris, Henderson, Howard, Kellogg, McCreery, McDonald, Norton, Nye, Osborn, Pool, Rice, Robertson, Ross, Saulsbury, Sawyer, Spencer, Trumbull, Vickers, Warner, Welch, and Yates—27.

So the resolution was ordered to lie on the table.

PRESIDENTIAL APPROVAL OF BILLS.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had this day signed and approved the following bills and joint resolutions:

A bill (S. No. 679) to amend an act entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State;"

A bill (S. No. 862) amendatory of the act providing for the sale of the arsenal grounds at St. Louis and Liberty, Missouri, and for other purposes;

A joint resolution (S. R. No. 200) reappointing Louis Agassiz a regent of the Smithsonian Institution;

A bill (S. No. 264) for the relief of Henry C. Noyes;

A bill (S. No. 844) for the relief of Captain Charles Hunter, United States Navy;

A bill (S. No. 760) for the relief of Rev. D. Hillhouse Buel;

A bill (S. No. 781) for the relief of Alpheus C. Gallahue;

A bill (S. No. 836) for the relief of Celestra P. Hartt;

A bill (S. No. 891) for the relief of George Fowler and the estate of De Grasse Fowler, deceased, or their assigns;

A bill (S. No. 661) for the relief of Lieutenant Colonel John W. Davidson, of the United States Army;

A bill (S. No. 705) further to provide for giving effect to treaty stipulations between this and foreign Governments for the extradition of criminals;

A bill (S. No. 753) to provide for the execution of judgments in capital cases;

A bill (S. No. 722) to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to

provide for the circulation and redemption thereof," by extending certain penalties to accessories;

A bill (S. No. 711) relating to the Metropolitan Railroad Company;

A bill (S. No. 810) to regulate elections in Washington and Idaho Territories;

A bill (S. No. 584) relating to the time for finding indictments in the courts of the United States in the late rebel States;

A bill (S. No. 612) relating to the proof of wills in the District of Columbia;

A bill (S. No. 167) granting lands to the State of Oregon to aid in the construction of a military wagon-road from the navigable waters of Coos Bay to Roseburg, in said State;

A bill (S. No. 712) to define the fees of recorder of deeds, and to provide for the appointment of warden of the jail in the District of Columbia, and for other purposes;

A bill (S. No. 949) granting a pension to Mrs. Lydia W. Ford;

A bill (S. No. 941) granting a pension to Benjamin C. Stone;

A bill (S. No. 910) granting a pension to the children of Martin N. Slocum, deceased;

A bill (S. No. 906) granting a pension to Elizabeth Clarke;

A bill (S. No. 904) granting a pension to Benjamin T. Raines, of Indiana;

A bill (S. No. 903) granting a pension to Horace Peck, of Charlestown, Massachusetts;

A joint resolution (S. No. 231) providing for the reporting and publication of the debates in Congress;

A bill (S. No. 665) respecting the organization of militia in the States of North Carolina, South Carolina, Florida, Alabama, Louisiana, and Arkansas;

A bill (S. No. 942) granting a pension to Sarah E. Haines;

A joint resolution (S. No. 219) giving the assent of the United States to the construction of the Newport and Cincinnati bridge;

A joint resolution (S. No. 217) for printing the Medical and Surgical History of the Rebellion;

A bill (S. No. 896) confirming certain purchases of land in the Ionia district, Michigan, made by Charles H. Rudd and Andrew I. Campeau;

A bill (S. No. 860) for the relief of Wright Duryea;

A bill (S. No. 871) to authorize the transfer of lands granted to the Union Pacific Railway Company, eastern division, between Denver and the point of its connection with the Union Pacific railroad, to the Denver Pacific Railway and Telegraph Company, and to expedite the completion of railroads to Denver, in the Territory of Colorado;

A joint resolution (S. R. No. 238) extending the time for the completion of the first twenty miles of the Cairo and Fulton railroad;

A joint resolution (S. R. No. 195) requiring the Commissioner of the General Land Office to transfer certain money;

A bill (S. No. 729) to provide for the execution in the District of Columbia of commissions issued by the courts of the States and Territories of the United States or of foreign nations, and for taking depositions to be used in such courts; and

A resolution (S. R. No. 239) more efficiently to protect the fur-seal in Alaska;

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bill and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 2007) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, and for other purposes;

A joint resolution (S. R. No. 239) more efficiently to protect the fur-seal in Alaska; and

A joint resolution (H. R. No. 280) for the relief of Mrs. Ella E. Hobart.

PENSION TO MRS. LINCOLN.

Mr. SUMNER. I move that the Senate proceed to the consideration of Senate joint resolution No. 196, granting a pension to Mrs. Mary Lincoln, widow of the late President of the United States, who was killed during the war of the rebellion; and on that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 27; as follows:

YEAS—Messrs. Abbott, Cameron, Cattell, Conness, Corbett, Frelinghuysen, Harlan, Harris, Kellogg, McDonald, Morgan, Morrill of Maine, Morton, Nye, Pomeroy, Ramsey, Rice, Sawyer, Spencer, Stewart, Sumner, Thayer, and Warner—23.

NAYS—Messrs. Buckalew, Chandler, Cole, Davis, Doolittle, Edmunds, Ferry, Fessenden, Fowler, Grimes, Hendricks, Howe, Morrill of Vermont, Osborn, Patterson of New Hampshire, Pool, Sherman, Sprague, Tipton, Van Winkle, Vickers, Wade, Welch, Whyte, Willey, Williams, and Wilson—27.

ABSENT—Messrs. Anthony, Bayard, Conkling, Cragin, Dixon, Drake, Henderson, Howard, McCreery, Norton, Patterson of Tennessee, Robertson, Ross, Sausbury, Trumbull, and Yates—16.

So the motion was not agreed to.

TENURE OF OFFICE.

Mr. DAVIS. Mr. President, I move to take up the bill to repeal the civil tenure-of-office act; and upon that motion I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 35; as follows:

YEAS—Messrs. Buckalew, Cameron, Davis, Dixon, Doolittle, Fowler, Grimes, Hendricks, Kellogg, McDonald, Morton, Patterson of Tennessee, Vickers, Warner, and Whyte—15.

NAYS—Messrs. Abbott, Anthony, Cattell, Chandler, Cole, Conkling, Conness, Corbett, Drake, Edmunds, Ferry, Frelinghuysen, Harlan, Harris, Howard, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Osborn, Patterson of New Hampshire, Pomeroy, Ramsey, Sawyer, Sherman, Spencer, Sprague, Stewart, Sumner, Tipton, Trumbull, Wade, Willey, Williams, and Wilson—35.

ABSENT—Messrs. Bayard, Cragin, Fessenden, Henderson, Howe, McCreery, Norton, Pool, Rice, Robertson, Ross, Sausbury, Thayer, Van Winkle, Welch, and Yates—16.

So the motion was not agreed to.

CLOSE OF THE SESSION.

Mr. SHERMAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That a committee of two members be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that unless he may have some further communication to make the two Houses of Congress, having finished the business before them, are ready to adjourn.

The PRESIDENT *pro tempore* appointed Mr. SHERMAN and Mr. WHITE the committee.

When twelve o'clock noon of March 4 arrived the Vice President-elect, Hon. SCHUYLER COLFAX, of Indiana, entered the Senate Chamber, and the oaths of office were administered to him.

Whereupon.

The PRESIDENT *pro tempore*. The hour having arrived for the termination of the Fortieth Congress, the Senate of the United States stands adjourned without day.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 3, 1869.

The House met at ten o'clock a. m. Prayer by Rev. GEORGE F. MAGOUN, D. D., president of Iowa College.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. McDONALD its Chief Clerk, notifying the House that that body had passed the legislative, executive, and judicial appropriation bill, and the Post Office appropriation bill, with sundry amendments, in which the concurrence of the House was requested.

Mr. SPALDING. I am instructed by the Committee on Appropriations to move non-concurrence in those amendments and request committees of conference.

There was no objection, and it was ordered accordingly.

RESIGNATION OF SPEAKER COLFAX.

The SPEAKER. Before proceeding to

tender to the House of Representatives my resignation of the office of Speaker—to take effect at the election of my successor—I have, as the rules authorize me to do, asked Mr. WILSON, of Iowa, to preside as Speaker *pro tempore* when I shall leave the chair.

Gentlemen of the House of Representatives:

The opening of the legislative day at the close of which I must enter upon another sphere of duty requires me to tender to you this resignation of the office which by your kindness and confidence I have held, to take effect on the election of a Speaker for the brief remainder of this session.

The parting word among friends about to separate is always a regretful one: but the farewell which takes me from this Hall, in which so many years have been spent, excites in me emotions which it would be useless to attempt to conceal.

The fourteen years during which I have been associated with the Representatives of the people here have been full of eventful legislation, of exciting issues, and of grave decisions, vitally affecting the entire Republic. All these, with the accompanying scenes which so often reproduced in this arena of debate the warmth of feeling of our antagonizing constituencies, have passed into the domain of history. And I but refer to them to express the joy which apparently is shared by the mass of our countrymen that the storm-cloud of war which so long darkened our national horizon has at last passed away, leaving our imperiled Union saved; and that, by the decree of the people, more powerful than Presidents or Congresses or armies, liberty was proclaimed throughout the land to all the inhabitants thereof.

But I cannot leave you without one word of rejoicing over the present position of our Republic among the nations of the earth. With our military power and almost illimitable resources, exemplified by the war that developed them; with our rapidly augmenting population and the welcome at our open gates to the oppressed of all other climes; with our vast and increasing agricultural, mechanical, manufacturing, and mineral capabilities; with our frontage on the two great oceans of the globe, and our almost completed Pacific railroad uniting these opposite shores and becoming the highway of nations, the United States of America commands that respect among the Powers of the world which insures the maintenance of all its national rights and the security of all its citizens from oppression or injustice abroad.

Nor is this all. The triumphant progress of free institutions here has had its potential influence beyond the sea. The right of the people to govern, based on the sacred principle of our Revolution, that all Governments derive their just powers from the consent of the governed, is everywhere advancing, not with slow and measured steps, but with a rapidity that within a few years has been so signally illustrated in Great Britain, Spain, Italy, Prussia, Hungary, and other lands. May we not all hope that by the moral but powerful force of our example fetters may everywhere be broken, and that some of us may live to see that happy era when slavery and tyranny shall no more be known throughout the world from the rivers to the ends of the earth.

I cannot claim that in the share I have had in the deliberations and the legislation of this House, as a member and an officer, I have always done that which was wisest and best in word and in act, for none of us are infallible. But that I have striven to perform faithfully every duty, and that, devoted as all know to principles that I have deemed correct, the honor and glory of our country have always been to me paramount and above all party ties, I can conscientiously assert; and that I have sought to mitigate rather than to intensify the asperities which the collisions of opposing parties so often evoke must be left to my fellow-members to verify.

In the responsible duties of the past six years I have endeavored to administer the rules

you have enacted for your guidance, both in letter and in spirit, with an impartiality uninfluenced by political associations or antagonisms. And I may be pardoned for the expression of gratification that while no decision has been reversed there has been no appeal—sometimes taken as they are by a minority as a protest against the power under the rules of a majority—which has ever been decided by a strictly party vote. If in the quickness with which a Presiding Officer here is often compelled to rule, hour after hour, on parliamentary points, and in the performance of his duty to protect all members in their rights, to advance the progress of public business, and to preserve order, any word has fallen from my lips that has justly wounded any one, I desire to withdraw it unreservedly.

I leave this Hall with no feeling of unkindness to any member with whom I have been associated in all the years of the past, having earnestly tried to practice that lesson of life which commands us to write our enmities on the sand but to engrave our friendships on the granite.

But the last word cannot longer be delayed. I bid farewell to the faithful and confiding constituency whose affectionate regard has sustained and encompassed me through all the years of my public life—farewell to this Hall, which, in its excitements and restless activities, so often seems to represent the throbbings and the intense feelings of the national heart; and finally, fellow-members and friends, with sincere gratitude for the generous support you have always given me in the difficult and often complex duties of this chair, and with the warmest wishes for your health, happiness, and prosperity, one and all, I bid you farewell. [Applause upon the floor and in the galleries.]

Mr. WILSON, of Iowa, took the chair as Speaker *pro tempore*.

Mr. WOODWARD. Mr. Speaker, at the instance of several political friends on this side of the Chamber, as well as in expression of my own opinions and feelings, I offer this resolution.

The Clerk read as follows:

Resolved, That the retirement of Hon. SCHUYLER COLFAX from the Speaker's chair, after a long and faithful discharge of its duties, is an event in our current history which would cause general regret were it not that the country is to have the benefit of his matured talents and experience in the higher sphere of duty to which he has been called by a majority of his countrymen. In parting from our distinguished Speaker the House records with becoming sensibility its high appreciation of his skill in parliamentary law, of his promptness in administering the rules and facilitating the business of the body, of his urbane manners, and of the dignity and impartiality with which he has presided over the deliberations of the House. He will carry with him into his new field of duty and throughout life the kind regards of every member of this Congress.

The resolution was adopted unanimously.

ELECTION OF SPEAKER.

Mr. DAWES. Mr. Speaker, I move that Hon. THEODORE M. POMEROY be declared duly elected Speaker of this House in place of Hon. SCHUYLER COLFAX, resigned, for the remaining term of this Congress.

Mr. PRUYN. I second that motion.

The motion was adopted unanimously.

The SPEAKER *pro tempore* appointed Mr. DAWES and Mr. WOODWARD a committee to escort Mr. POMEROY to the Speaker's chair.

The committee thereupon waited upon Mr. POMEROY and escorted him to the chair.

The SPEAKER *pro tempore*. The Chair will designate Mr. DAWES, of Massachusetts, to administer the oath of office.

Mr. DAWES accordingly administered the oath.

The SPEAKER-elect, on taking the chair, addressed the House as follows:

Gentlemen of the House of Representatives:

In assuming for the few remaining hours of the session the arduous duties of your Presiding Officer, I can simply thank you for the high compliment which you have conferred. It has been my pleasure for eight years to mingle humbly in the labors of this House;

and in retiring, as I expect to do within a brief period forever from all official connection with the American Congress, I carry with me at least this gratification, that in all those years I have never upon this floor received from a member of this House one word of unkindness nor one act of disrespect. The unanimity with which I have been chosen to preside for this brief period is evidence of itself that your choice carries with it no political significance. I can most cheerfully forego all the power and all the influence that attaches to the position of Speaker of the House; but there is a significance beyond that which a man must be differently constituted from myself if he can ever forget, and which arises from the kind personal consideration which is involved in my unanimous election to this most honorable position. [Applause.]

Mr. WOODWARD. I move that an engrossed copy of the resolution adopted by the House upon the retirement of Speaker COLFAX be signed by the officers of the House and communicated to our late Speaker.

The motion was agreed to.

Mr. DAWES offered the following resolution; which was read, considered, and agreed to:

Resolved, That a message be sent to the Senate informing that body that the House has elected Hon. THEODORE M. POMEROY, one of the Representatives from the State of New York, Speaker, in the place of Hon. SCHUYLER COLFAX, resigned.

Mr. DAWES also offered the following resolution; which was read, considered, and agreed to:

Resolved, That a committee of three be appointed on the part of the House to wait upon the President of the United States and inform him that the House has elected Hon. THEODORE M. POMEROY, one of the Representatives from the State of New York, Speaker, in the place of Hon. SCHUYLER COLFAX, resigned.

The SPEAKER appointed as the committee to wait on the President Messrs. HULBURD, CULLOM, and WOODWARD.

MOUNT VERNON ASSOCIATION.

Mr. PHELPS. I rise to a privileged question. I move that a message be sent to the Senate requesting a copy of Senate bill No. 588, for the relief of the Mount Vernon Ladies' Association. The bill passed the Senate without a division on the 9th of July last. It was referred in the House to the Committee on Appropriations, and it cannot now be found either in the committee-room, the Clerk's office, or anywhere. I am informed that the bill has passed among the private papers of the late Thaddeus Stevens, who was chairman of the committee at the time.

No objection being made, it was ordered accordingly.

RECONSTRUCTION—GEORGIA.

Mr. BOUTWELL, from the Committee on Reconstruction, submitted a reply of Governor Bullock, of Georgia, in reply to Hon. NELSON TIFT; which was laid on the table, and ordered to be printed.

SETTLERS ON SHAWNEE LANDS.

Mr. CLARKE, of Kansas. I ask unanimous consent to introduce for present action a joint resolution for the relief of settlers upon the absentee Shawnee lands in Kansas.

Mr. SPALDING. I demand the regular order.

SURGICAL HISTORY OF THE REBELLION.

The House resumed the consideration of the unfinished business pending at the adjournment last evening, being the joint resolution (S. No. 217) for printing the Medical and Surgical History of the Rebellion.

The previous question had been seconded and the main question ordered, and tellers had been ordered on the passage of the resolution.

The SPEAKER appointed Messrs. GARFIELD and SCOFIELD as tellers.

The House divided; and the tellers reported—ayes 92, noes 22.

Mr. SCOFIELD demanded the yeas and nays.

The yeas and nays were refused.

Mr. SCOFIELD demanded tellers on ordering the yeas and nays.

Tellers were refused.

So the joint resolution was passed.

Mr. BROOKS moved to reconsider the vote by which the joint resolution was passed.

Mr. GARFIELD moved to lay the motion to reconsider on the table.

Mr. ELDRIDGE called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 111, nays 44, not voting 67; as follows:

YEAS—Messrs. Archer, Axtell, Bailey, Baldwin, Banks, Beaman, Beatty, Benton, Bingham, Blair, Boutwell, Broomall, Buckland, Buckley, Benjamin F. Butler, Roderick K. Butler, Cake, Chanler, Churchill, Reader W. Clarke, Clift, Coburn, Corley, Cornell, Cullom, Dixon, Dockery, Dodge, Donnelly, Driggs, Eila, Thomas D. Eliot, Ferriss, Ferry, Fields, Garfield, Goss, Gove, Griswold, Grover, Harding, Heaton, Higby, Hill, Hooper, Hopkins, Hulburt, Jencks, Johnson, Alexander H. Jones, Judd, Julian, Kelley, Kellogg, Ketcham, Koontz, Lash, Lynch, Mallory, Marshall, McCormick, McKee, Miller, Moore, Moorhead, Mullins, Myers, Newcomb, Newsam, Norris, O'Neill, Orth, Paine, Perham, Peters, Pettis, Phelps, Pierce, Pike, Plants, Poland, Price, Prince, Pruyn, Randall, Raum, Robertson, Root, Sawyer, Schenck, Shellabarger, Smith, Spalding, Stokes, Stover, Taber, Taffe, Thomas, Twichell, Upson, Van Aernam, Robert T. Van Horn, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, James F. Wilson, John T. Wilson, Wood, and Woodward—111.

NAYS—Messrs. Adams, Arnell, Delos R. Ashley, Baker, Benjamin, Brooks, Cary Cook, Eggleston, Eldridge, Farnsworth, Fox, Gutz, Glossbrenner, Goldaday, Haight, Hawkins, Holman, Hotchkiss, Humphrey, Hunter, Ingersoll, Thomas L. Jones, Kelsey, Kerr, Knott, Ludin, George V. Lawrence, William Lawrence, Loughridge, McCarthy, Ross, Scofield, Sitgreaves, Starkweather, Stone, Lawrence S. Trimble, Van Aaken, Van Trump, Van Wyck, Ward, Cadwalader C. Washburn, Woodward, and Young—44.

NOT VOTING—Messrs. Allison, Ames, Anderson, James M. Ashley, Barnes, Barnum, Beck, Blackburn, Blaine, Boies, Bowen, Boyden, Boyer, Brewster, Burr, Callis, Sidney Clarke, Cobb, Colfax, Covode, Dawes, Delano, Deweese, Dickey, Eckley, Edwards, James T. Elliott, French, Gravely, Halsey, Hamilton, Haughey, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Kitchen, Lincoln, Loan, Logan, Marvin, Maynard, McCullough, Mercur, Morrill, Morrissey, Mungen, Niblack, Nicholson, Nunn, Pile, Polsley, Robinson, Selye, Shanks, Stevens, Stewart, Sypher, Taylor, Tift, John Trimble, Trowbridge, Burt Van Horn, Vidal, Elihu B. Washburne, Thomas Williams, Stephen F. Wilson, and Windom—67.

So the motion to reconsider was laid on the table.

ADMISSIONS TO THE FLOOR.

Mr. FARNSWORTH. I rise to a point of order. I ask that the Doorkeeper shall enforce the rule and prevent the influx of persons who are not entitled to the floor.

The SPEAKER. The Chair will state that there are many persons on the floor now who are not members of the House, but who are privileged under the rules.

Mr. ELDRIDGE. I would inquire whether gentlemen elected to the Forty-First Congress are entitled to be on the floor? I take it that the rule does not cover them. I hope they will not be excluded.

Mr. FARNSWORTH. Members-elect to the Forty-First Congress are entitled to the privileges of the floor. But all persons not privileged ought to be excluded, for if one is admitted others press in and the House gets full.

The SPEAKER. Members-elect of the Forty-First Congress are entitled to the privileges of the floor under the usage of the House. The doorkeepers will exclude all persons who have no right to admission.

NAVAL CONTRACTORS, ETC.

Mr. BINGHAM. I ask leave of the House to report three or four bills from the Committee of Claims which they have passed upon and instructed me to report to the House. The committee has not been called since the holidays, and although these are private bills they nevertheless do in some sense touch the integrity of the nation. If the Government intends to keep faith with its own citizens these bills ought to be passed.

Mr. SCOFIELD. I insist on the regular order.

Mr. BINGHAM. Then, I move to suspend

the rules, because I think no order more regular than the one I propose.

Mr. INGERSOLL. I hope the rules will be suspended.

Mr. RANDALL. What is the bill?

Mr. BINGHAM. I desire to report first the joint resolution of the Senate No. 100, for the relief of certain contractors for the construction of vessels of war and steam machinery. I move to suspend the rules for the purpose of reporting it and some other bills.

The question was taken; and (two thirds not voting in favor thereof) the rules were not suspended.

ELECTION FRAUDS IN NEW YORK.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution, on which he called the previous question:

Resolved, That there be printed two thousand copies of the majority and minority reports, with the testimony, of the committee, on the alleged frauds committed at the late presidential election in the State of New York, and ten thousand copies of the same reports without the testimony.

The question was upon seconding the previous question; and upon a division there were—ayes 72, noes 50.

So the previous question was seconded.

The question was, "Shall the main question be now put?"

Mr. HOLMAN. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 105, nays 47, not voting 70; as follows:

YEAS—Messrs. Ames, Arnell, Delos R. Ashley, Bailey, Baldwin, Banks, Beaman, Beatty, Benton, Bingham, Blackburn, Blair, Boutwell, Boyden, Bromwell, Buckley, Benjamin F. Butler, Cake, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Cullom, Deweese, Dixon, Dockery, Dodge, Donnelly, Driggs, Eckley, Ela, Thomas D. Eliot, James T. Elliott, Farnsworth, Ferris, Ferry, Fields, Goss, Gove, Griswold, Halsey, Higby, Hill, Hooper, Hopkins, Hunter, Jenckes, Alexander H. Jones, Judd, Julian, Kellogg, Kelsey, Ketcham, Koezitz, Ladin, Lash, William Lawrence, Loan, Lynch, Maynard, McCarthy, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newsham, O'Neill, Paine, Perham, Peters, Pierce, Plants, Poland, Raum, Robertson, Smith, Spalding, Starkweather, Stevens, Stewart, Stokes, Stover, Taffie, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Auken, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, and John T. Wilson—105.

NAYS—Messrs. Adams, Archer, Axtell, Baker, Barnes, Beck, Benjamin, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Harding, Holman, Hotchkiss, Humphrey, Ingersoll, Johnson, Thomas L. Jones, Kerr, Kitchen, Knott, Marshall, McCormick, McCulloch, McKee, Morrissey, Munger, Newcomb, Niblack, Nicholson, Orth, Phelps, Pruy, Randall, Ross, Scofield, Stigraeves, Stone, Taber, John T. Tumble, Van Trump, and Young—47.

NOT VOTING—Messrs. Allison, Anderson, James M. Ashley, Barnum, Blaine, Boies, Bowen, Boyer, Buckland, Rodrick R. Butler, Clift, Colfax, Corley, Covode, Dawes, Delano, Dickey, Edwards, Eggleston, French, Garfield, Gravely, Hamilton, Haughey, Hawkins, Heaton, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Kelley, George V. Lawrence, Lincoln, Logan, Loughbridge, Mallory, Marvin, Merceus, Mungen, Norris, Nunn, Pettis, Phelps, Pike, Pile, Polsley, Price, Prince, Robinson, Roots, Sawyer, Schenck, Selye, Shanks, Shellabarger, Sypher, Tift, Lawrence S. Trimble, Van Aernam, Burt Van Horn, Vidal, Ward, Elihu B. Washburne, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward—70.

So the main question was ordered.

The question was upon agreeing to the resolution.

Mr. BROOKS. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 112, nays 52, not voting 58; as follows:

YEAS—Messrs. Ames, Bailey, Beaman, Beatty, Benton, Bingham, Blackburn, Blair, Boutwell, Boyden, Bromwell, Buckley, Benjamin F. Butler, Rodrick R. Butler, Cake, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Cornell, Covode, Dawes, Deweese, Dickey, Dixon, Donnelly, Driggs, Eckley, Edwards, Ela, Thomas D. Eliot, James T. Elliott, Farnsworth, Ferry, Fields, French, Goss, Gove, Griswold, Hawkins, Higby, Hill, Hooper, Hopkins, Jenckes, Alexander H. Jones, Judd, Julian, Kellogg, Kelsey, Ketcham, Koezitz, Ladin, Lash, George V. Lawrence, William Lawrence, Lincoln, Loan, Mallory, Maynard, McCarthy, Mercer, Miller, Moore, Moorhead, Morrell,

Mullins, Myers, Newsham, Norris, O'Neill, Paine, Perham, Peters, Pile, Plants, Poland, Price, Raum, Robertson, Roots, Sawyer, Shellabarger, Smith, Spalding, Stevens, Stewart, Stokes, Stover, Sypher, Taffie, Taylor, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, John T. Wilson, and Windom—112.

NAYS—Messrs. Archer, Delos R. Ashley, Axtell, Baker, Barnes, Barnum, Beck, Benjamin, Boyer, Brooks, Broomall, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Harding, Holman, Humphrey, Ingersoll, Johnson, Thomas L. Jones, Kerr, Kitchen, Knott, Marshall, McCormick, McCulloch, McKee, Morrissey, Munger, Newcomb, Niblack, Nicholson, Orth, Phelps, Pruy, Randall, Ross, Scofield, Stigraeves, Stone, Taber, Tift, Lawrence S. Trimble, Wood, and Young—52.

NOT VOTING—Messrs. Adams, Allison, Anderson, Arnell, James M. Ashley, Baldwin, Banks, Blaine, Boies, Bowen, Buckland, Colfax, Cullom, Delano, Dockery, Dodge, Eggleston, Ferris, Garfield, Gravely, Halsey, Hamilton, Haughey, Heaton, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Hunter, Kelley, Logan, Loughbridge, Lynch, Marvin, Nunn, Pettis, Pierce, Pike, Polsley, Prince, Robinson, Schenck, Selye, Shanks, Starkweather, Thomas, John Trimble, Van Auken, Burt Van Horn, Van Trump, Vidal, Elihu B. Washburne, Henry D. Washburn, James F. Wilson, Stephen F. Wilson, Woodbridge, and Woodward—58.

So the resolution was agreed to.

ENROLLED BILL SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 1570) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1870, and for other purposes.

UNIFICATION OF COINAGE.

Mr. LAFLIN. I am directed by the Committee on Printing to offer the following resolution, on which I demand the previous question:

Resolved, That there be printed five thousand copies of the letter of E. B. Elliott, esq., upon the subject of the unification of the coinage of the world, for the use of the House, and one thousand copies for the Treasury Department.

Mr. MAYNARD. I think we had better reduce the number from five thousand to one thousand. The subject of the unification of the coinage of the world interests only a few persons.

The SPEAKER. The gentleman from New York [Mr. LAFLIN] has demanded the previous question on the resolution.

Mr. BARNES. Would it be in order to move to increase the number?

The SPEAKER. No amendment is in order pending the demand for the previous question.

The previous question was seconded.

On ordering the main question there were—ayes forty, noes not counted.

Mr. BROOKS. We have done printing enough this session; it is time to stop. It is too late at this period of the session to order additional printing. I move that the resolution be laid on the table.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed House bill of the following title, with amendments, in which the concurrence of the House was requested:

An act (H. R. No. 1911) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes.

REPORT ON COMMERCIAL RELATIONS.

Mr. LAFLIN. I am instructed by the Committee on Printing to report the following resolution, on which I demand the previous question:

Resolved, That there be printed for the use of the House five hundred extra copies of the report on commercial relations.

The previous question was not seconded.

Mr. BROOMALL. I move that the resolution be laid on the table.

The motion was agreed to.

REPORT ON MINERAL RESOURCES.

Mr. LAFLIN. I am directed by the Committee on Printing to report the following resolution, on which I demand the previous question:

Resolved, That there be printed fifteen thousand copies of the report of R. W. Raymond, special commissioner of mining statistics, on mines and mining in the States and Territories west of the Rocky mountains; fourteen thousand for the use of the House and one thousand for the Treasury Department; and the Congressional Printer is hereby authorized to pay for the cuts illustrating this report upon the presentation of the proper vouchers not exceeding the sum of \$175.

The previous question was not seconded; there being—ayes 33, noes 80.

Mr. ARNELL. I move that the resolution be laid on the table.

Mr. INGERSOLL. I call for the yeas and nays on that motion.

Mr. LAFLIN. I wish to say to the House—

Mr. SCOFIELD. I rise to a point of order, that the motion to lay on the table is not debatable.

The SPEAKER. The motion is not debatable. The question is on the motion of the gentleman from Tennessee, [Mr. ARNELL,] that the resolution be laid on the table.

Mr. ARNELL. I withdraw the motion in order that the gentleman from New York [Mr. LAFLIN] may explain the resolution.

Mr. LAFLIN. Mr. Speaker, this resolution provides for the printing of the report of Mr. Raymond upon the mineral resources of the country. Mr. Raymond was appointed to perform the duties formerly performed by J. Ross Browne. This report embodies a vast amount of interesting information touching the mineral wealth of the United States and the manner in which that wealth is being developed. I am satisfied that if the House understood the nature of this report no man who desires anything printed would object to its printing.

Mr. ARNELL. I desire to ask whether the report of J. Ross Browne does not cover this entire question of the mineral resources of the United States.

Mr. LAFLIN. I will say this is one half of the number of the report of J. Ross Browne which was ordered to be printed.

DEFICIENCY APPROPRIATION BILL.

Mr. SPALDING. If there be no objection I ask that the amendments of the Senate to the deficiency appropriation bill be taken up and non-concurred in, so that they may go to a committee of conference.

Mr. FARNSWORTH. I ask that the amendments be read. I wish to know what amendments have been put upon an appropriation bill before they are referred to a committee of conference.

Mr. SPALDING. I withdraw the motion, and leave the responsibility with the gentleman from Illinois of retarding the public business.

Mr. FARNSWORTH. I do not wish to vote on an appropriation bill and on amendments of which I know nothing. I want to know what I am about.

Mr. LAFLIN. I will yield for two minutes to the gentleman from Missouri.

Mr. PILE. I certainly should not favor the printing of anything which would needlessly add to the enormous expenses of that department during the present Congress; but the withholding from the people of this kind of information in regard to our mineral resources is poor economy. The best thing we can do, in my judgment, is in every way to develop that section of our country. It will increase our ability to pay the public debt. I am sure if members knew the contents of this report they would not object to its being printed. They are of the utmost importance in view of the development of our mineral resources. I will move that the number be ten thousand instead of fifteen thousand.

Mr. LAFLIN. I have no objection to that.

Mr. PILE. Ten or fifteen thousand ought

to be printed. I am certain that there can be no more important information given the country than is given by this report.

Mr. LAFLIN. I now yield to the gentleman from Indiana, chairman of the Committee on the Public Lands.

Mr. JULIAN. Mr. Speaker, I wish to say a word on this proposition. I have seen some of the advance sheets of this report and can cordially commend it. I have paid some attention to the question of our mineral lands and our laws relative to them, and I will say that I regard this as an exceedingly proper document to be printed. It discusses our mining laws and makes some valuable suggestions in reference to their amendment. Bearing as it does directly upon the legislative duties which lie before us in the coming Congress, I hope it will be printed, and in the largest number proposed. Mr. Raymond is a gentleman of high character, of scientific attainments, and has made the subject of mining a specialty; and there is no subject about which members of this body more greatly need correct information, and which, at the same time, more directly affects the question of our financial prosperity.

Mr. LAFLIN. I yield two minutes to the gentleman from Tennessee.

Mr. MULLINS. Mr. Speaker, two minutes will scarcely give me an opportunity to express the ideas I should like to advance here. I have not given the attention to our mineral resources that others have, but I have given enough attention to them to have impressed upon my mind the magnitude of the interests involved in their proper development. For that purpose this printing is necessary. It concerns the opening up of our hidden wealth, which is now attracting the attention of people of every land. This geologist goes out as a pioneer and points out where are hidden mineral wealth, so that the labor which emigrates there may at once go to work to add to our national resources. His report ought to be published. It is the best information we can give to our people on that subject.

Mr. LAFLIN. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. HOLMAN moved that the resolution be laid on the table.

The motion was disagreed to.

The resolution was adopted.

Mr. INGERSOLL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INDEX FOR PUBLIC DOCUMENTS.

Mr. LAFLIN. I am instructed by the Committee on Printing to report the following resolution:

Resolved, That an index to the executive documents from the Twenty-Sixth to and including the Fortieth Congress and an index to the reports of committees for the same period, prepared under the direction of the Clerk of the House of Representatives, be printed for the use of the House and bound each in a separate volume.

This resolution explains itself. It provides for the printing of an index to the reports of committees in this House from the time when the former index ceased. Unless there is objection to the resolution, or some one wishes to make an inquiry, I demand the previous question.

Mr. SCOFIELD. How much is this to cost?

Mr. LAFLIN. It will constitute two volumes of about three hundred pages each.

Mr. HARDING. I ask whether there is any copyright attached to the work? Has the Clerk the copyright, and if so, will we be compelled to pay for it?

Mr. LAFLIN. No, sir. I do not understand that there is any copyright at all.

Mr. MILLER. Is this index absolutely necessary?

Mr. LAFLIN. Certainly; it is for the convenience of members.

Mr. GARFIELD. How many years does it cover?

Mr. LAFLIN. From the beginning of the Government to the present time.

Mr. GARFIELD. Allow me to say a single word. We have a vast amount of valuable material in the form of public documents that are now almost entirely worthless from the want of an index. I have been in favor of so amending our copyright law, whenever the time comes that we can get at it, so that no person shall have a copyright whose book does not contain an analytical index. And I wish we might pass a law that no book shall ever again be printed by the House or by its authority of more than thirty pages without an exhaustive alphabetical index. I agree that this is an exceedingly valuable work, and as part of my remarks I will read an extract from a letter on the subject by the venerable Horace Binney:

"So essential did I consider an index to be to every book that I proposed to deprive an author who publishes a book without an index of the privilege of copyright, and moreover to subject him for this offense to a pecuniary penalty. If I had my own way in the modification of the copyright law I think I would make the duration of the privilege depend materially on its having such a directory—an index."

Mr. LAFLIN. I yield two minutes; one minute to the member from Massachusetts.

Mr. BANKS. This index embraces all the reports that have been made to the two Houses, including executive documents from the foundation of the Government. It has not cost up to this time one dollar. The Clerk is entitled to the credit of having performed his duty under a resolution I introduced without expense to the Government. If these two volumes are printed I think it will not cost more than fifteen hundred or two thousand dollars for a sufficient number to satisfy all the wants of the Government. The copyright does not belong to the Clerk but to the Government. Nobody can have an interest in it except the Government.

Mr. LOGAN. I ask if this refers to the Globe reports?

Mr. BANKS. No, sir; but to the reports made to the House, and the public documents.

Mr. LAFLIN. I yield a moment to the gentleman from Pennsylvania.

Mr. SCOFIELD. I will say, if it will not prejudice the resolution, that I am decidedly in favor of it. I was afraid to state it lest it would endanger its passage.

Mr. LAFLIN. I move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE TO PRINT REMARKS.

Mr. CORNELL obtained leave to print in the Globe some remarks on the resumption of specie payments. [See Appendix.]

PRINCE EDWARD ISLAND.

Mr. LAFLIN. I am instructed by the Committee on Printing to offer the following resolution:

Resolved, That one thousand copies of the report of the committee relative to Prince Edward Island be printed for the use of the House.

I yield one minute to the gentleman from Massachusetts.

Mr. BUTLER, of Massachusetts. I merely desire to say that this is a motion to print this report to be sent to Prince Edward Island in return for the report of the proceedings that was printed there.

Mr. PIKE. I would inquire whether the report advocates reciprocity?

Mr. BUTLER, of Massachusetts. It does not. It advocates no reciprocity, either by legislation or by treaty.

Mr. PIKE. Somebody has been advocating reciprocity, and I cannot find out who.

Mr. LAFLIN. I move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MILITARY AFFAIRS.

Mr. LAFLIN. I am instructed by the Committee on Printing to report the following resolution:

Resolved, That there be printed for the use of the House two thousand extra copies of the testimony of officers of the Army taken before the Committee on Military Affairs, and the report of the committee accompanying the same.

I yield three minutes to the chairman of the Committee on Military Affairs to explain the nature of the resolution.

Mr. GARFIELD. In this report, which has already been ordered to be printed, and of which two thousand extra copies are called for by this resolution, there is a complete statement of the distribution of the Army, the number of civil employes in each staff department and in the War Department generally, an exhibition also of the number of enlisted men detailed on extra duty, with the monthly pay of each, and suggestions and facts drawn out by the examination of twelve or thirteen leading officers of the Army in regard to its present organization, together with suggestions as to how it may be reduced and its expenditures greatly lessened. We have not time to go into legislation upon that subject this session, but the report and the testimony containing all these facts concerning the present status of the Army will be most valuable as the basis of future legislation. What is asked for in this resolution is simply the printing of a sufficient number of copies that each member may send five or six, or perhaps ten copies at the outside, to such leading officers of the Army or others as may desire to make further suggestions before legislation in the next Congress may be called for. I know of no reason why this should not be done, and I presume there will be no objection to it.

Mr. LAFLIN. I yield for two minutes to the gentleman from Illinois, [Mr. FARNSWORTH.]

Mr. FARNSWORTH. We have a report from the Secretary of War, a report from the General of the Army, a report from the Adjutant General of the Army, and reports from the heads of the different bureaus connected with the Army. Besides that we have the report of the very able chairman of the Committee on Military Affairs, and I cannot see the necessity of printing the testimony taken before the committee.

While I am up I particularly desire to enter my protest against this practice of here in the closing hours of the session precipitating upon the House all these reports from the Committee on Printing for printing documents about which we can have no consideration, no deliberation, and no discussion.

Mr. GARFIELD. I desire to say to my friend from Illinois that this document has been ordered to be printed, and it is only a question whether we shall have these extra copies for use by members of the House. I desire to say further that if the coming Congress wishes to go into a thorough and careful reduction of the Army and its expenditures there is no document, there is no report, and, so far as I know, there never has been a document or a report that in its statistical information and in its carefully-prepared statements from persons to be relied upon as knowing all they talk about, will at all compare in value with this document. I do not say this because the Committee on Military Affairs had charge of the matter, but in consequence of the distinguished official sources from which these statements come.

Mr. FARNSWORTH. There has already been one copy printed for each member of the House.

Mr. GARFIELD. I desire to say to the gentleman that there are facts contained in this report which are not to be found in other documents. For instance, we find by the testi-

mony that there are to-day fifteen thousand persons employed in the quartermaster's department alone, at a pay of nearly half a million dollars a month, and of that number more than ten thousand are civilians, and a little over four thousand are soldiers and enlisted men detailed on extra duty.

Mr. FARNSWORTH. I have seen the same statement in all the papers of the country.

Mr. LAFLIN. I move the previous question.

The question was put on seconding the previous question, and there were—ayes 46, noes 50; no quorum voting.

Mr. LAFLIN called for tellers.

Tellers were ordered; and Mr. LAFLIN and Mr. SCOFIELD were appointed.

The House divided; and the tellers reported—ayes 66, noes 53.

So the previous question was seconded.

The question was, "Shall the main question be now put?"

Mr. HOLMAN. I move that the resolution be laid on the table.

The question was taken; and upon a division there were—ayes 61, noes 55.

Before the result of the vote was announced, Mr. GARFIELD called for tellers.

Tellers were ordered; and Mr. HOLMAN and Mr. GARFIELD were appointed.

The House again divided; and the tellers reported that there were—ayes sixty-four noes not counted.

So the resolution was laid on the table.

Mr. LAFLIN. I move to reconsider the various votes disposing of the resolutions from the Committee on Printing; and I also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTION OF SPEAKER.

Mr. HULBURD, on behalf of the committee appointed to wait upon the President of the United States, and to inform him of the resignation of Hon. SCHUYLER COLFAX, and the election of Hon. THEODORE M. POMEROY as Speaker of this House for the remainder of the Fortieth Congress, reported that the committee had performed that duty.

The SPEAKER. The report will be entered upon the Journal.

BUSINESS FROM COMMITTEE ON ACCOUNTS.

Mr. BROOMALL. I ask unanimous consent of the House for permission to make sundry reports from the Committee on Accounts. That committee has not been called this session, and they have had referred to them several important matters which require action by the House.

Mr. HIGBY. How long will it take?

Mr. BROOMALL. Half an hour, perhaps.

Mr. ECKLEY. I object. I desire to say that I am on the Committee on Accounts, and I know nothing about this report.

Mr. BROOMALL. I move to suspend the rules in order to allow me to make reports at this time from the Committee on Accounts.

Mr. ECKLEY. On that motion I ask for tellers.

The question was taken upon ordering tellers; and there were fifteen in the affirmative.

So (the affirmative not being one fifth of a quorum) tellers were not ordered.

The question was taken upon suspending the rules; and upon a division there were—ayes 68, noes 40.

So (two thirds not voting in favor thereof) the rules were not suspended.

CONTINGENT FUND OF THE HOUSE.

Mr. BROOMALL. I now call up the motion to reconsider the vote by which the House recommitted to the Committee on Accounts a report presented on Saturday last.

Mr. HOLMAN. What is the report?

Mr. BROOMALL. It is report No. 36, of this session, of the Committee on Accounts, who were directed by resolution of July 15, 1868, to investigate the disbursement of the con-

tingent fund of the House for the years 1867 and 1868, with power to send for persons and papers, when the same can be done without expense to the Government.

I do not desire to have this report read at length unless members desire to hear it read. It refers to certain resolutions, &c., which I propose to offer one at a time. The report has been printed and laid upon the tables of members.

Mr. MAYNARD. I hope we shall be permitted to hear from the gentleman from Ohio [Mr. ECKLEY] on this subject. He is a member of the Committee on Accounts, and has just made a very remarkable statement here.

Mr. BROOMALL. I will yield to my colleague on the committee, [Mr. ECKLEY,] the gentleman from Ohio.

Mr. ECKLEY. A report has been laid upon our tables that has been made without my knowledge as a member of the Committee on Accounts. I was in the committee, and disagreed to a report that was submitted. But that report was afterward submitted to the House late at night, as I understood, when there were but few members here. It purports to be a report from the Committee on Accounts. I did not agree to the report because it did not contain matters which I thought had been referred to the Committee on Accounts, and because it contained statements of facts which I knew to be not true.

Mr. BROOMALL. All I can say is that I was directed by the majority of the committee to make this report. I know my colleague on the committee dissented from the report of the committee. I have no kind of objection to his making a minority report if he desires to do so.

Mr. ECKLEY. I would inquire of the gentleman from Maryland [Mr. McCULLOUGH] ever concurred in that report?

Mr. BROOMALL. The gentleman from Maryland was not one of those assenting to the report, although I believe he has no particular objection to it.

Mr. McCULLOUGH. The first I knew of this report was on Saturday morning last. When the chairman read the report to the committee I observed it contained statements of facts of which I then knew nothing, and which I have reason now to believe are not stated as they should be.

On Saturday morning last I asked the chairman of the committee [Mr. BROOMALL] not to submit that report to the House until I had had an opportunity to investigate the facts, for I desired to join in the report of the majority of the committee if I could do so. There are certain allegations in that report, and one in particular, in regard to which I asked the chairman where he got his information, and he could not tell me. It is alleged in the report that certain employes of the Government on the pay-roll of the House were employed in the committee-room of the Republican party during the last presidential election. It is also alleged that certain employes were taken from the executive department of the Government and employed by the Democratic party. I asked the chairman for the evidence of that. He could not give it to me. He said that was the general report. I then asked him not to make that report until I could have an opportunity of investigating it. He promised me to do so. The first thing I knew was that this report was presented to the House late on Saturday night—a report professing to come from the committee, not from a majority of the committee. I told him then that I had no time to prepare a minority report at the heel of the session, and asked him that before he made the report I might have an opportunity to investigate the facts.

Mr. BROOMALL. Mr. Speaker, I had not the slightest idea of being discourteous toward my colleague on the committee, [Mr. McCULLOUGH.] He is certainly mistaken as to the position in which this matter stands before the House. I did not make a report on Saturday night. I presented the report of the majority of the committee and asked that it be recom-

mitted and ordered to be printed. I notified my colleague that before the close of the session, probably on the last legislative day, I would call it up, giving him an opportunity to be present.

With respect to the question he asks about the authority of the majority of the committee to say that the political parties obtained assistance from the legislative and executive departments for the distribution of their documents, I can only say that I know the fact of my own personal knowledge.

Mr. McCULLOUGH. That is what you did not say when I asked you.

Mr. BROOMALL. I know further that the report is a little too lenient toward the gentleman's own party, because one man who was obtained from the legislative department for the political service of his party is not mentioned in the report because the fact was not known to the majority of the committee at the time. The committee do not blame anybody for this. They simply state the fact. It was the most natural thing in the world that the surplus time of the employes of the House should be devoted to the dissemination of the political principles of the political parties; and I do not know that it has ever been a matter of complaint. As it may possibly have increased the contingent expenses of the Government, it was so far as it did so wrong; but so far as it merely employed the spare time of those who had to be retained during the recess there was no harm in it.

I say now that the majority of the committee, to wit, three members, are now present and make this report. It is not the report of the gentleman from Ohio [Mr. ECKLEY] or of the gentleman from Maryland, [Mr. McCULLOUGH,] my colleagues on the committee; but I think the gentleman from Maryland will say, in fairness to the majority, that he does not materially dissent from any part of their report. I yield to him for a moment.

Mr. McCULLOUGH. As I stated before, I know nothing about the facts contained in this report, and that is what I complain of. I will, however, state again that when the gentleman made the allegation that certain employes had been in the employ of the Democratic party during the last presidential election while they were receiving pay from the Government I asked him for the evidence of that fact, and he told me he did not know where it was. Now, if he has the evidence, which he could not give to me on last Saturday morning, I would like him to state it. What I complain of is that this report was made without giving me an opportunity to investigate the truth or falsity of the statements made. The gentleman says he has not made this report.

Mr. BROOMALL. Not until just now.

Mr. McCULLOUGH. Why, the report as printed begins: "Mr. BROOMALL, from the Committee on Accounts, made the following report."

Mr. BROOMALL. To be recommitted.

Mr. McCULLOUGH. That report was made on Saturday last. It was printed and goes to the country as printed, and what I complain of is that it has been made without giving us, the minority of the committee, an opportunity to investigate the matter, and when we now have no time to make an investigation for the purpose of preparing a minority report.

Mr. BROOMALL. I must resume the floor, because otherwise too much time will be occupied with this matter. I desire to yield one moment to my colleague on the committee, the gentleman from Tennessee, [Mr. ARNELL,] that he may state whether or not this is the report of the committee.

Mr. ARNELL. Mr. Speaker, this report was certainly made from the Committee on Accounts. I, as one of the members of that committee, gave my assent to it. It is certainly my report and the report of the majority of the Committee on Accounts.

Mr. BROOMALL. I now yield to my other colleague on the committee, from New York.

Mr. **FIELDS**. I have only to say that this report was indorsed by a majority of the Committee on Accounts.

ENROLLED BILLS AND JOINT RESOLUTIONS.

Mr. **HOLMAN**, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 596) granting a pension to Mary A. Davis, widow of William P. Davis, a private in the — regiment of Indiana volunteers in the war of 1861; and

A joint resolution (H. R. No. 468) authorizing the Union Pacific Railway Company, eastern division, to change its name to the Kansas Pacific Railway Company.

Mr. **WILSON**, of Pennsylvania, from the same committee, also reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (S. No. 167) granting lands to the State of Oregon to aid in the construction of a military wagon-road from the navigable waters of Coos bay to Roseburg, in said State;

An act (S. No. 228) for the further security of equal rights in the District of Columbia;

An act (S. No. 264) for the relief of Henry C. Noyes;

An act (S. No. 584) relating to the time for finding indictments in the courts of the United States in the late rebel States;

An act (S. No. 612) relating to the proof of wills in the District of Columbia;

An act (S. No. 661) for the relief of Lieutenant Colonel John W. Davidson, of the United States Army;

An act (S. No. 665) respecting the organization of militia in the States of North Carolina, South Carolina, Florida, Alabama, Louisiana, and Arkansas;

An act (S. No. 679) to amend an act entitled "An act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State;"

An act (S. No. 705) further to provide for giving effect to the treaty stipulations between this and foreign Governments;

An act (S. No. 711) relating to the Metropolitan Railroad Company;

An act (S. No. 712) to define the fees of recorder of deeds, and to provide for the appointment of warden of the jail in the District of Columbia, and for other purposes;

An act (S. No. 722) to amend an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," by extending certain penalties to accessories;

An act (S. No. 753) to provide for the execution of judgments in capital cases;

An act (S. No. 760) for the relief of Rev. D. Hillhouse Buel;

An act (S. No. 781) for the relief of Alpheus C. Gallahue;

An act (S. No. 810) to regulate elections in Washington and Idaho Territories;

An act (S. No. 836) for the relief of Celestra P. Hartt;

An act (S. No. 844) for the relief of Captain Charles Hunter, United States Navy;

An act (S. No. 862) amendatory of the act providing for the sale of the arsenal grounds at St. Louis and Liberty, Missouri, and for other purposes, approved July 25, 1868;

An act (S. No. 891) for the relief of George Fowler and the estate of De Grasse Fowler, deceased, or their assigns; and

A joint resolution (S. No. 200) reappointing Louis Agassiz a regent of the Smithsonian Institution.

DEFICIENCY BILL.

Mr. **BROOMALL**. I yield the floor for a moment to the gentleman from Massachusetts.

Mr. **BUTLER**, of Massachusetts. I move to take up from the Speaker's table the amend-

ments of the Senate to the deficiency appropriation bill, for the purpose of moving to non-concur in the same and ask for a conference.

Mr. **FARNSWORTH**. I ask for the reading of the amendments.

Mr. **BUTLER**, of Massachusetts. I move to suspend the rules.

Mr. **BROOMALL**. I cannot yield for that.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. **HAMLIN**, one of its clerks, announced that that body had agreed to the amendment of the House of Representatives to the joint resolution (S. R. No. 217) for printing the Medical and Surgical History of the Rebellion.

The message further announced that the Senate had disagreed to the amendments of the House of Representatives to the joint resolution (S. R. No. 178) tendering sympathy to the people of Spain.

FURNITURE OF THE CAPITOL.

Mr. **BROOMALL**. I report from the Committee on Accounts, the five members of the committee concurring in the same, the following resolution:

Resolved, That it shall be the duty of the Committee on Public Buildings and Grounds to examine from time to time the furniture and carpeting of the Hall, committee-rooms, corridors, and other apartments under the control of the House of Representatives, and to direct the Clerk by resolution to furnish and refurnish the same whenever it shall be necessary; and no such furnishing or refurnishing, except ordinary repairs not exceeding \$100 in any one room or apartment in any single year, shall be done by the Clerk without such resolution. All accounts for furnishing and refurnishing made under the direction of this resolution, when presented to the Committee of Accounts for approval, shall be accompanied by a copy of the resolution directing the same.

According to the practice heretofore there has been no action required either of the House or of any committee for the purpose of authorizing the Clerk to refurnish the committee-rooms and Hall of the House. It has been felt for a long time to be a practice liable to great abuse. The present Clerk has called the attention of our committee to the matter. What the committee propose is this: not as heretofore to let the Clerk take the initiative in the absence of Congress in repairing and refurnishing the Hall and the committee-rooms, but to require the Committee on Public Buildings and Grounds to examine every case where it is said repairs and refurnishing are required, and to pass a resolution, if the committee believe it necessary, requiring the Clerk to have it done, and that that resolution shall accompany the vouchers to the Committee on Accounts for approval. This will bring the matter under the direction of two committees, one in advance and the other afterward, instead of only a single one as now. At present the only check upon the Clerk is the Committee on Accounts in the after approval, when it is too late to make objection without involving the committee and the Clerk is a great deal of trouble. This will obviate all that difficulty. I have no doubt the five members of the committee will aid in passing this resolution. I yield five minutes to my colleague on the committee.

Mr. **McCULLOUGH**. I think something of this kind is very proper and necessary. As a member of the Committee on Accounts I have been called upon on several occasions to approve bills which I had great doubt about. I understand that the Clerk of the House is made the agent of the House and that he has power, without first obtaining the sanction of the House, to make these purchases. In pursuance of that power he has made contracts and has paid bills, and the question which came before the Committee on Accounts was whether we ought to pass bills after the Clerk had contracted the debt and paid the money. Believing that he was the agent of Congress to make these contracts I believed it would be acting in bad faith not to sanction the bills which he had paid, and therefore I gave my consent to this resolution.

There has been, however, some inconsistency

in this matter. The other day an account was passed giving to one contestant for a seat in this House, Mr. Switzer, of Missouri, \$5,000. On the same day, I believe, when that resolution passed another resolution was passed giving to John D. Young, of Kentucky, \$2,509. The Committee on Accounts passed the \$5,000 and refused to give John D. Young the \$2,509, and based their action upon the fact that the Clerk had paid the \$5,000.

We want some legislation upon this subject. No money can be drawn from the contingent fund of the House without the approval of the Committee on Accounts; but when that power was conferred on the Committee on Accounts by Congress, Congress never had an idea that the Committee on Accounts would refuse to sanction the payment of money which had been voted by a resolution of the House. I take the ground that when the House adopts a resolution of that kind appropriating money it is the duty of the Committee on Accounts to pass the account. I repeat that I think some legislation, such as is indicated in that resolution, ought to be passed.

Mr. **ECKLEY**. I rise to a question of order. I make the point of order that this resolution is no part of the report of the committee. The report does not conclude by recommending its adoption.

The **SPEAKER**. The question now is on the motion to reconsider. That question of order does not arise until the motion to reconsider is disposed of.

Mr. **ECKLEY**. Then the resolution is not before the House?

The **SPEAKER**. The resolution is not before the House.

Mr. **BROOMALL**. I desire to have this matter understood by the House before the motion to reconsider is put; and for that reason I send up a joint resolution in relation to the pay of the Sergeant-at-Arms and ask to have it read for information, and then I will explain it.

The joint resolution was read. It provides that from and after its passage the Sergeant-at-Arms of the House of Representatives, in lieu of all fees and mileage for summoning and procuring the attendance of witnesses before the committees of the House and the attendance of members upon a call of the House, shall be reimbursed the actual and necessary expenses incurred in rendering the service, to be allowed by the Committee on Accounts and paid by the Clerk upon the presentation of vouchers sworn to by the persons performing the service and the certificate of the committee directing the services to be performed, or by the Clerk when the services are performed by the direction of the House.

Mr. **DRIGGS**. I rise to a point of order. The gentleman has moved to suspend the rules in order to make a report.

The **SPEAKER**. The motion is to reconsider the vote by which the report was recommended.

Mr. **DRIGGS**. Well, pending that motion, he offers a series of resolutions and proceeds to discuss them preliminarily to the vote being taken on the motion to reconsider. I submit that that is not in order.

The **SPEAKER**. The Chair overrules the point of order. The gentleman from Pennsylvania has a right to have the resolution read as a part of his remarks on the motion to reconsider, which is debatable.

Mr. **BROOMALL**. It will be obvious that that resolution points directly to a way of reforming a special abuse.

Mr. **DRIGGS**. I am in favor of the resolution.

Mr. **BROOMALL**. According to the practice as it now is, and according to the law, the Sergeant-at-Arms is allowed ten cents per mile circular for summoning a witness from any point in the United States. To get a witness from New York by this process costs the Government about fifty dollars. To get one from San Francisco costs the Government \$1,360. Now,

since the law was passed allowing the Sergeant-at-Arms mileage, the telegraph has been established, reaching every part of the country, and the mail service has been greatly perfected. By these means, and by a judicious use of them, it will be rendered unnecessary in almost all cases to summon witnesses at all. The object of this resolution is to cut off that expenditure, and to induce the committees and the House to resort to the other means of procuring the attendance of witnesses which I have indicated. A willing witness will come upon a telegraphic dispatch. An unwilling one can be summoned for a very small sum by sending subpoenas by mail to some special deputy in his neighborhood. I should think at least \$1,300 could be saved in this way on each witness from San Francisco.

Let me say that what I say now is the result of some experience upon investigating committees. And the practice which I have indicated as that which should be established by law has been the practice of investigating committees upon which I have been, and it has worked well. And I may say now that the Sergeant-at-Arms has himself been instrumental in pointing out to the committee this leak in the contingent fund of the House. I would not have made this statement yesterday, because it would have been improper to do so. But the events which have since transpired make it proper that I should do this justice to our Sergeant-at-Arms.

Mr. LAWRENCE, of Ohio. Will the gentleman yield to me for a suggestion?

Mr. BROOMALL. Certainly.

Mr. LAWRENCE, of Ohio. The gentleman from Pennsylvania [Mr. BROOMALL] has had large experience on this Committee on Accounts. Before he retires from Congress I think he would do the country a service if he would perfect and present along with his report a bill to remedy some of the defects he has pointed out. I would inquire if he has drafted a bill providing for the service of process by telegraph or mail? And would it not be well to provide means for the appointment of agents in different parts of the country to take depositions for the committees of Congress?

Mr. BROOMALL. In reply to the gentleman from Ohio [Mr. LAWRENCE] I will state that it was the intention of the Committee on Accounts, at the commencement of the present Congress, to prepare a bill and report it to the House embodying a series of reforms in this direction. But a joint committee was appointed for the purpose of reorganizing the official service of both Houses, and this matter with others was referred to them. No report has been made from that committee, and the Committee on Accounts has not had time since it was ascertained that the other committee would not report to prepare a bill of the kind.

I am very much obliged to the gentleman from Ohio [Mr. LAWRENCE] for his compliment to the Committee on Accounts; and I only trust the reforms began by the present Committee on Accounts will be carried out by subsequent committees. I have no interest in this matter other than that of a citizen of the United States, for my period of enlistment will expire when the Speaker's hammer falls at noon to-morrow.

I have indicated the kinds of resolutions referred to in the report, and I now ask the House to reconsider the vote by which the report was recommitted, in order that I may bring these resolutions before the House. I have referred to two of them; there are two others to refer to which I will not now take the time of the House. I now call the previous question on the motion to reconsider.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to reconsider was agreed to.

The question recurred upon the motion to recommit.

Mr. BROOMALL. I now withdraw the motion to recommit.

FURNISHING COMMITTEE-ROOMS, ETC.

Mr. BROOMALL. I report from the Committee on Accounts the resolution I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That it shall be the duty of the Committee on Public Buildings and Grounds to examine from time to time the furniture and carpeting of the Hall, committee-rooms, corridors, and other apartments under the control of the House of Representatives, and to direct the Clerk by resolution to furnish or refurnish the same whenever it shall be necessary, and no such furnishing or refurnishing, except ordinary repairs, not exceeding \$100 to any one room or apartment in any single year, shall be done by the Clerk without such resolution. All accounts for furnishing or refurnishing made under the direction of this resolution when presented to the Committee on Accounts for approval, shall be accompanied by a copy of the resolution directing the same.

Mr. BROOMALL. I call the previous question on this resolution, as it has been discussed sufficiently already.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

FEES OF SERGEANT-AT-ARMS.

Mr. BROOMALL, from the Committee on Accounts, reported a joint resolution (H. R. No. 473) relating to the fees of the Sergeant-at-Arms of the House of Representatives; which was read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution, which was read, provides that from and after the passage of this joint resolution the Sergeant-at-Arms of the House of Representatives, in lieu of the fees and mileage for summoning and procuring the attendance of witnesses before committees of the House, and the attendance of members upon a call of the House, shall be reimbursed the actual and necessary expenses incurred in rendering the service, to be allowed by the Committee on Accounts, and paid by the Clerk upon the presentation of vouchers sworn to by the person or persons performing the service, and certified by the committee directing the service or by the Clerk of the House of Representatives when the services are performed by order of the House.

Mr. BROOMALL. Mr. Speaker, I believe that is understood. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BROOMALL moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PAY OF COMMITTEE CLERKS.

Mr. BROOMALL. The Committee on Accounts have directed me to report the following resolution:

Resolved, That the clerks of the several committees of the House of Representatives be paid out of the contingent fund of the House each a sum sufficient to make his pay during the Fortieth Congress, with what he has already received, equal to six dollars *per diem* for all the time actually and necessarily employed in his official duties under the direction of his committee: *Provided*, That the same be ascertained and assessed by the Committee on Accounts of the Fortieth Congress and reported to the House.

Mr. Speaker, as the House is impatient I will not discuss this resolution, unless some gentleman desires an explanation.

Mr. McCULLOUGH. I wish to say a word on this question. I am opposed to this resolution, and I will state my reasons. The Committee on Accounts, in carrying out the instructions of the resolution of the House referring this subject to them, found it necessary to take the testimony of the committee clerks; and I say to the chairman of the committee that I thought that testimony should have been reported to the House. That testimony, which the chairman has not seen fit to report, would show that several committee clerks have never

performed one hour's actual service during the session. I think I am entirely within bounds when I say this. Now, this resolution provides that all these clerks shall be paid six dollars *per diem* while they are actually and necessarily engaged in the duties of their committees, although some of these clerks stated before the committee, as the chairman knows, that while they performed no duties they were present at the meetings of the committee; and this will be the argument with which they will go before the proper disbursing officer. In this way committee clerks who have never performed an hour's labor will get this six dollars per day, as much as will be received by other clerks who, as the testimony would show if it were reported to the House, have performed very laborious duties.

Mr. SHELLABARGER. I wish to ask the gentleman from Maryland [Mr. McCULLOUGH] a question. He has stated to the House that several committees have clerks who have never performed, during the entire Congress, one hour's service. I wish him to state for the information of the House what committees those are.

Mr. McCULLOUGH. I do not know. If I had the testimony here I could inform the gentleman.

Mr. BROOMALL. I have the testimony here if it is considered desirable that it should be read.

Mr. McCULLOUGH. One of those committees is the Committee on Naval Affairs.

Mr. BROOMALL. No; I think the gentleman is mistaken.

Mr. PIKE. The gentleman is decidedly mistaken about that.

Mr. SHELLABARGER. Let the chairman of the committee give the country the benefit of a statement as to which of these clerks have not performed any service at all.

Mr. BROOMALL. I remember but one. I do not know that I ought to name the committee. The House knows perfectly well which of the committees are actually performing labor and which are merely ornamental committees.

Mr. SCOFIELD. I can name one of these committees. I am a member of a committee that has its clerk, but the committee has never had a meeting this session except once, when it met jointly with the Senate committee, and the clerk was present. I refer to the Committee on Indian Affairs. I do not know that this is the only committee in the same position with regard to the amount of work.

Mr. MAYNARD. As I understand this resolution—and I wish to know whether I understand its purport correctly—it has been framed with a view to meeting this very condition of things. I wish to ask the gentleman from Maryland [Mr. McCULLOUGH] and his associates upon the committee whether the resolution, if adopted, will be construed as allowing these clerks six dollars a day at all events from the beginning of this Congress or during the days when their committees may have been in session, or whether it contemplates leaving it with the Committee on Accounts to restrict its benefits to those clerks who, as the testimony shows, have rendered service, while this compensation shall be withheld from those whom the testimony shows to have rendered no service? It seems to me this is a very important matter to be understood before we act on the resolution.

Mr. BROOMALL. Of course it is proposed to allow this pay only to those who have rendered service. The committee have here the testimony on which, in the course of two hours, they would be able to report to the House what would be equitable among all these clerks.

Mr. ELDRIDGE. I call the gentleman to order. The gentleman from Maryland yielded to the gentleman from Tennessee, and not to the gentleman from Pennsylvania.

Mr. BROOMALL. I will finish in a sentence. The resolution pays these clerks six dollars a day. In the Senate committee clerks are paid \$7 20 a day all round. The evidence is all there, but the Committee on Accounts will need it if

this resolution passes, as least for a few hours, as it is contemplated only to pay those who have done labor, and not those who have done no labor. The gentleman from Tennessee has asked a very proper question. You will notice by the resolution there is a proviso that the present Committee on Accounts shall designate and report to the present House, otherwise the resolution would go for nothing. That was considered necessary because the present committee have the knowledge which would require a great deal of time to acquire.

Mr. McCULLOUGH. I yield to the gentleman from New York.

Mr. WOOD. I am satisfied from my experience in this House that the matter of the employment of clerks and paying them liberally is one which has become a great abuse of the Treasury. There are but few committees, one or two, at the utmost three committees of this House which absolutely require clerks. The ordinary committees have no duties which they are not able to perform themselves without any such assistance as this.

The gentleman from Tennessee asked the gentleman from Maryland to state where a clerk who was unnecessary was paid. I have the honor to be the member of a committee where the clerk distinctly declared that he would not accept the position if there was anything to do.

Mr. MAYNARD. What committee is that?

Mr. WOOD. They are in the main correspondents of Republican newspapers, who avail themselves of the advantages of their positions as clerks of committees to come upon this floor, and, in some instances, to lobby for schemes to rob the Treasury, and who employ their leisure moments to write scurrilous articles against members of Congress whom they do not like. I am opposed to the employment of clerks for committees unless they are necessary; and where they are necessary I am in favor of paying them liberally, but with the provision they shall attend to their duties as clerks and nothing else.

Mr. BROOMALL. I now yield to the gentleman from Minnesota.

Mr. WINDOM. Mr. Speaker, I have no interest hereafter whether the Committee on Indian Affairs has a clerk or not; but I am informed that the gentleman from Pennsylvania stated that the clerk of that committee had nothing to do.

Mr. SCOFIELD. No, sir; I did not say any such thing. I said that that committee had never met but once this session, and that was with the Senate committee.

Mr. WINDOM. It is true; and it has been because the committee has not been and could not be called during this session. If the gentleman had been more prompt at the last session he would have known more of its business than he seems to have done.

Mr. SCOFIELD. In reply to that reflection upon me I wish to say that during the last winter I think I was present at every meeting of the committee when a quorum could be obtained. The chairman himself was absent a part of the time, but I will say that it was on account of sickness in his family. I was myself always present, but we never had anything to do.

Mr. McCULLOUGH. The object of this resolution is, as I understand it, to equalize the pay of these clerks according to the services they have performed. If that be the object of the resolution I do not think it will accomplish the purpose. I was present when one of these committee clerks gave his testimony, and he stated that he had never made an entry.

Now, I say if a committee employs a man as a clerk and keeps him here at expense he ought to be paid. The fault is in having the clerks at all where they are not required. This resolution, however, does not remedy the evil. It will pay as much to the clerks who have had nothing to do as to those who have been laboring all the session. It will pay those who were needed no more than those who should not have been employed at all. One committee

clerk, as the testimony will show, was a lumberman brought from the State of Maine, and he had never made an entry.

Mr. BROOMALL. I can explain that in two or three words. My colleague entirely agrees with me that certain committee clerks are underpaid and certain ones are overpaid. This resolution only contemplates the payment to those who are underpaid enough to make their salaries something like adequate to the service and the payment of nothing to those who do no work. The guard, as I said, is in the fact that the resolution passes for nothing unless it is adjusted by the present Committee on Accounts and reported to the present House. I will say also that the evidence upon which this is to be done is in my hands. It cannot be done by the House, but it can be done in two hours by the committee. They will report the evidence also to the House, if the House desires it.

Mr. PIKE. Allow me one half a minute. The gentleman from Maryland [Mr. McCULLOUGH] says one committee clerk came from Maine. It was an entirely proper State to bring a clerk of a committee from. That he never made an entry is true. I do not believe a single clerk of a committee has ever made an entry. It is no part of their duty to do it. The committee to which the gentleman referred I suppose is the Naval Committee. It has had a constant succession of meetings twice a week for the whole session, with abundance of business before it. It is no part of the business of the committee to say whether it will have a clerk or not. This clerk was assigned by the House. This employment of clerks to committees is a matter that has grown up within a few years. The number of committees has been increased, and in the Senate each committee, I think, has a clerk whether it has anything to do or not. The whole system should be remodeled.

Mr. BROOMALL. I yield half a minute to the gentleman from Maryland.

Mr. McCULLOUGH. In answer to the gentleman from Maine I will state that I merely designated a clerk of a committee as coming from the State of Maine. I did not know what committee it was, but the gentleman has indicated it. Now, I do not know what duties he has had to perform, but that the testimony he himself gave will prove the truth of what I say.

Mr. PIKE. He will always tell the truth I have no doubt.

Mr. BROOMALL. I move the previous question.

The previous question was seconded and the main question ordered.

Mr. ECKLEY. I demand the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 88, nays 54, not voting 85; as follows:

YEAS—Messrs. Adams, Ames, Archer, Arnell, James M. Ashley, Baldwin, Benton, Blackburn, Blair, Boies, Boutwell, Bowen, Boyden, Bromwell, Broomall, Buckley, Burr, Benjamin F. Butler, Roderick R. Butler, Callis, Chanler, Reader W. Clarke, Sidney Clarke, Clift, Dixon, Thomas D. Eliot, James T. Eliott, Ferriss, Fields, French, Goss, Gove, Grover, Haight, Haughey, Heaton, Higby, Richard D. Hubbard, Hulburd, Jenckes, Alexander H. Jones, Julian, Koontz, Lash, Lincoln, Loan, Logan, McKee, Mercer, Miller, Moore, Morrill, Mullins, Myers, Newsham, O'Neill, Orth, Paine, Perham, Pettis, Poland, Prince, Robertson, Schenck, Selye, Sitgreaves, Smith, Starkweather, Stewart, Stokes, Stover, Sypher, Taffe, Lawrence S. Trimble, Twichell, Van Aernam, Whittemore, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Wood, and Young—83.

NAYS—Messrs. Axtell, Bailey, Baker, Barnum, Beaman, Beatty, Boyer, Brooks, Cary, Cobb, Cook, Corley, Cornell, Eckley, Ferry, Garfield, Getz, Golladay, Hawkins, Holman, Hopkins, Hotchkiss, Hunter, Thomas L. Jones, Judd, Kelsey, Kitchen, Laffin, William Lawrence, Loughridge, Mallory, McCarthy, McCormick, McCullough, Morrissey, Nicklack, Pile, Price, Pruyn, Scofield, Shellabarger, Spalding, Taber, Taylor, Trowbridge, Upson, Van Allen, Burt Van Horn, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, and Windom—54.

NOT VOTING—Messrs. Allison, Anderson, Delos R. Ashley, Banks, Barnes, Beck, Benjamin, Bingham, Blaine, Buckland, Cake, Churchill, Coburn, Colfax, Covode, Cullom, Dawes, Delano, Deweese, Dickey, Dockery, Dodge, Donnelly, Driggs, Edwards, Eggleston, Ela, Eldridge, Farnsworth, Fox, Glossbrenner, Gravelly, Griswold, Halsey, Hamilton, Harding, Hill,

Hooper, Asabel W. Hubbard, Chester D. Hubbard, Humphrey, Ingersoll, Johnson, Kelley, Kellogg, Kerr, Ketcham, Knott, George V. Lawrence, Lynch, Marshall, Marvin, Maynard, Moorhead, Mungen, Newcomb, Nicholson, Norris, Nunn, Peters, Phelps, Pierce, Pike, Plants, Polesley, Randall, Baum, Robinson, Root, Ross, Sawyer, Shanks, Stevens, Stone, Thomas, Tift, John Trimble, Robert T. Van Horn, Van Wyck, Vidal, Ward, Elihu B. Washburne, Stephen F. Wilson, Woodbridge, and Woodward—85.

So the resolution was agreed to.

Mr. BROOMALL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, announced that the Senate had insisted upon its amendments, disagreed to by the House, to the bill (H. R. No. 1673) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870; had agreed to the conference asked by the House, and had appointed as the conferees on the part of the Senate Mr. MORRILL of Maine, Mr. HOWE, and Mr. WHYTE.

The message also announced that the Senate had insisted upon its amendments, disagreed to by the House, to the bill (H. R. 375) to repeal an act approved March 2, 1867, entitled "An act to regulate the disposition of fines, penalties, and forfeitures received under the laws relating to the customs, and for other purposes," and to amend certain acts for the prevention and punishment of frauds upon the revenue, and for the prevention of smuggling, had agreed to the conference asked by the House, and had appointed as conferees on the part of the Senate Mr. CHANDLER, Mr. KELLOGG, and Mr. MORGAN.

The message also announced that the Senate had insisted upon its amendments, disagreed to by the House, to the bill (H. R. No. 1967) to compensate the officers and crew of the United States steamer Kearsarge for the destruction of the rebel piratical vessel Alabama, had agreed to the conference asked for by the House, and had appointed as conferees on the part of the Senate Mr. GRIMES, Mr. CONKLING, and Mr. DRAKE.

The message also announced that the Senate had insisted upon its amendments, disagreed to by the House, to the bill (H. R. No. 1808) making appropriations for the service of the Post Office Department for the year ending June 30, 1870, had agreed to the conference asked by the House, and had appointed as conferees on the part of the Senate Mr. CONKLING, Mr. RAMSEY, and Mr. DAVIS.

DEFICIENCY BILL.

Mr. SCOFIELD. I ask that the House proceed to the consideration of the amendments of the Senate to the deficiency bill.

Mr. ARNELL. I object.

Mr. SCOFIELD. I move to suspend the rules for that purpose.

The question was taken; and two thirds voting in favor thereof, the rules were suspended and the House proceeded to the consideration of the amendments of the Senate to the bill (H. R. No. 1911) to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes.

Mr. SCOFIELD. I have looked over these amendments. Some of them are not very important, but others are. There are a good many of them which are pretty long, and I move to suspend the rules to dispense with the reading of them.

The question was taken; and two thirds voting in the affirmative, the rules were suspended and the reading of the amendments was dispensed with.

Mr. SCOFIELD. I move that the House non-concur in the amendments of the Senate, and that a conference be asked on the disagreeing votes of the two Houses thereon.

The motion was agreed to.

The SPEAKER appointed Mr. SCOFIELD,

Mr. LAWRENCE of Ohio, and Mr. ARCHER, managers of the conference on the part of the House.

PAY OF CONTESTANTS.

Mr. BROOMALL. I desire to call the attention of the House to a matter that has given the Committee on Accounts some trouble. On the 1st of March a resolution was passed by the House authorizing the Clerk of the House, under the sanction of the Committee on Accounts, to pay \$2,500 to each of three contestants from the State of Louisiana.

Mr. HIGBY. I rise to a question of order. I desire to know what is the question before the House. I demand the regular order.

Mr. BROOMALL. I am making a statement upon which I move to suspend the rules.

The SPEAKER. The gentleman must make the motion to suspend the rules first.

Mr. BROOMALL. I wish to state what I desire to suspend the rules for.

Mr. RANDALL. I object.

The SPEAKER. Objection being made, if the gentleman desires to hold the floor he must move to suspend the rules.

Mr. BROOMALL. Then I move to suspend the rules for the purpose of rescinding so much of the resolution of March 1, 1869, as allows to J. Willis Menard \$2,500 in full for his expenses in the election case from Louisiana, with a view to having the resolution amended so as to allow him \$1,500.

A MEMBER. He has got the money already.

Mr. BROOMALL. No, he has not; and I am authorized by Mr. Menard himself to make this proposition.

Mr. SHANKS. I shall object unless the others are put on the same footing.

Mr. BROOMALL. The Committee on Accounts, after witnessing the vote of the House allowing \$1,500 to certain contestants, refused—obstinately, if you choose to call it so—to allow \$2,500 to the contestants in the Louisiana case. The House could only authorize the Clerk to pay them with the sanction of the Committee on Accounts, and there is no other way of doing it except by a positive law. The question is, whether the House will now accede to my proposition or go to the trouble of passing a joint resolution upon the subject, which would take the matter out of our hands. Upon this state of things being made known to Mr. Menard he said at once that he would accept \$1,500 if the resolution was changed to that effect.

Mr. DAWES. I object to debate unless there can be some debate on the other side.

The SPEAKER. No debate is in order.

The question was then taken upon the motion to suspend the rules; and upon a division there were—ayes 96, noes 36.

So (two thirds voting in the affirmative) the rules were suspended.

Mr. BROOMALL. I now submit the resolution I have indicated.

Mr. WOOD. Will the gentleman allow me to ask him a question?

Mr. BROOMALL. Certainly.

Mr. WOOD. As I understand this case, the House directed that each of these contestants should receive \$2,500. That resolution was passed by the House and a motion to reconsider laid upon the table, which we supposed disposed of the question finally. Now, the chairman of the Committee on Accounts [Mr. BROOMALL] makes a report to us that that committee has assumed the authority to propose a resolution in favor of paying these contestants but \$1,500 each. Now, I desire to inquire what authority that committee had to change the order of the House?

Mr. BROOMALL. The gentleman from New York [Mr. WOOD] is entirely mistaken in his statement of facts. The House did not authorize the Clerk to pay the money at all; but it authorized the Clerk to pay the money—in the language of the act of Congress of the 14th of March, 1864—"with the sanction of the Committee on Accounts." It could only

be done with the sanction of that committee. A higher power than the House itself has said that neither the House nor the Senate alone can take anything out of its contingent fund without the sanction of the Committee on Accounts or Contingent Expenses of that body. If the gentleman wants to know why it was that the committee set up its own judgment against the judgment of the House in this particular, the chairman of the Committee on Accounts can only say that the law requires the committee to exercise its judgment; and it never has yet yielded that judgment to anybody. If Congress does not want the committee to exercise its judgment in such cases, then it must repeal the law. In that way only can either House dip its own hands into the contingent fund.

One word more. A very large amount of money has been expended for the pay of persons contesting seats in this House during the present Congress, and a practice has grown up which fully justifies the language of the gentleman from Ohio [Mr. SCHENCK] when he said that contesting seats in Congress was by far the most profitable business in the country, so far as he knew, for the amount of capital invested. It is time a stop was put to this practice. The abuse is that some one offers a resolution without any inquiry whatever, upon which he calls the previous question, and it is passed without any debate upon it being allowed, by means of party drill or some other kind of drill. Fortunately, however, Congress is above the House of Representatives, and has said that such a resolution is null and void without some examination. This the law requires it to receive from the Committee on Accounts. The reason why the Committee on Accounts refused to sanction the payment of \$2,500 to each of the parties named in the resolution to which I have referred was this: shortly after that resolution was passed the House had up the cases of other parties from Kentucky and other States. Debate was allowed in those cases, and after the subject was fully discussed by the House it was very evident to the Committee on Accounts that the amount allowed by the House in the latter cases, \$1,500 each, was very much too little if that sum was not enough in the former cases.

In the particular case in which the Committee on Accounts refused to sanction the payment of \$2,500, the election which gave rise to the contest took place in November last, and the parties to the contest have been here but a single session, and that a short session. In another case, where the contest extended over the entire Congress the Committee on Accounts did sanction the payment of \$2,500.

Now, I am satisfied that the other contestant, with whom I have not conversed, will agree to have the same charge made in the resolution with respect to his pay that the Committee on Accounts propose to make in respect to the pay of Mr. Menard. And if any friend of his on this floor will authorize me to do so I will move an amendment to that effect.

Mr. JONES, of Kentucky. Will the gentleman allow me to ask him a question?

Mr. BROOMALL. Certainly.

Mr. JONES, of Kentucky. A few days ago a resolution passed this House directing the Clerk to pay to John D. Young, of Kentucky, the sum of \$2,500. I am informed by a gentleman who has examined the record that that resolution was framed in the very same language of resolutions which proposed to pay Mr. Switzler, of Missouri, a contestant, and two of the contestants of the seats of Mr. Brown and Mr. TRIMBLE, of Kentucky, the same amount, or perhaps a larger amount in some of the cases. Now, I desire to know why that resolution, couched in the very same language of the resolutions in the other cases to which I have referred, was not allowed by the Committee on Accounts? I would like to know how it is that a creature of this House, a servant of this House, refuses to perform the will of this House?

Mr. BROOMALL. Mr. Speaker, this debate cannot be allowed to run on. The House is getting uneasy. I will only ask the Clerk to read the law upon this subject—a law which binds the House as well as the committee; and I hope gentlemen who want to know how the law stands will listen.

The Clerk read as follows:

"Hereafter no payment shall be made from the contingent fund of either House of Congress unless sanctioned by the Committee to Audit and Control the Contingent Expenses of the Senate or the Committee on Accounts of the House of Representatives respectively; and no transfer of balances of appropriation shall be made from one fund to another except by law."

Mr. WOOD. I submit that the law as read does not give the committee any authority to alter the resolution of this House with reference to the amount to be paid.

Mr. BROOMALL. I grant that the gentleman from New York [Mr. WOOD] knows more about the laws of the land than the Comptroller at the Treasury Department, who rules that he cannot make payment under this very resolution unless the Committee on Accounts will sanction it. I grant all that. But it makes no difference whether the gentlemen from New York or the Comptroller, who is to pass upon this matter at the Treasury Department, is the wiser lawyer. It happens that the Comptroller is in the position to block the game. He is the man who has to decide these questions. It may be that what I have been laying down as law is not the law of the land; but the Comptroller says it is. There is no appeal from his decision; and these men cannot get their money until either the Committee on Accounts sanction the payment, or until the House and Senate pass a bill appropriating that amount of money to these men.

I have been asked to embrace Mr. Hunt in the same category; and I will if his friends desire it. We ask that the resolution of the House with regard to these men be rescinded so far as to reduce the amount of compensation to \$1,500, and then these men can get their money. How long would it take them to get their money if they followed the legal guidance of the gentleman from New York, [Mr. WOOD?]? But this resolution will give them all they ask; and I trust the House will pass it. I will now yield to my colleague on the committee for one moment.

Mr. McCULLOUGH. I took the ground, Mr. Speaker, on that committee when these claims were up that Congress never contemplated a creature of its own should entirely nullify a resolution which it had passed in specific terms. The committee overruled my objection, but I still maintain the same ground. The committee ought to have ordered the payment of the money under the resolution, and not have attempted to ignore entirely the action of the House. Such action on the part of one of the committees of this House was never contemplated by the law of Congress.

I like consistency. The resolution passed paying Switzler \$5,000 was indorsed by the committee, and the money was paid at once. The committee has also passed the claim in the case of Mr. Hinds, who was assassinated in Arkansas, for payment up to the end of this Congress, right in the teeth of a positive law on the subject.

ENROLLED JOINT RESOLUTION.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution (S. R. No. 217) for printing the Medical and Surgical History of the Rebellion; when the Speaker signed the same.

PAY OF CONTESTANTS—AGAIN.

Mr. BROOMALL. I now yield to the gentleman from Kentucky for a question.

Mr. SCHENCK. I hope the whole subject will be laid upon the table if we cannot get rid of it in any other way.

Mr. JONES, of Kentucky. I to ask the chairman of the Committee on Accounts this

question, and I hope we shall have a distinct answer to it. I wish to know why the resolution passed by the House to pay John D. Young, which was couched in the same language as the resolutions to pay Switzer, Simms, Smith, and others, which were passed by the Committee on Accounts and referred for payment to the Clerk of the House—I wish to know why that resolution was not passed in the same manner, and payment made to John D. Young?

Mr. HIGBY. I rise to a question of order.

Mr. JONES, of Kentucky. I have the floor.

Mr. HIGBY. What is the question before the House?

Mr. JONES, of Kentucky. I have the floor by permission of the gentleman from Pennsylvania.

Mr. HIGBY. I rise to a question of order, and it is that neither the question of the gentleman from Kentucky nor any answer to it is pertinent to the matter now before the House.

Mr. JONES, of Kentucky. I leave the Speaker to determine that.

The SPEAKER. The Chair overrules the point of order.

Mr. JONES, of Kentucky. That is the question, why it is that the resolution to pay John D. Young was not referred for payment to the Clerk of the House by the Committee on Accounts?

Mr. BROOMALL. The gentleman asks me upon what ground the committee bases its action in a case which has no connection with the case now pending. I have no authority to tell outside of the committee what took place in the committee. If he were a member of the committee he would know. On the question of law it may be that the First Comptroller is wrong; but I hold his letter to the Clerk of the House in my hand in which he says he cannot pay that money without the assent of the Committee on Accounts.

Now, as these gentlemen are willing to accept the amount which I have specified, and as the House has already fixed upon \$1,500 as an adequate sum under like circumstances, I trust there will be no further objection to the adoption of the resolution. I now yield to the gentleman from Massachusetts.

Mr. DAWES. This seems to be the question before the House: whether there is a discretion in the Committee on Accounts above and superior to the decision of the House itself; whether when the Committee on Accounts has fixed the sum itself which in its opinion is the proper sum to be expended in any particular manner out of the contingent fund, the law sets up the opinion of the Committee on Accounts above that of the House? That is the question. It is perfectly apparent what that provision of the law was inserted there for. It had reference to a claim submitted to the Committee on Accounts for pay when there was no sum fixed. For instance, when a man has done work for the House it is for the Committee on Accounts to determine whether his charge is or is not too high or more than he ought to be paid. The law intended that the Committee on Accounts should audit and pass upon such claims. Now, is it not within the power of the House to instruct its committee to sanction a particular outlay from the contingent fund?

Mr. BROOMALL. I resume the floor.

Mr. DAWES. Let me have one word more. It is the contingent fund that is at the disposal of the Committee on Accounts, and the House instructs its committees. They are its servants; they are to do what the House says. And now my friend says because in another case the House expresses an opinion that it should be \$1,500 they take that as the instruction in this case. The House instructed them in this case as to the sum which it thought proper to pay. I know they have got J. Willis Menard to say he will take this sum. He has been told, probably, that he could not get his money without a bill, and he had better consent to take \$1,500 rather than nothing. I know he is willing to do it, but he is willing under duress

notwithstanding the House has expressed the opinion that he shall have \$2,500.

Mr. BROOMALL. Mr. Speaker, I resume the floor. I can only dispose of my friend from Massachusetts in the manner I have disposed of my friend from New York. If he was in the office of the Comptroller who has to pass upon this question for the Clerk, and who dictates the law to him as far as this case is concerned, then his views of the law would be important to this House and to the parties claiming their pay. But unfortunately for him, and for the glory of the country most likely, the gentleman from Massachusetts like the gentleman from New York is not in the position of Comptroller, and the Comptroller has decided without respecting their opinions, if he knows them; and until the gentleman can get a law passed correcting the Comptroller's error his decision will have to stand as the law.

Mr. DAWES. I agree that the Comptroller is right and the Committee on Accounts are wrong. [Laughter.] The committee have no business to set themselves above the law of the House.

Mr. BROOMALL. The House directed the committee to exercise its judgment, not to do it in a particular direction. The House is not omnipotent and it cannot do what the gentleman claims. There is a power above the House of Representatives, and that is the House and Senate combined. The House and Senate have enacted a law which I have read directing the Committee on Accounts to exercise its own judgment and not the judgment of the House, and the Comptroller has said so in the letter which I hold in my hand.

Mr. SCHENCK. Will the gentleman allow me to ask a question?

Mr. BROOMALL. Yes, sir.

Mr. SCHENCK. I desire to know, inasmuch as the gentleman says he is not the Comptroller, whether or not the Comptroller did not get this absurd opinion from the practice of the Committee on Accounts? [Laughter.]

Mr. BROOMALL. That is a pertinent question.

Mr. LOGAN. I rise to a question of order. I want to know whether in the opinion of the Chair the gentleman from Pennsylvania is not uttering a treasonable sentiment when he says there is a power higher than this House, [Laughter.]

Mr. BROOMALL. It makes no difference whether the law as understood by the committee is correct or not. Every member of the House may disagree with the Comptroller, but that officer is in a position to give a decision, and he has given it.

In answer to the gentleman from Ohio [Mr. SCHENCK] as to the Comptroller getting his notion from the Committee on Accounts, I will say that while he might have gone to a worse source for it he did not get it there. But he has decided the question, and having done it I hope this House will accommodate the claimants and the committee also by letting the claimants get the money which the committee believe the House has declared they are entitled to, namely, \$1,500. Let me say that I came here as a member with notions of reform, of preventing the extravagant outlay of money. This is in the interest of economy, and if these claimants are willing to save \$2,000 to the Government I want to know why my smiling friend from New York on the other side [Mr. Wood] objects. I call the previous question.

The previous question was seconded and the main question ordered—ayes 87, noes 44.

Mr. WOOD and Mr. PIKE moved to lay the resolution on the table.

The motion was agreed to—ayes 107, noes 11.

Mr. WOOD moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN,

one of its clerks, was received, returning to the House in answer to its request a copy of the bill (H. R. No. 508) for the relief of the Mount Vernon Ladies' Association. By unanimous consent the bill was referred to the Committee on Appropriations.

LINCOLN MONUMENT ASSOCIATION.

On motion of Mr. CULLOM, by unanimous consent, the amendment of the Senate to the bill (H. R. No. 2009) to authorize the Secretary of War to place at the disposal of the Lincoln Monument Association, at Springfield, Illinois, damaged and captured ordnance, was taken from the Speaker's table, and the amendment of the Senate, namely, to strike out the words "and other," was concurred in.

Mr. CULLOM moved to reconsider the vote by which the Senate amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INTERNAL REVENUE.

Mr. HOOPER, of Massachusetts, from the Committee of Ways and Means, reported a bill (H. R. No. 2022) to amend an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868; which was read a first and second time.

The bill was read.

Mr. HOOPER, of Massachusetts. I wish to say to the House that this bill contains nothing but what the House acted upon last week on the tax bill that was passed. It contains only some essential provisions which ought to become a law at this session. It is very evident that the general tax bill will not be acted upon in the Senate, and the items in this bill should be acted on and become a law as soon as possible. Unless the House wishes further explanation I will move the previous question.

Mr. PILE. I ask the gentleman to yield to me for a suggestion.

Mr. HOOPER, of Massachusetts. I will yield to the gentleman for a moment.

Mr. PILE. The point to which I wish to call the attention of the gentleman is the length of time given by this bill to owners of distilled spirits to withdraw them from bonded warehouses. Under the present law the time expires in April, 1869. This bill proposes to extend the time until April, 1870. Now, I am certain that this will leave open a door for frauds, and that in spite of all the vigilance and care that may be exercised by the officers appointed under the incoming Administration immense frauds will be perpetrated. I see no reason why the time should be extended. It would be better to issue tax-paid stamps, and have this whisky stamped as other whisky is. But to extend the time for withdrawing the whisky from bonded warehouses would, I think, be very unwise.

Mr. HOOPER, of Massachusetts. I will say in reply to the suggestion of the gentleman that the House after full discussion adopted this very measure by a decided vote, and the Committee of Ways and Means did not feel at liberty to report anything contrary to what had been adopted by the House.

Mr. PILE. I ask the gentleman to yield to me to move an amendment to strike out that part of the bill, so as to test the sense of the House.

Mr. HOOPER, of Massachusetts. I must decline to yield for that purpose. I move the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. HOOPER, of Massachusetts. I move the previous question on the passage of the bill.

Mr. HOLMAN. I call for the reading of the bill.

Mr. HOOPER, of Massachusetts. Perhaps by a very brief explanation I can give the

House a better understanding of the provisions of the bill than could be obtained from hearing it read.

Mr. HOLMAN. I withdraw the call for the reading for that purpose.

Mr. HOOPER, of Massachusetts. I will then briefly explain the provisions of the bill. Section eight of the act of July 20, 1868, is amended so as to allow a bond to be given for the value of the property in case of a distillery erected before the passage of that act on land leased or mortgaged, or owned by a minor or other person incapable of giving the assent required by that section. Section twenty is amended so that in small distilleries of less capacity than one hundred gallons within twenty-four hours sixty gallons of mash or beer (instead of forty-five gallons) shall represent a bushel of grain. Section fifty-six is amended so as to extend the time for distilled spirits to remain in bonded warehouse until April 20, 1870, on payment of one cent, per gallon for each month after the 2d April, 1869. Section seven is amended so as to provide safeguards for special stamps for the tax on tobacco in packages of one pound or more by requiring the stamps to be numbered and registered and the signature of the collector attached. The other sections provide for stamping tobacco, snuff, and cigars now on hand, on which the duty was paid before the law of July 20, 1868, went into effect, and for repacking the same in accordance with that law.

Mr. PRICE. Will the gentleman yield to me for a question?

Mr. HOOPER, of Massachusetts. I cannot yield.

Mr. JOHNSON. Will the gentleman allow me to offer an amendment to the portion of this bill relating to the tax on tobacco?

Mr. HOOPER, of Massachusetts. I object to any amendment. I insist upon the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. HOOPER, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMMERCE WITH BRITISH PROVINCES.

Mr. SCHENCK, from the Committee of Ways and Means, reported the following resolution:

Resolved, That while this House does not admit any right in the executive and treaty-making power of the United States to conclude treaties or conventions with any foreign Government by which import duties shall be mutually regulated, it is however of the opinion, and recommends to the President, that negotiations with the Government of Great Britain should be renewed and pressed if possible to a definite conclusion regarding commercial intercourse and securing to our own citizens the rights claimed by them in the fisheries on the coasts of the British provinces of America, and the free navigation of the St. Lawrence river from its source to the sea.

The question was upon adopting the resolution.

Mr. HARDING. I object to the consideration of this resolution at this time.

Mr. SCHENCK. Then I move that it be referred to the Committee of the Whole on the state of the Union and ordered to be printed.

The motion was agreed to.

Mr. PIKE. I hope the gentleman from Ohio [Mr. SCHENCK] will also state the opinion of the Committee of Ways and Means in reference to reciprocity with the British provinces. That is a matter in which the people are very deeply interested.

Mr. SCHENCK. As for myself I am utterly opposed to the whole system of reciprocity.

The SPEAKER. The resolution having been referred to the Committee of the Whole, it is not now before the House, and debate upon it is not now in order.

Mr. SCHENCK. Then I move to reconsider the vote by which the resolution was re-

ferred to the Committee of the Whole. And I make the motion simply for the purpose of having an opportunity of replying to the inquiry of the gentleman from Maine, [Mr. PIKE.]

The resolution which I reported from the Committee of Ways and Means a few moments since commences with a denial of the right of the treaty-making power to make treaties which shall alter the tariff laws of this country; that is a subject exclusively for legislation. It then proceeds to express a desire that the President shall renew and press to a conclusion negotiations in regard to other interests connected with the British provinces, and our relationship to them, to-wit, the claim our citizens make in regard to the fisheries on the coasts of those provinces, and in relation to the free navigation of the St. Lawrence river from its source to the sea.

The gentleman wants to know my opinion in regard to reciprocity. He might perhaps infer it from the tenor of that resolution. I do not believe we ought to enter into any relations of reciprocity with the British provinces, either through negotiations with the imperial Government of Great Britain or by direct treaty with the provinces themselves, if that were possible. I believe the people of the British provinces should be treated like all other foreigners, and made to pay the same duties upon articles they import into our country that other foreigners are required to pay upon similar articles.

I believe also that the effect of the reciprocity treaty which we had a short time ago, and which has been abrogated, and which I am glad to have had the opportunity to vote for giving notice to abrogate, was, while it lasted, simply to give to those British provinces all the advantages of being within the Union without making them bear any of the burdens of this Union. During our late troubles in this country they did not seem to appreciate those advantages, judging from the manner in which they treated the United States of America.

Mr. PIKE. The only reason why I drew out this expression of opinion from the chairman of the Committee of Ways and Means [Mr. SCHENCK] was the fact that it has been published in the papers quite extensively that that committee was in favor of a renewal of the reciprocity treaty.

Mr. SCHENCK. I am not authorized to speak for the rest of the members of the committee, but I am not aware of any difference of opinion between any of them and myself on that subject.

Mr. MOORHEAD. If the gentleman desires he can express my opinion in the very language he has used in reference to himself.

Mr. SCHENCK. Having answered the inquiry of the gentleman from Maine [Mr. PIKE] I now withdraw the motion to reconsider.

Mr. HARDING. I renew the motion to reconsider, and move to lay it on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses upon House bill No. 1744, to strengthen the public credit and relating to contracts for payment in coin.

APPEALS IN REVENUE CASES.

Mr. SCHENCK, from the Committee of Ways and Means, reported a bill (H. R. No. 2023) to repeal the first section of an act relating to appeals to the Supreme Court; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, provides that the first section of the act of March 26, 1868, entitled "An act to amend an act entitled 'An act to amend the judiciary act,' passed on the 24th of September, 1789," be, and the same is hereby, repealed.

Mr. SCHENCK. The first section of the act which it is proposed to repeal provides that

in questions with reference to the recovery of duties which have been overpaid or wrongfully paid there shall be allowed in every case an appeal to the Supreme Court of the United States, no matter what the amount in controversy. Prior to the passage of that provision the appellate jurisdiction of the Supreme Court was confined to cases where not less than \$2,000 was involved. The effect of the amendment of the law made a short time ago seems to have been that a great number of cases where the duties sought to be recovered amounted to only fifty, one hundred, three hundred, or five hundred dollars have been prevented from being brought to a conclusion at all or from being prosecuted, even where they were meritorious. There has been virtually a denial of justice, because the parties could not afford to take such cases to the Supreme Court.

The Committee of Ways and Means, after hearing representations made upon this subject, were of opinion that if questions of life and death, questions of the greatest moment, may be settled in the circuit courts of the United States, those courts are competent to settle cases of the description I have stated, where the amount involved is less than \$2,000.

In addition to that as another reason why the section should be repealed it has been found that if appeals be taken to the Supreme Court in all these cases in which the suitors can afford to appeal the already gorged docket of that court will be clogged beyond all possibility of the cases being heard for several years. The committee therefore propose that the jurisdiction in these cases shall be as it was formerly in the circuit court.

Mr. WOODWARD. I wish to inquire of the gentleman from Ohio [Mr. SCHENCK] whether the section which he proposes to repeal is not that section to which a year or two ago, when under consideration in this House, an amendment was moved by the honorable gentleman from Iowa [Mr. WILSON] and passed, taking by surprise this side of the House?

Mr. SCHENCK. It is the very same. A bill came from the Senate consisting of this one section in reference to appeals to the Supreme Court, extending the jurisdiction of that court in such cases; and to that we added the amendment taking away the jurisdiction of that tribunal in another class of cases.

Mr. WOODWARD. And you now propose to repeal only the first section?

Mr. SCHENCK. The first section.

Mr. WOODWARD. With the leave of the gentleman from Ohio I will move to amend so as to repeal also the second section.

Mr. SCHENCK. I cannot give way for that purpose; and I can explain, I think, to the satisfaction of the gentleman himself why the action he proposes ought not to be taken. Two years ago we had neither the first nor the second section upon our statute-book. No appeal was allowed to the Supreme Court in cases of *habeas corpus*; nor was there any appeal in cases involving the payment of duties, &c., where the amount was less than \$2,000. Congress in 1867 passed an act allowing appeals to the Supreme Court in cases of *habeas corpus*. During the last session an act was passed, the first section of which it is now proposed to repeal, that first section allowing appeals to the Supreme Court in these little cases in reference to internal revenue. In adopting that provision we committed, as I think, a mistake. In the second section of the same act the appellate jurisdiction of the Supreme Court in *habeas corpus* cases was taken away. We now propose to repeal the first section, leaving the second section just where it is.

If this bill which I now present should prevail we shall be set back with reference to both these questions just where we were in 1867. The Supreme Court will not have appellate jurisdiction either in cases of *habeas corpus* or in these little revenue cases. Both classes of questions will be left with the circuit courts, where I think they ought properly to be determined.

Mr. WOODWARD. Whether the act of

1867 ought ever to have been passed or not is not the question; but it having been passed in the interest of the liberties of the citizen and having been repealed at the moment it was about to deliver a citizen in the spirit of the act I think the House would do well to repeal the repealing act.

Mr. SCHENCK. According to the gentleman, then, because one blunder was committed he wants another blunder committed to correct it. I now call for the previous question.

Mr. WOODWARD. Does the gentleman refuse to let me make an amendment?

Mr. SCHENCK. I do. I wish to go back to what the law was before. I am willing to admit that it was a mistake for Congress in 1867 to give that jurisdiction, and I think they did right to repeal it. I think it was a mistake to extend the jurisdiction of the Supreme Court to every little revenue case, and I think it is now right to repeal it. Throwing out all party considerations it is better to go back to the condition of things two years ago. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WESTERN UNION EXTENSION TELEGRAPH.

Mr. SCHENCK, from the Committee of Ways and Means, reported a joint resolution (H. R. No. 474) authorizing the Secretary of the Treasury to admit free of duty a certain submarine cable; which was read a first and second time.

The joint resolution authorizes the Secretary of the Treasury to deliver to the Western Union Extension Telegraph Company submarine telegraph cable made to form a part of the overland telegraph line to unite the United States with Russia and Great Britain, intended to be laid in the Behring sea, without the payment of customs duty thereon.

Mr. SCHENCK. Mr. Speaker, a company was organized called the Western Union Extension Telegraph Company with a view to the construction of a cable for international communication between the United States and Russia and Great Britain by the way of the Aleutian Islands, across Behring straits. They constructed at considerable cost in England, where alone they could get it made, about five hundred miles of submarine cable for this purpose. That cable was brought around to the British territory, and it was there admitted free of duty. The United States also, through the Navy and State Departments, took an interest in the construction of this line. Resolutions were passed in Congress in favor of it, and it was made in some sense a national affair. When the cable arrived, as I have said, it was admitted duty free into the British provinces. In the mean time the success then already ascertained of direct communication across the Atlantic made it manifest that it was not going to be a paying operation. The company failed utterly. They have lost some million and a half of dollars. That cable which was admitted duty free into the British provinces has been brought back and is now lying in a vessel in New York harbor, where it has been since last November, rusting and being spoiled. They will sell it if they can find any market for it. If they cannot for the whole of it they will cut it up and make river cables of it. That is uncertain. In the mean time the cable is useless to them, and will be unless they can land it. The duty of \$125,000 will be as much as it will bring.

The committee were not inclined at first to report favorably for this remission of duty, but when they came to look into the history of the whole matter and ascertained the encourage-

ment given to the work by Congress and by the British and Russian Governments, and that national vessels were put at their service; when we ascertained the work was given an international character and the company were now bankrupt, we were satisfied they ought to have permission to land this cable without the payment of customs duty.

The Western Union Telegraph Company, which I understand to be a flourishing company, is not the same as the Western Union Extension Telegraph Company, although many members of the former organization may have an interest in the latter. While the Western Union Telegraph Company operating within this country has proved a success, the extension company for oceanic communication have made an utter failure, and whether they pay a duty or not their cable is abandoned and they will in either case be losers to the amount of millions.

Mr. MOORHEAD. I do not know whether the gentleman in giving the decision of the committee gave it as being unanimous or not. I know very well that I stated to the committee that I was a stockholder in the Western Union Telegraph Company, which was interested in this matter, and also in the extension line for laying a new telegraph wire across the continent, and that I believed they should pay the duty on their wire. I see no reason why, if they have gone into a speculation which does not turn out well, they should fall back upon the Government as an indorser. The telegraph wire was imported and the duty was due to the Government, and I think it should be paid. I for one do not want any remission of duty so far as I am concerned, nor do I think the company, if they have any proper consideration for their character, would demand it. I shall vote against it.

Mr. SCHENCK. As to whether this is a unanimous report of the committee I do not at this moment recollect. I believe, however, it was opposed by one member of the committee because it was supposed to involve some tariff question. Whenever that is the case we all know where to find the gentleman from Pennsylvania, [Mr. MOORHEAD.] Not a single strand of the cable from anywhere except the Pennsylvania mines must get in free of duty. But it does not follow necessarily because one or two members of the committee are opposed to it that this is any the less a report of the committee. Sometimes even when the gentleman from Pennsylvania has been opposed to the rest of the committee we have supposed we were right notwithstanding. The application of the telegraph company is just of the character I have spoken of. It is made through its organization. They all united in it. I have spoken also of the fact that at first blush the committee were inclined to vote against the application, but, as is often the case, upon a thorough investigation of the whole matter, including some things to which the gentleman did not turn his attention, although he may have been a stockholder, we became satisfied that it was so far of a national character as to make it proper that we should interfere, as Russia and Great Britain have done, in order to relieve the company. I hold in my hand the action of both those Governments in the matter as well as the action of our own. I will read a portion of the letter of Mr. Seward in regard to the action of our own Government. But before I do so it is proper for me to remark that while the company was in a flourishing condition it did not have so much need that we should forbear to lay our hands upon it to the entire destruction of all its interest as it has now when the company is utterly bankrupt.

Mr. MOORHEAD. Not bankrupt by any means.

Mr. SCHENCK. The gentleman from Pennsylvania is confounding the Western Union Telegraph Company, which is one thing engaged in telegraph communication in the United States, with the Western Union Extension Company which is confined to communication

between the United States and Great Britain and Russia by the way of Behring strait, which is a totally different thing.

Mr. MOORHEAD. I would like to inform the gentleman that they are one thing by two names. One stands good, the other has lost money, and now they want to shake off the loss and take the profits. I understand it perfectly. I am on both sides of the question.

Mr. SCHENCK. That is not an unusual thing. [Laughter.]

Mr. MOORHEAD. That is, I own stock in both these companies.

Mr. SCHENCK. The Secretary of State, in writing on this subject, in which I have not the slightest interest as a legislator, says:

"But in another sense it is entitled to be regarded as an enterprise of the Government of the United States. During all the time that Mr. Collins has been engaged in maturing and developing it and presenting it to the consideration of Russia and Great Britain he has been acting under the instructions and with the approbation of the Department of State, and a knowledge of that fact has not been withheld from Congress." * * * "What Mr. Collins asks of Congress is a grant of the right of way across the public lands, with the right to take therefrom the materials necessary for constructing the line; the use of a national vessel, suitably officered and equipped, to make surveys and soundings along the northern Pacific coast beyond the limits of the United States and to aid in prosecuting the work; and finally a stipulated compensation for Government use of the line when it shall be constructed.

"If the views I have submitted are just this demand for patronage is neither unnecessary nor unreasonable. We could not withhold it without showing a want of appreciation of the liberality and friendship which have been manifested toward the United States by Russia and Great Britain in the proceedings they have adopted toward the same enterprise. I do not know any one object lying within the scope of our foreign relations more important than the preservation of peace and friendship with those two great and enlightened Powers, nor can I conceive of any one measure of national policy that would more effectually tend to secure that great object than the construction of the proposed intercontinental telegraph."

It was upon that communication from the State Department that Congress acted. Congress did pass a resolution and did give the use of a vessel and did foster and encourage this company to go on with their enterprise; and all that is claimed now is that as the United States was one of the three Governments which led them into an enterprise that proved an entire failure they shall not now take away from them what little remnant they have toward the payment of their debts, but which will be totally insufficient for the discharge of even a moiety of those debts. I move the previous question.

The question was put on seconding the previous question; and there were—ayes 59, noes 40; no quorum voting.

Tellers were ordered; and Mr. SCHENCK and Mr. ROSS were appointed.

The House divided; and the tellers reported—ayes 80, noes 34.

So the previous question was seconded.

The main question was then ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. SCHENCK moved the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered.

Mr. STEWART called for the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 69, nays 62, not voting 91; as follows:

YEAS—Messrs. Ames, Delos R. Ashley, Beaman, Beatty, Beck, Blair, Boyden, Brooks, Buckley, Burr, Callis, Cary, Chanler, Reader W. Clarke, Clift, Copley, Cullom, Dawes, Dixon, Dockery, Donnelly, Eggleston, Garfield, Getz, Golladay, Goss, Griswold, Grover, Haight, Heaton, Higby, Hill, Hotchkiss, Richard D. Hubbard, Hulburd, Jenckes, Johnson, Alexander H. Jones, Thomas L. Jones, Kerr, Loan, Lynch, Mallory, Marshall, Marvin, Maynard, McCarthy, McCormick, McCullough, Mangum, Niblack, Nicholson, Paine, Peters, Pierce, Poland, Robertson, Schenck, Stokes, Stone, Taber, Thomas, Lawrence S. Trimble, Trowbridge, Van Trump, Welker, Whittier, Wood, and Young—69.

NAYS—Messrs. Arnell, Jarm, M. Ashley, Baker, Benjamin, Benton, Boutwell, Bronwell, Broomall, Sidney Clarke, Cobb, Cornell, Driggs, Thomas D.

Elliott, James T. Elliott, Farnsworth, Ferriss, Ferry, Fields, Gove, Harding, Holman, Hopkins, Chester D. Hubbard, Julian, Ketcham, Koontz, George V. Lawrence, William Lawrence, Loughbridge, McKee, Mercer, Miller, Moore, Moorhead, Morrell, Newcomb, O'Neill, Orth, Perham, Plants, Price, Randall, Ross, Sawyer, Scofield, Selye, Shanks, Shellabarger, Starkweather, Stevens, Stewart, Stover, Sypher, Taylor, Upson, Van Auker, Ward, Henry D. Washburn, William B. Washburn, Thomas Williams, William Williams, and Windom—62.

NOT VOTING—Messrs. Adams, Allison, Anderson, Archer, Axtell, Bailey, Baldwin, Banks, Barnes, Barnum, Bingham, Blackburn, Blaine, Boies, Bowen, Boyer, Buckland, Benjamin F. Butler, Roderick R. Butler, Calk, Churchill, Coburn, Colfax, Cook, Covode, Delano, Devese, Dickey, Dodge, Eckley, Edwards, Ela, Eldridge, Fox, French, Glossbrenner, Gravelly, Halsey, Hamilton, Haughey, Hawkins, Hooper, Asahel W. Hubbard, Humphrey, Hunter, Ingersoll, Judd, Kelley, Kellogg, Kelsey, Kitchen, Knott, Laffin, Lash, Lincoln, Logan, Morrissey, Mullins, Myers, Newsham, Norris, Nunn, Pettis, Phelps, Pike, Pile, Polsley, Prince, Pruyn, Raum, Robinson, Roots, Sigreaves, Smith, Spalding, Taft, Tift, John Trimble, Twichell, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Vidal, Cadwalader C. Washburn, Elihu B. Washburne, James F. Wilson, John T. Wilson, Stephen F. Wilson, Woodward, and Woodward—91.

So the joint resolution was passed.

Mr. SCHENCK. I move to reconsider the vote by which the joint resolution was passed; and to lay the motion to reconsider upon the table.

Mr. SCOFIELD. I call for a division on the latter motion.

Mr. SCHENCK. I withdraw the motion.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate insisted upon its amendments, disagreed to by the House, to House bill No. 1911, making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes; had agreed to the conference asked by the House on the disagreeing votes of the two Houses; and had appointed Mr. HOWE, Mr. CRAGIN, and Mr. NYE, the conferees on the part of the Senate.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 2009) to authorize the Secretary of War to place at the disposal of the National Lincoln Monument Association, at Springfield, Illinois, damaged and captured ordnance.

NATIONAL ASYLUM FOR DISABLED SOLDIERS.

Mr. GARFIELD. A vacancy has occurred in the board of managers of the National Asylum for Disabled Volunteer Soldiers, by the resignation of Governor Oglesby, of Illinois. I ask unanimous consent to introduce a joint resolution to provide for filling that vacancy.

No objection was made.

Accordingly a joint resolution (H. R. No. 475) to fill a vacancy in the board of managers for the National Asylum for Disabled Volunteer Soldiers, was introduced and read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution was read. It provides that Thomas O. Osborn, of Illinois, shall be appointed a manager of the National Asylum for Disabled Volunteer Soldiers, to fill the vacancy occasioned by the resignation of Hon. Richard J. Oglesby, of said State, for the remainder of his unexpired term.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PUBLIC CREDIT—GOLD CONTRACTS.

Mr. SCHENCK, from the committee of con-

ference on the disagreeing votes of the two Houses on House bill No. 1744, to strengthen the public credit, and relating to contracts for the payment of coin, made the following report:

The committee of conference on the disagreeing votes of the two Houses to the bill (H. R. 1744) to strengthen the public credit, and relating to contracts for the payment of coin, having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses as follows:

They recommend that the House recede from its disagreement to the first amendment of the Senate and agree to the same with an amendment, as follows: insert, in lieu of the words stricken out, the words "obligations of the United States not bearing interest, known as United States notes, and of all the interest-bearing."

They recommend that the House recede from its disagreement to the second amendment of the Senate and agree to the same with an amendment, as follows: insert, in lieu of the words stricken out, the words "but none of said interest-bearing obligations not already due shall be redeemed or paid before maturity, unless at such time United States notes shall be convertible into coin at the option of the holder, or unless at such time bonds of the United States bearing a lower rate of interest than the bonds to be redeemed can be sold at par in coin. And the United States also solemnly pledges its faith to make provision at the earliest practicable period for the redemption of the United States notes in coin."

They recommend that the Senate recede from their third and fourth amendments to the bill of the House.

JOHN SHERMAN,
GEORGE H. WILLIAMS,
Managers on the part of the Senate.

ROBERT C. SCHENCK,
WILLIAM B. ALLISON,
Managers on the part of the House.

The bill as agreed upon by the committee of conference is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to remove any doubt as to the purpose of the Government to discharge all just obligations to the public creditors, and to settle conflicting questions and interpretations of the laws by virtue of which such obligations have been contracted, it is hereby provided and declared that the faith of the United States is solemnly pledged to the payment in coin or its equivalent of all the obligations of the United States not bearing interest, known as United States notes, and of all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver; but none of said interest-bearing obligations not already due shall be redeemed or paid before maturity unless at such time United States notes shall be convertible into coin at the option of the holder, or unless at such time bonds of the United States bearing a lower rate of interest than the bonds to be redeemed can be sold at par in coin. And the United States also solemnly pledges its faith to make provision at the earliest practicable period for the redemption of the United States notes in coin.

SEC. 2. And be it further enacted, That any contract hereafter made specifically payable in coin, and the consideration of which may be a loan of coin, or a sale of property, or the rendering of labor or service of any kind, the price of which as carried into the contract may have been adjusted on the basis of the coin value thereof at the time of such sale, or of the rendering of such service or labor, shall be legal and valid, and may be enforced according to its terms; and on the trial of a suit brought for the enforcement of any such contract proof of the real consideration may be given.

Mr. SCHENCK. I do not know but the reading of the report of the committee of conference has made this matter plain to every gentleman here. But I will make a brief explanation of the conclusions to which the committee of conference have arrived. The Senate struck out the words "interest-bearing" before the words "obligation," in the first section; so as to leave it to pledge the faith of the United States to "the payment in coin or its equivalent of all the obligations of the United States," except in cases where it was otherwise expressly provided by law. It was thought that this might extend even to warrants from the Treasury on contracts, or certificates for pensions, going beyond what was intended. The object was to pledge the faith of the country, not only to the payment of its interest-bearing obligations in the shape of bonds, but also to the payment of the non-interest-bearing obligations in the shape of greenbacks, or "United States notes," as they are termed by law.

To make that matter clear, therefore, instead of striking out the words "interest-bearing" it is changed to read:

The faith of the United States is solemnly pledged to the payment in coin or its equivalent of all the obligations of the United States not bearing interest,

known as United States notes, and of all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver.

The Senate had also struck out the following proviso in the first section as it passed the House:

Provided, however, That before any of said interest-bearing obligations not already due shall mature or be paid before maturity the obligations not bearing interest, known as United States notes, shall be made convertible into coin at the option of the holder.

For a long time the Senate would not agree to anything to take the place of that proviso. But it was finally agreed by the committee of conference to insert in the place of the proviso stricken out the following:

But none of said interest-bearing obligations not already due shall be redeemed or paid before maturity, unless at such time United States notes shall be convertible into coin at the option of the holder.

That is, the bonds of the United States are not to be paid before maturity, while the note-holders are to be kept without their redemption, unless the note-holders are able at the same time to convert their notes into coin. But inasmuch as this might raise the price of bonds to a high figure and be for the benefit of the bondholders, then they proceed to put in further language so as to keep the bonds from going up out of proportion to the greenbacks, by further providing that if the bonds went above par in gold then they might be paid off, because it was supposed that then we could sell bonds for par at a lower rate of interest. They put in these further words:

Or unless at such time bonds of the United States bearing a lower rate of interest than the bonds to be redeemed can be sold at par in coin.

Then we go on and give this further pledge:

And the United States also solemnly pledges its faith to make provision at the earliest practicable period for the redemption of the United States notes in coin.

The other amendments made by the Senate are receded from by the Senate.

Mr. STEVENS. Mr. Speaker, as I voted against this bill when it was originally on its passage through this House, and as I propose to vote now in favor of adopting this conference report, I desire to say that in my vote to-day in favor of the proposition I am guided largely by the fact that the amendments adopted by the committee of conference contain substantially some of the provisions of an amendment which I endeavored to have ingrafted on the bill upon its passage here, the adoption of which would have secured my support for the bill. The provisions of the first section of the bill with the amendment recommended for adoption substantially pledge us to the payment of our Government bonds in coin or its equivalent when we shall have resumed specie payments by operation of law. That, sir, was the spirit of the amendment which I desired to offer originally, but which was cut off by the operation of the previous question. I have never doubted that the bonds were to be and ought to be paid dollar for dollar in coin or its equivalent, but not, sir, while gold is at a large premium in the market.

This bill as explained by the gentleman in charge of it has this effect, while it pledges the United States to the earliest practicable resumption of specie payments; and in this respect it also meets my hearty approval, for that I regard as the great solution of our financial problem.

I do not say, Mr. Speaker, that I am entirely satisfied with the terms of this bill. It does not, in my opinion, go far enough in the right direction, but so far as it does go it recognizes very distinctly that the resumption of specie payments, or in other words the compatibility or redemption of our greenbacks, is to precede the payment of our Government bonds, or go hand in hand with it precluding the policy of borrowing gold at a heavy premium to meet those obligations.

Mr. GARFIELD. I would like to ask my colleague [Mr. SCHENCK] whether any sub-

stantial change has been made in the second section of the bill relating to gold contracts?

Mr. SCHENCK. None whatever; it stands just as it passed the House.

Mr. GARFIELD. I am very glad to learn that that section is retained. I cannot better express my approval of this bill than by stating the fact that I introduced this provision into this House as a separate bill more than a year ago and have earnestly urged its passage.

Mr. LAWRENCE, of Ohio. I hold in my hand a resolution to which I hope my colleague [Mr. SCHENCK] will assent. It is as follows:

Resolved, That the pending bill be recommitted to the committee of conference with instructions to strike out all of section two except so much as legalizes coin contracts on a coin consideration.

Mr. SCHENCK. I cannot agree to that because it is not in order, and if it were in order I would not agree to it. [Laughter.]

Mr. NIBLACK. Mr. Speaker, I was a member of the Committee of Ways and Means, which prepared this bill, and also of the committee of conference which has just acted on and reported it. I concede that my objections to the bill are radical. I am opposed to the whole policy of legislation of which this is a part. Our system of finance is at present but pieces of patchwork thrown hastily together; in other words, it is no system at all. It is a series of disjointed acts of legislation thrown together from time to time during the emergency of the war, without regard to any particular financial principle. This bill will but add another scrap to that patchwork of which we have already too much.

This bill, in my judgment, looks to speedy resumption, for which the country is not at all prepared. Resumption looks to contraction, because in my judgment contraction must precede resumption. The effect of this measure, if it should become a law, will certainly be to contract the currency and carry us rapidly in the direction of resumption, for which I believe the business interests of the country are, I repeat, in no wise prepared at the present time.

Then, again, sir, a large number of us upon this side of the House, and I think quite a number upon the other side, believe that as to much the largest number of the bonds now outstanding the Government has the right to redeem them after five years in United States notes, or greenbacks, as they are usually termed. There are others who do not concede that we have absolutely this right, but say that the matter is at least involved in great doubt. The fact that a doubt exists in regard to this matter will give us a great leverage in any funding system which may hereafter be adopted, or in any general system looking to the reduction of the interest on the public debt.

Now, this bill proposes to surrender unconditionally, and, in my judgment, without any consideration to the great mass of the people, the right of the Government to redeem these bonds in legal-tender notes, thus pledging in advance of our general system of finance to the payment in coin of all the obligations of the Government, including the five-twenty bonds, which are not expressly declared to be payable in currency.

In my judgment the bill can be considered nothing else than a measure for the benefit of our bondholders and creditors, without any adequate consideration accruing to the Government. I think such a measure is not proper at this time, for we are not prepared on either side of the House to adopt any new system of finance, decidedly not in the expiring moments of this Congress. A new Congress is about to convene. Let that body, if it deems it wise, take this whole question into consideration and adopt some system which shall look to the refunding of our public debt. Some kind of funding scheme seems to be in contemplation by the party in power, which is faintly foreshadowed by this bill, and for which it is evidently intended to prepare the way. I am not prepared to vote for any funding scheme at present. I do not think the country is prepared for that

either. Let us cease tinkering with the finances any further, at all events until we are prepared to bring order out of the general chaos and to complete the whole work. No one pretends that we are prepared for that now.

Another objection I have to this bill, as amended by this conference report, is that it restricts us from redeeming our outstanding bonds even in coin before maturity except upon certain contingencies which may not happen. Sir, this right to redeem our bonds at pleasure at early and between stated periods is of great value to us in further negotiations with our creditors. This right, or supposed right, of redeeming them in non-interest-bearing legal-tender notes is of still greater value to us in this respect. These important rights of redemption ought not to be lightly surrendered. Neither good faith nor sound policy require it.

Mr. HIGBY. I ask the gentleman what he considers the Government is obligated to pay the "greenbacks" in?

Mr. NIBLACK. When we get the money it is time enough to talk about paying our bonds and the "greenbacks." It is sufficient for me to know that "greenbacks" pass currently; that they pay our debts and pass as money, and may be circulated indefinitely until the Government finds itself in condition to redeem them. When we are in condition to redeem them it will be time enough to ask how they shall be paid.

Mr. HIGBY. Is all our circulating paper redeemable in gold? Would it not be according to good faith to redeem them in gold?

Mr. NIBLACK. It is no time now to settle this great question of how the public debt shall be paid or to discuss the finances of the country. I shall close by repeating that this is an unconditional surrender of the rights of the Government without anything accruing to the Government for that surrender.

Mr. HIGBY. I do not want to hurry payment more than the gentleman does; but I refer to when it is paid.

Mr. RANDALL. It is time enough to say that when we are ready to pay.

Mr. HIGBY. We have had a great deal said on the subject by Democrats.

Mr. NIBLACK. Whatever the laws are I am willing to abide by them. Believing this is in the interest of the creditors of the Government and not in the interest of the Government or the people of the United States, I declined to sign the report of the committee of conference and shall refuse to vote for it.

Mr. SHANKS. I ask the gentleman from Ohio to yield to me.

Mr. SCHENCK. I yield to the gentleman for two minutes.

Mr. SHANKS. I wish to call the attention of the House to what I think is a very grave inconsistency in the first section of this bill. It sets out by declaring that the bill passed some time ago for the issue of five-twenty bonds is to be construed in a certain way; that is, that they are payable in gold. Then it has a proviso putting that in abeyance until a certain contingency takes place. A bill passed some five years ago is brought in, and that is to be held in abeyance until a certain other thing takes place, and that other thing is the redemption of "greenbacks" in gold. That is a serious inconvenience. As it declares that to be the case on its face which is not so, that the notes were payable in gold in the first instance, it places the debtor in the hands of the creditor. [Here the hammer fell.]

Mr. SCHENCK. I now yield for three minutes to my colleague.

Mr. GARFIELD. Mr. Speaker, I was very sorry that illness prevented me from being here when this bill passed the House, and I am glad to have an opportunity now to say a word in its favor. I will refer first to the argument of the gentleman from Indiana, who says his chief objection is to the first section.

Mr. SHANKS. I had only two minutes and could not state in that time all my objections to it.

Mr. GARFIELD. I refer to the gentle-

man's colleague, [Mr. NIBLACK.] He bases his opposition to the first section of the bill on this, that it is a surrender of our power over the subject in the future when we come to some system of funding the public debt. The only power we surrender is the power to threaten repudiation. That, sir, is the surrender in this bill; and if any gentleman here is unwilling to surrender that power I have no sympathy with his sentiment on that subject.

Mr. NIBLACK rose.

Mr. GARFIELD. I have only three minutes and I cannot yield.

Now, sir, I favor the first section of the bill because it declares plainly what the law is. I affirm again what I have often declared in this Hall, that the law does now require the payment of these bonds in gold. I hope I may without impropriety refer to the fact that during the last session I proved from the record in this House, and in the presence of the author of the law by which these bonds were authorized, that five distinct times in his speech, which immediately preceded the passage of the law, he declared the five-twenty bonds were payable, principal and interest, in gold; and that every member who spoke on the subject took the same ground. That law was passed with that declaration uncontradicted, and it went into effect stamped with that declaration by both Houses of Congress. That speech, made on the eve of the presidential campaign, was widely circulated throughout the country as a campaign document, and those who held the contrary were repeatedly challenged to refute its statements. I affirm that its correctness was not successfully denied. Not only Congress so understand and declare, but every Secretary of the Treasury from that day to this has declared that these bonds are payable in gold. The authorized agents of the Government sold them and the people bought them with this understanding.

The Government thus bound itself by every obligation of honor and good faith, and it was not until one year after the passage of the law that any man in Congress raised even a doubt on the subject. The doubts since raised were raised mainly for electioneering purposes, and the question was referred to the people for arbitration at the late presidential election. After the fullest debate ever had on any great question of national politics, in a contest in which the two parties squarely and fairly joined issue on this very point, it was solemnly decided by the great majority which elected General Grant that repudiators should be repudiated and that the faith of the nation should be preserved inviolate.

We are therefore bound by the pledged faith of the nation, by the spirit and meaning of the law, and finally by the voice of the people themselves to resolve all doubts and settle the credit of the United States by this explicit declaration of the national will. The action of the House on this bill has already been hailed throughout the world as the dawn of better days for the finances of the nation, and every market has shown a wonderful improvement of our credit. We could this day refund our debt on terms more advantageous to the Government by \$120,000,000 than we could have done the day before the passage of this bill by the House. Make it a law and a still greater improvement will result. I can in no way better indicate my views of propriety of passing the second section of this bill than by reminding the House that I introduced this proposition in a separate bill on the 10th of February, 1868, and its passage has been more generally demanded by the people and press of the country than any other financial measure before Congress.

The principle involved in this section is simply this: to make it possible for gold to come into this country and to remain here. Gold and silver are lawful money of the United States, and yet the opponents of this section would have us make it unlawful for a citizen to make and enforce contracts which he may

hereafter make to pay gold when he has received gold or its equivalent as the consideration of his contract. The very statement of this doctrine ought to be its sufficient refutation. But the minds of gentlemen are vexed with the fear that this section will be an engine of oppression in the hands of creditors. If any new safeguards can be devised that are not already in this section I know not what they are.

Whenever this law is carried out in its letter and spirit no injustice can possibly result. The whole power of the law is in the hands of the creditor, and he alone is supposed to be in danger of suffering wrong. In the moment that remains to me I can do no more than to indicate the grounds on which the justice of this measure rests. It is a great and important step towards specie payments, because it removes the unwise and oppressive decree which almost expatriates American gold and silver from the country. It will not only allow our own coin to stay at home, but it will permit foreign coin to flow hither from Europe. More than seventy million dollars of our gold are going abroad every year, in excess of what comes to us, and at the same time in eight kingdoms of Europe there are nearly five hundred million dollars of idle gold ready to be invested at less than three per cent. interest. In the Bank of England and the Bank of France there has been for more than a year an average of more than three hundred million of bullion, and most of that time the bank rate of interest has been less than two per cent. Who can doubt that much of this gold would find its way here if it can be invested without committing the fortunes of its owners to the uncertain chances of inconvertible paper money. But the passage of this bill will enable citizens to transact their business on a fixed and certain basis. It will give stability and confidence to trade and pave the way for specie payments. The Supreme Court have in fact decided that this is now the law, but let us put it on the statute-book as a notice to the people and to prevent unnecessary litigation.

Mr. PRUYN. The gentleman speaks of that statement about Mr. Stevens not being denied. Mr. Stevens denied it on this floor.

Mr. SCHENCK. I yield to the gentleman from Minnesota.

Mr. DONNELLY. Mr. Speaker, I felt constrained when this bill was before the House to vote against it, and especially against its second section. I feel now that it is a duty I owe to myself and my constituents to present some explanation of the vote I am about to give against the conference report.

I believe, as has been said by the gentleman from Indiana, [Mr. SHANKS,] that the passage of the second section of this bill will place the debtor class of the country entirely at the mercy of the creditor class and will result in wide-spread injustice and injury to the country. I believe it to be a bill altogether in the interest of the creditor class. Their wealth, intelligence, and position will always insure that they will be protected in the work of legislation.

I represent here a new community, composed mainly of farmers, who, while producing large crops of grain, are to a considerable extent, from their very enterprise and energy, a debtor class. Now, sir, whenever any one of these men finds his debt, perhaps a mortgage on his homestead, falling due, and in consequence of the low price of grain or the general derangement of the finances of the country, he cannot pay it, and has to ask for a renewal of his note, he will find himself completely at the mercy of his creditor, who under this section will have the right to compel him to agree to pay the debt in gold as a condition of the extension given him. It is true the bill provides that the value of the work or service or consideration of the debt is to be estimated on a gold basis, but the creditor will make the estimate.

When debts thus contracted fall due the debtor will have to draw on New York for the

gold he has agreed to pay or pay the money-lender the difference between gold and greenbacks. In this way this provision will produce a widespread demand for gold; this will necessarily increase the value of gold, or in other words the margin of difference between gold and greenbacks, and postpone still further the resumption of specie payments. If we would equalize the values of gold and greenbacks we must do nothing to increase the demand for gold in the country. Such a bill as this, Mr. Speaker, will weigh heavily upon the debtor class of the country, and may be used as an instrument of great wrong and injustice, and therefore for one I cannot vote to sustain this conference report. The capitalists of the country are no worse than other men, but we should not tempt them by opportunities to drive a hard bargain with their debtors. I disapprove of the whole policy. It is an attempt to compel some of our citizens to resume specie payments at a time when the Government itself with all its vast resources is not able to do so. It proposes to establish two kinds of currency and two kinds of commercial transactions in our country. If the legal tenders are good they ought to be good for all citizens; if bad they must be bad for all. The Government has no right to say that if A owes B \$1,000 he may pay it in greenbacks worth sixty cents on the dollar; but if C can coerce D into a gold contract C must then pay thirty-two per cent. more than A paid or than the Government itself pays to its creditors. I know it is said that the Supreme Court has decided in favor of the validity of gold contracts, but this decision applies only to gold contracts made before the passage of the legal-tender act. The reasoning of the Chief Justice may go further, but as I understand it the decision does not.

I have other objections to the first section of the bill, but I have not time now to state them.

Mr. SCHENCK. I yield to the gentleman from Missouri three minutes.

Mr. PILE. Mr. Speaker, money has no intrinsic value whether in gold or anything else except as it represents labor. Toil is the only foundation of value in civilized society. A dollar embracing so many grains' weight of gold or silver is worth a bushel of wheat, or less simply when it represents more or less labor than is necessary to produce it. These metals are the convenient mediums which civilized nations have adopted to represent toil in the commercial exchanges of the world. This whole talk of paying the debt of the Government represented by either bonds or greenbacks in anything but such representative of labor is simply no payment at all, and a proposition to pay the bonds in greenbacks leaves still open the question as to what we will pay the greenbacks in. The whole theory of all who have advocated this so-called payment is to me very much like making people rich by legislating money out of one pocket into the other. Gentlemen propose to pay the bonds in greenbacks, and then I suppose they would turn around and pay the greenbacks in bonds. It only results in the interchange of the two, putting paper in the shape of bonds into one pocket and then taking it out and putting it into the other in the form of greenbacks.

Now, sir, that part of the bill relating to gold contracts only affirms the doctrine recently announced by the Supreme Court. The Supreme Court has already decided in a recent case that contracts payable in gold by their terms are payable in coin; so that the effect of that decision will be the same as this law will make it. I am decidedly in favor of this bill as one step toward that durable standard of value—labor represented in coin—so desirable and so necessary to permanent financial prosperity.

[Here the hammer fell.]

Mr. SCHENCK. I yield three minutes to the gentleman from Tennessee.

Mr. MAYNARD. When this bill was before the House recently gentlemen may remember

that I voted for the first section and against the second. By virtue of the recent decision of the Supreme Court the second section becomes a simple nullity, so that the argument of the gentleman from Minnesota [Mr. DONNELLY] is without force, and therefore no good can result from throwing obstacles in the way of the passage of this bill, while much good may result from asserting what we believe to be the contract between the Government and its creditors. I think we had better take the report as it comes to us, and settle the question for all time.

Mr. SCHENCK. I now yield for one minute to the gentleman from Pennsylvania, [Mr. MILLER.]

Mr. MILLER. I am sorry the committee of conference could not agree to strike out the second section of the bill, for I fear that it will lead to a great deal of wrong. It provides that all contracts made payable in gold can be enforced. I admit that where a contract is made and the party gives value in gold that would be right enough; but according to the provisions of this bill every agreement that is entered into where they agree to pay gold will be enforced unless the party injured can prove that he did not receive gold value for the obligation signed payable in gold. And I would ask how it is to be proven, for the person obtaining such obligation no doubt would take care that there were no witnesses present, and the party injured could not be a witness except in the United States courts, where we have a statute allowing either party to be a witness, and so it is in some of the States; but it is not so in Pennsylvania and many others. We have seen great injustice done by shrewd creditors inserting exemption clauses in obligations by means of which many poor men and their families have been deprived of all the property they possessed, not even leaving a bed to lie on. I do not, Mr. Speaker, think we ought to embrace in this bill anything that might be construed to take advantage of an unfortunate debtor. As to the first section, I am decidedly in favor of it, except as to the proviso, but that is much better now than it was when it before passed this House. The substance of the first section is what the majority of the American people decided in relation to our Government bonds at the last presidential election. If, however, this second section should not be stricken out I will be constrained to vote for the bill, as the first section is of too much importance to be defeated.

[Here the hammer fell.]

Mr. SCHENCK. I yield for three minutes to the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BUTLER, of Massachusetts. I know nothing which can add to the force of this bill more than the way in which it is being discussed in this House. It was started out as "a bill to strengthen the credit of the United States," something like a "poor man's plaster" to be put upon the credit of the United States to strengthen it, as if the credit of this great country needed strengthening from anybody. Its title was cut off in the Senate, so that now it is only "a bill relating to the public debt," and then it was sent back here. It proposed when it started to say that it was the law and contract that the United States bonds should be paid in gold provided the notes were paid in gold; that is to say that it was the law that the bonds should be paid in coin when the notes were convertible into coin, and if the notes were not convertible into coin, then it was not the law that the bonds should be paid in coin. That having been struck out, we have now got a hocus-pocus in there which says that at some time when the debt is due it shall be paid in gold, provided we have got gold to pay it. The whole of this thing is simply a stock-jobbing, bill-broking, banking, gold speculative concern, and banks have made ten and fifteen millions out of this discussion and the pendency of this bill. While I do not mean to say that the gentlemen who have brought this forward intended that by any means, I state

what the country knows and the House knows is the effect of this bill, and has been and will be the only effect.

Now, I have extended time of a minute and a half left to deal with the great legal and constitutional questions involved in the second section. The second section will convert every merchant and every man who makes a contract into a gold gambler. Let me give you an illustration. I want to buy a thousand pieces of cassimere. I go to a man who has them to sell and he offers to sell them at so much in gold and so much in paper. I make a contract with him for the gold price, and from that hour I am a speculator in the gold market to see in which way I can fulfill my contract with most profit. If gold goes up he buys to save himself; if it falls he endeavors to protect himself by hedging his past purchase.

Again, every debtor will be in the power of his creditor, for he cannot prove what the consideration of his debt was. Every bank can sell its bank notes to its customers and take their obligations to pay in gold.

[Here the hammer fell.]

Mr. SCHENCK. I now yield three minutes to the gentleman from Illinois, [Mr. LOGAN.]

Mr. LOGAN. I have known that a bill may be attacked in various ways. And I know that sarcasm, and the manner in which the gentleman from Massachusetts [Mr. BUTLER] deals with this bill, is a very great weapon in the hands of a person of ability. But such a weapon might be applied to the theory of the gentleman as well as to this bill.

This proposition is a plain and simple proposition. What is it? It is this: whether or not the United States of America shall pledge itself before the world that our indebtedness, both greenbacks and interest-bearing obligations, shall be paid in money, in that which is recognized as money by the nations of the earth? That is the proposition—neither more nor less.

This bill is not materially changed under the report of the committee of conference from what it was when it came from the Committee of Ways and Means of this House, and when two thirds of the House voted for it.

Now, what is the proposition of the gentleman who opposes this bill? It is that our greenbacks and our bonds shall not be paid in gold, for that is the converse of the proposition that they shall be paid in gold. Now, what does that mean? It means that I shall pay a debt that is due to-day by giving my note; that is all. It is something like the proposition of the Irishmen when called upon to pay a debt. A man came to him and said: "You owe me \$100." "Yes," said the Irishman. "You must pay it now or give me your note at ten per cent. interest for three years." "Well," said the Irishman, "I will give you a note to be due at no particular time, and bearing no particular interest at all." [Laughter.] That is all there is in the opposition to this bill, this theory of paying a bond with a greenback, and then redeeming the greenback with another greenback or another bond.

Now, in reference to those gold contracts; the gentleman from Minnesota [Mr. DONNELLY] said that this would place the debtor in the power of the creditor. Now, I have never advocated this gold contract part of the bill. But in answer to the gentleman, I will say that he mistakes the character of this bill; he has got hold of some old bill; this bill as it now stands provides that contracts hereafter made and specifically conditioned to be paid in coin, and the consideration of which shall be the loan of coin or property or labor made on a gold coin basis, shall be paid in coin. Now, I see nothing wrong in that. The Supreme Court has said that is the law now. If so there is no harm in putting that declaration in this bill now. We will then all stand on the same basis. If there is no harm in the bill there is no reason why gentlemen should attack a good bill even if they think it unnecessary.

I am in favor of agreeing to the report of the committee of conference, because if you

strike out one section of the bill now, the only result will be to defeat the whole proposition.

[Here the hammer fell.]

Mr. SCHENCK. I now yield three minutes to the gentleman from New York, [Mr. BARNES.]

Mr. BARNES. I failed to get the attention of the House or to secure any time to discuss this bill at the time of its original passage, which I desired to do. I am very glad for an opportunity now to say a few words in the limited time allotted to me. I was opposed to the first section of this bill declaring that the five-twentieths and the seven-thirtieths shall be paid in gold, because I know, as every member in this House knows, that when those bonds were issued the takers of them agreed to take the currency of the country in payment when those bonds should become due. But one good comes from the declaration in the bill as it is presented to us. The country needs a definite policy, a declared idea, with reference to what is the judgment of Congress in relation to the currency for the next several years.

Now, is it necessary that the legislative body of the country should declare whether we intend to pay gold in five years or do not intend to pay gold within twenty years? I admire the honesty and candor of gentlemen who in discussing this bill have declared that they do not believe that any system of legislation can force specie payments within the period of ten or fifteen years, for that is virtually what is proposed by this bill. Why, Mr. Speaker, there is not a bond of the United States now issued that will mature earlier than thirteen years hence; and if we were at any rate to pay gold at the maturity of these bonds, why should the declaration be made in reference to the payment of gold at all? But it seems to me that the country will hail with satisfaction the declaration that we are not to continue that species of moonshine legislation which makes to-day declarations which cannot be complied with to-morrow with reference to the enforcement of specie payments. It is in this view only that I regard the first section of this bill as beneficial or desirable.

[Here the hammer fell.]

Mr. SCHENCK. I yield one minute to the gentleman from Iowa, [Mr. PRICE.]

Mr. PRICE. Mr. Speaker, I do not want to argue this case at all, but simply to say that the answer to all the objections urged against the bill can be found in any New York paper of the present day. It has been stated that this measure is in the interest of the bankers, of the brokers, of the men who hold the money; but it is a notorious fact that ever since we have initiated legislation upon this subject looking to the declaration that our bonds shall be paid in gold, gold has been going down. If this decline of gold continues at the rate at which it has been going on there will come before a great while a time when we shall be able to resume specie payments. I think therefore that this is the best possible kind of legislation. All these prognostications of evil in the future—all these apprehensions of dark clouds overhanging our financial horizon—are completely dissipated by the simple fact that gold has been going down regularly every hour since this measure was first introduced.

[Here the hammer fell.]

Mr. SCHENCK. I now yield to the gentleman from Kentucky [Mr. JONES] for a question.

Mr. JONES, of Kentucky. I shall not undertake in the brief time now allowed me to express an opinion on the merits of this bill, for I could not in that time give one satisfactory to myself. I merely desire to propound a question to the gentleman from Ohio. In explaining this bill he has stated that it provides for the redemption in coin of the interest-bearing and non-interest-bearing indebtedness of the Government, including greenbacks, at the earliest possible period. I have been rather inclined to think that that period is in the distant future, and I should be very glad to know whether the gentleman from Ohio in his elab-

orate calculations and researches has ascertained with any definiteness the period at which that consummation can be reached?

Mr. SCHENCK. No, sir; I only hope that it will be very soon, and I think that it will be hastened by the adoption of such bills as this and other wise legislation that may follow. At the same time I believe that the prompt discharge of our national obligations depends upon the proper husbanding of our means and an energetic development of the resources of the country more than on any direct interposition of the legislative power. In my view we cannot command that the sick man shall get well at a particular hour.

I yield one minute to the gentleman from Maine, [Mr. PIKE.]

Mr. PIKE. I voted against the bill the other day upon the ground that it gave an undue preference to the bonded debt of the country, being, as I supposed, in the interest of the holders of the bonds and making no provision for the holders of the notes. This bill remedies that. It provides, as I understand, that we shall come to specie payment on the notes, and that when we arrive at specie payment on the notes we shall then pay the bonds. As to its effect it may have the effect to appreciate greenbacks and it may not. I call the gentleman's attention to the fact that when our bonds are selling at 90 and 92 in the London market our greenbacks are no more than they were when our bonds were 75.

[Here the hammer fell.]

Mr. SCHENCK. I now yield to the gentleman from Illinois for two minutes.

Mr. BURR. Mr. Speaker, I am not aware of the special provisions of the bill of the committee of conference; but I have always been and still am opposed to all legislation which could have the tendency to bind the nation to what it is not already legally bound for in the way of our public indebtedness. We have some bonds outstanding which by their provisions are payable in the lawful money of the nation, which money is to-day known as greenbacks. All legislation which tends to bind the faith of the nation to the payment or redemption of those bonds in gold which were not originally so payable or redeemable adds to the public debt an amount equal to the difference between gold and lawful money. In other words it adds thirty-three and a half per cent. to that indebtedness and thus increases the burdens of taxation, giving rise to speculation and overreaching on the part of creditors as against debtors. It is a measure in favor of the rich man and against the toiling millions. I am opposed to it. Instead of securing the payment of the debt either in coin or greenbacks it is the first movement toward repudiation, and if attempted to be carried out will make the cry "repudiation" popular among the laboring masses of the country.

The SPEAKER. The gentleman's time has expired.

Mr. SCHENCK. I will yield the gentleman one minute.

Mr. BURR. I have this to say: that in the West during the last campaign, which turned in a great measure on financial questions, I never heard a Radical speaker advocating the election of General Grant on the proposition that the public bonds of the Government were to be paid ultimately in coin; and where they did not go squarely in favor—both sides I mean—of the payment in the legal money of the United States they dodged the question and refused to say anything about it. The platform made at Chicago said that they should be paid according to the "letter and spirit" of the contract, while in the pending bill we have nothing about the letter and spirit, but it is in plain old-fashioned terms, which every one understands, requiring the payment in coin or its equivalent. Last fall, when the election was pending, it was nothing but the letter and the spirit of the contract, without defining what that letter and spirit was; but the necessity for deception has gone by; success has been

achieved on the "letter and spirit" plan of campaigning; Grant has been elected, and now the cloak is thrown off and labor must pay about eight hundred million dollars for the privilege of having aided in securing the success of the Radical party.

[Here the hammer fell.]

Mr. GARFIELD. I stated in every speech I made, from the beginning to the end of the campaign, that those bonds were payable in gold.

Mr. SCHENCK. So did I.

Mr. SHANKS. And I said they were paid in greenbacks.

[Here the hammer fell.]

Mr. SCHENCK. I now yield to the gentleman from Illinois for one minute.

Mr. BROMWELL. I voted against this bill before, but not on account of anything contained in the first section. I was once elected on this very issue of the payment of these bonds in gold. I do not like to use the last minute of the gentleman's time in abusing his bill; but I must say this bill is bad for multifariousness if for nothing else. To say nothing of the confusion which prevails in all of the provisions of the first section of the bill, this second section, as it now stands, puts this Government in the position of issuing legal tender notes, and while doing nothing to make them of par value, holding them up by law in court and broker's shops as of base value, and familiarizing the public in court proceedings and sheriffs' auctions as money not fit to be esteemed as such even by the Government which issues it.

[Here the hammer fell.]

Mr. SCHENCK. I yield one minute to the gentleman from New York.

Mr. GRISWOLD. I simply desire to express the hope that I expressed the other day that this bill will pass this House by a decided majority. When the gentleman from Illinois [Mr. BURR] says he heard nothing in the advocacy of the election of General Grant that had any reference to paying our obligations in gold and silver I suspect the reason of that is that the gentleman only attended Democratic meetings. Now, it is a well-known fact, and I feel justified in announcing it, that General Grant did not hesitate to say that if the Chicago platform took an equivocal position, if the convention hesitated to declare the integrity of the obligation of this Government for the payment of its debt in gold and silver, he would not accept the nomination for the Presidency.

[Here the hammer fell.]

Mr. BURR. To whom did General Grant make that statement?

Mr. SCHENCK. I yield one minute to the gentleman from New York.

Mr. MCCARTHY. I have listened to many speeches on this question of finance and have arrived at this conclusion in my own mind as to what is necessary to bring about a final resumption of specie payments:

1. That we should hold the volume of the currency where it is without diminution.
2. That there should be no accumulation of gold in the Treasury of the United States.
3. That we should strengthen the credit of the Government; and for this purpose I shall vote for this bill as a very important move in that direction.

Mr. SCHENCK. I do not know whether the gentleman from Massachusetts [Mr. BUTLER] has gone or not, but I did desire to reply to him when he spoke of this bill as being a poor man's plaster, which would do no good; by saying that the proof of the pudding is in the eating. He sneers at it as a bill to strengthen the public credit. It has already, in the mere prospect of its passage, strengthened the public credit, and it is strengthening it by making the people in this country and abroad believe that we are coming to subscribe to the doctrine that honesty is the best policy.

Now, sir, the gentleman cannot put down a proposition of this kind by sneers and vituperation, by calling it "a swindling brokers' bill." It is an honest bill, and if there be any swind-

ling, repudiation, or playing into the hands of those who make a foot-ball of the credit of the country, it is on the part of those who oppose such an honest recognition of our obligations and who oppose the honest declaration of our party to discharge those obligations. Sir, it is just such speeches as that which the gentleman has made, just such talk about paying in greenbacks, just such demagogical appeals to the soft side, as it is supposed, of the people of the country upon this subject of the payment of the national debt that have cost us millions upon millions. Here we are a powerful nation, a great country, with resources which are the wonder of the world, and yet we cannot go into the market of the world and borrow money as cheaply as one of our States—Massachusetts, for instance, the gentleman's own State. We cannot borrow money as cheaply as the meanest Government of Europe, or almost any South American State. Why? Because we have such talk that people doubt our intention to pay honestly our debts according to the letter and spirit of the contract when they fall due. We could better afford to give such gentlemen \$1,000,000 apiece to stay out of Congress than to have them come here and injure our public credit by such language as they use. That is all the question there is about the matter, and that is all I have to say on the subject. I move the previous question.

Mr. SHANKS. I move to lay the report on the table; and on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 53, nays 119, not voting 51; as follows:

YEAS—Messrs. Adams, Archer, Baker, Beatty, Beck, Boyer, Bromwell, Burr, Roderick R. Butler, Cary, Cobb, Coburn, Cook, Dewesse, Dockery, Donnelly, Eldridge, Farnsworth, Getz, Golladay, Goss, Haight, Harding, Hawkins, Holman, Hopkins, Humphrey, Hunter, Ingersoll, Johnson, Thomas L. Jones, Kerr, Knott, William Lawrence, Marshall, McCormick, McCullough, Mungen, Niblack, Orth, Pruyne, Randall, Ross, Shanks, Sitgreaves, Stone, Thomas, Tift, Lawrence S. Trimble, Van Aernam, Van Auker, Van Trump, Wood, Woodward, and Young—53.

NAYS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Barnes, Barnum, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Bowen, Boyden, Brooks, Broomall, Buckley, Cake, Callis, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Corley, Cornell, Culum, Dawes, Dickey, Dixon, Dodge, Driggs, Eckley, Thomas D. Eliot, James T. Elliott, Ferriss, Ferry, Fields, Garfield, Gove, Griswold, Halsey, Haughey, Heaton, Higby, Hill, Hooper, Hotchkiss, Richard D. Hubbard, Hulburd, Jenckes, Alexander H. Jones, Judd, Julian, Kellogg, Ketcham, Laffin, Lash, George V. Lawrence, Lincoln, Logan, Lynch, Mallory, Marvin, Maynard, McCarthy, McKee, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newsham, Norris, O'Neill, Paine, Perham, Peters, Pierce, Pile, Plants, Poland, Price, Prince, Raum, Robertson, Robinson, Roots, Sawyer, Schenck, Scofield, Shellabarger, Smith, Spalding, Starkweather, Stevens, Stewart, Stover, Sypher, Taber, Taylor, Trowbridge, Twichell, Upton, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Whittemore, William Williams, James F. Wilson, Woodbridge, and the Speaker—119.

NOT VOTING—Messrs. Anderson, Baldwin, Banks, Blackburn, Blaine, Boles, Buckland, Benjamin F. Butler, Cake, Colfax, Cook, Covode, Delano, Dockery, Edwards, Ela, Fox, French, Glossbrenner, Gravelly, Hamilton, Asahel W. Hubbard, Chester D. Hubbard, Kelley, Kelsey, Kitchen, Koontz, Loan, Lougbridge, Morrissey, Newcomb, Nunn, Pettis, Phelps, Pike, Pile, Polsley, Selye, Sitgreaves, Stokes, Taffe, Thomas, John Trimble, Van Wyck, Vidal, Elihu B. Washburne, Henry D. Washburn, Thomas Williams, John T. Wilson, Stephen F. Wilson, and Windom—51.

So the House refused to lay the report of the committee of conference on the table.

During the roll-call,

Mr. KOONTZ stated that he had paired upon this question with Mr. BUTLER, of Massachusetts, who was absent on a committee of conference. Mr. BUTLER would have voted "ay," and he (Mr. KOONTZ) "no."

Mr. ARCHER stated that Mr. PHELPS was absent on a committee of conference.

The result of the vote having been announced as above recorded, the question recurred upon agreeing to the report of the committee of conference.

Mr. BURR called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided

in the affirmative—yeas 118, nays 57, not voting 48; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Barnes, Barnum, Beaman, Benjamin, Benton, Bingham, Blair, Boutwell, Bowen, Boyden, Brooks, Broomall, Buckley, Cake, Callis, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Corley, Cornell, Culum, Dawes, Dickey, Dixon, Dodge, Eckley, Thomas D. Eliot, James T. Elliott, Ferriss, Ferry, Fields, Garfield, Gove, Griswold, Halsey, Haughey, Heaton, Higby, Hill, Hooper, Hotchkiss, Richard D. Hubbard, Hulburd, Jenckes, Alexander H. Jones, Judd, Julian, Kellogg, Kelsey, Ketcham, Laffin, Lash, George V. Lawrence, Lincoln, Logan, Lynch, Mallory, Marvin, Maynard, McCarthy, McKee, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newsham, Norris, O'Neill, Paine, Perham, Peters, Pierce, Pile, Plants, Poland, Price, Prince, Raum, Robertson, Robinson, Roots, Sawyer, Schenck, Scofield, Shellabarger, Smith, Starkweather, Stevens, Stewart, Stover, Sypher, Taber, Taylor, Trowbridge, Twichell, Upton, Burt Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Whittemore, James F. Wilson, Woodbridge, and the Speaker—118.

NAYS—Messrs. Adams, Archer, Baker, Beatty, Beck, Boyer, Bromwell, Burr, Roderick R. Butler, Cary, Cobb, Coburn, Cook, Dewesse, Dockery, Donnelly, Eldridge, Farnsworth, Getz, Golladay, Goss, Haight, Harding, Hawkins, Holman, Hopkins, Hunter, Ingersoll, Johnson, Thomas L. Jones, Kerr, Knott, William Lawrence, Marshall, McCormick, McCullough, Mungen, Niblack, Orth, Pruyne, Randall, Ross, Shanks, Sitgreaves, Stone, Thomas, Tift, Lawrence S. Trimble, Van Aernam, Van Auker, Van Trump, Henry D. Washburn, William Williams, Stephen F. Wilson, Wood, Woodward, and Young—57.

NOT VOTING—Messrs. Anderson, Baldwin, Banks, Blackburn, Blaine, Boles, Buckland, Benjamin F. Butler, Colfax, Covode, Delano, Driggs, Edwards, Eggleston, Ela, Fox, French, Glossbrenner, Gravelly, Grover, Hamilton, Asahel W. Hubbard, Chester D. Hubbard, Humphrey, Kelley, Kitchen, Koontz, Loan, Lougbridge, Morrissey, Newcomb, Nicholson, Nunn, Pettis, Phelps, Pike, Polsley, Selye, Spalding, Stokes, Taffe, John Trimble, Robert T. Van Horn, Vidal, Elihu B. Washburne, Thomas Williams, John T. Wilson, and Windom—48.

So the report of the committee of conference was agreed to.

During the roll-call,

Mr. KOONTZ stated that he was paired on this question with Mr. BUTLER, of Massachusetts. Mr. BUTLER would have voted "no" and he [Mr. KOONTZ] "ay."

The result of the vote having been announced as above recorded,

Mr. SCHENCK moved to reconsider the vote by which the report of the committee of conference was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POST ROAD BILL.

Mr. FARNSWORTH. I ask unanimous consent to have taken from the Speaker's table the amendments of the Senate to the bill of the House No. 2006, to establish certain post roads. There is no legislation in the amendments, merely the addition of other routes. I ask that the amendments be concurred in.

No objection being made, the amendments were taken from the Speaker's table and concurred in.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 1744) to strengthen the public credit, and relating to contracts for the payment of coin.

The hour of half past four p. m. having arrived, the House, pursuant to previous order, took a recess until half past seven o'clock p. m.

EVENING SESSION.

The hour of half past seven p. m. having arrived, the House resumed its session.

ASSIGNEES IN BANKRUPTCY.

Mr. JENCKES, from the Committee on Revision of Laws of the United States, submitted a report in writing upon the subject of the mode of appointing assignees in bankruptcy; which was laid on the table, and ordered to be printed.

ALLEGATIONS AGAINST A MEMBER.

Mr. JENCKES also submitted a report in writing from the select committee on the sub-

ject of the allegations of Mr. Brooks, of New York, against Mr. BUTLER, of Massachusetts; which was laid on the table, and ordered to be printed.

PAY OF CONTESTANTS.

Mr. DAWES. I ask unanimous consent to introduce for consideration at the present time a joint resolution for the payment of Caleb S. Hunt and J. Willis Menard.

The SPEAKER. The joint resolution will be read, after which the Chair will ask for objections.

The joint resolution, which was read, provides that the sum of \$2,500 each shall be paid to Caleb S. Hunt and J. Willis Menard, to defray their expenses as contestants for a seat in the House of Representatives from the State of Louisiana, out of any money in the Treasury not otherwise appropriated.

The SPEAKER. Is there objection to the introduction and consideration of this joint resolution at this time?

Mr. HOLMAN. I trust the gentleman from Massachusetts [Mr. DAWES] will consent to reduce the amount to \$1,500 each, according to the precedent which we have already set.

Mr. WARD. I object to the introduction of this resolution at this time.

Mr. DAWES. Then I move to suspend the rules, in order that I may introduce the resolution and have it agreed to at this time.

The question was taken upon the motion of Mr. DAWES; and upon a division there were—ayes 44, noes 17; no quorum voting.

Mr. DAWES. I move that there be a call of the House.

Mr. BANKS. Upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 55, nays 57, not voting 110; as follows:

YEAS—Messrs. Anderson, Banks, Beaman, Beatty, Beck, Benjamin, Benton, Boyden, Broomall, Cake, Coburn, Cook, Dawes, Donnelly, Eggleston, Ela, Thomas D. Eliot, Ferriss, Fields, French, Golladay, Gove, Hawkins, Hunter, Alexander H. Jones, Thomas L. Jones, Koontz, William Lawrence, Lincoln, Lynch, Maynard, McCormick, McKee, Miller, Moore, Morrell, Mullins, Niblack, Orth, Paine, Poland, Price, Raum, Stevens, Stokes, Taber, Taylor, John Trimble, Trowbridge, Upson, Ward, Henry D. Washburn, Whittmore, James F. Wilson and Wood—55.

NAYS—Messrs. Adams, Allison, Ames, Archer, Delos R. Ashley, Axtell, Baker, Bingham, Blair, Boutwell, Brooks, Callis, Churchill, Corley, Cornell, Driggs, Eckley, Farnsworth, Goss, Gravelly, Haughey, Higby, Holman, Hooper, Chester D. Hubbard, Jenekes, Johnson, Julian, Ketcham, Kitchen, Knott, Marvin, McCarthy, Mercur, Moorhead, Morrissey, Nicholson, Norris, O'Neill, Perham, Peters, Plants, Prince, Robertson, Roots, Scofield, Shanks, Shellabarger, Starkweather, Sypher, Thomas, Twichell, Van Aernam, Robert T. Van Horn, Van Trump, William B. Washburn, and Windom—57.

NOT VOTING—Messrs. Arnell, James M. Ashley, Bailey, Baldwin, Barnes, Barnum, Blackburn, Blaine, Boies, Bowen, Boyer, Bromwell, Buckland, Buckley, Burr, Benjamin F. Butler, Roderick R. Butler, Cary, Chanler, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Colfax, Covode, Cullom, Delano, Deweese, Dickey, Dixon, Dockery, Dodge, Edwards, Eldridge, James T. Elliott, Ferry, Fox, Garfield, Getz, Glossbrenner, Griswold, Grover, Haight, Halsey, Hamilton, Harding, Heaton, Hill, Hopkins, Hotchkiss, Asabel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Ingersoll, Judd, Kelley, Kellogg, Kelsey, Kerr, Laffin, Lash, George V. Lawrence, Loan, Logan, Loughridge, Mallory, Marshall, McCullough, Mungen, Myers, Newcomb, Newsham, Nunn, Pettis, Phelps, Pierce, Pike, Pile, Polsley, Pruyn, Randall, Robinson, Ross, Sawyer, Schenck, Selye, Sitgreaves, Smith, Spalding, Stewart, Stone, Stover, Taffe, Tift, Lawrence S. Trimble, Van Auken, Burt Van Horn, Van Wyck, Vidal, Cadwalader C. Washburn, Elihu B. Washburne, Welker, Thomas Williams, William Williams, John T. Wilson, Stephen F. Wilson, Woodbridge, Woodward, and Young—110.

So the motion for a call of the House was not agreed to.

The question recurred on the motion of Mr. DAWES to suspend the rules.

Mr. WOOD. Is this a joint resolution?

The SPEAKER. It is.

Mr. WOOD. Then it will require the concurrence of the Senate and the approval of the President.

The SPEAKER. It will.

Mr. WOOD. I doubt very much whether there is time to procure either.

The question being taken on the motion to suspend the rules, there were—ayes 87, noes 31.

So (two thirds voting in favor thereof) the rules were suspended, and the joint resolution (H. R. No. 476) for the payment of Caleb S. Hunt and J. Willis Menard was introduced, and read a first and second time.

Mr. DAWES. I yield for a moment to the gentleman from Pennsylvania, [Mr. BROOMALL.]

Mr. BROOMALL. I desire only to say that this is the proper way of getting at the matter, by joint resolution, which will have the authority of law. The Committee on Accounts have no objection to this mode of payment, although of course they reserve their individual right as members to vote for or against the measure as they please. Our objection was to the House taking money out of its own contingent fund, and then asking the committee against their own judgment to sanction what had been done.

Mr. DAWES. I yield for five minutes to the gentleman from New York, [Mr. WARD.]

Mr. WARD. Mr. Speaker, I wish to state the facts in this case as I understand them. Three gentlemen were claimants for a seat in this House from one district in the State of Louisiana. Their cases were submitted to the Committee of Elections, who decided that no one of them was entitled to the seat. The committee rejected the claims of all of them.

Mr. MAYNARD. I wish to remind the gentleman that one of the contestants came here with the Governor's certificate under the seal of the State.

Mr. WARD. All the claimants were rejected. The question whether these three gentlemen should all be paid after their claims to the seat had been rejected was submitted to this House; and the House upon deliberation has refused to pay them anything. Finally the matter was referred to the Committee on Accounts; and that committee decided to report in favor of paying one of these contestants. These, as I understand, are the facts.

Mr. BENTON. You are altogether mistaken.

Mr. WOOD. The gentleman is entirely incorrect.

Mr. WARD. Now, I would like to know upon what principle we are to pay three men who come here demanding a seat and all of whom have been rejected. Is it possible that each one of these gentlemen had such claims to the seat as justified him in making a contest? Is it possible that each of them could have a *prima facie* right to the seat?

It seems to me we should not be too liberal with the public money. It appears to me we should begin to redeem some of our broken promises to the people. We have pledged ourselves to commence a system of economy and reform; to retrench in every possible way; to stop every leak in the public Treasury. This is what we have promised the people in our platforms, our resolutions, our public speeches and declarations. It is about time that we should begin somewhere, somehow, and in some manner to stop the outrageous public expenditures which are constantly going on here. In this last night of the sessions of the Fortieth Congress let us commence a wholesome reform; let us inaugurate this work of economy. Let us admonish the twenty-five or thirty contestants for seats in the next Congress that if they come here claiming seats they must come here with a reasonable case; that every adventurer in the land shall not, if he can get a few votes in his favor, come here and make a contest, and after being rejected by the House be allowed his expenses as an inducement to all men of the same character and under similar circumstances to do in the future the same thing.

[Here the hammer fell.]

Mr. DAWES. I desire to correct the gentleman from New York in his facts. I have an impression that when he comes to understand the facts I shall have the aid of his powerful voice in support of this measure.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. GORHAM, its Secretary, notifying the House that that body had passed the Army appropriation bill, with sundry amendments, in which the concurrence of the House was requested.

ARMY APPROPRIATION BILL.

Mr. GARFIELD. I move, by unanimous consent, the amendments of the Senate to the Army appropriation bill be non-concurred in, and that the House request a committee of conference on the disagreeing votes of the two Houses.

There was no objection, and it was ordered accordingly; and Mr. GARFIELD, Mr. BEAMAN, and Mr. DODGE, were appointed as managers of said conference on the part of the House.

PAY OF CONTESTANTS—AGAIN.

Mr. DAWES. Let me make a brief statement of facts in this case, and I will then leave the matter to the House. It is true that three gentlemen came here claiming seats, but in all the other facts which the gentleman from New York stated he is mistaken. These three gentlemen contested two seats, one the seat of Mr. Mann and the other two a vacancy, and they were separately and distinctly rejected. The Committee of Elections proposed to pay them and the House of Representatives decided that they should be paid \$2,500 each. Now, what is the reason they have not been paid? The resolution was submitted to the Committee on Accounts and the Committee on Accounts undertook to decide for the House where the House had already decided for itself. The Committee on Accounts decided to pay one \$2,500, and he has got his pay and is on his way to New Orleans. They took this poor colored man who came here with a certificate of the Governor of the State of Louisiana that he was entitled to a seat here, and they said, notwithstanding the House had decided he should have \$2,500, that he should not be treated as well as the white man to whom they gave \$2,500. They refused this colored man the \$2,500 which the House voted him, and they took Caleb Hunt and served him in the same way.

I propose to submit a motion to the House, whether in their opinion a man who is a black man is to be denied the same rights that are accorded to a white man under the same circumstances; [laughter;] whether when a colored man and a white man are voted \$2,500 each that money should be given to the white man and refused to the colored man? [Renewed laughter.]

Mr. WARD. I ask that the gentleman now yield to me.

Mr. HIGBY rose.

Mr. DAWES. I do not yield to anybody. I appeal to the House that they will not be carried away by their prejudices against color and race. [Laughter.] I appeal to them to do justice to the first black man who ever came here with a certificate that he was elected to a seat in this House. I appeal to them not to treat him by one rule and the white man by another. I ask the gentlemen who passed the constitutional amendment to see that this is not done. Mr. Speaker, it is unconstitutional to treat him differently. [Laughter.]

Mr. WARD. I ask the gentleman to yield to me.

Mr. DAWES. I desire to acquit the Committee on Accounts of acting from any prejudice against color. It is a mistaken view of their duty, Mr. Speaker, that has induced them to commit this extraordinary error, and I desire to acquit my most esteemed friend from Pennsylvania.

Mr. BROOMALL. The gentleman from Massachusetts knows as well as any member of this House that I make no such distinction between race and color upon which his whole charge has been based. The committee rejected the claims of two men, one a little whiter and the other a little darker than the gentleman from Massachusetts. [Laughter.] One was a Democrat and the other a Republican, and I

regret that I am not enabled to say which was the Democrat and which the Republican, but I presume that the one nearest the color of the gentleman from Massachusetts was the Democrat. [Laughter.] I wish to put this matter on its right footing. The gentleman ought to have known when he was making the charge that it was unfair.

Mr. KERR. I want the House to understand that both these gentlemen are Republicans. [Laughter.]

Mr. BROOMALL. I do not yield. I do not know that I have anything more to say on the subject. [Laughter.] I desire, Mr. Speaker, that the previous question shall be—

Mr. HIGBY. I rise to a question of order. When the gentleman has said he has nothing more to say he ought to take his seat. [Laughter.]

Mr. BROOMALL. I hope the previous question will not be sustained, and if it is not I will make a motion to reduce the amount to \$1,500 each; because these two men were engaged in a single contest which began the first of December last, whereas the others had to contest their seats for a period reaching through the entire Congress.

Mr. DAWES. The gentleman does not know as much about it as the Committee of Elections.

Mr. BROOMALL. Let me say that I got my information from the chairman of the Committee of Elections. [Laughter.]

Mr. DAWES. You must not trust him too much. [Laughter.] I now yield to my eloquent and economical friend from New York. [Laughter.]

Mr. WARD. I am greatly obliged to my friend for his complimentary allusion, for I consider it so to be called economical in these spendthrift times. Now, I do not think I misstated the matter to the House. I said that it had not been favorably considered by the House. I did not understand that a reference of the subject to the Committee on Accounts was the passage of a measure in favor of this allowance. I understood the Committee on Accounts reported in favor of one of the contestants and against the other, and it seems to me it is sufficient to pay one of them. I do not know how the matter of color can affect this question. It is with me a question of cash; and I admonish gentlemen that unless they come pretty soon to saving the public money and retrenching the public expenditures, their tax-ridden constituents will come down here and turn them out of these Halls and empty them into the Potomac. [Laughter.]

[Here the hammer fell.]

Mr. DAWES. It is with me a question not of cash, but of justice. I now yield to my emaciated friend from Missouri. [Laughter.]

Mr. STOVER. Mr. Speaker—

Mr. ELDRIDGE. I rise to a question of order. I wish the words of the gentleman from Massachusetts taken down. [Laughter.] The gentleman from Missouri is slandered; he is not an emaciated friend of his. [Laughter.]

Mr. STOVER. Mr. Speaker, when I want the gentleman from Wisconsin to defend me I will call upon him personally. [Laughter.]

Mr. ELDRIDGE. I am not defending him, but the honor of this House. Of course I could not defend him in that. [Laughter.]

Mr. STOVER. I am sorry the honor of this House has no able champion. [Laughter.] Mr. Speaker, I desire briefly to state my knowledge of the question at issue. Some time near the beginning of this Congress there was an election in Louisiana. Simon Jones was the contestant of Mr. Mann. He was here until within a few days ago, when that case was decided. The sum of \$2,500 was awarded him by this House. I understand he got the money. The case is quite different with Mr. Hunt and Mr. Menard. I care not whether Mr. Menard is black or white. The case is here upon its merits, and on those merits let him stand or fall. Neither care I whether Mr. Hunt is a Democrat or anything else. I have not been able to find out what he is. But these are the

facts: these men came here some four weeks after the session commenced; they were here only a portion of the time after they came here, one of them at least being at home attending to his business. Now, I protest here in my place against paying them \$2,500, when members of this House who were here at least one month before these men came here, and who have worked faithfully during the whole session, day and night, receive only \$1,600. I think when this House votes them \$1,500 it is all they should expect, and all that in reason and justice can be given to them. Sir, as a member of this House, while gentlemen stand here prating about liberty and justice, I insist that we cannot afford to be benevolent at the expense of our constituents. They sent us here as guardians of their interests and guardians of their honor, and I say that in justice to our constituents we should at last, even at this late hour—at eight o'clock on the last day of the session—put into practice that which we professed before our constituents at home. [Here the hammer fell.]

Mr. DAWES. I call the previous question.

Mr. WARD. I move to lay the joint resolution on the table.

Mr. DAWES. If the House will not vote this sum they ought not to vote another dollar to contestants. It would be as much as to say that they will pick out the men whom they will pay as contestants, and say to this man, "You shall be paid;" and to the other, "Go away; we do not like the looks of you."

Mr. WARD. I call for the yeas and nays on my motion.

The yeas and nays were not ordered.

The House refused to lay the joint resolution on the table.

The previous question was seconded and the main question ordered.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. DAWES moved the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered.

Mr. WARD called for the yeas and nays on the passage of the joint resolution.

Mr. JONES, of Kentucky, called for tellers on the yeas and nays.

Tellers were ordered; and Mr. DAWES and Mr. WARD were appointed.

The House divided; and the tellers reported thirty-six in the affirmative.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 73, nays 72, not voting 77; as follows:

YEAS—Messrs. Allison, Anderson, James M. Ashley, Banks, Beaman, Benton, Blair, Boutwell, Broomall, Calkins, Callis, Churchill, Sidney Clarke, Cobb, Corley, Cornell, Cullum, Dawes, Dodge, Donnelly, Eggleston, Ella, Thomas D. Eliot, Ferry, French, Garfield, Gove, Gravelly, Haughey, Heaton, Hooper, Hopkins, Ingersoll, Jencks, Julian, Kelley, Kellogg, Lakin, Lincoln, Loan, Mallory, Marvin, Maynard, McCarthy, Miller, Moorhead, Morrell, Norris, O'Neill, Orth, Paine, Perham, Peters, Pettis, Pierce, Pike, Poland, Prince, Robertson, Rotts, Sawyer, Shanks, Starkweather, Stewart, Sypher, Thomas, Trowbridge, Twichell, Upson, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, and Windom—73.

NAYS—Messrs. Adams, Archer, Delos R. Ashley, Axtell, Baker, Barnes, Beatty, Beck, Benjamin, Bingham, Brownell, Buckland, Buckley, Burr, Coburn, Cook, Dewesse, Eckley, Eldridge, Ferriss, Fields, Fox, Getz, Glossbrenner, Golladay, Goss, Grover, Haight, Harding, Hotchkiss, Hulbard, Humphrey, Hunter, Johnson, Thomas L. Jones, Judd, Kerr, Kitchen, Knott, Koontz, George V. Lawrence, William Lawrence, Longbridge, Lynch, McCormick, McKee, Mercer, Moore, Morrissey, Mungen, Newcomb, Niblack, Nicholson, Pile, Ramm, Ross, Scofield, Stevens, Stokes, Stover, Taber, Lawrence S. Trimble, Van Auker, Van Trump, Ward, William B. Washburn, Welker, Whittemore, William Williams, Stephen F. Wilson, Wood, and Woodward—72.

NOT VOTING—Messrs. Ames, Arnell, Bailey, Baldwin, Barnum, Blackburn, Blaine, Boies, Bowen, Boyden, Boyer, Brooks, Benjamin F. Butler, Roderick R. Butler, Cary, Chanler, Reader W. Clarke, Clift, Coffey, Covode, Delano, Dickey, Dixon, Dockery, Driggs, Edwards, James T. Elliott, Farnsworth, Griswold, Halsey, Hamilton, Hawkins, Higby, Hill, Holman, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Alexander H. Jones, Kelsey, Ketcham, Lash, Logan, Marshall, McCullough, Mullins, Myers,

Newsham, Nunn, Phelps, Plants, Polsley, Price, Pruyn, Randall, Robinson, Schenck, Selye, Shellabarger, Sitgreaves, Smith, Spalding, Stone, Taffe, Taylor, Tift, John Trimble, Van Aernum, Burt Van Horn, Van Wyck, Vidal, Elihu B. Washburne, Thomas Williams, James F. Wilson, John T. Wilson, Woodbridge, and Young—77.

So the joint resolution was passed.

REMOVAL OF DISABILITIES.

Mr. FARNSWORTH. I rise to a privileged question. I submit a report from the committee of conference on the disagreeing votes of the two Houses on the bill for the removal of certain disabilities from the persons therein named.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. No. 1746) entitled "An act for the removal of certain disabilities from the persons therein named," having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows.

That the House of Representatives agree to the amendment of the Senate with the following amendments:

Strike out on page 1, line ten, "R. H. Glass." Line eleven, "John D. Alexander."

Page 2, line nineteen, strike out "B. H. Shackelford." Line forty, strike out "William H. Harnrick, William H. Rhodoffer, William McK. Wartman" and insert "William H. Hamrick, William H. Rodeffer, William McK. Wartmann."

Page 3, line sixty-eight, strike out "Monroe county" and insert "Nansom county." Line seventy-two, strike out "Littleton Edwards" and insert "Littleton R. Edwards."

Page 4, line eighty-nine, after "H. S. Whitfield" add "and Dr. Peter Bryce."

Page 4, line ninety-six, strike out "C. L. Sayre." Line ninety-eight strike out "Samuel R. Rayburn" and insert "Samuel K. Rayburn." Line ninety-nine, strike out "J. G. Harris" and insert "J. K. Harris." Line one hundred and one, strike out "Arthur C. Bran, Marengo county; T. M. Dansby."

Page 5, line one hundred and thirteen, strike out "George T. Stewart." Line one hundred and eighteen, insert after the word "Wikle" "Butler county." Line one hundred and nineteen, strike out "Charles T. Crowe." Line one hundred and ten, strike out "Elijah B. Muun" and insert "Elijah B. Nunn."

Page 6, line one hundred and twenty-nine, after the word "Faulkner" insert "St. Laundry's parish." Line one hundred and forty-seven, after the word "Wilson" insert "Calcasieu parish." Line one hundred and fifty-six, instead of "Prosper R. Montgomery" insert "Prosper K. Montgomery;" also, "Arthur C. Bean."

Page 4, line one hundred and two, after the word "Saunders" insert "Charles C. Crowe." Line one hundred and three, after the word "Edwards" add "and Alexander McKinstry." Line one hundred and four, strike out "W. M. Granger" and insert "W. L. Granger." Line one hundred and eight, strike out "Robert Campbell" and insert "Robert Crawford."

Page 5, line one hundred and thirteen, strike out "C. W. Rapier." Line one hundred and fourteen, strike out "Henry Chamberlain" and "R. A. Lewis." Line one hundred and fifteen, strike out "Jerome Eslava." Line one hundred and seventeen, strike out "Alexander McKinstry" and insert "Etowah county; Jephtha Edwards."

Page 4, line ninety-eight, strike out "Jephtha Edwards."

Page 3, strike out all in line seventy-six. Line sixty-three, after "D. C. Dunn," add "and Judge John A. Campbell."

Page 4, line eighty, strike out "W. R. Drinkard."

Page 3, strike out all in line seventy-eight. Page 6, line one hundred and thirty-three, strike out "Ouchita" and insert "Ouachita parish." Same line, strike out "Henry E. Dobson." Line one hundred and thirty-four, strike out "Robert W. Jemison."

W. M. STEWART.

LYMAN TRUMBULL,

Managers on the part of the Senate.

J. F. FARNSWORTH,

JAMES B. BECK,

B. W. NORRIS,

Managers on the part of the House.

Mr. FARNSWORTH. Mr. Speaker—

Mr. CLARKE, of Kansas. I move to lay the report of the committee of conference on the table.

Mr. DICKEY. I second that motion. The SPEAKER. The motion is not now in order. The gentleman from Illinois is entitled to the floor.

Mr. FARNSWORTH. The gentleman from Missouri [Mr. BENJAMIN] asks me to yield to him for a moment for some purpose.

Mr. BENJAMIN. I desire to ask to have taken from the Speaker's table a small pension bill, that I may move an amendment to it that it may go back to the Senate.

Mr. HIGBY. I call for the regular order of business.

Mr. FARNSWORTH. If there is objection I cannot yield.

Mr. ORTH. I object.

Mr. FARNSWORTH. Mr. Speaker, if the House has listened to the reading of the report they will see that it is the report of the committee of conference upon a bill which passed this House perhaps six weeks ago.

The Senate amended the bill by adding to it a number of names, perhaps a hundred; or rather they adopted a substitute for the bill, embracing the names in the House bill and others also. To most of the names added by the Senate there was no objection; they were regularly and properly recommended by parties well known to the members of the committees of the two Houses and to many of the members of the two Houses. When the amendment of the Senate came to the House it was referred to the Committee on Reconstruction. That committee made up a report, and at first directed me to report their action to the House, which was to agree to a part of the names, to strike out some of them, and to rectify some errors. But subsequently the committee changed the direction which they had given to me, and ordered that I should ask the House to non-concur in the Senate amendment. The House did non-concur, and a committee of conference was appointed. I believe the report of the committee of conference as it now stands embraces the names of only two or three persons, perhaps the name of only one person, to whose relief there was objection, except the general objection on the part of some gentlemen here to relieve anybody.

Mr. DICKEY. Will the gentleman yield to me for a question?

Mr. FARNSWORTH. Not at present. We have stricken out the names of those who appear to the Committee on Reconstruction of the House to be obnoxious and objectionable for any reason. But there is left in the bill the name of one gentleman with regard to whom the Reconstruction Committee was not agreed, though I think the majority of the committee agree that he ought to be relieved. That name is Richard Parker, one of the judges of the State courts of Virginia. The other names that were added in the Senate were nearly all of them added on the recommendations and motions of Senators from the southern States. Those names have been examined by members of the House from the several States where the persons reside; and so far as the committee of conference were advised of any objection at the time of our meeting to any of these names, they have been stricken from the bill. I am advised that objection will be made here to-night to Judge Parker, whose name I have already mentioned. And I desire to ask attention to his case for a few moments.

It appears from the papers, and we have a great many of them in reference to Judge Parker, that he was a judge of a court of the State of Virginia for several years before the rebellion. He continued to hold the office during the war. Immediately upon the organization of the provisional government in Virginia Judge Parker was first appointed by Governor Peirpoint, and afterward unanimously elected, I believe, by the Legislature of the State one of the judges of the State. As a judge of the court he took no new oath upon the secession of Virginia; none was expected of him or required. His politics before the war were those of a Douglas Democrat. It is testified by a great many worthy gentlemen, and among them one whose name will be recognized by all the old members of this House as a gentleman entitled to the fullest credit. I refer to Hon. John S. Millson, formerly a member of this House and a thorough-going Union man, as all the members of this House know who were members before the war.

The objection to Judge Parker arises from a charge made by him to the grand jury in the city of Winchester in 1861. This was soon after the State of Virginia seceded, and when the people of that section, as of most other sections of that State, were running mad upon

this question of secession. Judge Parker, upon opening the court at Winchester, Virginia, at the time to which I have referred, charged the grand jury that as the State had seceded and adopted a separate and independent government it would be treason on the part of any of her citizens to give aid, countenance, or support to the enemy, meaning the Government of the United States; that it was the first duty of the citizens of Virginia to give obedience to the laws of that State. He nowhere in that charge, that I can find, upheld the idea of secession; nowhere expressed the opinion that Virginia had done right in seceding. As a lawyer and judge of the State-rights school he charged the jury what he supposed to be the law, and, although I do not wish to raise the question with my brother lawyers upon this floor to be discussed here, what I confess was the law of Virginia at that time.

Virginia being recognized by the United States as having belligerent rights and as an enemy having a *de facto* government, Judge Parker's charge was strictly and legally correct. That, however, was in 1861. What was Judge Parker's course subsequently? He was constantly under suspicion by the rebels on account of his former opposition to secession; and such was his course that he was at one time arrested and incarcerated by the rebels of Virginia; and his salary was upon a full discussion in the rebel legislature of that State withheld from him, and has not been paid to him to this day, because he was regarded by that rebel legislature as unsound with reference to the rebel cause.

Now, I wish to direct the attention of the House to the testimonials in behalf of Judge Parker. I have here, in the first place, his own petition. Then there is a petition of twenty-three attorneys of the bar of Frederick county, Virginia, asking the removal of the disabilities of Judge Parker under the fourteenth article of the constitutional amendments. I will read that letter:

WINCHESTER, VIRGINIA, December 4, 1863.

The undersigned members of the Winchester bar, having learned that all the judges of this judicial section, at the request of the bar of some of their circuits, have united in an application or memorial to the Congress of the United States to be relieved from the disabilities imposed by the fourteenth amendment of the Constitution, do most earnestly request that you unite in this application and make private considerations of delicacy subservient to the public good.

Very respectfully, yours, &c.,

Hon. RICHARD PARKER, Judge, &c.

This letter is signed, I believe, by all the members of the bar of that county. The name of one man, C. W. Gibbons, was subsequently erased from the petition, and he sends a letter here against the removal of Judge Parker's disability. Another attorney whose name has never been erased from this paper, Thomas S. Hargest, sends to the committee sundry protests against the relief of Judge Parker. I believe that all the protests sent to the committee with reference to this case, with the exception of one or two letters, are in the handwriting of one of these same lawyers who signed this letter urgently requesting Judge Parker to make this application. I will now ask the Clerk to read a letter from Hon. John S. Millson, formerly a member of this House.

The Clerk read as follows:

NORFOLK, February 6, 1869.

MY DEAR SIR: The interest I feel in the application made to Congress for the removal of the disabilities of Judge Parker, of Winchester, Virginia, will, I hope, excuse me for troubling you with this letter. He is my friend and brother-in-law, and an intimate acquaintance of more than forty years warrants me in assuring you of his excellent personal and judicial character and enables me to speak confidently of his political opinions and course.

Judge Parker was always an earnest, firm, and constant opponent of secession and supporter of the Union. He may have incurred some disabilities, though I have several times labored to convince him that it was only a too sensitive conscience that induced the apprehension that he had. It was indeed hardly possible to live so long under confederate control without some yielding or compliance now and then that might be deemed a technical giving of aid to the enemies of the United States.

I have had many conversations with him since the

close of the war. His views and opinions upon the important questions of the day are those of one who knows and feels that governments and laws should be administered not with reference to the prejudices of a past condition of society, but according to the requirements and wants of the existing state of things. If you knew them as well as I do you would be surprised, as I have been, not simply that objection should be made to his application, but that it should come from the quarter from which, according to the newspapers, it has proceeded. I had really supposed that if any such case could pass without opposition it would be his.

Judge Parker is one of the few steadfast opponents of secession now on the bench in Virginia. He has held his office nearly twenty years, so that during the war he simply continued to discharge the duties of his office under the State without any new appointment or qualification. He was one of the first judges whose reappointment because of his thorough Unionism was determined upon by Governor Peirpoint after the close of the war. But he was not at all in favor among those who controlled the fortunes of the confederate government. To them he was always an object of distrust, and I believe that some discriminating legislation was once resorted to with a view to disparage him. He was, on one occasion at least, subjected to arrest and detention.

Of the particular objection urged against Judge Parker I am not informed. As I am sure it cannot refer either to his private or judicial character or conduct, but rests upon some mistaken notion of his political opinions and feelings, I am led to conclude that it proceeds from persons who knew him very slightly or not at all.

I know you will excuse an old congressional associate for thus adding to your Representative cares. But I have thought it due alike to Congress and to Judge Parker to contribute my testimony toward the explanation of his case.

I remain, very respectfully, yours,

JOHN S. MILLSON.

Hon. JOHN F. FARNSWORTH,

House of Representatives, Washington, D. C.

Mr. SHANKS. I wish to ask the gentleman from Illinois whether this is the same Judge Parker before whom John Brown was tried and under whose judgment he was hanged? I think he is the same man. I think I knew him personally in the State of Virginia.

Mr. ELA. I wish to ask the gentleman from Illinois [Mr. FARNSWORTH] whether this is the Judge Parker who charged the grand jury?

Mr. FARNSWORTH. Mr. Speaker, if the gentleman from New Hampshire [Mr. ELA] had listened to what I have been saying he would not have asked me that question. I suppose that every judge charges the grand jury, if he has one; but I have been speaking of the charge which Judge Parker made at Winchester; and I suppose it is that charge to which the gentleman from New Hampshire refers.

Mr. SHANKS. I hope the gentleman will answer my question whether this is not the Judge Parker who tried and hanged John Brown? I say he is the same man.

Mr. MULLINS. And I have no doubt he would hang the gentleman from Illinois [Mr. FARNSWORTH] to-morrow if he got the chance. [Laughter.]

Mr. FARNSWORTH. I have never heard that Judge Parker was the judge of the court that tried John Brown. I think he was not. I do not recollect who the judge was. My friend from Indiana [Mr. SHANKS] says he knows who the judge was. I do not know. I suppose some record will show who was the judge that tried that case. At all events Judge Parker is the judge of the Winchester district. At all events I do not understand that the constitutional amendment disqualifies any one for trying John Brown. If that is so I should like to have gentlemen point it out to me.

Mr. SHANKS rose.

Mr. FARNSWORTH. I decline for the present; but I will yield by and by.

Mr. SHANKS. The gentleman has asked a question and I should like to answer it.

Mr. FARNSWORTH. I will now read a letter from General Strother, well known, I suppose, to members of the House not only as a gallant Union soldier, but as a finished writer:

BERKLEY SPRINGS, February 5, 1869.

MY DEAR SIR: I am informed that Judge Richard Parker, of Winchester, is or is about to be removed from the bench of that district on account of disabilities incurred during the late rebellion, &c.

I have not heard of the especial charges urged against Judge Parker in this movement, and therefore cannot consider them, but on general principles I should think it a matter of regret that the public

in this crisis should lose the services of so capable and high-toned a gentleman as he has always shown himself to be both in public and private life.

In April or May, 1861, when the spirit and power of the rebellion had full sway in Virginia I heard Judge Parker, in conversation with my father and myself, denounce the secession movement from beginning to end with the most sincere and intelligent indignation. I heard afterward that when the community in which he resided, with all its population and social, political, and legal organizations, had yielded to the control of the confederacy, he had at the solicitation of numerous (then) conservative fellow-citizens consented to hold over and retain the judgeship for the purpose of keeping the office and its influence from falling into the hands of another who might prove a tool of the rebel conspirators.

That this motive was well judged I have good reason to know personally, for when my aged father was seized and carried prisoner to Winchester by rebel partisans it was through Judge Parker's court that he was released and returned to his home and friends. And I have heard of divers others who were protected by the same tribunal from the outrages and oppressions of the active agents of rebellion. Nor have I ever heard during the four years' reign of terror and treason of any judicial or personal act of his which indicated his acquiescence in the assumption of power which dominated that unfortunate section. On the contrary, when in my military capacity I visited and sojourned in Winchester during the late war, Judge Parker's house was always pointed out to me as that of a Union man, living in the most guarded quiet and seclusion. Although personally friendly to him I respected the difficulties of his position and forbore to visit him, lest it might implicate him in more serious trouble with the enemies of our common country, who already regarded him with coldness and who refused to pay the salary due to the judgeship because they considered the incumbent disaffected to their bad cause. Indeed, had it not been for the high esteem in which Judge Parker's personal character was held it is probable he would have been driven northward during the war.

Under these circumstances, while traitors and criminals of all grades are holding up their heads in impunity and even honor in a country which they so lately sought to destroy there would appear to be neither justice nor policy in permitting the iron rule to be brought down upon this upright and good citizen whose opinions were never disloyal, and who in yielding to the pressure of circumstances used his office rather to protect the rights and persons of outraged loyalists than to support the pretensions of treason.

If in your judgment the presentation of this statement might be of any service to Judge Parker I beg that you will place it in the proper hands.

I am, very respectfully, your obedient servant,
DAVID H. STROTHER,
*Late Brevet Brig. Gen'l, U. S. Vols.;
Late Adj't Gen'l of Virginia.*

Hon. P. G. VAN WINKLE,
United States Senator.

Mr. Speaker, I have taken the pains to read this entire letter though long, because it is from the pen of a brave and gallant soldier of the Union Army as well as an intelligent writer for the Union cause, whose name is well known, not only to members of the House but to the country at large; and I do think a testimonial like this from a Virginian "to the manner born," who was true to the flag when it was something to be true, and who is acquainted with Judge Parker and his character. Such a testimonial outweighs the protest of men who have not lived in Virginia more than twelve months.

Here, too, are petitions of citizens of Winchester, Frederick county, Virginia, in favor of removing the political disabilities of Judge Parker. I have also the letter of Mr. Meade, a well-known Union man of Winchester, Virginia, in favor of the same thing. Here is one I will send to the Clerk's desk to be read.

The Clerk read as follows:

WINCHESTER, VIRGINIA,
February 15, 1869.

DEAR SIR: Having had the honor of your acquaintance heretofore, I take the liberty of addressing to you this certificate of the character of the citizens who have signed the two memorials to Congress asking the removal of the disabilities of Judge Richard Parker, of Virginia.

I certify that the following persons whose names are upon the said memorials are now and were throughout the whole of the war unconditional and uncompromising Union men, namely:

George F. Miller,	Daniel Wright,
Joseph N. Jolliffe,	James H. Barnhart,
George Aulick,	Samuel L. Larew,
Thomas B. Wood,	Henry M. Brent,
S. R. Atwell,	Daniel T. Wood,
Josiah L. Baker,	Abner Hodgson,
Tilman Shumate,	German Smith,
William Busey,	Z. Silvers,
W. L. Trimble,	A. H. Hackney,
A. F. Hyatt,	Peter Hett,
David Robinson,	John W. Sampson,
John F. Smith,	F. S. McKohn,

And I certify that these gentlemen represent the Union property-holders of this county, and are

themselves worth not less than half a million dollars, mostly in real estate.

Of the other names upon the memorials, some of them are gentlemen who have come to this country from the North since the close of the war, and the rest have always been quiet citizens; old residents of the county, and men of wealth.

As a property-holder and a resident citizen of this county I hope that the disabilities of Judge Parker will be removed.

I will add that I am a known uncompromising Union man, and that I was the candidate of the Union party in this county for the late convention which formed the constitution in this State under the reconstruction acts.

Very respectfully, yours,
DAVID LUPTON.

Hon. HENRY WILSON, *United States Senate.*

Mr. FARNSWORTH. I will state, without reading any more papers, that I have the indorsement of Senators VAN WINKLE and WILEY and Representative HUBBARD, of West Virginia, and also a letter from Judge Lewis, chairman of the Republican committee of Frederick county. I will not take up time to read them.

Mr. JULIAN. The gentleman from Illinois has read documents or had them read to show this man has been loyal during the war. I ask him to let me condemn Judge Parker out of his own mouth.

Mr. FARNSWORTH. I have already stated the charge to the grand jury.

Mr. JULIAN. Will the gentleman allow me to have read a brief extract?

Mr. FARNSWORTH. I cannot yield.

Mr. MULLINS. Oh, no; he will never yield to have the facts given.

Mr. FARNSWORTH. I cannot yield for any garbled extracts from newspapers.

Mr. LOGAN. Will the gentleman yield to me for a question not connected with this matter at all? I desire to know if the names of George W. Jones, of Tennessee, and Henry S. Foote, of Mississippi, are included.

Mr. MULLINS. Mr. Foote is of Tennessee now.

Mr. LOGAN. Are they included by the committee of conference?

Mr. FARNSWORTH. They were not put in by the committee.

Mr. LOGAN. Are they in the bill?

Mr. FARNSWORTH. They are in the Senate amendment to the bill.

Mr. LOGAN. Have these two men ever asked over their own signatures to be relieved of their disabilities?

Mr. FARNSWORTH. I hold in my hand a letter of Mr. Jones asking Congress to relieve him from disabilities, which I will read.

Mr. LOGAN. I merely wanted to know the fact. I understand they do not ask it.

Mr. FARNSWORTH. I will state, so far as Mr. Jones is concerned, I know he did ask it during the last session of Congress.

Mr. LOGAN. How with Mr. Foote?

Mr. NORRIS. The names of the two gentlemen were before the Committee on Reconstruction, and they were not put in. They were put in by the Senate.

Mr. LOGAN. I merely wanted to know if these two men have petitioned Congress for relief.

Mr. FARNSWORTH. I will read an extract from the letter of Mr. Jones, so that the matter may stand fairly before the House. Mr. Jones was formerly a member of this House, as old members will recollect. He was not a secessionist in 1861. He writes as follows:

"I see from the proceedings of Congress, as reported, that the removal of disabilities from southern men is again under consideration. I would like to have all disabilities removed from me; not that I ever expect or desire again to hold office, but merely to have the thing done. You know me well and my course as a member of Congress. I never was a secessionist nor a disunionist, but was always and am yet a Democrat, and could not honestly be anything else. I know I love and honor the Constitution and Government of the United States. I am loyal."

[Laughter.]

Mr. SYPHER. Is he not a member of the Ku Klux Klan?

Mr. FARNSWORTH. He then refers to members of Congress who knew him. It is

not necessary I should read that part of the letter.

Mr. LOGAN. I make no point on that; but how about Mr. Foote?

Mr. FARNSWORTH. I will answer in regard to him so far as I know. I do not know that he has petitioned for the removal of his disabilities. His name was put in by the Senate on motion of a Senator. I will say, however, it was not the Senator from Nevada, who had charge of the bill, but another Senator.

Mr. SYPHER. I desire to put the same question relative to M. B. Lasalle.

Mr. FARNSWORTH. Some of these names were put in, as in the case of Mr. Jones, by the Senate. The name of the gentleman alluded to by the member from Louisiana I understand was put in on the motion of the Senators from Louisiana.

Mr. SHANKS. I want the gentleman from Illinois to state whether he does or does not know that this man Foote at Andersonville, during the rebellion, gloated over the murders and outrages committed upon Union prisoners by the confederate authorities? He stood there and looked upon them and gave his approval of those personal outrages, black and damnable as they were. Sir, I am opposed to voting for the relief of the man who committed such crimes against the Government and the people.

Mr. FARNSWORTH. I do not know anything of that.

Mr. SHANKS. I do know it; and it has been proven by sworn witnesses time and time again before me, and I have reported it to the House within the last ten days.

Mr. FARNSWORTH. If the gentleman from Indiana makes that statement of his own knowledge I am bound to believe it.

Mr. SHANKS. I state it on the sworn testimony of soldiers who suffered in his presence—testimony taken before a committee of this House. I make that statement. I stand here to declare it before the American people. As for this man Parker, I know him personally, and know him to be the judge who tried John Brown.

Mr. FARNSWORTH. I decline to yield further.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, informed the House that the Senate had passed a bill (S. No. 528) to carry into effect the decree of the district court of the United States for the southern district of New York in the case of the British steamer *Labuan*, in which he was directed to ask the concurrence of the House.

REMOVAL OF DISABILITIES.

Mr. FARNSWORTH. I now yield for five minutes to my colleague on the Reconstruction Committee from Michigan, [Mr. BEAMAN.]

Mr. BEAMAN. It is utterly impossible for me to make any presentation of this case in five minutes, but I desire, if I can have sufficient time, to present some reasons why, in my judgment, this report of the committee of conference ought not to be agreed to. It is not necessary perhaps at this time to show conclusively that this Judge Parker ought not to be relieved, because everybody understands that at this stage of the session we have not time for deliberation.

My colleague on the Committee on Reconstruction has introduced some letters and papers for the purpose of showing that loyal men are in favor of relieving Judge Parker. I desire to present the statements of loyal men to show that there is at least a doubt whether he ought to be relieved, more especially as the ostensible object of his applying for relief is that he may continue to hold an office which he now occupies. I send to the Clerk's desk and ask to have read the proceedings of a meeting of the Winchester Council of the Union League.

The Clerk read as follows:

At a meeting of the Winchester Council of the Union League of America, held in their chamber, Saturday, January 23, 1869, the following preamble and resolutions were unanimously adopted:

Whereas a few disfranchised rebels and others in

sympathy with them in the interests of the rebel element of this section of Virginia, and in order to retain among them influence tending to defeat reconstruction in Virginia under the proposed plan, are now vigorously seeking the removal of the political disabilities from Richard Parker, acting judge of the thirteenth judicial circuit, and who is incapacitated by the fourteenth amendment to the Constitution of the United States to perform the functions of said office of circuit judge; and whereas said Richard Parker as judge of said circuit did, at the beginning of the war, in June, 1861, prostitute the judicial office to the interest and purpose of the rebellion and from the bench did charge the grand jury of his court to indict all men who were suspected of loyalty to the Union or opposed to the dismemberment thereof, and announced as his well-considered opinion that the State of Virginia had a perfect legal right to secede from the Federal Union, and did thus crush out every sentiment of loyalty and inaugurated a system of judicial proscription not surpassed by any Jeffries of the seventeenth century, as far as was in his power to do so; and whereas the said Richard Parker has not since the war by word declared nor by any act indicated a retraction of said treasonable utterances thus judicially announced, nor has he in any wise, so far as we are informed, changed his mind in regard to the sentiments pronounced in said charge; but on the contrary he did, forgetting the dignity of his office, in a public harangue delivered before the court-house in Winchester in September, 1866, upon his return from the "Philadelphia August convention," which he attended as a delegate, denounce the Congress of the United States in unmeasured and bitter terms as a tyrannical usurpation, &c., and did on the same occasion oppose and denounce in advance the reconstruction of the rebel States: Therefore—

Resolved, That Richard Parker is not worthy of any congressional clemency, and we hereby express our contempt and indignation at the design of rebels and others in his behalf.

Resolved, That we do hereby in the name of all the loyal citizens of this judicial circuit most respectfully but emphatically protest against the removal of the said Judge Parker's disabilities.

Resolved, That a copy of these resolutions be forwarded to the Reconstruction Committee of the House of Representatives, the Judiciary Committee of the Senate, and Hon. CHARLES SUMNER, United States Senate, and Hon. SAMUEL SHELLABARGER, member of Congress.

A. M. CRANE, *President*.
THOMAS S. HARGEST, *Secretary*.

Mr. BEAMAN resumed the floor.

Mr. SCOFIELD. I understand that all these gentlemen ask is the poor privilege of holding office and ruling the country they could not destroy. I want to know of the gentleman if he is going to deprive them of that privilege? They cannot wait till another session of Congress, which commences to-morrow.

[Here the hammer fell.]

Mr. FARNSWORTH. I resume the floor.

Mr. MULLINS. I want to ask the gentleman something in regard to the persons from my own congressional district who come here with their hands dyed with blood.

Mr. FARNSWORTH. I will not yield to anybody now.

Mr. MULLINS. Well, we will vote your measure down.

Mr. BEAMAN. I hope the previous question will be voted down.

Mr. FARNSWORTH. I have not called the previous question yet. I wish to state to the House, in view of the statement made on his responsibility by the gentleman from Indiana, [Mr. SHANKS,] that if it is true that Mr. Foote, of Tennessee, rejoiced over the murder of Union prisoners he ought not to be relieved, and in view of the statement of the gentleman from Indiana I should myself vote against relieving him. But as this is a conference report no name can be stricken out. We have to agree or disagree to the report of the committee. With regard to Mr. Foote I will say that the Reconstruction Committee considered his case and heard nothing of this sort. His name was inserted in the Senate and we heard no objection to it, and therefore we allowed it to remain. I think it the wisest economy of time now to ask for a vote, and I therefore call for the previous question. That will bring the House to a vote whether we will concur in the report or not. Before I do that, however, I will yield to the gentleman from California, [Mr. HIGBY.]

Mr. HIGBY. I know nothing about the conduct of any of these men during the rebellion; I presume it was bad enough. But I suppose the foundation for the recommendation made by the committee in reference to these persons is the conduct of these men since the rebellion, that they have accepted the situ-

ation and are very sorry for what they have done.

I cannot say but the gentleman from Indiana [Mr. SHANKS] is right in many of his statements, but I think he is incorrect in regard to Mr. Foote. I am pretty well informed upon reliable authority, and I have been for months past, that Senator Foote had become heartsick of the course he had pursued during the rebellion and has since exhibited a sincere repentance, and that, too, without reference to what is being done here. The information has come to me in that kind of way that I am as well satisfied in reference to his repentance as I can be satisfied about anything upon information produced by any one here.

I rise to say this much, not in vindication of his conduct during the rebellion or since, any further than I have stated. I do not believe he is subject to any severer charges than any others named in this bill. I will say, however, in this connection that I shall not vote for one of them. I had some little personal acquaintance with Senator Foote in my own State previous to the rebellion. But since the rebellion I think he has pursued a course that makes him as deserving of lenity as any one named in the bill.

Mr. FARNSWORTH. I now yield to the gentleman from Kentucky [Mr. BECK] for five minutes.

Mr. BECK. I desire to say to the House that I have been on the Committee on Reconstruction and also on the committee of conference. When this bill was first reported to the House it contained altogether the names of men who were Republicans. The Representatives on this floor from the southern States asked that those men be relieved on the ground that it was absolutely necessary to enable them to carry on their State governments there.

When the bill came to be presented to the House I said that while there were no Democrats in the bill still it was believed that there would be other bills reported in which the names of Democrats would be placed, and I therefore asked gentlemen on this side of the House to vote for the bill so that the machinery of the State governments there might be put in operation. They did so, and the bill passed the House and was sent to the Senate. The Senate added a number of other names to the bill. The amendment of the Senate came over here to the House and was referred to the Committee on Reconstruction, who made a careful scrutiny of the names. Those names were before the committee for two weeks and no suggestion was made against Mr. Foote, who is a man now seventy-five years of age, and who will be fortunate if he lives until spring.

The name of George W. Jones seemed to be known to all the members of the committee, and no objection was made to him. All the objectionable names that could be found out by the Committee on Reconstruction were stricken out by the committee of conference, except the names of Judge Meridith and Judge Parker. As to Judge Meridith, every man who spoke of him spoke of him as a man of the utmost impartiality, a man who administered the law to all alike, white and black, rich and poor, Democrat or Radical. The conferees on the part of the Senate claimed that his name should remain in the bill. And so with regard to Judge Parker; while it was true that he had delivered a charge in 1861 to which the Senate objected, he had opposed the secession of his State. But after it had seceded, he being a judge of that State and obliged to judge of the laws of the State, said that they were in that position without his help. The Senate insisted upon those two names remaining in the bill. They are the only two names that were objected to by the Reconstruction Committee, as far as I have ever heard, that are retained in the bill. But the Senate were unanimous that they should remain there.

The names of all the others were inserted upon the request of the Representatives of the southern States on the ground that they are now Republicans, and that the removal of their

disabilities is absolutely necessary for the proper conduct of the government there.

So far as parties are concerned this side of the House has very little interest in this bill. In the committee the gentleman from Illinois, [Mr. FARNSWORTH,] the gentleman from Alabama, [Mr. NORRIS,] and myself agreed that there was now nothing against any of these judges that required their names to be struck out, though the gentleman from Alabama said he would prefer that they had been omitted, as the bill would then more readily pass the House.

Mr. FARNSWORTH. I now call the previous question.

Mr. CLARKE, of Kansas. I move that the report of the committee of conference be laid on the table, and on that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. SCOFIELD. Mr. Speaker, if we lay this report on the table does that end the bill?

The SPEAKER. It does.

Mr. SCOFIELD. And then these gentlemen cannot hold office before to-morrow. [Laughter.]

The question was taken; and it was decided in the negative—yeas 62, nays 98, not voting 62; as follows:

YEAS—Messrs. Arnell, Benton, Bromwell, Broomall, Benjamin F. Butler, Cake, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Cullom, Dickey, Dixon, Donnelly, Eckley, Eggleston, Ferriss, Fields, Griswold, Harding, Higby, Hopkins, Jenekes, Alexander H. Jones, Judd, Julian, Kelsey, Lash, William Lawrence, Lincoln, Loan, Logan, Maynard, McKee, Mercer, Moore, Mullins, Newsham, O'Neill, Orth, Paine, Price, Raum, Scofield, Selye, Shanks, Shellabarger, Spalding, Starkweather, Stevens, Stover, Sypher, Upson, Van Aernam, Robert T. Van Horn, Ward, Henry D. Washburn, Whittemore, William Williams, Stephen F. Wilson, and Windom—62.

NAYS—Messrs. Adams, Allison, Ames, Archer, Delos R. Ashley, Axtell, Bailey, Baker, Barnes, Barnum, Beaman, Beatty, Beck, Bingham, Blair, Boyden, Brooks, Buckland, Buckley, Roderick R. Butler, Callis, Cliff, Corley, Dawes, Deweese, Dockery, Ela, Thomas D. Eliot, James T. Elliott, Farnsworth, Ferry, Fox, French, Getz, Golladay, Goss, Gove, Gravely, Grover, Haight, Haughey, Heaton, Hill, Holman, Hotchkiss, Chester D. Hubbard, Hulburd, Humphrey, Johnson, Thomas L. Jones, Kelley, Kellogg, Kerr, Ketcham, Kitchen, Knott, Laffin, Loughridge, McCarthy McCormick, Miller, Morrill, Morrissey, Mungen, Newcomb, Niblack, Nicholson, Norris, Peters, Pettis, Phelps, Pierce, Pike, Pile, Plants, Poland, Prince, Robertson, Robinson, Roots, Ross, Sawyer, Sitgreaves, Smith, Stokes, Stone, Taber, Tift, Lawrence S. Trimble, Trowbridge, Van Auken, Burt Van Horn, Van Trump, Cadwalader C. Washburn, William B. Washburn, Welker, Wood, and Young—98.

NOT VOTING—Messrs. Anderson, James M. Ashley, Baldwin, Banks, Benjamin, Blackburn, Blaine, Boies, Boutwell, Bowen, Boyer, Burr, Cary, Chanler, Churchill, Reader W. Clarke, Colfax, Covode, Delano, Dodge, Driggs, Edwards, Eldridge, Garfield, Glossbrenner, Halsey, Hamilton, Hawkins, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Koontz, George V. Lawrence, Lynch, Mallory, Marshall, Marvin, McCullough, Moorhead, Myers, Nunn, Perham, Polesley, Pruyn, Randall, Schenck, Stewart, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Van Wyck, Vidal, Elihu B. Washburne, Thomas Williams, James F. Wilson, John T. Wilson, Woodbridge, and Woodward—62.

So the report of the committee of conference was not laid on the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had insisted on its amendments, disagreed to by the House, to the bill (H. R. No. 1803) making appropriations for the support of the Army for the year ending June 30, 1870, and for other purposes, had agreed to the conference asked by the House, and had appointed as conferees on the part of the Senate Mr. WILSON, Mr. SPRAGUE, and Mr. CONNESS.

REMOVAL OF DISABILITIES—AGAIN.

The question recurred upon the demand of Mr. FARNSWORTH for the previous question.

Mr. FARNSWORTH. I will say to the House that in view of what has been said about Mr. Foote I do not expect the House to agree to this report. I shall not object to a non-concurrence with the view of sending the matter to another committee of conference.

Mr. CLARKE, of Kansas. Mr. Speaker, would it be in order to move to postpone the

further consideration of this bill till ten o'clock to-morrow morning?

The SPEAKER. It would not be while the demand for the previous question is pending.

Mr. CLARKE, of Kansas. I give notice that if the previous question be not seconded I will make that motion.

Mr. ARNELL. I rise to a question of order. I desire to know whether it is in order now to move to postpone this bill indefinitely?

The SPEAKER. That motion would not be in order pending the demand for the previous question.

The previous question was seconded; there being—ayes ninety-seven, noes not counted.

Mr. SHANKS. I move that the House adjourn until to-morrow morning at eight o'clock. The motion was disagreed to.

The main question was ordered.

Mr. DICKEY. I demand the yeas and nays on concurrence in the report of the committee of conference.

The yeas and nays were ordered.

Mr. WARD. Are not two thirds necessary to adopt that report?

The SPEAKER. A two-thirds vote is necessary under the Constitution.

The question was taken; and it was decided in the negative—yeas 61, nays 82, not voting 79; as follows:

YEAS—Messrs. Adams, Delos R. Ashley, Axtell, Baker, Barnes, Barnum, Beck, Blair, Boyden, Brooks, Buckley, Burr, Callis, Deweese, Dockery, James T. Elliott, French, Getz, Golladay, Goss, Gove, Gravely, Grover, Haight, Haughey, Heaton, Hotchkiss, Chester D. Hubbard, Hulburd, Johnson, Thomas L. Jones, Kerr, Ketcham, Knott, Mallory, Marvin, McCormick, Morrill, Morrissey, Mungen, Niblack, Norris, Phelps, Pierce, Pike, Pile, Prince, Robertson, Robinson, Ross, Sitgreaves, Smith, Stewart, Taber, Taylor, Lawrence S. Trimble, Van Auker, Van Trump, Cadwalader C. Washburn, Wood, and Young—61.

NAYS—Messrs. Allison, Ames, Arnell, Beaman, Beatty, Bingham, Broomall, Broomall, Buckland, Benjamin F. Butler, Calk, Cary, Sidney Clarke, Clift, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dickey, Dixon, Donnelly, Driggs, Eggleston, Ela, Thomas D. Eliot, Ferriss, Fields, Harding, Hawkins, Higby, Hill, Hopkins, Hunter, Jenckes, Alexander H. Jones, Judd, Kelley, Kellogg, Kelsey, Kitchen, Kootz, Lash, Lincoln, Loan, Logan, Loughridge, Maynard, McCarthy, McKee, Mercer, Miller, Moore, Moorhead, Mullins, Orth, Paine, Perham, Pettis, Price, Raum, Roots, Sawyer, Selye, Shanks, Shellabarger, Starkweather, Stokes, Stover, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Henry D. Washburn, William B. Washburn, Whittemore, William Williams, and Stephen F. Wilson—82.

NOT VOTING—Messrs. Anderson, Archer, James M. Ashley, Bailey, Baldwin, Banks, Benjamin, Benton, Blackburn, Blaine, Boies, Boutwell, Bowen, Boyden, Boyer, Roderick R. Butler, Chandler, Churchill, Reader W. Clarke, Colfax, Corley, Delano, Dodge, Eckley, Edwards, Eldridge, Farnsworth, Ferry, Fox, Garfield, Glossbrenner, Griswold, Halsey, Hamilton, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Julian, Laffin, George V. Lawrence, William Lawrence, Lynch, Marshall, McCullough, Myers, Newcomb, Newsham, Nicholson, Nunn, O'Neill, Peters, Plants, Poland, Polsley, Pruyn, Randall, Schenck, Scofield, Spalding, Stevens, Stone, Sypher, Taffe, Thomas, Tift, John Trimble, Trowbridge, Van Wyck, Vidal, Elihu B. Washburne, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Windom, Woodbridge, and Woodward—79.

So the report of the committee was rejected.

Mr. PAINE. I move that the Senate be asked to agree to another committee of conference.

Mr. CLARKE, of Kansas. This not having received a two-thirds vote, I hold that this is the final disposition of the case.

The SPEAKER. The Chair overrules the point of order.

Mr. FARNSWORTH. The proper motion is that the House insist on its disagreement and ask for another committee of conference.

Mr. HARDING demanded the yeas and nays, and tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

So the motion was agreed to.

Mr. PAINE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL AND JOINT RESOLUTIONS.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint res-

olutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 2006) to establish certain post roads;

A joint resolution (H. R. No. 327) authorizing the Secretary of the Treasury to remit the duty on certain meridian circles; and

A joint resolution (H. R. No. 475) for the appointment of Thomas O. Osborn as manager of the National Asylum for Disabled Volunteer Soldiers.

PUBLICATION OF THE DEBATES.

Mr. ELA. I submit a privileged report from the Committee on Printing.

The Clerk read as follows:

The Committee on Printing report that under the authority vested in them by Senate joint resolution No. 231, empowering them to provide for reporting and publishing the debates of Congress, they have met the Committee on Printing on the part of the Senate, and found themselves unable to agree upon a contract with the present publishers prior to the 5th of March, for several reasons; but especially because the committee on the part of the Senate express themselves unable to examine prior to the 5th of March into any proposition for a contract. It will be seen, therefore, that without further action no provision exists for reporting and publishing the debates of Congress. We therefore recommend the adoption of the following concurrent resolution:

Resolved, (the Senate concurring,) That the Congressional Printer be directed to report and publish the debates of Congress, commencing at twelve o'clock March 4, 1869, until further and definite action can be had under the joint resolution recently passed.

Mr. ELA. I call the previous question on the resolution. I do not propose to take any time myself.

On seconding the previous question there were ayes eighty-five.

The main question was then ordered.

The question being put on agreeing to the resolution, there were—ayes 87, noes 81.

Mr. BROOKS. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. BROOKS. Is it in order to move to lay the resolution on the table?

The SPEAKER. It is.

Mr. BROOKS. I make that motion, and demand the yeas and nays.

The yeas and nays were ordered.

Mr. ROSS, (at ten o'clock and twenty-five minutes p. m.) moved that the House adjourn.

The question being put on the motion to adjourn, there were—ayes 33, noes 85.

Mr. ROSS demanded tellers.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that that body had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1808) making appropriations for the service of the Post Office Department for the year ending June 30, 1870.

PUBLICATION OF DEBATES—AGAIN.

The House resumed the consideration of the report of the Committee on Printing.

Tellers were ordered; and the Chair appointed Messrs. Ross and ELA.

The House divided; and the tellers reported—ayes 30, noes 84.

Mr. ROSS. Yeas and nays.

POST OFFICE APPROPRIATION BILL.

Mr. BEAMAN submitted the following privileged report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 1808) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1870, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their first amendment. That the House of Representatives recede from their disagreement to the second amendment of the Senate and agree to the same with an amendment, as follows: strike out all of said amendment and insert in lieu thereof "\$100,000;" and the Senate agree to the same.

That the House of Representatives recede from their disagreement to the third amendment of the Senate and agree to the same.

F. C. BEAMAN,

JOHN A. NICHOLSON,
Managers on the part of the House.

ROSCOE CONKLING,

ALEX. RAMSEY,

GARRETT DAVIS,

Managers on the part of the Senate.

Mr. BEAMAN. I move the previous question on agreeing to the report.

On seconding the previous question there were—ayes 81, noes 7; no quorum voting.

Mr. PILE. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. KERR. I move to lay the report on the table.

Mr. STOVER. On that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 4, nays 125, not voting 98; as follows:

YEAS—Messrs. Adams, Ames, Hotchkiss, and Windom—4.

NAYS—Messrs. Allison, Archer, Arnell, Axtell, Bailey, Baker, Banks, Barnes, Barnum, Beaman, Beatty, Beck, Benjamin, Benton, Blair, Broomall, Brooks, Broomall, Buckland, Buckley, Burr, Calk, Callis, Cary, Clift, Cobb, Cook, Corley, Cornell, Cullom, Dawes, Deweese, Dixon, Donnelly, Driggs, Eggleston, Thomas D. Eliot, James T. Elliott, Ferriss, Ferry, Fields, Fox, French, Getz, Golladay, Goss, Gravely, Griswold, Grover, Haight, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Ingersoll, Jenckes, Johnson, Alexander H. Jones, Judd, Julian, Kelsey, Kerr, Kitchen, Knott, Kootz, Laffin, Lash, Lincoln, Logan, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McCormick, McCullough, McKee, Mercer, Moore, Moorhead, Morrill, Morrissey, Mullins, Mungen, Newsham, Norris, Orth, Perham, Peters, Poland, Price, Randall, Raum, Robinson, Roots, Ross, Sawyer, Selye, Smith, Spalding, Starkweather, Stevens, Stewart, Sypher, Taber, Taylor, Tift, Lawrence S. Trimble, Twichell, Upson, Van Aernam, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Trump, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, and Stephen F. Wilson—125.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Bingham, Blackburn, Blaine, Boies, Boutwell, Bowen, Boyden, Boyer, Benjamin F. Butler, Roderick R. Butler, Chandler, Churchill, Reader W. Clarke, Sidney Clarke, Coburn, Colfax, Covode, Delano, Dickey, Dockery, Dodge, Edwards, Ela, Eldridge, Farnsworth, Garfield, Glossbrenner, Gove, Halsey, Hamilton, Haughey, Hawkins, Heaton, Holman, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Thomas L. Jones, Kelley, Kellogg, Ketcham, George V. Lawrence, William Lawrence, Loan, Marshall, Miller, Myers, Newcomb, Niblack, Nicholson, Nunn, O'Neill, Paine, Pettis, Phelps, Pierce, Pike, Pile, Plants, Polsley, Prince, Pruyn, Robertson, Schenck, Scofield, Shanks, Shellabarger, Sitgreaves, Stokes, Stone, Stover, Taffe, Thomas, John Trimble, Trowbridge, Van Wyck, Vidal, Elihu B. Washburne, Henry D. Washburn, Whittemore, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Wood, Woodbridge, Woodward, and Young—93.

So the House refused to lay the report upon the table.

Mr. BEAMAN. I offer the resolution which I send to the Clerk's desk.

Mr. KNOTT. I rise to a question of order. I desire to know if there was not a motion to adjourn pending when this report of the committee of conference came in?

The SPEAKER. The motion to adjourn had been lost.

Mr. BROOKS. No, sir; the House had divided, and the yeas and nays were called for.

The SPEAKER. The resolution of the gentleman from Michigan [Mr. BEAMAN] will be read, and then a motion to adjourn will be in order.

Mr. BROOKS. There is a motion to adjourn pending, on which the yeas and nays had been called when the privileged question came in.

The SPEAKER. In the opinion of the Chair the yeas and nays had not been ordered.

Mr. BROOKS. They were not ordered, but they were called for. There was a division and it was against us, and then we demanded the yeas and nays, and pending that call a privileged question intervened.

The SPEAKER. The Chair decides that the motion was lost. It will be in order for the gentleman from New York to renew the motion to adjourn after the resolution shall have been read.

Mr. BROOKS. I appeal from the decision of the Chair.

The question was put, "Shall the decision of the Chair stand as the judgment of the House?" and there were—ayes 100, noes 5; no quorum voting.

Mr. KELSEY. I insist that the rule shall be enforced, and that gentlemen who are in their seats shall vote.

The SPEAKER. The Chair sustains the point of order. Under the rules of the House gentlemen who are in their seats are required to vote either in the affirmative or in the negative. Gentlemen remain in their seats and refuse to vote.

Mr. COBB. I make the point of order that it does not require a quorum to sustain the decision of the Chair. A majority of those voting is sufficient.

The SPEAKER. The Chair sustains that point of order; and the decision of the Chair is sustained. The resolution of the gentleman from Michigan will be read.

The Clerk read the resolution, as follows:

Resolved, That the rules be suspended so that the House shall proceed to a direct vote, without dilatory motions, upon the report of the committee of conference upon House bill No. 1808, being the Post Office appropriation bill.

Mr. ROSS. I move to lay that resolution on the table.

The SPEAKER. The motion of the gentleman from Michigan [Mr. BEAMAN] is a motion to suspend the rules, and it is not in order to move to lay it on the table.

Mr. BROOKS. I move that the House do now adjourn.

The SPEAKER. That motion is in order.

Mr. MAYNARD. Is that motion in order pending the motion to suspend the rules? I submit that pending the action of the House on a motion to suspend the rules no other motion can be entertained. The motion of the gentleman from Michigan is simply a motion to suspend the rules reduced to writing.

The SPEAKER. The Chair overrules the point of order. Pending the motion to suspend the rules a motion to adjourn is in order, and the gentleman from New York has made that motion.

The question was on the motion to adjourn.

Mr. PILE. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 16, nays 120, not voting 86; as follows:

YEAS—Messrs. Adams, Fox, Getz, Golladay, Grover, Haight, Hotchkiss, Humphrey, Thomas L. Jones, Kerr, Robinson, Ross, Taber, Lawrence S. Trimble, Van Auker, and Van Trump—16.

NAYS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, Axtell, Bailey, Baker, Barnes, Barnum, Beaman, Beatty, Beck, Benjamin, Benton, Bingham, Boyden, Bromwell, Brooks, Broomall, Buckland, Buckley, Burr, Roderick R. Butler, Cake, Callis, Cary, Sidney Clarke, Cliff, Cobb, Coburn, Cook, Corley, Cornell, Dawes, Deweese, Dixon, Dockery, Dodge, Donnelly, Driggs, Eckley, Ela, Thomas D. Elliott, James T. Elliott, Farnsworth, Ferriss, Ferry, French, Goss, Gove, Gravely, Griswold, Halsey, Harding, Hawkins, Heaton, Higby, Hooper, Hopkins, Jenckes, Johnson, Alexander H. Jones, Judd, Kelsey, Ketcham, Kitchen, Knott, Ladin, Lash, George V. Lawrence, Lincoln, Loughridge, Lynch, Mallory, Marvin, Maynard, McKee, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Newsham, Norris, O'Neill, Orth, Paine, Peters, Pierce, Poland, Price, Raum, Robertson, Roots, Sawyer, Selye, Smith, Spalding, Starkweather, Stewart, Stover, Sypher, Taylor, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whittemore, and Stephen F. Wilson—120.

NOT VOTING—Messrs. Anderson, Archer, James M. Ashley, Baldwin, Banks, Barnum, Blaine, Blair, Boles, Boutwell, Bowen, Boyer, Benjamin F. Butler, Chanler, Churchill, Reader W. Clarke, Colfax, Covode, Cullom, Delano, Dickey, Edwards, Eggleston, Eldridge, Fields, Garfield, Glossbrenner, Hamilton, Haughey, Hill, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Julian, Kelley, Kellogg, Koontz, William Lawrence, Loan, Logan, Marshall, McCormick, McCarthy, McCullough, Morrissey, Mungen, Myers, Newcomb, Niblack, Nicholson, Nunn, Perham, Pettis, Phelps, Pierce, Pile, Polsley, Prince, Pruyn, Randall, Schenck, Scofield, Shanks, Shellabarger, Sitgreaves, Stevens, Stokes, Stone, Taffe, Thomas, Tift, John Trimble, Trowbridge, Van Wyck, Vidal, Elihu B. Washburne, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Windom, Wood, Woodbridge, Woodward, and Young—86.

So the motion to adjourn was not agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate still further insisted upon its amendments, disagreed to by the House, to House bill No. 1746, for the removal of certain dis-

abilities from the persons therein named, had agreed to the further conference asked by the House on the disagreeing votes of the two Houses on the bill, and had appointed Messrs. WILLIAMS, EDMUNDS, and ROBERTSON as the conferees on the part of the Senate.

POST OFFICE APPROPRIATION BILL.

The question recurred upon the following resolution, offered by Mr. BEAMAN:

Resolved, That the rules be suspended so that the House shall proceed to a direct vote, without dilatory motions, upon the report of the committee of conference upon House bill No. 1808, it being the Post Office appropriation bill.

The question was taken upon the resolution; and upon a division there were—aye 95, noes 27.

So (two thirds voting in the affirmative) the rules were suspended and the resolution was adopted.

The question was upon agreeing to the report of the committee of conference upon the disagreeing votes of the two Houses on the Post Office appropriation bill.

Mr. ROSS. Upon this question I call for tellers.

The question was taken upon ordering tellers; and there were nineteen in the affirmative.

So (the affirmative not being one fifth of a quorum) tellers were not ordered.

Mr. KERR. I call for the yeas and nays.

The question was taken upon ordering the yeas and nays; and there were on a division—aye 21, noes 96.

So (one fifth not voting in the affirmative) the yeas and nays were not ordered.

The report was then agreed to.

Mr. BEAMAN. I move to reconsider the vote by which the report was agreed to; and I also move that the motion to reconsider be laid on the table.

Mr. BROOKS. On that motion I call for a division.

Mr. BEAMAN. Then I withdraw the motion.

Mr. ROSS. I renew the motion to reconsider the vote agreeing to the report of the committee of conference.

Mr. PILE. I move to lay the motion to reconsider on the table.

Mr. ROSS. On that motion I call for the yeas and nays.

The question was taken upon ordering the yeas and nays; and there were nineteen in the affirmative, not one fifth of the last vote.

Before the result of the vote was announced, Mr. ROSS called for tellers on ordering the yeas and nays.

The question was taken on ordering tellers; and there were twenty-one in the affirmative.

So (the affirmative not being one fifth of a quorum) tellers were not ordered.

The yeas and nays were accordingly not ordered.

The motion to reconsider was then laid on the table.

PUBLICATION OF DEBATES.

Mr. ELA. I now offer the following resolution:

Resolved, That the rules be suspended so that the House will proceed to a direct vote, without dilatory motions, upon the motion to lay upon the table and upon the passage of the concurrent resolution providing for reporting and printing the debates and proceedings of Congress by the Congressional Printer.

Mr. KNOTT. I move that the House do now adjourn.

Mr. ROSS. On that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 14, nays 112, not voting 96; as follows:

YEAS—Messrs. Callis, Getz, Golladay, Humphrey, Johnson, Thomas L. Jones, Kerr, Knott, Mungen, Niblack, Lawrence S. Trimble, Van Auker, Van Trump, and Whittemore—14.

NAYS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, Axtell, Bailey, Baker, Banks, Barnes, Beatty, Beck, Benjamin, Benton, Bingham, Blair, Boyden, Bromwell, Brooks, Broomall, Buckley, Roderick R. Butler, Cake, Cary, Sidney Clarke, Cliff, Cobb, Cook, Corley, Cornell, Cullom, Dawes, Deweese, Dickey, Dixon, Dockery, Donnelly, Driggs,

Eckley, Eggleston, Ela, Thomas D. Eliot, James T. Elliott, Farnsworth, Ferriss, Fields, French, Garfield, Goss, Gove, Gravely, Grover, Halsey, Hawkins, Higby, Holman, Chester D. Hubbard, Hulburd, Ingersoll, Jenckes, Alexander H. Jones, Judd, Julian, Kellogg, Kelsey, Ketcham, Kitchen, Ladin, Lash, Lincoln, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McCullough, McKee, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Newsham, Norris, O'Neill, Orth, Paine, Peters, Pierce, Pile, Poland, Price, Randall, Robertson, Robinson, Roots, Ross, Spalding, Starkweather, Stewart, Stover, Sypher, Taber, Taylor, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, and William B. Washburn—112.

NOT VOTING—Messrs. Adams, Anderson, Archer, James M. Ashley, Baldwin, Barnum, Beaman, Blackburn, Blaine, Boles, Boutwell, Bowen, Boyer, Buckland, Burr, Benjamin F. Butler, Chanler, Churchill, Reader W. Clarke, Colfax, Covode, Delano, Dodge, Edwards, Eldridge, Ferry, Fox, Glossbrenner, Griswold, Haughey, Hamilton, Harding, Haughey, Heaton, Hill, Hooper, Hopkins, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Kelley, Koontz, George V. Lawrence, William Lawrence, Loan, Logan, Marshall, McCormick, Morrissey, Myers, Nicholson, Nunn, Perham, Pettis, Phelps, Pike, Plants, Polsley, Prince, Pruyn, Raum, Sawyer, Schenck, Scofield, Selye, Shanks, Shellabarger, Sitgreaves, Smith, Stevens, Stokes, Stone, Taffe, Thomas, Tift, John Trimble, Van Wyck, Vidal, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Wood, Woodbridge, Woodward, and Young—96.

So the motion to adjourn was not agreed to.

The question being taken on agreeing to the resolution of Mr. ELA, to suspend the rules, there were—aye 72, noes 10; no quorum voting.

Tellers were ordered; and Mr. KERR and Mr. KELSEY were appointed.

The House divided; and the tellers reported—aye 93, noes 19.

So (two thirds voting in favor thereof) the resolution of Mr. ELA to suspend the rules was agreed to.

The question recurred upon the motion of Mr. BROOKS, to lay on the table the concurrent resolution reported by Mr. ELA from the Committee on Printing, on which the yeas and nays had been ordered.

Mr. RANDALL. I move that the House adjourn.

The SPEAKER. Under the resolution just adopted that motion is not in order.

Mr. KELSEY. I rise to a point of order. I submit that the motion to lay on the table is a dilatory motion, and under the resolution just adopted cannot be entertained.

The SPEAKER. The Chair will state that the motion to lay on the table was pending before the adoption of the resolution to suspend the rules. The question is now upon the motion to lay on the table.

The question was taken; and it was decided in the negative—yeas 35, nays 92, not voting 95; as follows:

YEAS—Messrs. Adams, Allison, Archer, Barnes, Barnum, Beck, Bingham, Boyer, Brooks, Burr, Cary, Deweese, Driggs, Golladay, Grover, Haight, Holman, Ingersoll, Johnson, Alexander H. Jones, Knott, McCullough, Miller, Mungen, Niblack, Phelps, Poland, Randall, Sawyer, Smith, Spalding, Taber, Lawrence S. Trimble, Van Auker, and Van Trump—35.

NAYS—Messrs. Arnell, Axtell, Bailey, Baker, Beatty, Benton, Blair, Boyden, Bromwell, Broomall, Buckland, Buckley, Benjamin F. Butler, Roderick R. Butler, Cake, Callis, Sidney Clarke, Cliff, Cobb, Coburn, Cook, Corley, Cornell, Cullom, Dickey, Dixon, Dockery, Dodge, Donnelly, Eckley, Eggleston, Ferriss, Ferry, Fields, French, Garfield, Getz, Goss, Gove, Gravely, Halsey, Higby, Hopkins, Chester D. Hubbard, Hulburd, Humphrey, Jenckes, Thomas L. Jones, Judd, Julian, Kellogg, Kelsey, Lash, Lincoln, Loughridge, Lynch, Mallory, Maynard, McCarthy, McKee, Mercur, Moore, Moorhead, Morrell, Mullins, Newsham, Norris, O'Neill, Orth, Perham, Peters, Pierce, Price, Robinson, Roots, Starkweather, Stewart, Stover, Sypher, Taylor, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Henry D. Washburn, Welker, Whittemore, Stephen F. Wilson, and Windom—92.

NOT VOTING—Messrs. Ames, Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Beaman, Benjamin, Blackburn, Blaine, Boles, Boutwell, Bowen, Chanler, Churchill, Reader W. Clarke, Colfax, Covode, Dawes, Delano, Edwards, Ela, Eldridge, James T. Elliott, Thomas D. Eliot, Farnsworth, Fox, Glossbrenner, Griswold, Hamilton, Harding, Haughey, Hawkins, Heaton, Hill, Hooper, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hunter, Kelley, Kerr, Ketcham, Kitchen, Koontz, Ladin, George V. Lawrence, William Lawrence, Loan, Logan, Marshall, Marvin, McCormick, Morrissey, Myers, Newcomb, Nicholson, Nunn, Paine, Pettis, Pike, Pile, Plants, Polsley, Prince, Pruyn, Raum, Robertson, Ross, Schenck, Scofield, Selye, Shanks, Shellabarger, Sitgreaves, Stevens, Stokes, Stone, Taffe, Thomas,

Tift, John Trimble, Van Wyck, Vidal, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Wood, Woodbridge, Woodward, and Young—95.

So the concurrent resolution was not laid on the table.

The question recurred on agreeing to the concurrent resolution, on which the yeas and nays had been ordered.

The question was taken; and it was decided in the affirmative—yeas 90, nays 48, not voting 84; as follows:

YEAS—Messrs. Ames, Arnell, Delos R. Ashley, Bailey, Baker, Banks, Beaman, Beatty, Benton, Blair, Boyden, Brownwell, Brooks, Broomall, Buckley, Benjamin F. Butler, Roderick R. Butler, Cake, Callis, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Cornell, Covode, Cullom, Dixon, Dockery, Dodge, Donnelly, Eggleston, Ela, Thomas D. Eliot, Farnsworth, Ferriss, Fields, Gove, Gravely, Hawkins, Hill, Hopkins, Chester D. Hubbard, Hulburd, Ingersoll, Alexander H. Jones, Julian, Kellogg, Kelsey, Ketcham, Kitchen, Laffin, Lash, Lincoln, Maynard, McCarthy, McKee, Mercur, Moore, Moorhead, Morrell, Mullins, Newsham, Norris, Paine, Perham, Pierce, Pike, Price, Raum, Scofield, Selye, Starkweather, Stevens, Stewart, Stover, Sypher, Taylor, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, and Whittemore—90.

NAYS—Messrs. Allison, Archer, Axtell, Barnes, Barnum, Beck, Bingham, Boyer, Burr, Cary, Driggs, Ferry, Getz, Golladay, Grover, Haight, Higby, Holman, Johnson, Thomas L. Jones, Kerr, Knott, Koontz, Logan, Loughridge, Mallory, McCormick, McCullough, Mungen, Niblack, O'Neill, Orth, Peters, Phelps, Pike, Poland, Pruyn, Randall, Robertson, Robinson, Ross, Sawyer, Smith, Taber, Lawrence S. Trimble, Van Auker, Windom, and Young—48.

NOT VOTING—Messrs. Adams, Anderson, James M. Ashley, Baldwin, Benjamin, Blackburn, Blaine, Boles, Boutwell, Bowen, Buckland, Chanler, Churchill, Reader W. Clarke, Colfax, Dawes, Delano, DeWeese, Dickey, Eckley, Edwards, Eldridge, James T. Elliott, Fox, French, Garfield, Glossbrenner, Goss, Griswold, Halsey, Hamilton, Harding, Haughey, Heaton, Hooper, Hotchkiss, Asabel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Jenckes, Judd, Kelley, George V. Lawrence, William Lawrence, Loan, Lynch, Marshall, Marvin, Miller, Morrissey, Myers, Newcomb, Nicholson, Nunn, Pettis, Plants, Polsey, Prince, Roots, Schenck, Shanks, Shellabarger, Sitgreaves, Spalding, Stokes, Stone, Taffe, Thomas, Tift, John Trimble, Burt Van Horn, Van Trump, Van Wyck, Vidal, Elihu B. Washburne, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Wood, Woodbridge, and Woodward—84.

So the concurrent resolution was adopted.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. GORHAM, its Secretary, notifying the House that that body had adopted reports of committees of conference on the Army appropriation bill and the miscellaneous appropriation bill.

PUBLICATION OF DEBATES—AGAIN.

Mr. INGERSOLL. I move to reconsider; and that motion is, I believe, debatable.

The SPEAKER. It is.

Mr. INGERSOLL. Before submitting any remarks on this proposition I desire the proposition to be reported.

The resolution was again read.

Mr. COBURN. I desire to inquire whether or not this resolution is open to amendment?

The SPEAKER. Not while the motion to reconsider is pending.

Mr. INGERSOLL. This is a proposition to take the printing of the debates from the Congressional Globe.

INDIAN APPROPRIATION BILL.

Mr. BUTLER, of Massachusetts. I rise to a privileged report.

Mr. INGERSOLL. When the privileged report has been disposed of I of course resume the floor.

The SPEAKER. Of course.

Mr. BUTLER, of Massachusetts. Mr. Speaker, I have only to report to the House from the committee of conference on the Indian appropriation bill that that committee, in view of the very grave questions to be decided and the great lack of time in which to decide them, have agreed to examine the bill no further, but to report their disagreement to the House with this information, that they will recommend, as soon as the reorganization of the two Houses shall take place, a joint special committee of the two Houses may be raised to take into consideration the whole subject of

Indian affairs and the necessary appropriations to take care of the Indians and to carry on the Indian Bureau, and to report at any time, so that no detriment shall result from the failure to pass at this session the Indian appropriation bill.

The SPEAKER. No motion can be entertained or action had on any bill not in the possession of the House.

REPORT ON NATIONAL BANKS.

Mr. RANDALL. I submit the following privileged report.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1881) regulating the reports of the national banking associations having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the amendment of the Senate to the bill, and agree to the same with the following amendments, namely: in line fourteen, page 1, after the word "association" insert the words "above required."

Add the following as an additional section: SEC. 2. And be it further enacted, That in addition to said reports each national banking association shall report to the Comptroller of the Currency the amount of each dividend declared by said association and the amount of net earnings in excess of said dividends, which report shall be made within ten days after the declaration of each dividend and attested by the oath of the president or cashier of said association; and a failure to comply with the provisions of this section shall subject such association to the penalties provided in the foregoing section; and the Senate agree to the same.

A. G. CATTELL,

G. H. WILLIAMS,

JOHN CONNESS,

Managers on the part of the Senate.

S. J. RANDALL,

E. C. INGERSOLL,

JOHN LYNCH,

Managers on the part of the House.

Mr. RANDALL. I demand the previous question on agreeing to the report of the committee of conference.

The previous question was seconded and the main question ordered; and under the operation thereof, the question being put on agreeing to the report, there were—ayes 55, noes 26; no quorum voting.

Tellers were ordered; and Messrs. RANDALL and KERR were appointed.

The House divided; and the tellers reported—ayes 97, noes 17.

So the report was agreed to.

Mr. RANDALL. I move to reconsider the vote by which the report was agreed to.

Mr. KERR. I demand the yeas and nays.

The yeas and nays were refused.

Mr. KERR. Tellers.

Tellers were refused.

The motion to reconsider was then laid on the table.

ARMY APPROPRIATION BILL.

Mr. GARFIELD submitted the following privileged report:

The committee of conference on the disagreeing votes of the two Houses on the bill of the House No. 1803, being an act making appropriations for the support of the Army for the year ending June 30, 1870, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their sixth, eighth, and sixteenth amendments.

That the House recede from their disagreement to the first, second, third, fourth, fifth, seventh, tenth, eleventh, twelfth, thirteenth, and fourteenth amendments of the Senate and concur in the said amendments.

That the House recede from their disagreement to the ninth amendment of the Senate and concur in the same with the following amendment: strike out "eight" and insert "six and one half;" and that the Senate agree to the same.

That the House recede from their disagreement to the fifteenth amendment of the Senate and agree to the same with the following two amendments:

1. Strike out the first twelve lines and insert in lieu thereof the following:

SEC. —. And be it further enacted, That there shall be no new commissions, no promotions, and no enlistments in any infantry regiment until the total number of infantry regiments is reduced to twenty-five; and the Secretary of War is hereby directed to consolidate the infantry regiments as rapidly as the requirements of the public service and the reduction of the number of officers will permit.

SEC. —. And be it further enacted, That no appointments of brigadier generals shall be made until the number is reduced to less than eight, and thereafter there shall be but eight brigadier generals in the Army.

2. Strike out all after and including line fifteen down to and including line twenty-one of the said fifteenth amendment of the Senate; and that the Senate agree to the said amendments.

That the House recede from their disagreement to the seventeenth amendment of the Senate and concur in the same with the following amendment: strike out all after the word "enacted," in line one, and insert: "brevet rank shall not entitle an officer to precedence for command except by special assignment of the President, but such assignment shall not entitle any officer to additional pay or allowances;" and that the Senate agree to the same.

HENRY WILSON,

JOHN CONNESS,

W. SPRAGUE,

Managers on the part of the Senate.

J. A. GARFIELD,

J. G. BLAINE,

G. M. DODGE,

Managers on the part of the House.

Mr. GARFIELD. If I can have the attention of members of the House a moment I will state briefly the points of difference and settlement of them as agreed upon by the conference report.

Several MEMBERS. "All right!" "Question!"

Mr. GARFIELD. Well, if gentlemen wish to have the vote taken I will call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof, the question being put on agreeing to the report, there were—ayes 90, noes 26.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 122, nays 25, not voting 75; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Axtell, Bailey, Baker, Barnes, Beaman, Benjamin, Benton, Blair, Boyden, Boyer, Brownwell, Broomall, Buckland, Buckley, Cake, Callis, Cary, Churchill, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Cornell, Covode, Cullom, DeWeese, Dixon, Dockery, Dodge, Donnelly, Driggs, Eckley, Eggleston, Thomas D. Eliot, Ferriss, Ferry, Fields, French, Garfield, Getz, Goss, Gove, Gravely, Halsey, Hawkins, Higby, Hill, Chester D. Hubbard, Hulburd, Ingersoll, Jenckes, Alexander H. Jones, Judd, Julian, Kellogg, Kelsey, Kerr, Ketcham, Kitchen, Koontz, Laffin, Lincoln, Logan, Loughridge, Lynch, Mallory, Marshall, Marvin, Maynard, McCarthy, McKee, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Newsham, Norris, O'Neill, Orth, Paine, Perham, Peters, Pierce, Pike, Poland, Price, Raum, Robertson, Roots, Sawyer, Schenck, Scofield, Smith, Starkweather, Stevens, Stewart, Stover, Sypher, Trowbridge, Twichell, Upson, Van Aernam, Van Auker, Burt Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—122.

NAYS—Messrs. Adams, Archer, Barnum, Beck, Brooks, Burr, Eldridge, Golladay, Haight, Holman, Hopkins, Johnson, Thomas L. Jones, Knott, William Lawrence, McCullough, Mungen, Niblack, Pruyn, Robinson, Ross, Taber, Lawrence S. Trimble, Van Trump, and Young—25.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Beatty, Bingham, Blackburn, Blaine, Boles, Boutwell, Bowen, Benjamin F. Butler, Roderick R. Butler, Chanler, Reader W. Clarke, Colfax, Dawes, Delano, Dickey, Edwards, Ela, James T. Elliott, Farnsworth, Fox, Glossbrenner, Griswold, Grover, Hamilton, Harding, Haughey, Heaton, Hooper, Hotchkiss, Asabel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Kelley, Judd, George V. Lawrence, Loan, McCormick, Morrissey, Myers, Newcomb, Nicholson, Nunn, Pettis, Plants, Polsey, Prince, Roots, Schenck, Shanks, Shellabarger, Sitgreaves, Spalding, Stokes, Stone, Taffe, Taylor, Thomas, Tift, John Trimble, Robert T. Van Horn, Van Wyck, Vidal, Elihu B. Washburne, William Williams, John T. Wilson, Wood, and Woodward—75.

So the report of the committee of conference was agreed to.

Mr. GARFIELD moved to reconsider the vote by which the report of the committee of conference was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ELDRIDGE. I rise to a question of order. The hour of twelve o'clock has arrived, and I believe that this Congress is played out. The members of the Forty-First Congress are here ready to be sworn in.

The SPEAKER. The Chair overrules the point of order. The gentleman from Illinois [Mr. INGERSOLL] is entitled to the floor on the motion to reconsider the vote by which the concurrent resolution in regard to the publication of the debates was agreed to.

DISTRIBUTION OF DOCUMENTS.

Mr. LOGAN. I ask my colleague to yield to me to offer a resolution.

Mr. INGERSOLL. I will yield to hear what the resolution is.

Mr. LOGAN, by unanimous consent, offered the following resolution:

Resolved, That the Doorkeeper be directed to forward to members of the Fortieth Congress not elected to the Forty-First Congress their proportion of all public documents ordered printed by the Fortieth Congress.

Mr. VAN AERNAM. I offer the following as a substitute for the resolution:

Resolved, That all books and documents ordered by the Fortieth Congress to be printed for distribution, and that may be ready for delivery prior to the 1st of December next, shall be delivered to members of the Fortieth Congress for that purpose.

Mr. LOGAN. I accept that as a modification of my resolution.

The resolution, as modified, was agreed to.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 1808) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1870; when the Speaker signed the same.

Mr. INGERSOLL resumed the floor.

The SPEAKER. The Chair would request the gentleman from Illinois to yield to the gentleman from Tennessee, [Mr. ARNELL,] for the purpose of offering a resolution for the payment of the salary of a deceased member of the House.

PAY OF HON. JAMES HINDS, DECEASED.

Mr. ARNELL. I ask unanimous consent to offer the following resolution:

Resolved, That the Clerk of the House of Representatives be hereby authorized to pay to Mrs. James Hinds, widow of the late member from the second district of Arkansas, assassinated on the 22d day of October, 1868, a sum of money out of the contingent fund of the House equal to what his salary would have been from that date until the close of the present session if he had lived.

Mr. ROBINSON. I suggest to the gentleman that he strike out the word "assassinated" and insert the word "deceased."

Mr. ARNELL. Oh, no; I object to that.

Mr. KNOTT and Mr. BECK objected to the reception of the resolution.

Mr. ARNELL. I move that the rules be suspended, and the resolution adopted.

The question was taken; and (two thirds voting in favor thereof) the rules were suspended, and the resolution was agreed to.

Mr. ARNELL moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MILEAGE OF MEMBERS.

Mr. INGERSOLL. I now yield to my colleague, [Mr. RAUM.]

Mr. RAUM. I am instructed by the Committee on Mileage to report the following resolution:

Resolved, That the Clerk of the House be, and he is hereby, directed to pay to the Representatives and Delegates the mileage now allowed them by law for the adjourned session of the present Congress, commenced and held in the month of July, A. D. 1867, from the contingent fund of the House upon the certificates in the usual form of the Representatives and Delegates.

I ask unanimous consent to report the resolution.

Mr. ALLISON and Mr. SCOFIELD objected.

Mr. RAUM moved that the rules be suspended to enable him to report the resolution.

Mr. WARD and Mr. SCOFIELD demanded the yeas and nays.

The question recurred upon ordering the yeas and nays on the motion to suspend the rules.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 20, nays 108, not voting 94; as follows:

YEAS—Messrs. Burr, Corley, Dodge, Driggs, Eldridge, Goss, Jenckes, Kerr, Logan, Mallory, Mun-

gen, Orth, Pierce, Raum, Schenck, Spalding, Van Auken, Robert T. Van Horn, Whittemore, and Young—20.

NAYS—Messrs. Allison, Archer, Arnell, Bailey, Baker, Banks, Barnes, Beaman, Beatty, Benjamin, Bingham, Blair, Boutwell, Boyden, Boyer, Bromwell, Brooks, Broomall, Buckland, Calko, Cary, Churchill, Clift, Cobb, Cook, Cornell, Cullom, Dawes, Dixon, Dockery, Eggleston, Ela, Thomas D. Eliot, Ferriss, Ferry, Fields, French, Garfield, Getz, Golladay, Haight, Halsey, Hawkins, Hill, Holman, Hopkins, Chester D. Hubbard, Hulburt, Ingersoll, Johnson, Thomas L. Jones, Judd, Julian, Kellogg, Kelsey, Ketcham, Kitchen, Knott, Koontz, William Lawrence, Loughridge, Lynch, Marshall, Maynard, McCarthy, McCormick, McCullough, McKee, Mercier, Miller, Moore, Moorhead, Morrell, Mullins, Newcomb, Niblack, Norris, Paine, Perham, Phelps, Pile, Price, Robertson, Robinson, Sawyer, Scofield, Smith, Starkweather, Stevens, Stewart, Stover, Taber, Taylor, Lawrence S. Trimble, Trowbridge, Twichell, Upson, Burt Van Horn, Van Trump, Ward, Cadwalader C. Washburn, Henry D. Washburne, Welker, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—108.

NOT VOTING—Messrs. Adams, Ames, Anderson, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Barnum, Beck, Benton, Blackburn, Blaine, Boies, Bowen, Buckley, Benjamin F. Butler, Roderick R. Butler, Callis, Chanler, Reader W. Clarke, Sidney Clarke, Coburn, Colfax, Covode, Delano, Deweese, Diekey, Donnelly, Eckley, Edwards, James T. Eliott, Farnsworth, Fox, Glossbrenner, Gove, Gravely, Griswold, Grover, Hamilton, Harding, Haughey, Heaton, Higby, Hooper, Hotchkiss, Asabel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Alexander H. Jones, Kelley, Laffin, Lash, George V. Lawrence, Lincoln, Loan, Marvin, Morrissey, Myers, Newsham, Nicholson, Nunn, O'Neill, Peters, Pettis, Pike, Plants, Poland, Polsley, Prince, Pruyn, Randall, Roots, Ross, Selye, Shanks, Shellabarger, Sitgreaves, Stokes, Stone, Sypher, Taffe, Thomas, Tift, John Trimble, Van Aernam, Van Wyck, Vidal, Elihu B. Washburn, William B. Washburn, Thomas Williams, William Williams, Wood, and Woodward—94.

So the rules were not suspended.

Mr. LOGAN. A question of order. Is it in order for a member to carry a resolution around to see how many members will vote for it, and then when the yeas and nays are called to vote against the resolution himself? [Laughter.]

The SPEAKER. The Chair does not think that is a question of order.

PUBLICATION OF DEBATES—AGAIN.

The House resumed the consideration of the motion to reconsider the vote by which the House passed the resolution concerning the printing of the debates by the Congressional Printer.

The SPEAKER. Upon this question the gentleman from Illinois [Mr. INGERSOLL] is entitled to the floor.

Mr. SCOFIELD. I insist that the gentleman from Illinois shall proceed or yield the floor unconditionally. No business can be done except on motion of some gentleman to whom he chooses to yield.

The SPEAKER. Whenever any member insists upon the regular order the gentleman from Illinois [Mr. INGERSOLL] must proceed or yield the floor.

Mr. INGERSOLL. I am ready to proceed.

Mr. SCOFIELD. I insist upon the regular order of business.

Mr. GARFIELD. Will the gentleman from Illinois [Mr. INGERSOLL] yield to allow me to move to proceed to business on the Speaker's table?

Mr. INGERSOLL. I will yield for that motion with the understanding that when this subject again comes up I shall be considered as entitled to the floor.

Mr. ELDRIDGE. I insist that the gentleman from Illinois shall make his speech now without further interruption.

Mr. INGERSOLL. Is it not in order for me to yield for a motion to go to business on the Speaker's table?

The SPEAKER. Business on the Speaker's table is the regular order when there is no other business before the House.

Mr. SCOFIELD. I insist upon the regular order of business.

Mr. SPALDING. I ask the gentleman from Illinois [Mr. INGERSOLL] to yield to a motion to go to business on the Speaker's table.

Mr. INGERSOLL. I am willing to do so, with the understanding that I am entitled to the floor when this subject again comes up for consideration.

Mr. WILSON, of Iowa. I move that the House now proceed to the consideration of business on the Speaker's table.

The SPEAKER. That motion is not in order, pending a motion to reconsider.

Mr. COVODE. I rise to make a privileged report.

The SPEAKER. Is it a report from a committee of conference?

Mr. COVODE. It is a privileged report.

The SPEAKER. The motion of the gentleman from Illinois [Mr. INGERSOLL] is privileged. The gentleman must proceed or abandon the floor.

Mr. INGERSOLL. Mr. Speaker—

Mr. ROBINSON. I move to postpone the consideration of the motion to reconsider.

The SPEAKER. The gentleman from Illinois [Mr. INGERSOLL] is in possession of the floor.

Mr. INGERSOLL. If it be in order, I move to postpone the consideration of the motion to reconsider for the purpose of going to business on the Speaker's table.

The SPEAKER. The motion in that form is not in order.

Mr. INGERSOLL. Then I will proceed with my remarks. In the first place I ask the Clerk to read the concurrent resolution which I have moved to reconsider.

The SPEAKER. The Chair understands that the resolution is not now at the Clerk's desk.

Mr. INGERSOLL. Then I will state the purport of the resolution. The proposition as submitted by the gentleman from New Hampshire [Mr. ELA] is to transfer the printing of the Congressional Globe to the Public Printing Office.

Mr. NIBLACK. I raise the point of order that the gentleman cannot proceed while the resolution is not at the Speaker's table.

The SPEAKER. The resolution having passed the House has been engrossed and sent to the Senate, and is not now in the possession of the House.

Mr. ROBINSON. I rise to a point of order. I submit that it is not proper for the officers of this House or whoever has committed this outrage upon the House—I do not mean to be personally offensive—to carry away the resolution while the motion to reconsider is pending.

The SPEAKER. The resolution is now in the possession of the Clerk, and will be reported.

The Clerk read as follows:

Resolved, (the Senate concurring.) That the Congressional Printer be directed to report and publish the debates of Congress, commencing at twelve o'clock, March 4, 1869, until further and definite action can be had under the joint resolution recently passed.

Mr. INGERSOLL. I now desire to state the reasons why the vote adopting this resolution should be reconsidered. The proposition is to transfer the printing of the Congressional Globe to the Public Printing Office. No gentleman here can deny that the Public Printer is now overwhelmed with business, and that he is behind, as is reported, from three to perhaps six months with much of the public printing. How, then, can it possibly be that the Public Printer will be prepared to-morrow to take the reports of this House and of the Senate and publish not only the Congressional Globe but also the Daily Globe? There has been no appropriation; no means for doing the work have been provided; there is no law whatever authorizing this proceeding; and more than that, there is not now at the command of the Public Printer a sufficient force to execute the work proposed to be imposed upon him.

Mr. CAKE. Will the gentleman yield to me for half a minute?

Mr. INGERSOLL. No, sir.

Mr. CAKE. I want to correct the gentleman's statement. The Public Printer has a force of compositors ready—

Mr. INGERSOLL. I call the gentleman to order. I do not yield to him.

Mr. LYNCH. I want to put to the Chair a parliamentary question.

Mr. INGERSOLL. I yield for that.
Mr. LYNCH. If the motion to reconsider be entered without any action being taken upon it—

The SPEAKER. It will have no effect whatever.

Mr. LYNCH. Does the pendency of the motion to reconsider have no effect upon the position of the resolution?

The SPEAKER. Until it be acted upon it has no effect whatever.

Mr. LYNCH. When the motion to reconsider has been made and no action taken upon it does not the resolution die with the session?

The SPEAKER. The Chair will state that the motion to reconsider pending before the House, some action upon it is necessary before the House can proceed to other business. The motion to postpone is in order if the gentleman from Illinois will yield for that purpose.

Mr. SCHENCK. The gentleman from Illinois consents; and I move to postpone the further consideration of the motion till nine o'clock.

Mr. CAKE. I object to that.

Mr. ELDRIDGE. I rise to a question of order.

Mr. INGERSOLL. I have yielded to the gentleman from Ohio to make that motion.

Mr. ELDRIDGE. The gentleman from Ohio moves to postpone until nine o'clock to-morrow. Is that a part of the term of this Congress?

Mr. SCHENCK. Nine o'clock a. m. to-day.

The SPEAKER. That is part of this legislative day.

Mr. ELDRIDGE. Is nine o'clock to-morrow to-day?

The SPEAKER. It is, for legislative purposes.

Mr. MAYNARD. The House some time ago adopted a resolution that nothing should be done until this question was disposed of.

The SPEAKER. It has been disposed of, and this is a motion to reconsider.

Mr. MAYNARD. Does the Chair think that the force of that resolution has expended itself?

The SPEAKER. It did on the passage of the resolution.

Mr. ALLISON. I rise to a question of order. The gentleman from Illinois yielded to the gentleman from Ohio to move to postpone, and I insist that motion should be put to the House.

Mr. SCHENCK's motion was agreed to.

Mr. ALLISON. I understood the Chair to state that the resolution had been sent to the Senate, but that the motion to reconsider having been made it would be recalled. Now, will not the effect of the motion to postpone be to leave the resolution upon the table until to-morrow at nine o'clock? If that is not the effect I rise to a privileged question.

The SPEAKER. The resolution having been engrossed and sent to the Senate, and the motion to reconsider having now been made and postponed, the resolution will be recalled and laid upon the Speaker's table until nine o'clock a. m. The request for its recall has already been sent to the Senate.

Mr. WASHBURN, of Indiana. I object to that, and I objected at the time.

Mr. MAYNARD. I move to reconsider the vote by which this motion was postponed until to-morrow.

SPEAKER'S TABLE.

Mr. SCHENCK. I hope we will be allowed to proceed to the consideration of the business upon the Speaker's table. There are sixty odd bills from the Senate. Many of them are pension bills and can soon be disposed of. I make that motion if there be no objection.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. GORHAM, its Secretary, notifying the House that that body had adopted the report of the committee of conference on the disagreeing votes of the two Houses on House bill No. 1911, making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes.

It further announced that the Senate had adopted the report of the committee of conference on the disagreeing votes of the two Houses on House bill No. 1677, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870.

COLORED SCHOOLS IN THE DISTRICT.

The SPEAKER laid before the House a communication from the Secretary of the Interior, transmitting a report of the trustees of the colored schools in the District; which was referred to the Committee for the District of Columbia.

N. K. TROUT.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting the application of N. K. Trout, of Staunton, Virginia, for removal of political disabilities; which was referred to the Committee on Reconstruction.

STEAM EXPANSION.

The SPEAKER also laid before the House a communication from the Secretary of the Navy, transmitting a letter from the chief of the Bureau of Steam Engineering relative to the amount of money expended in experiments on steam expansion; which was referred to the Committee on Naval Affairs.

PUBLICATION OF DEBATES.

The House resumed the consideration of the motion of Mr. MAYNARD, to reconsider the vote by which the House postponed the motion to reconsider the vote by which the resolution of the Committee on Printing in relation to the publication of the debates was adopted.

Mr. SHANKS. I rise to ask a parliamentary question. Where is the resolution now pending, in the Senate or here?

The SPEAKER. The Chair has already stated that the motion to reconsider having been postponed it necessarily recalls the resolution from the Senate, and a messenger must be sent to the Senate to recall it until the motion is finally disposed of.

DEFICIENCY BILL.

Mr. SCOTFIELD submitted the following privileged report:

The committee of conference on the disagreeing votes of the two Houses on the bill of the House (H. R. No. 1191) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses as follows:

They recommend that the House recede from their disagreement to the amendments of the Senate numbered 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 22, 23, 24, 28, 29, and 30, and agree to the same.

They recommend that the Senate recede from their amendments numbered 1, 5, 16, 18, 21, 26, and 27.

They recommend that the House recede from their disagreement to the amendment of the Senate numbered 21 and agree to the same with an amendment, as follows: after the word "compensation" insert "exceeding one eighth of one per cent. in any case."

They recommend that the House recede from their disagreement to the fourth amendment of the Senate, so far as it proposes to strike out the second proviso in said amendment; and the Senate agree to the same.

They recommend that the House recede from their disagreement to the nineteenth amendment of the Senate and agree to the same with an amendment, as follows: insert in lieu of said amendment the words "for the construction of basin and new dock barge office at New York, \$25,000."

They recommend that the House recede from their disagreement to the twentieth amendment of the Senate and agree to the same with an amendment, as follows: strike out "\$15,000," and insert in lieu thereof "\$7,500."

They recommend that the House recede from their disagreement to the twenty-fifth amendment of the Senate and agree to the same with an amendment, as follows: insert in lieu of the words stricken out the words "for collecting, preparing, and printing the proceedings at the decoration of the soldiers' graves, under resolution of June 22, 1868, \$2,000;" and the Senate agree to the same.

TIMOTHY O. HOWE,

A. H. CRAGIN,

J. W. NYE,

Managers on the part of the Senate.

G. W. SCOTFIELD,

STEVENSON ARCHER,

Managers on the part of the House.

Mr. SCOTFIELD. Unless some member wishes to make inquiries about the bill I will ask the previous question.

Several MEMBERS. "Question!" "Question!"

Mr. CULLOM. What appropriations have been stricken out?

Mr. SCOTFIELD. Very few changes are made in the bill as it passed the House. The Senate added about two hundred thousand dollars, and they have refused a few of our appropriations. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the report was agreed to.

Mr. SCOTFIELD moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. BUTLER, of Massachusetts, submitted the following privileged report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 1672) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870, having met, after full and free conference, have agreed to recommend, and do recommend to their respective Houses, as follows:

That the Senate recede from their amendments numbered 14, 15, 16, 17, 18, 29, 33, 35, 36, 40, 41, 43, 44, 45, 65, 71, 75, 76, 77, 78, 84, and 90.

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 1, 2, 3, 8, 10, 12, 13, 19, 20, 21, 22, 23, 30, 32, 33, 37, 38, 39, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 67, 68, 73, 79, 85, 86, and 89, and agree to the same.

That the House recede from their disagreement to the fourth amendment of the Senate and agree to the same with an amendment, as follows: strike out of said amendment "\$1,000" and insert in lieu the following words: "ten dollars' worth for each member, \$740;" and the Senate agree to the same.

That the House recede from their disagreement to the fifth amendment of the Senate and agree to the same with an amendment, as follows: strike out of said amendment, the following: "\$2,000" and insert in lieu the following words: "ten dollars' worth for each member and Delegate, \$2,250;" and the Senate agree to the same.

That the House recede from their disagreement to the sixth amendment of the Senate and agree to the same with an amendment, as follows: in line three of said amendment strike out the word "eleven" and insert in lieu the word "five;" and the Senate agree to the same.

That the Senate recede from their seventh amendment, and on page 10, line fifteen of the bill, strike out the word "five;" and the House agree to the same as so modified.

That the Senate recede from their eleventh amendment, and on page 11, line twenty-five of the bill, strike out the word "legislative;" and the House agree to the same as so modified.

That the Senate recede from their amendments numbered 24, 25, 26, 27, and 28; and on page 17 of the bill strike out all after the word "dollars," in line twenty, down to and including the word "classes;" in line twenty-five.

That the House recede from their disagreement to the thirty-first amendment of the Senate and agree to the same with an amendment, as follows: after the word "dollars," in line thirteen on page 2 of the bill, add the following: "Provided, That the Commissioner of Internal Revenue shall make a detailed report to Congress of the expenditure of this appropriation at the next December session, to whom paid, how much to each, and for what purpose, giving the items of each payment and the number of employes; and hereafter the said Commissioner shall estimate in detail by collection districts the expense of assessing and the expense of the collection of internal revenue."

That the Senate recede from their forty-second amendment, and that the word "and" contained in said amendment be stricken out and the word "at" inserted in lieu thereof.

That the House recede from their disagreement to the sixty-ninth amendment and agree to the same with an amendment, as follows: in lieu of said amendment insert "sixty-eight thousand five;" and the Senate agree to the same.

That the House recede from their disagreement to the seventieth amendment of the Senate and agree to the same with an amendment, as follows: strike out of said amendment the words "one thousand" and insert in lieu "seven hundred and twenty."

That the House recede from their disagreement to the seventy-second amendment of the Senate and agree to the same with an amendment, as follows: strike out of said amendment the words "seven thousand five hundred" and insert in lieu "fifteen thousand."

That the House recede from their disagreement to the seventy-fourth amendment of the Senate and agree to the same with an amendment, as follows: strike out of said amendment the word "fifteen" and insert in lieu the word "ten."

That the House recede from their disagreement to the eightieth amendment of the Senate and agree to the same with an amendment, as follows: strike out of said amendment "twenty-five thousand and two hundred" and insert "twenty thousand;" and at the end of line fourteen, page 42 of the bill, add the

following words: "Provided, That hereafter the salaries of the clerks and messengers employed in this office shall not exceed the sum herewith appropriated."

That the House recede from their disagreement to the eighty-first amendment of the Senate and agree to the same with an amendment, as follows: strike out the words proposed to be inserted by said amendment and insert in lieu "ninety thousand."

That the House recede from their disagreement to the eighty-second amendment of the Senate and agree to the same with an amendment, as follows: strike out of said amendment the words "twenty-four" and insert "twenty."

That the House recede from their disagreement to the eighty-third amendment of the Senate and agree to the same with an amendment, as follows: strike out of said amendment the word "ten" and insert the word "eight."

That the House recede from their disagreement to the eighty-seventh amendment of the Senate and agree to the same with an amendment, as follows: strike out of said amendment the word "seven" and insert "five."

That the House recede from their disagreement to the eighty-eighth amendment of the Senate and agree to the same with an amendment, as follows: strike out the words "fourteen thousand eight hundred and fifty" and insert "ten thousand."

That the House recede from their disagreement to the ninety-first amendment of the Senate and agree to the same with an amendment, as follows: in line six of said amendment, after the word "Departments," insert the following words: "the number of clerks in their several Departments, the number employed therein during the preceding fiscal year, when employed, and when discharged, and the amount of compensation received by each."

L. M. MORRILL,

TIMOTHY O. HOWE,

Managers on the part of the Senate.

BENJAMIN F. BUTLER,

W. H. KELSEY,

Managers on the part of the House.

Mr. BUTLER, of Massachusetts. This is a unanimous report of both committees, and has been agreed to by the Senate. I demand the previous question, and when it is seconded I will answer any question that any gentleman desires.

The previous question was seconded and the main question ordered.

Mr. FARNSWORTH. Now will the gentleman explain the twenty-eighth amendment?

Several MEMBERS. "Vote!" "Vote!"

Mr. BUTLER, of Massachusetts. I am ready to answer any question which is put in good faith for the purpose of information.

Mr. FARNSWORTH. I put the question in good faith; for I do not know what it is, nor does any member on the floor know.

The SPEAKER. Does the gentleman yield?

Mr. BUTLER, of Massachusetts. I do not. The report of the committee of conference was agreed to.

Mr. BUTLER, of Massachusetts, moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ELIOT, of Massachusetts. I ask unanimously consent to take from the Speaker's table a Senate joint resolution.

Mr. SCHENCK. I object, and insist on the regular order.

SYMPATHY WITH SPAIN.

The House, as the regular order, resumed the consideration of the business on the Speaker's table, the first business in order being the following message from the Senate:

Resolved, That the Senate disagree to the amendment of the House of Representatives to the joint resolution (S. R. No. 178) tendering sympathy to the people of Spain.

Mr. BANKS. I move that the House insist on its amendment and ask a conference on the disagreeing votes of the two Houses thereon.

The motion was agreed to.

Mr. BANKS moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER appointed Mr. BANKS, Mr. BARNES, and Mr. BLAIR managers of the conference on the part of the House.

W. W. CORCORAN.

The next business on the Speaker's table was the amendment of the Senate to the joint resolution of the House No. 418, in relation to

lands and other property of W. W. Corcoran, in the District of Columbia, used by the United States Government during and since the war of the rebellion.

The amendment of the Senate was read, as follows:

Page 1, line seven, strike out all after "until" and insert:

Said W. W. Corcoran shall have taken and subscribed before some person duly authorized to administer oaths the following oath: "I, W. W. Corcoran, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement, either personally or by agent, to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto; and I do further swear that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, so help me God." And that said oath, so taken and subscribed, shall be filed with the Secretary of the Treasury in connection with all payments of money for the purposes above mentioned.

Mr. KELSEY moved that the joint resolution and the amendment thereto be referred to the Committee of Claims.

Mr. ELDRIDGE. On that motion I demand the yeas and nays, and call for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The motion was agreed to.

Mr. SCOFIELD. I move to reconsider the vote by which the joint resolution was referred, and I ask the Clerk to read the first part of the Senate amendment.

The Clerk read as follows:

Page 1, line seven, strike out all after "until" and insert "the said W. W. Corcoran shall have taken and subscribed before some person duly authorized to administer oaths the following oath."

Mr. SCOFIELD. Now, Mr. Speaker, in the first place the Department ordered the payment of these claims, or a part of them. The House passed a joint resolution directing the Department not to pay them until the further order of Congress. The Senate has passed it with an amendment striking out "until after further order of Congress" and saying "until he takes that oath." Now, if the joint resolution is referred to the Committee of Claims now, at the close of the session, it will be exactly the same as if the House had taken no action whatever. There is no restraint upon the Department. They can pay the claim if they see fit without a condition. I therefore move that the vote by which the joint resolution was referred be reconsidered; and I demand the previous question on that motion.

Mr. ELDRIDGE. The effect of the gentleman's motion will be to leave the joint resolution precisely where it is now. I hope the vote will be reconsidered and the amendment of the Senate concurred in.

Mr. SCOFIELD. I suppose that if we non-concur in the amendment of the Senate the joint resolution will not be passed. But I suppose that after the House has twice said—once by refusing to concur in the amendment and once by passing the joint resolution—that this bill shall not be paid until the further order of Congress the Department will not feel like taking the responsibility of paying it.

Mr. ELDRIDGE. What reason is there why this claim should not be paid if Mr. Corcoran can take that oath?

Mr. LOGAN. I ask the gentleman from Wisconsin [Mr. ELDRIDGE] if Mr. Corcoran was ever a citizen of the United States?

Mr. PRUYN. Why not? He was born in Alexandria.

Mr. LOGAN. I beg pardon of the gentleman. I am informed that he is a foreign-born person.

Mr. ELDRIDGE. He may be a citizen notwithstanding that fact.

Mr. LOGAN. My information is different,

and if so that oath amounts to nothing. I do not know of my own knowledge.

Mr. PRUYN. What does the oath amount to in the case of a naturalized citizen?

Mr. LOGAN. Just as much as in the case of a native-born citizen.

Mr. PRUYN. Then it is effectual in this case.

Mr. ELDRIDGE. I am informed that Mr. Corcoran was born in Georgetown.

Mr. STOVER. That makes two places he was born in. The gentleman from Wisconsin [Mr. ELDRIDGE] says he was born in Georgetown, and the gentleman from New York [Mr. PRUYN] says he was born in Alexandria.

Mr. PRUYN. I meant to say that he was born in Georgetown as I am informed.

Mr. LOGAN. I do not state of my own knowledge that he was not born in this country, but I have been so informed.

Mr. SCOFIELD. I call the previous question on my motion to reconsider the vote by which this bill was referred to the Committee of Claims.

Mr. STEVENS. I move to lay that motion on the table, so as to leave this bill with the Committee of Claims.

The question was taken on laying the motion to reconsider on the table; and it was not agreed to.

The question was then taken on the motion to reconsider; and it was agreed to.

The question then recurred upon the motion to refer the bill to the Committee of Claims; and it was not agreed to.

Mr. SCOFIELD. I now move that the House non-concur in the amendment of the Senate; and on that motion I call for the previous question.

Mr. ELDRIDGE. I move that the House concur in the amendment of the Senate, which I believe has precedence of the motion to non-concur.

The SPEAKER. The motion to concur takes precedence of the other motion.

The question was then taken upon concurring in the amendment of the Senate; and upon a division there were—yeas 41, noes 74.

Before the result of the vote was announced, Mr. ELDRIDGE called for the yeas and nays on the motion to concur.

The question was taken upon ordering the yeas and nays, and there were twenty-seven in the affirmative.

So (the affirmative being one fifth of the last vote) the yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 52, nays 69, not voting 101; as follows:

YEAS—Messrs. Adams, Axtell, Barnum, Beaman, Beck, Bingham, Blair, Boyden, Brooks, Burr, Corley, Driggs, Ela, Eldridge, Farnsworth, Garfield, Getz, Golladay, Goss, Grover, Haight, Higby, Holman, Ingersoll, Johnson, Alexander H. Jones, Thomas L. Jones, Kitchen, Knott, Lynch, Mallory, Marshall, Moorhead, Morrill, Mungen, Niblack, Poland, Pruyn, Randall, Raum, Robertson, Robinson, Ross, Smith, Stewart, Taber, Lawrence S. Trimble, Upson, Van Auken, Van Trump, Woodbridge, and Young—52.

NAYS—Messrs. Allison, Ames, Baker, Banks, Benjamin, Benton, Boutwell, Brownell, Broome, Buckland, Callis, Churchill, Sidney Clarke, Cift, Cobb, Coburn, Cook, Covode, Callom, Dawes, Dixon, Dodge, Donnelly, Eggleston, Thomas D. Eliot, Ferriss, Ferry, Fields, Halsey, Hill, Hopkins, Hubard, Julian, Kelsey, Ketcham, Kootz, William Lawrence, Logan, Loughbridge, Maynard, McCarthy, McKee, Mercer, Miller, Moore, Mullins, O'Neill, Orth, Paine, Phelps, Price, Routs, Sawyer, Scofield, Selye, Stevens, Stover, Sypher, Trowbridge, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, Thomas Williams, James F. Wilson, Stephen F. Wilson, and Windom—69.

NOT VOTING—Messrs. Anderson, Archer, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Barnes, Beatty, Blackburn, Blaine, Boies, Bowen, Boyer, Buckley, Benjamin F. Butler, Roderick R. Butler, Cake, Cary, Chanler, Rander W. Clarke, Colfax, Cornell, Delano, Dewesse, Dickey, Dockery, Eckley, Edwards, James T. Elliott, Fox, French, Glossbrenner, Gove, Gravelly, Griswold, Hamilton, Harding, Haughey, Hawkins, Heaton, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Jenckes, Judd, Kelley, Kellogg, Kerr, Ladin, Lash, George V. Lawrence, Lincoln, Loan, Marvin, McCormick, McCallough, Morrissey, Myers, Newcomb, Newsham, Nicholson, Norris, Nunn, Perham, Peters, Pettis, Pierce, Pike, Pile, Plants, Polsley,

Prince, Schenck, Shanks, Shellabarger, Sitgreaves, Spalding, Starkweather, Stokes, Stone, Taffo, Taylor, Thomas, Tift, John Trimble, Twichell, Van Aernam, Van Wyck, Vidal, Elihu B. Washburne, Henry D. Washburn, Whittemore, William Williams, John T. Wilson, Wood, and Woodward—101.

So the amendment of the Senate was not concurred in.

Mr. SCOFIELD. I move that the House ask the appointment of a committee of conference on the bill the amendment to which has just been non-concurred in.

The motion was agreed to.

Mr. SCOFIELD moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MISCELLANEOUS APPROPRIATION BILL.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed a bill of the following title, with amendments, in which the concurrence of the House was requested:

An act (H. R. No. 2007) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, and for other purposes.

Mr. SPALDING. I move that the House non-concur in the amendments to the bill just returned from the Senate, and ask the appointment of a committee of conference.

The motion was agreed to.

JUDICIAL SYSTEM.

Mr. WILSON, of Iowa. I ask unanimous consent that Senate bill (S. No. 784) to amend the judicial system of the United States be taken from the Speaker's table for consideration at the present time.

There being no objection, the bill was taken from the Speaker's table, and read the first and second time.

Mr. WILSON, of Iowa. I demand the previous question.

The first section of the bill provides that the Supreme Court of the United States shall hereafter consist of the Chief Justice of the United States and eight associate justices, any six of whom shall constitute a quorum; and for this purpose there is to be appointed an additional associate justice of said court. The second section provides that for each of the nine existing judicial circuits there shall be appointed a circuit judge, who shall reside in his circuit, and shall possess the same power and jurisdiction therein as the justice of the Supreme Court allotted to the circuit. The circuit courts in each circuit are to be held by the justice of the Supreme Court allotted to the circuit, or by the circuit judge of the circuit, or by the district judge of the district sitting alone, or by any two of them sitting together. And such courts may be held at the same time in the different districts of the same circuit, and more than one such court may be held at the same time in the same district. The circuit judges are each to receive an annual salary of \$5,000. The third section provides that nothing in this act shall affect the powers of the justices of the Supreme Court as judges of the circuit court except in the appointment of clerks of the circuit courts, who in each circuit shall be appointed by the circuit judge of that circuit, and the clerks of the district courts are to be appointed by the judges thereof respectively. The fourth section provides that it shall be the duty of each justice of the Supreme Court to attend at least one term of the circuit court in each district of his circuit during every period of two years.

Mr. WILSON, of Iowa. Mr. Speaker, this bill is a very short one, and doubtless every member has paid attention to the reading of it. I do not desire to enter upon any discussion of the measure. It provides that there shall be one associate justice of the Supreme Court of the United States in addition to the number now provided by law; making nine judges instead of eight. It provides also that there shall be appointed for each circuit a circuit judge, who shall hold, in connection with the district

judge, the circuit court. It further requires that each of the supreme judges shall perform circuit duty for at least one term in every two years. Unless some further explanation is desired I demand the previous question upon the passage of the bill. It is absolutely necessary that we should do something to relieve our judicial system.

Mr. HOLMAN. I submit to the gentleman from Iowa [Mr. WILSON] that a bill of this important character ought not to be put through at this stage of the session and without debate.

Mr. WILSON, of Iowa. This has been investigated by many members of the House to whose attention the subject was called. I now demand the previous question.

The House divided; and there were—ayes 93, noes 22.

So the previous question was seconded.

The main question was ordered.

The bill was ordered to a third reading; and it was accordingly read the third time.

Mr. KELSEY demanded the yeas and nays on the passage of the bill.

Mr. COBB demanded tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

The bill was passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The amendment was agreed to.

CHARLOTTE CRANE.

Mr. MILLER, by unanimous consent, moved that the Committee on Invalid Pensions be discharged from the further consideration of Senate bill No. 846, granting a pension to Charlotte Crane, and that the same be laid on the table.

The motion was agreed to.

Mr. SCOFIELD moved that the House take a recess until nine o'clock a. m.

The motion was disagreed to.

WASHINGTON FAMILY RELICS.

Mr. COVODE. I rise to make a privileged report of the evidence submitted in the matter of the Washington relics taken from the Arlington House.

Mr. INGERSOLL. Is that a privileged report?

Mr. COVODE. It is.

Mr. ELDRIDGE. Has it the privilege of reporting at any time?

The SPEAKER. The Chair understands that it has the privilege of reporting at any time.

Mr. ELDRIDGE. I rise to a question of order, that that does not appear by the records.

The SPEAKER. The question then is on the reception of the report.

Mr. COVODE. The committee were authorized to report at any time.

The SPEAKER. The Chair relies upon the statement of the gentleman from Pennsylvania.

Mr. ELDRIDGE. I appeal from the gentleman's statement to the record.

The SPEAKER. The Chair cannot refer to the record.

Mr. ELDRIDGE. Does the Chair feel bound by the statement of the gentleman from Pennsylvania?

The SPEAKER. The gentleman from Pennsylvania makes the statement upon his honor, and the Chair takes it to be correct.

Mr. ELDRIDGE. I demand the production of the record of the House to decide the question.

The SPEAKER. The Chair cannot bring the records before the House. Does the gentleman appeal from a decision of the Chair?

Mr. ELDRIDGE. I appeal to the records of the House.

The SPEAKER. The Clerk will proceed with the reading of the resolution.

Mr. ELDRIDGE. Then I appeal from the decision of the Chair.

Mr. WARD. I drew the resolution with my own hand, and know that to be the fact.

Mr. HOLMAN. There is no doubt about it.

Mr. ELDRIDGE. Then I withdraw my appeal from the decision of the Chair, but I think in such a matter that the records of the House should be produced.

Mr. COVODE. I am instructed by the Committee on Public Buildings and Grounds to report the testimony taken before that committee, together with the following resolution:

Resolved, That the articles known as the effects of George Washington, the Father of his Country, now in the custody of the Department of the Interior, are of right the property of the United States; and any attempt on the part of the present Administration or any Department thereof to deliver the same to the rebel General Robert E. Lee is an insult to the loyal people of the United States; and they ought to be kept as relics in the Patent Office, and ought not to be delivered to any one without the consent of Congress.

I demand the previous question on the adoption of that resolution.

Mr. ELDRIDGE. I hope the previous question will not be seconded.

Mr. JONES, of Kentucky. I wish to submit a minority report.

Mr. COVODE. The gentleman can do so without debate.

Mr. JONES, of Kentucky. I deny the facts as the gentleman has reported them.

Mr. COVODE. No debate.

Mr. JONES, of Kentucky. I offer as a minority report the following resolution, to come in as a substitute for that submitted by the gentleman from Pennsylvania:

Resolved, That the articles in the Patent Office which have been identified as the property of Mrs. Mary Custis Lee, and which were taken without authority of the Government from her home at Arlington, as they are of but little value except as heirlooms in her family bequeathed to her by her father, George Washington Parke Custis, be at her request restored to her possession.

The SPEAKER. Does the gentleman from Pennsylvania yield to allow the substitute to be offered?

Mr. COVODE. I do, as the report of the minority. I call the previous question.

Mr. JONES, of Kentucky. I desire to say this is an unheard-of outrage, and—

Several members objected to debate.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. The first question will be on the adoption of the substitute offered by the gentleman from Kentucky, [Mr. JONES.]

Mr. INGERSOLL. Mr. Speaker, this is a matter of inconsiderable importance. I believe the relics consist of some brass buttons and cracked plates, [laughter,] and I would like to have it postponed. [Calls to order.]

The question was taken; and it was decided in the negative—yeas 34, nays 92, not voting 96; as follows:

YEAS—Messrs. Adams, Archer, Axtell, Barnes, Barnum, Beck, Bingham, Boyer, Brooks, Burr, Eldridge, Gerz, Golladay, Grover, Haight, Holman, Johnson, Alexander H. Jones, Kerr, Knott, Laffin, Marshall, Mungen, Niblack, Phelps, Pruyn, Randall, Robinson, Ross, Spalding, Taber, Lawrence S. Trimble, Van Auker, and Young—34.

NAYS—Messrs. Allison, Bailey, Beatty, Benjamin, Benton, Blair, Boutwell, Brownell, Broomall, Buckland, Buckley, Cake, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corley, Cornell, Covode, Cullom, Dawes, Dixon, Dodge, Driggs, Eggleston, Ela, Thomas D. Eliot, Ferriss, Ferry, French, Garfield, Halsey, Higby, Hill, Hopkins, Chester D. Hubbard, Ingersoll, Jencks, Judd, Julian, Kelsey, Ketchum, Kitchen, William Lawrence, Logan, Loughbridge, Mallory, Maynard, McCarthy, McKee, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Norris, O'Neill, Orth, Paine, Pierce, Pile, Price, Raum, Robertson, Roots, Sawyer, Schenck, Scofield, Selye, Smith, Stevens, Stover, Taylor, Trowbridge, Twichell, Burt Van Horn, Robert T. Van Horn, Van Trump, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, Windom, and Woodward—92.

NOT VOTING—Messrs. Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Beaman, Blackburn, Blaine, Boies, Bowen, Boyden, Benjamin F. Butler, Roderick K. Butler, Cary, Chanter, Colfax, Delano, Dewesse, Diekey, Dockery, Donnelly, Eckley, Edwards, James T. Elliott, Farnsworth, Fields, Fox, Glossbrenner, Goss, Gove, Gravelly, Griswold, Hamilton, Harding,

Hanchey, Hawkins, Heaton, Hooper, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Thomas L. Jones, Kelley, Kellogg, Koontz, Lash, George V. Lawrence, Lincoln, Loan, Lynch, Marvin, McCormick, McCullough, Morrissey, Myers, Newcomb, Newsham, Nicholson, Nunn, Perham, Peters, Pettis, Pike, Plants, Poland, Polesley, Prince, Shanks, Shellabarger, Sitgreaves, Starkweather, Stewart, Stokes, Stone, Sypher, Taffe, Thomas, Tift, John Trimble, Upson, Van Aernam, Van Wyck, Vidal, Elihu B. Washburne, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Wood, and Woodward—93.

So the resolution was disagreed to.

The question recurred on the adoption of the resolution reported by the committee.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that that body had passed a joint resolution of the House No. 280, for the relief of Ella E. Hobart.

The message further announced that the Senate insisted upon its amendments, disagreed to by the House, to the bill (H. R. No. 2007) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, had agreed to the conference asked for by the House on the disagreeing votes of the two Houses thereon, and had appointed Messrs. MORRILL of Maine, EDMUNDS, and HARLAN the conferees on the part of the Senate.

WASHINGTON FAMILY RELICS.

The House resumed the consideration of the resolution reported by the chairman of the Committee on Public Buildings and Grounds. The pending question was on agreeing thereto.

Mr. ROSS. I move to refer it to the Committee on Reconstruction. [Laughter.]

The SPEAKER. That is not in order.

Mr. JONES, of Kentucky. I ask leave to print remarks.

Mr. COVODE. I object to debate altogether.

The SPEAKER. Is there objection to the gentleman having leave to print? The Chair hears none.

[The remarks of Mr. JONES will be published in the Appendix.]

Mr. ROSS. I move to lay the resolution on the table.

The motion was disagreed to—ayes 25, noes 84.

Mr. ROSS. I demand the yeas and nays on the adoption of the resolution.

The yeas and nays were refused.

The resolution was then agreed to.

Mr. ROBINSON (at three o'clock and forty-five minutes a. m.) moved that the House take a recess till half past nine o'clock a. m.

The question being taken; there were—ayes 69, noes 51.

Mr. PRICE and Mr. DODGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 56, nays 73, not voting 93; as follows:

YEAS—Messrs. Adams, Baker, Barnes, Barnum, Beatty, Beck, Benjamin, Benton, Blair, Boyer, Brooks, Buckley, Burr, Cake, Cary, Cook, Cornell, Daves, Dixon, Eldridge, French, Getz, Golladay, Goss, Grover, Haight, Hill, Holman, Ingersoll, Thomas L. Jones, Judd, Julian, Kerr, Kitchen, Knott, Koontz, William Lawrence, McCullough, McKee, Niblack, Pruyn, Randall, Robertson, Ross, Scofield, Smith, Taylor, Lawrence S. Trimble, Trowbridge, Twichell, Van Auker, Van Trump, Ward, Cadwalader C. Washburn, William B. Washburn, and Young—56.

NAYS—Messrs. Allison, Ames, Archer, Axtell, Bailey, Banks, Beaman, Bingham, Boutwell, Boyden, Brownell, Broomall, Buckland, Benjamin F. Butler, Callis, Churchill, Sidney Clarke, Clift, Cobb, Covode, Dickey, Dodge, Donnelly, Driggs, Eggleston, Ela, Thomas D. Eliot, Ferriss, Ferry, Gardfield, Gravely, Halsey, Higby, Hopkins, Hulburd, Jenckes, Johnson, Alexander H. Jones, Kelsey, Ketcham, Logan, Loughridge, Mallory, Maynard, McCarthy, Mercur, Miller, Moore, Mullins, Mungen, Norris, O'Neill, Paine, Phelps, Pierce, Pile, Price, Raun, Roots, Sawyer, Schenck, Selye, Stevens, Stover, Burt Van Horn, Henry D. Washburn, Welker, Whittemore, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—73.

NOT VOTING—Messrs. Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Blackburn, Blaine, Boies, Bowen, Roderick B. Butler, Chandler, Reader W. Clarke, Coburn, Colfax, Corley, Calton, Delano, Deweese, Dockery, Eckley, Edwards, James T. Elliott, Farnsworth, Fields, Fox, Glossbrenner, Gove, Griswold, Hamilton, Harding, Hanchey, Hawkins, Heaton, Hooper, Hotchkiss, Asahel W. Hubbard, Humphrey, Hunter, Kelley, Kellogg,

Lafin, Lash, George V. Lawrence, Lincoln, Loan, Lynch, Marshall, Marvin, McCormick, Moorhead, Morrill, Morrissey, Myers, Newcomb, Newsham, Nicholson, Nunn, O'Leary, Pham, Pettis, Pike, Plants, Poland, Polesley, Prince, Robinson, Shanks, Shellabarger, Sitgreaves, Spalding, Starkweather, Stewart, Stokes, Stone, Sypher, Taber, Taffe, Thomas, Tift, John Trimble, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Vidal, Elihu B. Washburne, William Williams, John T. Wilson, Wood, and Woodward—93.

So the House refused to take a recess.

LEAVE TO PRINT.

Leave was granted to Mr. HIGBY to print remarks in the Globe on the constitutional amendment. [See Appendix.]

ENROLLED BILL SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (S. No. 784) to amend the judicial system of the United States; when the Speaker signed the same.

REMOVAL OF DISABILITIES.

The next business on the Speaker's table was the amendments of the Senate to the bill (H. R. No. 1880) to relieve certain persons therein named from the legal and political disabilities imposed by the fourteenth amendment to the Constitution of the United States, and for other purposes.

Mr. MULLINS. I hope that bill will be laid aside, and that we shall take up something of more importance and not stop wholesome legislation to pardon rebels as black as sin.

Mr. MILLER. Is not this the bill we disposed of some time ago?

Mr. PAINE. I will state for the information of the House that this is not the bill which was before the House earlier in the evening, but is a bill which passed the House a week or two ago, and which seems to have just arrived here from the Senate with amendments. I move that it be referred to the Committee on Reconstruction.

Mr. KELSEY. I move that it be referred to the Committee on Expenditures in the State Department.

Mr. KELSEY's motion was disagreed to.

The bill and amendments were then referred to the Committee on Reconstruction.

MINING STATISTICS.

The next business on the Speaker's table was the joint resolution (S. R. No. 195) requiring the Commissioner of the General Land Office to transfer certain moneys; which was read a first and second time.

The joint resolution directs the Commissioner of the General Land Office to transfer to the Treasury Department \$2,500 appropriated for collecting statistics of mines and mining under the act of Congress approved July 20, 1868, and requires the Secretary of the Treasury to disburse the same as provided for in said act.

Mr. JULIAN. I ask that that joint resolution be put upon its passage. It is obviously proper and no one can object to it.

Mr. ELDRIDGE. I move to refer the bill to the Committee on the Public Lands.

Mr. JULIAN. I cannot yield for that purpose. The appropriation is proper and is already provided for by law. I demand the previous question.

The question was put upon seconding the previous question; and there were—ayes 79, noes 16; no quorum voting.

Tellers were ordered; and Mr. ELDRIDGE and Mr. JULIAN were appointed.

The House divided, and the tellers reported—ayes 81, noes 31.

So the previous question was seconded and the main question ordered.

The joint resolution was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. JULIAN moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. KELSEY (at four o'clock and fifteen minutes a. m.) moved that the House take a recess until ten o'clock a. m.

The question was taken; and upon a division there were—ayes 51, noes 71.

Before the result of the vote was announced, Mr. ELDRIDGE called for tellers.

Tellers were not ordered.

Mr. ELDRIDGE called for the yeas and nays.

The yeas and nays were not ordered.

The motion for a recess was accordingly not agreed to.

WRIGHT DURYEA.

The next business on the Speaker's table was Senate bill No. 860, for the relief of Wright Duryea; which was taken up, and read a first and second time.

The question was upon ordering the bill to be read a third time.

The preamble of the bill was not read.

The bill, which was read, authorizes and empowers the Commissioner of Patents to receive the application for the renewal of the said patent (issued to Wright Duryea April 10, 1855) the same as though the time had not passed which is specified by law.

Mr. JENCKES. This patent has not yet expired. The patentee would have made his application in time if it had not been for a severe illness, which resulted in his partial insanity. I call the previous question on the bill.

Mr. SCOFIELD. What is this patent for?

Mr. JENCKES. It makes no difference what it is for. This bill does not renew the patent, only gives leave for the application to be made for a renewal.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was read the third time.

The question was on the passage of the bill; and being taken, upon a division there were—ayes 52, noes 25; no quorum voting.

Tellers were ordered; and Mr. JENCKES and Mr. HOPKINS were appointed.

The House again divided; and the tellers reported that there were—ayes 76, noes 38.

Before the result of the vote was announced, Mr. BUTLER, of Massachusetts, called for the yeas and nays on the passage of the bill.

The question was taken upon ordering the yeas and nays; and there were seventeen in the affirmative; not one fifth of the last vote.

Mr. SCOFIELD called for tellers on ordering the yeas and nays.

The question was taken; and there were eleven in the affirmative; not one fifth of a quorum.

So tellers were refused; and the yeas and nays were refused.

The bill was accordingly passed.

Mr. O'NEILL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

Mr. BUTLER, of Massachusetts. On that motion I call for the yeas and nays.

Mr. O'NEILL. I withdraw my motion.

Mr. BUTLER, of Massachusetts. I renew the motion to reconsider.

Mr. JENCKES. I move that the motion to reconsider be laid on the table.

Mr. BUTLER, of Massachusetts. I do not yield the floor. I desire only to ask one or two questions about this patent. We have been voting for an extension of a patent, and no one knows what the patent is for. Inquiry was made of the gentleman from Rhode Island, [Mr. JENCKES,] who has this bill in charge, and he declined to state to the House what the invention was, whether useful or otherwise, for which the patent was to be extended. I think the House under those circumstances should reconsider the vote by which this bill was passed. I will yield to the gentleman from Rhode Island to make an explanation if he desires to do so.

Mr. JENCKES. I do not decline to make an explanation. This patent is for a little

simple contrivance for exhibiting show cards, of value to the inventor and to those who would use such a device. The question is whether this man shall be allowed to apply to the Commissioner of Patents for an extension of his patent, he having been sick at the time the law obliged him to make his application. In consequence of his sickness he was subject to fits of insanity, which prevented him from doing any business whatever. This bill does not extend the patent, but simply allows an application for an extension, to be determined by the Commissioner the same as if it had been made in time.

Mr. BUTLER, of Massachusetts. I withdraw the motion to reconsider.

C. H. RODD AND A. J. CAMPEAN.

The next business on the Speaker's table was the bill (S. No. 896) confirming certain purchases of lands in the Ionia district, Michigan, made by Charles H. Rodd and Andrew J. Campean; which was read a first and second time.

The bill, which was read, provides that the locations and purchases of land made by Charles H. Rodd and Andrew J. Campean, under the provisions of the treaty of August 2, 1865, in the Ionia district, Michigan, be confirmed, so far as such purchases or locations were made prior to the instructions of the Commissioner of the General Land Office to the register and receiver not to allow any further Indian locations or purchases in the Indian reservation; provided that such purchases were made regularly, according to the regulations and instructions of the General Land Office in force at the time; and provided that this act shall not prejudice any adverse claims to such lands.

Mr. DRIGGS. I desire that this bill be put on its passage, and I will make a brief statement. The bill has reference to the purchase of a small piece of land in an Indian reservation in my district by two Indians named respectively Rodd and Campean. Under the arrangement of the treaty they were allowed to purchase the land and to sell without a description. Owing to some conflict between the decision of the Commissioner of the General Land Office and the then Secretary of the Interior the patents have been withheld. This bill, which is designed to remedy the difficulty, has been considered by the Committee on the Public Lands, who are unanimously in favor of its passage.

Mr. SCOFIELD. How much land in all is involved in the case?

Mr. DRIGGS. About one hundred and sixty acres. The bill is all right. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading; and it was accordingly read the third time.

On the passage of the bill, there were—ayes 91, noes 14; no quorum voting.

Tellers were ordered; and Mr. SCOFIELD and Mr. DRIGGS were appointed.

The House divided; and the tellers reported—ayes one hundred and seventeen, noes not counted.

So the bill was passed.

Mr. DRIGGS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. MILLER (at ten minutes before five o'clock a. m.) moved that the House take a recess till half past nine o'clock a. m.

On the motion, there were—ayes 51, noes 65. So the House refused to take a recess.

TAKING DEPOSITIONS.

The next business on the Speaker's table was the bill (S. No. 729) to provide for the execution in the District of Columbia of commissions issued by the courts of the States and Territories of the United States or of foreign nations, and for taking depositions to be used in such courts; which was read a first and second time.

The first section provides that any party to a suit depending in any court of any State or Territory of the United States or of any foreign nation may obtain the testimony of any witness residing in or temporarily within the District of Columbia to be used in such suit. When a commission to take such testimony shall have issued from the court in which such suit is pending or a notice shall have been given according to the rules of practice prevailing in such court, on producing the same to a justice of the supreme court of the District of Columbia, and on due proof being made to such officer that the testimony of any witness residing in the District or temporarily within it is material to the party desiring the same, such officer is to issue a summons to such witness requiring him to appear before the commissioners named in such commission or notice to testify in such suit. Such summons is to specify the time and place at which the witness is required to attend, which shall be within the District of Columbia.

The second section provides that if a suit be pending in any court of any State or Territory of the United States or of any foreign nation and it shall satisfactorily appear by affidavit to any officer named in the next preceding section or to the judge of the orphans' court or any commissioner for the taking of depositions appointed by the supreme court of the District, that any person residing or temporarily dwelling in the District of Columbia is a material witness for either party to such suit; that no commission or notice to take the testimony of such witness has been issued or given; and that according to the course and practice of the court in which such suit is pending the deposition of a witness taken without the presence and consent of both parties will be received on the trial or hearing of such suit, such officer is to issue his summons requiring such witness to appear before him at a place within the District at some reasonable time to testify in such suit.

The third section provides that the officer before whom such witness shall appear shall take down his testimony in writing, and shall certify and transmit the same to the court before which such suit is pending in such manner as the practice of the court may require. If any person shall refuse or neglect to appear at the time and place mentioned in the summons issued in accordance with this act, or if on his appearance he shall refuse to testify, he is to be liable to the same penalties as would be incurred for a like offense on the trial of a suit.

The fourth section provides that every witness appearing and testifying under this act shall be entitled to receive from the party at whose instance he has been summoned the fees now provided by law for each day he shall give attendance.

Mr. WILSON, of Iowa. I ask that the bill be put on its passage. There is now no way of enforcing testimony of witnesses by commission.

Mr. BINGHAM. From a general reading of this bill I take it that it is intended to apply only to civil cases.

Mr. WILSON, of Iowa. That is all.

Mr. BINGHAM. I ask the gentleman to consider whether it may not be made to apply to criminal proceedings?

Mr. WILSON, of Iowa. Criminal proceedings are already provided for. I now demand the previous question.

The previous question was seconded and the main question ordered.

Mr. BINGHAM. I understand this is to go beyond this District.

Mr. WILSON, of Iowa. In criminal proceedings depositions may be taken.

Mr. BINGHAM. That is not limited to cases in the District of Columbia, and there is the trouble.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. WILSON, of Iowa, moved to reconsider

the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CAIRO AND FULTON RAILROAD.

Mr. ROOTS. I ask unanimous consent to take from the Speaker's table the joint resolution (S. R. No. 238) extending the time for the completion of the first twenty miles of the Cairo and Fulton railroad.

Mr. ELDRIDGE. I object. The gentleman objected to a resolution I offered in the House some time ago.

Mr. ROOTS. I offered a resolution next day and the gentleman's friends objected. I move to suspend the rules to take up and pass that joint resolution.

Mr. ELDRIDGE. When the militia of the gentleman's State were killing men down there he objected to all investigation.

Mr. ROOTS. Next day I asked for an investigation in regard to the Kuklux murders and the gentleman's friends objected. I move to suspend the rules for the purpose of passing the joint resolution. It extends the time only nine months for the completion of the first twenty miles of the Cairo and Fulton railroad.

The House divided; and there were—ayes 91, noes 17; no quorum voting.

Mr. ELDRIDGE. I move that there be a call of the House.

The House divided; and there were—ayes 40, noes 50.

Mr. ELDRIDGE demanded tellers.

Tellers were ordered; and Mr. ELDRIDGE and Mr. ROOTS were appointed.

Mr. PILE demanded the yeas and nays.

The yeas and nays were ordered.

RECESS.

Mr. BOUTWELL. I move that we take a recess until ten o'clock.

Mr. ELDRIDGE. I will withdraw my motion for a call of the House on that condition.

Mr. BUTLER, of Massachusetts. We might as well take a recess. The Senate have taken a recess. The committee of conference on the miscellaneous appropriation bill is still out, and it will be half or three quarters of an hour before it will be able to make its report. So far as the public business is concerned, then, we may as well take a recess until ten o'clock.

Mr. ELDRIDGE. I withdraw my motion for a call of the House.

Mr. BUTLER, of Massachusetts. Of course the pending bill is to be disposed of.

Mr. ROOTS's motion to suspend the rules was agreed to.

The joint resolution was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. ROOTS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

And then, on motion of Mr. BUTLER, of Massachusetts, (at a quarter past five o'clock, a. m.) the House took a recess until ten o'clock a. m.

The House reassembled at ten o'clock a. m., [Thursday, March 4.]

CLERKS TO COMMITTEES.

Mr. BROOMALL, from the Committee on Accounts, submitted a report in pursuance of the instructions of a resolution of the House relative to the pay of clerks to committees; which was laid on the table.

WILLIAM H. HARMON.

Mr. MAYNARD, from the Committee of Ways and Means, reported adversely on the bill (S. No. 183) for the relief of William H. Harmon; and the same was laid on the table.

FINANCE AND CURRENCY.

Mr. COBURN submitted the following privileged report; which was read, considered, and agreed to:

The committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 440) sup-

plementary to an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, having met, after full and free conference have disagreed, and ask to be discharged from the further consideration of the subject.

FUR-SEAL.

Mr. ELIOT, of Massachusetts. I ask unanimously consent to take from the Speaker's table the joint resolution of the Senate (S. No. 239) more effectually to protect the fur-seal in Alaska.

Mr. KERR. I reserve objection.

The joint resolution was taken up and read a first and second time. It declares the islands of St. Paul and St. George, in Alaska, a special reservation for Government purposes, and until otherwise provided by law makes it unlawful for any person to land or remain on either of them except by the authority of the Secretary of the Treasury. It further provides that any person found thereon contrary to the provisions of this resolution shall be summarily removed, and makes it the duty of the Secretary of War to carry this resolution immediately into effect.

Mr. KERR. I object.

Mr. ELIOT, of Massachusetts. Allow me to say this is only a temporary provision merely for the purpose of saving the fur-seals from destruction till Congress can legislate. It has been submitted to the judgment of all the parties interested in these fisheries, and they all say it should be passed until there is some legislation.

Mr. KERR. I think we had better pass this by till the House is full, so that we can hear a more general expression of opinion in regard to its propriety.

Mr. ELIOT, of Massachusetts. I then move to suspend the rules.

The SPEAKER. There is evidently no quorum present.

Mr. ELIOT, of Massachusetts. I hope the gentleman will withdraw his objection. I can assure him there is nothing in this resolution that is not entirely right. It merely provides that these two islands, where there is nothing but seals, shall be reserved until Congress can legislate on the subject. The object is to keep people off who have no right there. It will save hundreds of thousands of dollars, besides preserving these animals from destruction.

Mr. KERR. I withdraw the objection.

Mr. MALLORY. Is there not another resolution on the table in regard to this same matter?

Mr. ELIOT, of Massachusetts. There is a long bill from the Senate regulating the killing of the fur-seal. If that should be reached in its order I am instructed by the committee to report a substitute, which is also long, and which it would be impossible to pass at this session. Persons are now going out to these islands, and unless Congress does something it will soon be impossible to save these animals from destruction.

Mr. McCORMICK. Does not this resolution give the Secretary of the Treasury power to appoint a few friends to go there?

Mr. ELIOT, of Massachusetts. It does not. The Secretary of the Treasury has no power by the law as it now stands to permit the killing of any fur-bearing seal.

Mr. McCORMICK. But this resolution gives him the authority.

Mr. ELIOT, of Massachusetts. No, sir; it does not. It merely gives him authority to prevent persons from going there until Congress shall act. By the law which was passed last year the Secretary of the Treasury is prohibited from permitting persons to go there for the purpose of killing the fur-seal.

Mr. HARDING. But this joint resolution says they may go there by permission of the Secretary of the Treasury.

Mr. ELIOT, of Massachusetts. But not for the purpose of killing seal.

Mr. HARDING. It does not say for what purpose they may go there.

Mr. SCOFIELD. At three o'clock this after-

noon we begin a new session of Congress, which I apprehend may be a long one. I know there are some members now absent who are opposed to this joint resolution.

Mr. ELIOT, of Massachusetts. It is to protect the fur-bearing seal of Alaska.

Mr. SCOFIELD. We have no quorum present now. There is no need of getting out of breath in regard to this joint resolution, because if it is all right, as the gentleman says, we shall have time enough to pass it at the next session. If I understand the reading of the joint resolution it provides that the Government of the United States shall take possession of these two islands simply as Government reservations. For what?

Mr. ELIOT, of Massachusetts. There is nothing valuable there but seals, and this is to prevent persons from going there and killing them until Congress shall take action upon the subject.

The question was taken upon the passage of the joint resolution; and upon a division, there were—ayes 60, noes 19; no quorum voting.

Tellers were ordered; and Mr. ELIOT, of Massachusetts, and Mr. SPALDING, were appointed.

The House again divided; and the tellers reported that there were—ayes 95, noes 18.

So the joint resolution was passed.

Mr. SPALDING. I do not often ask this House, and I never shall again ask it, to hear me by way of personal explanation. I wish to say to the House that in some remarks which I made in Committee of the Whole the other day, when the miscellaneous appropriation bill was pending, I said in regard to some items of appropriation for the Freedmen's Bureau that they had found their way into the bill without the concurrence of the majority of the Committee on Appropriations, and that I was instructed by the committee to move to strike them out. That statement was all correct. I further said that those items were placed in the bill by the chairman of the Committee on Appropriations for his own purpose, what I did not know; that he was then sick and I could not get information upon the subject from him.

Now, I understand that the impression is sought to be made that I impugned the motives and conduct of the chairman of the Committee on Appropriations. Sir, nothing was further from my intentions. I have been associated with that gentleman here for six years, and our friendship has been of a very warm and ardent character. Although we sometimes differed I have always had the utmost confidence in him, and I would be the last man on this floor to impugn his motives. And to show that he was entirely justified in putting those items in the bill I have since become convinced that I was mistaken, that the appropriations were proper and necessary, that the public interest required that they should be made, and they were last night put in the appropriation. I say this to exonerate the chairman of the Committee on Appropriations from any imputation that my remarks the other day might seem to convey.

ENROLLED BILLS, ETC., SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (S. No. 729) to provide for the execution in the District of Columbia of commissions issued by the courts of the States and Territories of the United States or of foreign nations, and for taking depositions to be used in such suits;

An act (S. No. 860) for the relief of Wright Duryea;

An act (S. No. 896) confirming certain purchases of lands in the Ionia district, Michigan, made by Charles H. Rodd and Andrew J. Campean;

A joint resolution (S. R. No. 195) requiring the Commissioner of the General Land Office to transfer certain money; and

A joint resolution (S. R. No. 238) extending the time for the completion of the first twenty miles of the Cairo and Fulton railroad.

ADMISSION TO THE CAPITOL.

Mr. COBURN. I submit the following resolution, on which I demand the previous question:

Resolved. That the Doorkeeper be authorized to open the doors of the House wing of the Capitol for the admission of the people to the galleries.

The previous question was seconded and the main question ordered.

The SPEAKER. The Chair would suggest that the resolution should be modified by striking out "Doorkeeper" and inserting "Sergeant-at-Arms and the police."

Mr. COBURN. With the consent of the House I will modify the resolution in the manner suggested by the Chair.

Mr. PAINE. I wish to ask my friend from Indiana [Mr. COBURN] a question. Will it not happen that after twelve o'clock our order will be powerless here, because this Congress will have expired?

Mr. COBURN. Well, let the people be admitted till twelve o'clock at any rate.

Mr. PAINE. Is there not danger that they may be removed by the Senate after that time?

Mr. COBURN. I desire that the people shall be allowed to come in out of the rain. The Senate has bad manners enough to keep them out. This is the people's House, and they are entitled to come in here.

The resolution, as modified, was agreed to:

Mr. COBURN moved to reconsider the vote by which the bill was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BRIDGE ACROSS WILLAMETTE RIVER.

Mr. MALLORY. I ask the unanimous consent of the House to take from the Speaker's table and put upon its passage a small bill of much importance to the people of Oregon. I think the measure, after it has been read, will not be objected to. The title of the bill to which I refer is an act (S. No. 895) giving the consent of the United States to the erection of a bridge across the Willamette river, in Oregon, from the city of Portland to the east bank of said river.

The SPEAKER. The bill will be read, after which there will be an opportunity for objection to its consideration.

The bill was read. The first section provides for giving the consent of the United States to the corporation of the city of Portland, in the State of Oregon, to erect or cause to be erected a bridge, with diverging roadways and footways and double draws, over and across the Willamette river, between the city of Portland and the east bank of said river, at any time within six years after the passage of this act. The bridge is to be so constructed and built as not to obstruct, impair, or injuriously modify the navigation of the river; and in order to secure a compliance with these conditions the corporation, association, or company proposing to erect the same, previous to commencing the construction of the bridge, is to submit to the Secretary of War a plan of the bridge, with a detailed map of the river at the proposed site of the bridge and for the distance of a mile above and below the site, exhibiting the depths and currents at all points of the same, together with all other information touching the bridge and river as may be deemed requisite by the Secretary of War to determine whether the bridge when built will conform to the prescribed condition of the bill, not to obstruct, impair, or injuriously modify the navigation of the river. The Secretary of War is authorized to detail an officer to superintend the survey and examination of the river with a view to the location.

The second section authorizes and directs the Secretary of War, upon receiving such plan and map and other information, and upon being satisfied that a bridge built on such plan and at that locality will conform to the pre-

scribed conditions of this bill, not to obstruct, impair, or injuriously modify the navigation of the river, to notify the corporation, association, or company proposing to erect the same that he approves the same; and upon receiving such notification the corporation, association, or company may proceed to the erection of the bridge, conforming strictly to the approved plan and location. But until the Secretary of War approve the plan and location of the bridge and notify the corporation, association, or company of the same, the bridge shall not be built or commenced.

The third section authorizes and empowers the corporation of the city of Portland, so far as Congress has the power to grant the same, to make such rules and regulations for the care of the bridge, and for the regulation and collection of tolls for crossing on the same, as they shall deem just and reasonable.

The SPEAKER. Is their objection to the consideration of the bill at this time?

Mr. BAKER. I object.

NEW YORK AND LONDON TELEGRAPH.

Mr. KELSEY. I ask that the House, by unanimous consent, take from the Speaker's table Senate bill No. 731, to authorize the New York, Newfoundland, and London Telegraph Company to land its submarine cable upon the shores of the United States. It is a bill to which I think no one can object.

The bill, which was read, proposes to authorize the New York, Newfoundland, and London Telegraph Company to land one or more submarine cables upon the shores of the United States at such place or places as may from time to time appear to the directors of the said company to be most convenient, and to maintain and work such cable or cables for the transmission of messages and intelligence between the United States and Europe, or at any of the intermediate places during the existence of the charter of the company.

The SPEAKER. Is there objection to the consideration of this bill at the present time?

Mr. KERR. I object. It is an exceedingly important bill, and ought to be brought up at some time when it can be more deliberately considered than now.

Mr. KELSEY. I move to suspend the rules for the purpose of considering the bill at this time.

Mr. ELIOT, of Massachusetts, rose.

Mr. BROOKS. I object to any debate unless it is open for all members of the House. This is an entire monopoly.

Mr. ELDRIDGE demanded tellers.

Tellers were ordered; and Mr. KERR and Mr. KELSEY were appointed.

The House divided; and the tellers reported—ayes 71, noes 61.

So (two thirds not having voted in the affirmative) the House refused to suspend the rules.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. GORHAM, its Secretary, notifying the House that that body insisted on its amendment to House joint resolution No. 143, in relation to the lands and other property of W. W. Corcoran in the District of Columbia used by the United States Government during and since the war of the rebellion, disagreed to by the House, and agreed to the committee of conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. HARLAN, Mr. PATTERSON of New Hampshire, and Mr. VICKERS as the managers of said conference on its part.

PUBLIC AFFAIRS IN MARYLAND.

Mr. THOMAS, by unanimous consent, asked and obtained leave for the Committee on the Judiciary to file a majority and minority report, to be printed with the testimony taken concerning public affairs in Maryland.

PUBLIC AFFAIRS IN DELAWARE.

Mr. LAWRENCE, of Ohio, asked and obtained the same leave concerning public affairs in Delaware.

WILLAMETTE RIVER BRIDGE.

Mr. MALLORY moved to take from the Speaker's table Senate bill No. 895, giving the consent of the United States to the erection of a bridge across the Willamette river, in Oregon, from the city of Portland to the east bank of said river.

There was no objection; and the bill was taken up and read a first and second time. The bill was then ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. MALLORY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FORT SNELLING MILITARY RESERVATION.

Mr. DONNELLY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table for consideration at this time a joint resolution (S. R. No. 211) for setting apart a portion of the Fort Snelling military reservation for a permanent military post and the settlement of all claims in relation thereto.

I feel, Mr. Speaker, that if that resolution fails now from lack of time it will be pressed on every succeeding Congress in some plausible form until it is passed, and that under it a great fraud will be perpetrated upon the Government. I feel, therefore, that I cannot better employ the few remaining moments of my official career on this floor than in explaining the true character of the resolution, and so amending it that the opinion of the House will be clearly expressed on the questions involved in it and will prevent it from ever coming back here.

In 1857, under the administration of James Buchanan, the Secretary of War, the notorious John B. Floyd, consummated a pretended sale of the Fort Snelling military reservation in the State of Minnesota. He did so under the provisions of section four of an act of Congress of March 3, 1857, in reference to the sale of military posts. The law gave the Secretary authority to sell any military posts "which are or may become useless for military purposes." Under this law he sold, or pretended to sell, this military reservation, then used as a United States fort, and which is now used as such. General Sherman, in his official report of the March 10, 1868, says:

"Fort Snelling is valuable to us: the Government promptly took it back when the war revealed its use as a depot for the collection of volunteer troops, and on all future occasions when troops are needed, anywhere north or west of this Fort Snelling will be found the natural point." "Fort Snelling will always be a military point from which troops and supplies can be handled for use on the northern frontier, and should never be sold."

Hence it appears by the testimony of one of the highest officers in our Army that this fort is not "useless for military purposes," and never was. General Terry, commanding in that district, says:

"From personal inspection and a study of the relations of the site with regard to the region of country round about to the sources of the Mississippi and to our northern national boundary, I am clearly of opinion that Fort Snelling, with its present reduced boundary, should be held by the United States forever."

The whole sale, therefore, was fraudulent and void *ab initio*. It could not be made under the provisions of the act of March 3, 1857.

How was it made? It was a private sale, made under circumstances of the greatest secrecy, under the pretense that open competition by numerous bidders would cheapen the price! The evidence shows that the sale was conducted with such secrecy that the very officers in command of the fort did not know that any such sale had been made until it was approved by Floyd. And this was in the face of the fact that Floyd claimed that he directed the commissioners as follows:

"Have it carefully surveyed first, divided into lots of forty acres each. The object is to obtain the largest amount for the Government, and give all who desire it an opportunity to purchase."

As soon as the character of the sale was known, to wit, on the 29th of January, 1858, a resolution was passed by the House of Rep-

resentatives creating a special committee to investigate the sale; and the committee passed the following resolution:

"Resolved, That the chairman of this committee call upon the President of the United States and Secretary of War and request that no title shall be executed to the party making purchase of the military reservation at Fort Snelling until this committee shall have closed its investigation and the House shall have acted thereon."

Immediately after the sale, however, the Secretary of War issued the following order:

[Special Order No. 109—Extract.]

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, July 31, 1857.

1. The first installment of the purchase money of Fort Snelling having been paid into the Treasury the military reservation and property pertaining thereto, excepting the fort and other buildings which are required for the use of the troops at the post, will be put in the immediate possession of Mr. Franklin Steele. The military post will be maintained until further orders.

By order of the Secretary of War:

S. COOPER,
Adjutant General.

This order shows, first, that the fort could not be dispensed with and had not "become useless;" and, secondly, that Mr. Steele, the purchaser, did not receive possession of the fort and buildings, but of the part of the reservation not necessary for military purposes.

What did Mr. Steele pay for the reservation? There are about seven thousand acres embraced in it. He agreed to pay \$90,000, in three installments, or about twelve dollars per acre. He really paid but \$30,000, and that is all he has ever paid or ever intends to pay. But he claims that after having paid at the rate of \$4 20 per acre for the seven thousand acres of land he will pay the balance by renting the property to the United States. I doubt if anything quite equal to this has ever before been heard of in the history of our legislation. Here is his "little bill:—"

The United States to Franklin Steele, Dr.

To use and occupation of Fort Snelling reservation for military purposes from April 24, 1861, to January 24, 1868, eighty-one months, at \$2,000 per month.....\$162,000

Cr.

By balance of purchase money for reservation unpaid.....60,000

Balance unpaid.....102,000

JANUARY 24, 1864.

It should be embalmed as the coolest proposition of the century.

Here Mr. Steele gets into pretended possession of United States property under a pretended sale for which there was no authority in law, and instead of paying the amount of \$60,000 due by him he claims rent of the United States for occupying its own military post, and wants a little balance of \$102,000 besides.

Now, Mr. Speaker, I am willing to treat Mr. Steele fairly and equitably. I am willing he should be repaid his \$30,000 and interest thereon, deducting all rents, issues, and profits received by him from the reservation. This is substantially the view taken by General Sherman. I am willing that all that portion of the reservation not needed for military purposes should be sold and the balance found due Mr. Steele be paid him out of the proceeds of such sale. If I have an opportunity I shall move to amend the joint resolution by striking out all after the resolving clause and inserting as follows:

That the Secretary of War is hereby directed to designate and set apart so much of the Fort Snelling military reservation, in the State of Minnesota, as shall be retained by the Government for military purposes; and that after giving public notice thereof he shall proceed to sell at public auction all the residue of such military reservation, at a price not less than fifteen dollars per acre and in quantities not greater than one hundred and sixty acres to any one person, upon the following terms: one fourth of the purchase money to be paid at the time of purchase and the remainder in ten annual installments, with interest at the rate of six per cent. per annum. And the Secretary of War is hereby directed to repay, out of the proceeds of said sale, the sum of \$30,000 paid by Franklin Steele on the 25th of July, 1857, under a pretended sale made to him by John B. Floyd, then Secretary of War, with interest thereon, deducting therefrom all rents, issues, and profits received by the said Steele from the reservation since the date of said pretended sale.

This would transfer the greater portion of the reservation to actual settlers on such terms as would induce competition and a high price. I believe that under such a sale the surplus lands would average over twenty dollars per acre. The Government is now in possession of the whole reservation, as stated by General Sherman. I ask that the rules be suspended so as to allow a consideration of the joint resolution at this time.

Mr. BENJAMIN. I demand the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 50, nays 95, not voting 77; as follows:

YEAS—Messrs. Bailey, Bowen, Broomall, Roderick R. Butler, Reader W. Clarke, Sidney Clarke, Clift, Dodge, Donnelly, Driggs, James T. Elliott, Farnsworth, Ferriss, Garfield, Gove, Higby, Hill, Chester D. Hubbard, Hulburd, Hunter, Jencks, Julian, Kelsey, Koontz, Laffin, Loan, Mallory, Marvin, Maynard, Mercer, Miller, Morrill, Mullins, Myers, Norris, O'Neill, Pettis, Poland, Price, Robertson, Roots, Sawyer, Scofield, Taffe, Twichell, Upson, Burt Van Horn, Robert T. Van Horn, Whittemore, and Windom—50.

NAYS—Messrs. Allison, Ames, Archer, Arnell, Delos R. Ashley, Baker, Baldwin, Barnes, Barnum, Beaman, Beatty, Beck, Benjamin, Benton, Bingham, Boyden, Bromwell, Buckland, Cobb, Burr, Benjamin F. Butler, Cary, Chandler, Cuckey, Coburn, Cornell, Coulton, Delano, Dawes, Dixon, Dockery, Eggleston, Thomas D. Eliot, Ferry, Fields, Fox, French, Glessbrenner, Golladay, Goss, Gravely, Grover, Harding, Hawkins, Holman, Hooper, Hopkins, Hotchkiss, Ingersoll, Johnson, Judd, Kelley, Kerr, Ketchikan, Kitchen, Knott, Losh, George V. Lawrence, William Lawrence, Lincoln, Logan, McCarthy, McCormick, McCullough, Moore, Newcomb, Newsham, Niblack, Nicholson, Orth, Paine, Perham, Plants, Ross, Sanks, Shellabarger, Sitgreaves, Spaulding, Stokes, Tift, John Trimble, Lawrence S. Trimble, Trowbridge, Van Auker, Van Trump, Ward, Cadwalader C. Washburn, Henry D. Washburn, William E. Washburn, Welker, William Williams, Stephen F. Wilson, Wood, Woodward, and Young—95.

NOT VOTING—Messrs. Adams, Anderson, James M. Ashley, Axtell, Banks, Blackburn, Blaine, Blair, Boies, Boutwell, Boyer, Brooks, Calkins, Churchill, Colfax, Cook, Corley, Covode, Dawes, Dickey, Fekley, Edwards, Ela, Eldridge, Getz, Griswold, Haigh, Halsey, Hamilton, Haughey, Heaton, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Alexander H. Jones, Thomas L. Jones, Kellogg, Loughridge, Lynch, Marshall, McKee, Moorhead, Morrissey, Mungen, Nunn, Peters, Phelps, Pierce, Pike, Pile, Polsley, Prince, Pruyn, Randall, Raum, Robinson, Schenck, Selge, Smith, Starkweather, Stevens, Stewart, Stone, Stover, Sypher, Taber, Taylor, Thomas, Van Aernam, Van Wyck, Vidal, Elihu B. Washburne, Thomas Williams, James F. Wilson, John T. Wilson, and Woodbridge—77.

So the rules were not suspended.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that that body had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 2007) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870.

ENROLLED BILLS AND JOINT RESOLUTION.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found duly enrolled bills and joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 1672) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1870;

An act (H. R. No. 1911) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1869, and for other purposes;

An act (H. R. No. 1803) making appropriations for the support of the Army for the year ending June 30, 1870, and for other purposes;

An act (H. R. No. 1881) regulating the reports of national banking associations; and

A joint resolution (H. R. No. 280) for the relief Mrs. Ella E. Hobart.

MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. MOORE, his Private Secretary, announced that the President had approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 425) for the relief of Mary A. Filler;

An act (H. R. No. 1867) for the relief of the Illinois Iron and Bolt Company;

An act (H. R. No. 209) to authorize the Secretary of War to place at the disposal of the National Lincoln Monument Association at Springfield, Illinois, damaged and captured ordnance;

An act (H. R. No. 1279) in relation to additional bounties, and for other purposes;

An act (H. R. No. 1758) to incorporate the Masonic Mutual Relief Association of the District of Columbia;

An act (H. R. No. 1063) for the relief of Henry Barricklow;

An act (H. R. No. 1973) in reference to certifying checks by national banks;

An act (H. R. No. 1879) for the relief of certain companies of scouts and guides organized in Alabama;

An act (H. R. No. 1344) to confirm certain private land claims in the Territory of New Mexico;

An act (H. R. No. 1930) granting a pension to Madge K. Guthrie and Robert B. Guthrie;

An act (H. R. No. —) granting a pension to Lemuel Barthallow;

Joint resolution (H. R. No. 211) for the relief of Henry S. Gibbons, Luther McNeal, and Seth M. Gates;

An act (H. R. No. 1041) granting the right of way to the Walla-Walla and Columbia River Railroad Company;

An act (H. R. No. 1804) to establish a bridge across the East river, between the cities of Brooklyn and New York, in the State of New York;

An act (H. R. No. 568) explanatory of the act entitled "An act declaring the title to land warrants in certain cases;"

An act (H. R. No. 1989) for the relief of Peter McGough, collector of internal revenue and disbursing agent, twentieth district Pennsylvania;

An act (H. R. No. 1570) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1870, and for other purposes;

An act (H. R. No. 112) relating to captures made by Admiral Farragut's fleet in the Mississippi river in May, 1862;

An act (H. R. No. 1327) to amend an act entitled "An act to exempt certain manufactures from internal tax, and for other purposes," approved March 31, 1868;

An act (H. R. No. 1877) for the relief of the heirs and legal representatives of Charles C. Cook, deceased;

An act (H. R. No. 1204) to confirm certain land claims in the State of Missouri;

An act (H. R. No. 596) granting a pension to Mary A. Davis, widow of William E. Davis, a private of the eighteenth regiment of Indiana volunteers in the war of 1861;

Joint resolution (H. R. No. 438) relative to certain purchases by the Interior Department;

Joint resolution (H. R. No. 466) donating condemned cannon and muskets for the McPherson monument; and

Joint resolution (H. R. No. 468) authorizing the Union Pacific Railway Company, eastern division, to change its name to the Kansas Pacific Railway Company.

MISCELLANEOUS APPROPRIATION BILL.

Mr. SPALDING submitted the following privileged report, and demanded the previous question on its adoption:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 2007) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their amendments numbered 7, 8, 9, 15, 26, 32, 34, 37, 47, and 48.

That the House recede from their disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 10, 11, 12, 13, 14, 16, 17, 19, 20, 21, 22, 24, 25, 27, 28, 29, 30, 31, 33, 35, 36, 39, 40, 41, 42, 43, 44, 45, and 46; and the Senate agree to the same.

That the House recede from their disagreement to the eighteenth amendment of the Senate and agree to the same with an amendment, as follows: in line nine of said amendment, after the word "paid"

insert "and no liability incurred;" and the Senate agree to the same.

That the House recede from their disagreement to the twenty-third amendment of the Senate and agree to the same with an amendment, as follows: strike out of said amendment the word "fifty" and insert in lieu the word "twenty-five."

That the House of Representatives recede from their disagreement to the thirty-eighth amendment of the Senate and agree to the same with an amendment, as follows: at the end of said amendment add the following words, "provided that the proper accounting officers of the Treasury shall review the said claim upon its merits and allow only so much, not exceeding said sum, as shall be just;" and the Senate agree to the same.

L. M. MORRILL,

GEORGE F. DUMMONDS,

JAMES HARLAN,

Managers on the part of the Senate.

R. P. SPALDING,

H. H. STARKWEATHER,

S. S. MARSHALL,

Managers on the part of the House.

The previous question was seconded and the main question ordered; and under the operation thereof the report was agreed to.

Mr. SPALDING moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ATTENDING INAUGURATION CEREMONIES.

Mr. SCHENCK, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That when the hour of twelve m. arrives and this House is adjourned and dissolved the members will proceed in a body, headed by the Speaker and other officers of this House, to the Senate Chamber, to attend the ceremonies of the inauguration of the President and Vice President-elect.

PENSION PAPERS WITHDRAWN.

Mr. BUTLER, of Tennessee, asked and obtained leave to withdraw from the files of the House, without leaving copies, the papers in the cases of Elizabeth Hockaday, Nancy Hix, Sarah Bary, Colonel Patton, Captain Grisham, Captain Taylor, W. J. Byrd, Melinda Herman, and McHenry Bray, for pensions.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had adopted a resolution directing that a committee consisting of two members be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that unless he have some further communication to make the two Houses of Congress, having finished the business before them, are ready to adjourn; and that Mr. SHERMAN and Mr. WHYTE had been appointed said committee on the part of the Senate.

The SPEAKER. The House has heard the message from the Senate. If no objection be made the Chair will appoint a similar committee on the part of the House.

No objection was made.

The SPEAKER accordingly appointed Mr. GRISWOLD, Mr. POLAND, and Mr. KERR the committee on the part of the House.

ENROLLED BILL, ETC., SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 2007) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1870, and for other purposes; and

A joint resolution (S. R. No. 239) more efficiently to protect the fur-seal of Alaska.

ABBOT Q. ROSS.

Mr. FERRY. I ask unanimous consent to take from the Speaker's table for consideration at this time Senate bill No. 845, for the relief of Abbot Q. Ross.

The SPEAKER. The bill will be read; after which the Chair will ask for objection.

The bill was read. It authorizes and requires the Secretary of the Treasury to pay to Abbot Q. Ross, of Cleves, Ohio, out of any

money in the Treasury not otherwise appropriated, the sum of \$5,000, as full compensation for the past and future use in the United States Navy of his invention for using hot water and steam as a weapon in naval warfare, for extinguishing fires, and for other purposes.

THE SPEAKER. Is there objection to taking this bill from the Speaker's table out of its regular order for consideration at this time?

Mr. WOOD. I object.

Mr. FERRY. I move that the rules be suspended for that purpose.

The question was taken on suspending the rules; and upon a division there were—ayes 52, noes 63.

Before the result of the vote was announced,

Mr. INGERSOLL called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—ayes 122, noes 55, not voting 45; as follows:

YEAS—Messrs. Adams, Archer, James M. Ashley, Axtell, Banks, Barnes, Barnum, Beek, Bingham, Blair, Boyer, Broomall, Buckley, Burr, Roderick R. Butler, Cake, Cary, Chandler, Churchill, Reader W. Clarke, Clift, Corley, Covode, Deweese, Donnelly, Eckley, Eggleston, Thomas D. Eliot, James T. Elliott, Ferriss, Ferry, Fields, Fox, Garfield, Getz, Gloss-bronner, Golladay, Gravely, Griswold, Grover, Haight, Halsey, Haughey, Heaton, Higby, Holman, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Hulburd, Humphrey, Hunter, Ingersoll, Jenckes, Johnson, Alexander H. Jones, Judd, Julian, Kelley, Kerr, Kitchen, Kuott, Koontz, Laffin, George V. Lawrence, Lincoln, Loan, Logan, Loughbridge, Marshall, McCarthy, McCullough, McKee, Miller, Moorhead, Morrell, Myers, Newsbarn, Niblack, Nicholson, Norris, O'Neill, Orth, Perham, Peters, Pettis, Pierce, Pike, Pile, Poland, Pruyn, Randall, Raum, Robertson, Robinson, Roots, Ross, Sawyer, Schenck, Selye, Shanks, Sitgreaves, Starkweather, Stevens, Stone, Stover, Taber, Taffe, Tift, Lawrence S. Trimble, Twichell, Upson, Van Auker, Robert T. Van Horn, Van Trump, Henry D. Washburn, Whittemore, John T. Wilson, Wood, Woodward, and Young—122.

NAYS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, Bailey, Baker, Baldwin, Beatty, Benjamin, Benton, Boyden, Broomwell, Buckland, Benjamin F. Butler, Callis, Sidney Clarke, Cobb, Cook, Cornell, Cullom, Delano, Dixon, Dockery, Ela, French, Gove, Harding, Hawkins, Richard D. Hubbard, Kelsey, Lash, William Lawrence, Maynard, McCormick, Moore, Paine, Phelps, Plants, Scofield, Shellabarger, Smith, Stokes, Sypher, Thomas, John Trimble, Trowbridge, Van Aernum, Burt Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, and William Williams—55.

NOT VOTING—Messrs. Anderson, Beaman, Blackburn, Blaine, Boles, Boutwell, Bowen, Brooks, Coburn, Colfax, Dawes, Dickey, Dodge, Driggs, Edwards, Eldridge, Farnsworth, Goss, Hamilton, Hill, Asahel W. Hubbard, Thomas L. Jones, Kellogg, Ketcham, Lynch, Mungen, Newcomb, Nunn, Polsley, Price, Prince, Spalding, Stewart, Taylor, Van Wyck, Vidal, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—45.

So (two thirds voting in the affirmative) the rules were suspended.

The bill (S. No. 845) for the relief of Abbot Q. Ross was accordingly taken from the Speaker's table, and read a first and second time.

The bill was then read the third time.

The question was upon the passage of the bill.

Mr. FERRY. Upon that question I call for the previous question.

The previous question was seconded.

The question was, "Shall the main question be now put?"

Mr. BENJAMIN. I call for the yeas and nays on that question.

The question was taken; and upon a division there were—ayes 18, noes 105; not one fifth in the affirmative.

Before the result of the vote was announced,

Mr. WASHBURN, of Wisconsin, called for tellers on ordering the yeas and nays.

Tellers were ordered; and **Mr. COBB** and **Mr. FERRY** were appointed.

The House again divided; and the tellers reported that there were twenty-seven in the affirmative.

So (the affirmative being one fifth of the last vote) the yeas and nays were ordered.

BUSTEED IMPEACHMENT CASE.

Mr. WOODBRIDGE, by unanimous consent, moved that the Committee on the Judiciary be discharged from further investigation into the official conduct of Hon. Richard Busteed, judge of the United States district court of Alabama, and that the testimony already taken be laid on the table.

The motion was agreed to.

COSTELLO AND WARREN.

Mr. BANKS, by unanimous consent, moved that the Committee on Foreign Affairs be discharged from the further consideration of the message from the President of the United States relative to Messrs. Costello and Warren, naturalized citizens of the United States imprisoned in Great Britain, and that the report of the committee be laid on the table and ordered to be printed.

The motion was agreed to.

THANKS TO THE SPEAKER.

Mr. ALLISON having taken the chair as Speaker *pro tempore*,

Mr. NIBLACK submitted the following resolution:

Resolved, That the thanks of this House be, and are hereby, tendered to Hon. THEODORE M. POMEROY, Speaker of the House, for the very able, dignified, and impartial manner in which he has discharged the duties of Speaker for the brief but very trying period during which he has occupied the chair.

The resolution was adopted unanimously.

Mr. NIBLACK moved that an engrossed copy of the resolution just passed be furnished to the Speaker.

The motion was agreed to.

ABBOT Q. ROSS—AGAIN.

The question then recurred on ordering the main question on the passage of Senate bill

No. 845, for the relief of Abbot Q. Ross, on which the yeas and nays had been ordered.

The question was taken; and it was decided in the affirmative—yeas 96, nays 48, not voting, 78; as follows:

YEAS—Messrs. Archer, Axtell, Banks, Barnes, Barnum, Beek, Bingham, Blair, Boyer, Burr, Roderick R. Butler, Cake, Callis, Cary, Chandler, Reader W. Clarke, Coburn, Corley, Deweese, Dickey, Donnelly, Eggleston, Ferriss, Ferry, Fox, French, Garfield, Getz, Goss, Gove, Gravely, Griswold, Grover, Haight, Halsey, Heaton, Higby, Holman, Humphrey, Hunter, Jenckes, Johnson, Alexander H. Jones, Thomas L. Jones, Kelley, Kerr, Koontz, George V. Lawrence, Lincoln, Loan, Logan, Marshall, Marvin, McCarthy, Mercur, Moorhead, Morrissey, Mullins, Myers, Newsbarn, Nicholson, Norris, Nunn, O'Neill, Perham, Peters, Pettis, Pierce, Pile, Poland, Price, Prince, Pruyn, Randall, Raum, Robertson, Robinson, Roots, Ross, Sawyer, Shellabarger, Sitgreaves, Starkweather, Stevens, Stewart, Taffe, Thomas, Tift, Lawrence S. Trimble, Upson, Van Auker, Robert T. Van Horn, Van Trump, Henry D. Washburn, Whittemore, and Wood—96.

NAYS—Messrs. Allison, Arnell, Delos R. Ashley, Bailey, Baker, Beaman, Benjamin, Benton, Boutwell, Boyden, Broomwell, Broomall, Buckland, Sidney Clarke, Cobb, Cook, Cullom, Delano, Dixon, Ela, Eldridge, Golladay, Harding, Hulburd, Kelsey, Ketcham, Lash, William Lawrence, Lynch, McCormick, Miller, Moore, Niblack, Phelps, Plants, Scofield, Smith, Stokes, Taylor, John Trimble, Van Aernum, Burt Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, William Williams, and Woodward—48.

NOT VOTING—Messrs. Adams, Ames, Anderson, James M. Ashley, Baldwin, Beatty, Blackburn, Blaine, Boles, Bowen, Brooks, Buckley, Benjamin F. Butler, Churchill, Clift, Colfax, Cornell, Covode, Dawes, Dockery, Dodge, Driggs, Eckley, Edwards, Thomas D. Eliot, James T. Elliott, Farnsworth, Fields, Glossbrenner, Hamilton, Haughey, Hawkins, Hill, Hooper, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Ingersoll, Judd, Julian, Kellogg, Kitchen, Knott, Laffin, Loughridge, Mallory, Maynard, McCullough, McKee, Morrell, Mungen, Newcomb, Orth, Paine, Pike, Polsley, Schenck, Selye, Shanks, Spalding, Stone, Stover, Sypher, Taber, Trowbridge, Twichell, Van Wyck, Vidal, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Woodbridge, and Young—78.

So the main question was ordered to be now put.

The question then recurred on the passage of the bill.

Mr. WASHBURNE, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The Clerk commenced to call the roll, but was soon interrupted by the hour of adjournment; when at twelve o'clock m. the Speaker resumed the chair, and said:

Gentlemen of the House of Representatives, I shall not attempt to add anything to the expressive remarks addressed to you by my predecessor on leaving the chair a few hours since. The Fortieth Congress has now expired by limitation of law. Our public acts will be preserved on parchment. Our personal relations, our sympathies, our kindnesses, all the ties that bind us to each other will forever live as part of ourselves. I now pronounce the Fortieth Congress of the United States of America adjourned without day. [Applause.]

APPENDIX

TO

THE CONGRESSIONAL GLOBE:

CONTAINING

SPEECHES, IMPORTANT STATE PAPERS AND THE LAWS

OF THE

THIRD SESSION FORTIETH CONGRESS.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1869.

APPENDIX

TO

THE CONGRESSIONAL GLOBE,

THIRD SESSION FORTIETH CONGRESS.

APPENDIX

TO THE CONGRESSIONAL GLOBE.

40TH CONG. 3D SESS.

Message of the President.

SENATE & HO. OF REPS.

MESSAGE OF THE PRESIDENT OF THE UNITED STATES.

*Fellow-citizens of the Senate
and House of Representatives:*

Upon the reassembling of Congress, it again becomes my duty to call your attention to the state of the Union, and to its continued disorganized condition under the various laws which have been passed upon the subject of reconstruction.

It may be safely assumed, as an axiom in the government of States, that the greatest wrongs inflicted upon a people are caused by unjust and arbitrary legislation, or by the unrelenting decrees of despotic rulers, and that the timely revocation of injurious and oppressive measures is the greatest good that can be conferred upon a nation. The legislator or ruler who has the wisdom and magnanimity to retrace his steps, when convinced of error, will sooner or later be rewarded with the respect and gratitude of an intelligent and patriotic people.

Our own history, although embracing a period less than a century, affords abundant proof that most, if not all, of our domestic troubles are directly traceable to violations of the organic law and excessive legislation. The most striking illustrations of this fact are furnished by the enactments of the past three years upon the question of reconstruction. After a fair trial they have substantially failed and proved pernicious in their results, and there seems to be no good reason why they should longer remain upon the statute-book. States to which the Constitution guarantees a republican form of government have been reduced to military dependencies, in each of which the people have been made subject to the arbitrary will of the commanding general. Although the Constitution requires that each State shall be represented in Congress, Virginia, Mississippi, and Texas are yet excluded from the two Houses, and contrary to the express provisions of that instrument were denied participation in the recent election for a President and Vice President of the United States. The attempt to place the white population under the domination of persons of color in the South has impaired, if not destroyed, the kindly relations that had previously existed between them; and mutual distrust has engendered a feeling of animosity which, leading in some instances to collision and bloodshed, has prevented that coöperation between the two races so essential to the success of industrial enterprises in the southern States. Nor have the inhabitants of those States alone suffered from the disturbed condition of affairs growing out of these congressional enactments. The entire Union has been

agitated by grave apprehensions of troubles which might again involve the peace of the nation; its interests have been injuriously affected by the derangement of business and labor, and the consequent want of prosperity throughout that portion of the country.

The Federal Constitution—the *Magna Charta* of American rights, under whose wise and salutary provisions we have successfully conducted all our domestic and foreign affairs, sustained ourselves in peace and in war, and become a great nation among the Powers of the earth—must assuredly be now adequate to the settlement of questions growing out of the civil war waged alone for its vindication. This great fact is made most manifest by the condition of the country when Congress assembled in the month of December, 1865. Civil strife had ceased; the spirit of rebellion had spent its entire force; in the southern States the people had warmed into national life, and throughout the whole country a healthy reaction in public sentiment had taken place. By the application of the simple yet effective provisions of the Constitution the executive department, with the voluntary aid of the States, had brought the work of restoration as near completion as was within the scope of its authority, and the nation was encouraged by the prospect of an early and satisfactory adjustment of all its difficulties. Congress, however, intervened, and refusing to perfect the work so nearly consummated declined to admit members from the unrepresented States, adopted a series of measures which arrested the progress of restoration, frustrated all that had been so successfully accomplished, and after three years of agitation and strife has left the country further from the attainment of union and fraternal feeling than at the inception of the congressional plan of reconstruction. It needs no argument to show that legislation which has produced such baneful consequences should be abrogated, or else made to conform to the genuine principles of republican government.

Under the influence of party passion and sectional prejudice other acts have been passed not warranted by the Constitution. Congress has already been made familiar with my views respecting the "tenure-of-office bill." Experience has proved that its repeal is demanded by the best interests of the country, and that while it remains in force the President cannot enjoin that rigid accountability of public officers so essential to an honest and efficient execution of the laws. Its revocation would enable the executive department to exercise the power of appointment and removal in accordance with the original design of the Federal Constitution.

The act of March 2, 1867, making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes, contains provisions which interfere with the President's constitutional functions as Com-

mander-in-Chief of the Army, and deny to States of the Union the right to protect themselves by means of their own militia. These provisions should be at once annulled; for while the first might, in times of great emergency, seriously embarrass the Executive in efforts to employ and direct the common strength of the nation for its protection and preservation, the other is contrary to the express declaration of the Constitution, that "a well-regulated militia being necessary to the security of a free State the right of the people to keep and bear arms shall not be infringed."

It is believed that the repeal of all such laws would be accepted by the American people as at least a partial return to the fundamental principles of the Government, and an indication that hereafter the Constitution is to be made the nation's safe and unerring guide. They can be productive of no permanent benefit to the country, and should not be permitted to stand as so many monuments of the deficient wisdom which has characterized our recent legislation.

The condition of our finances demands the early and earnest consideration of Congress. Compared with the growth of our population, the public expenditures have reached an amount unprecedented in our history.

The population of the United States in 1790 was nearly four millions of people. Increasing each decade about thirty-three per cent., it reached in 1860 thirty-one millions—an increase of seven hundred per cent. on the population in 1790. In 1869 it is estimated that it will reach thirty-eight millions, or an increase of eight hundred and sixty-eight per cent. in seventy-nine years.

The annual expenditures of the Federal Government in 1791 were \$4,200,000; in 1820, \$18,200,000; in 1850, \$41,000,000; in 1860, \$63,000,000; in 1865, nearly \$1,300,000,000; and in 1869 it is estimated by the Secretary of the Treasury, in his last annual report, that they will be \$372,000,000.

By comparing the public disbursements of 1869, as estimated, with those of 1791, it will be seen that the increase of expenditure since the beginning of the Government has been eight thousand six hundred and eighteen per cent., while the increase of the population for the same period was only eighteen hundred and sixty-eight per cent. Again: the expenses of the Government in 1860, the year of peace immediately preceding the war, were only \$63,000,000; while in 1869, the year of peace three years after the war, it is estimated they will be \$372,000,000—an increase of four hundred and eighty-nine per cent., while the increase of population was only twenty-one per cent. for the same period.

These statistics further show that in 1791 the annual national expenses, compared with the population, were little more than one dollar *per capita*, and in 1860 but two dollars *per*

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capita; while in 1869 they will reach the extravagant sum of \$9 78 *per capita*.

It will be observed that all of these statements refer to and exhibit the disbursements of peace periods. It may, therefore, be of interest to compare the expenditures of the three war periods—the war with Great Britain, the Mexican war, and the war of the rebellion.

In 1814 the annual expenses incident to the war of 1812 reached their highest amount—about thirty one millions; while our population slightly exceeded eight millions, showing an expenditure of only \$3 80 *per capita*. In 1847 the expenditures growing out of the war with Mexico reached \$55,000,000, and the population about twenty-one millions, giving only \$2 60 *per capita* for the war expenses of that year. In 1865 the expenditures called for by the rebellion reached the vast amount of \$1,290,000,000, which, compared with a population of thirty-four millions, gives \$33 20 *per capita*.

From the 4th day of March, 1789, to the 30th of June, 1861, the entire expenditures of the Government were \$1,700,000,000. During that period we were engaged in wars with Great Britain and Mexico, and were involved in hostilities with powerful Indian tribes; Louisiana was purchased from France at a cost of \$15,000,000; Florida was ceded to us by Spain for \$5,000,000; California was acquired from Mexico for \$15,000,000; and the Territory of New Mexico was obtained from Texas for the sum of \$10,000,000. Early in 1861 the war of the rebellion commenced; and from the 1st of July of that year to the 30th of June, 1865, the public expenditures reached the enormous aggregate of \$3,300,000,000. Three years of peace have intervened, and during that time the disbursements of the Government have successively been \$520,000,000, \$346,000,000, and \$392,000,000. Adding to these amounts \$372,000,000, estimated as necessary for the fiscal year ending the 30th of June, 1869, we obtain a total expenditure of \$1,600,000,000 during the four years immediately succeeding the war, or nearly as much as was expended during the seventy-two years that preceded the rebellion, and embraced the extraordinary expenditures already named.

These startling facts clearly illustrate the necessity of retrenchment in all branches of the public service. Abuses which were tolerated during the war for the preservation of the nation will not be endured by the people, now that profound peace prevails. The receipts from internal revenues and customs have during the past three years gradually diminished, and the continuance of useless and extravagant expenditures will involve us in national bankruptcy, or else make inevitable an increase of taxes, already too onerous, and in many respects obnoxious on account of their inquisitorial character. One hundred millions annually are expended for the military force, a large portion of which is employed in the execution of laws both unnecessary and unconstitutional; \$150,000,000 are required each year to pay the interest on the public debt; an army of tax-gatherers impoverishes the nation; and public agents, placed by Congress beyond the control of the Executive, divert from their legitimate purposes large sums of money which they collect from the people in the name of the Government. Judicious legislation and prudent economy can alone remedy defects and avert evils which, if suffered to exist, cannot fail to diminish confidence in the public councils, and weaken the attachment and respect of the people toward their political institutions. Without proper care the small balance which it is estimated will remain in the Treasury at the close of the present fiscal year will not be realized, and additional millions be added to a debt which is now enumerated by billions.

It is shown, by the able and comprehensive report of the Secretary of the Treasury, that the receipts for the fiscal year ending June 30,

1868, were \$405,638,083, and that the expenditures for the same period were \$377,340,284, leaving in the Treasury a surplus of \$28,297,798. It is estimated that the receipts during the present fiscal year ending June 30, 1869, will be \$341,392,868, and the expenditures \$336,152,470, showing a small balance of \$5,240,398 in favor of the Government. For the fiscal year ending June 30, 1870, it is estimated that the receipts will amount to \$327,000,000, and the expenditures to \$303,000,000, leaving an estimated surplus of \$24,000,000.

It becomes proper, in this connection, to make a brief reference to our public indebtedness, which has accumulated with such alarming rapidity and assumed such colossal proportions.

In 1789, when the Government commenced operations under the Federal Constitution, it was burdened with an indebtedness of \$75,000,000 created during the war of the Revolution. This amount had been reduced to \$45,000,000 when in 1812 war was declared against Great Britain. The three years' struggle that followed largely increased the national obligations, and in 1816 they had attained the sum of \$127,000,000. Wise and economical legislation, however, enabled the Government to pay the entire amount within a period of twenty years, and the extinguishment of the national debt filled the land with rejoicing, and was one of the great events of President Jackson's administration. After its redemption a large fund remained in the Treasury, which was deposited for safe keeping with the several States, on condition that it should be returned when required by the public wants. In 1849—the year after the termination of an expensive war with Mexico—we found ourselves involved in a debt of \$64,000,000; and this was the amount owed by the Government in 1860, just prior to the outbreak of the rebellion. In the spring of 1861 our civil war commenced. Each year of its continuance made an enormous addition to the debt; and when, in the spring of 1865, the nation successfully emerged from the conflict, the obligations of the Government had reached the immense sum of \$2,873,992,909. The Secretary of the Treasury shows that on the 1st day of November, 1867, this amount had been reduced to \$2,491,504,450; but at the same time his report exhibits an increase during the past year of \$35,625,102; for the debt on the 1st day of November last is stated to have been \$2,527,129,552. It is estimated by the Secretary that the returns for the past month will add to our liabilities the further sum of \$11,000,000—making a total increase during thirteen months of \$46,500,000.

In my message to Congress of December 4, 1865, it was suggested that a policy should be devised which, without being oppressive to the people, would at once begin to effect a reduction of the debt, and if persisted in discharge it fully within a definite number of years. The Secretary of the Treasury forcibly recommends legislation of this character, and justly urges that the longer it is deferred the more difficult must become its accomplishment. We should follow the wise precedents established in 1789 and 1816, and without further delay make provision for the payment of our obligations at as early a period as may be practicable. The fruits of their labors should be enjoyed by our citizens, rather than used to build up and sustain moneyed monopolies in our own and other lands. Our foreign debt is already computed by the Secretary of the Treasury at \$850,000,000; citizens of foreign countries receive interest upon a large portion of our securities, and American tax-payers are made to contribute large sums for their support. The idea that such a debt is to become permanent should be at all times discarded, as involving taxation too heavy to be borne, and payment once in every sixteen years, at the present rate of interest, of an amount equal to the original sum. This vast debt, if permitted to become

permanent and increasing, must eventually be gathered into the hands of a few, and enable them to exert a dangerous and controlling power in the affairs of the Government. The borrowers would become servants to the lenders—the lenders the masters of the people. We now pride ourselves upon having given freedom to four millions of the colored race; it will then be our shame that forty million people, by their own toleration of usurpation and profligacy, have suffered themselves to become enslaved, and merely exchanged slave-owners for new taskmasters in the shape of bondholders and tax-gatherers. Besides, permanent debts pertain to monarchical Governments, and tending to monopolies, perpetuities, and class legislation, are totally irreconcilable with free institutions. Introduced into our republican system, they would gradually but surely sap its foundations, eventually subvert our governmental fabric, and erect upon its ruins a moneyed aristocracy. It is our sacred duty to transmit unimpaired to our posterity the blessings of liberty which were bequeathed to us by the founders of the Republic, and by our example teach those who are to follow us carefully to avoid the dangers which threaten a free and independent people.

Various plans have been proposed for the payment of the public debt. However they may have varied as to the time and mode in which it should be redeemed, there seems to be a general concurrence as to the propriety and justness of a reduction in the present rate of interest. The Secretary of the Treasury, in his report, recommends five per cent.; Congress, in a bill passed prior to adjournment on the 27th of July last, agreed upon four and four and a half per cent.; while by many three per cent. has been held to be an amply sufficient return for the investment. The general impression as to the exorbitancy of the existing rate of interest has led to an inquiry in the public mind respecting the consideration which the Government has actually received for its bonds, and the conclusion is becoming prevalent that the amount which it obtained was in real money three or four hundred per cent. less than the obligations which it issued in return. It cannot be denied that we are paying an extravagant percentage for the use of the money borrowed, which was paper currency, greatly depreciated below the value of coin. This fact is made apparent when we consider that bondholders receive from the Treasury, upon each dollar they own in Government securities, six per cent. in gold, which is nearly or quite equal to nine per cent. in currency; that the bonds are then converted into capital for the national banks, upon which those institutions issue their circulation, bearing six per cent. interest; and that they are exempt from taxation by the Government and the States, and thereby enhanced two per cent. in the hands of the holders. We thus have an aggregate of seventeen per cent. which may be received upon each dollar by the owners of Government securities.

A system that produces such results is justly regarded as favoring a few at the expense of the many, and has led to the further inquiry whether our bondholders, in view of the large profits which they have enjoyed, would themselves be averse to a settlement of our indebtedness upon a plan which would yield them a fair remuneration, and at the same time be just to the tax-payers of the nation. Our national credit should be sacredly observed; but in making provision for our creditors we should not forget what is due to the masses of the people. It may be assumed that the holders of our securities have already received upon their bonds a larger amount than their original investment, measured by a gold standard. Upon this statement of facts it would seem but just and equitable that the six per cent. interest now paid by the Government should be applied to the reduction of the principal in

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semi-annual installments, which in sixteen years and eight months would liquidate the entire national debt. Six per cent. in gold would at present rates be equal to nine per cent. in currency, and equivalent to the payment of the debt one and a half time in a fraction less than seventeen years. This, in connection with all the other advantages derived from their investment, would afford to the public creditors a fair and liberal compensation for the use of their capital, and with this they should be satisfied. The lessons of the past admonish the lender that it is not well to be over anxious in exacting from the borrower rigid compliance with the letter of the bond.

If provision be made for the payment of the indebtedness of the Government in the manner suggested, our nation will rapidly recover its wonted prosperity. Its interests require that some measure should be taken to release the large amount of capital invested in the securities of the Government. It is not now merely unproductive, but in taxation annually consumes \$150,000,000, which would otherwise be used by our enterprising people in adding to the wealth of the nation. Our commerce, which at one time successfully rivaled that of the great maritime Powers, has rapidly diminished, and our industrial interests are in a depressed and languishing condition. The development of our inexhaustible resources is checked, and the fertile fields of the South are becoming waste for want of means to till them. With the release of capital, new life would be infused into the paralyzed energies of our people, and activity and vigor imparted to every branch of industry. Our people need encouragement in their efforts to recover from the effects of the rebellion and of injudicious legislation; and it should be the aim of the Government to stimulate them by the prospect of an early release from the burdens which impede their prosperity. If we cannot take the burdens from their shoulders, we should at least manifest a willingness to help to bear them.

In referring to the condition of the circulating medium, I shall merely reiterate, substantially, that portion of my last annual message which relates to that subject.

The proportion which the currency of any country should bear to the whole value of the annual produce circulated by its means is a question upon which political economists have not agreed. Nor can it be controlled by legislation, but must be left to the irrevocable laws which everywhere regulate commerce and trade. The circulating medium will ever irresistibly flow to those points where it is in greatest demand. The law of demand and supply is as unerring as that which regulates the tides of the ocean; and indeed currency, like the tides, has its ebbs and flows throughout the commercial world.

At the beginning of the rebellion the bank-note circulation of the country amounted to not much more than \$200,000,000; now the circulation of national bank notes and those known as "legal-tenders" is nearly \$700,000,000. While it is urged by some that this amount should be increased, others contend that a decided reduction is absolutely essential to the best interests of the country. In view of these diverse opinions, it may be well to ascertain the real value of our paper issues, when compared with a metallic or convertible currency. For this purpose, let us inquire how much gold and silver could be purchased by the \$700,000,000 of paper money now in circulation? Probably not more than half the amount of the latter—showing that when our paper currency is compared with gold and silver, its commercial value is compressed into \$350,000,000. This striking fact makes it the obvious duty of the Government, as early as may be consistent with the principles of sound political economy, to take such measures as will enable the holder of its notes

and those of the national banks to convert them, without loss, into specie or its equivalent. A reduction of our paper circulating medium need not necessarily follow. This, however, would depend upon the law of demand and supply, though it should be borne in mind that by making legal-tender and bank notes convertible into coin or its equivalent, their present specie value in the hands of their holders would be enhanced one hundred per cent.

Legislation for the accomplishment of a result so desirable is demanded by the highest public considerations. The Constitution contemplates that the circulating medium of the country shall be uniform in quality and value. At the time of the formation of that instrument the country had just emerged from the war of the Revolution, and was suffering from the effects of a redundant and worthless paper currency. The sages of that period were anxious to protect their posterity from the evils which they themselves had experienced. Hence, in providing a circulating medium, they conferred upon Congress the power to coin money and regulate the value thereof, at the same time prohibiting the States from making anything but gold and silver a tender in payment of debts.

The anomalous condition of our currency is in striking contrast with that which was originally designed. Our circulation now embraces, first, notes of the national banks, which are made receivable for all dues to the Government, excluding imposts, and by all its creditors, excepting in payment of interest upon its bonds and the securities themselves; second, legal-tender notes, issued by the United States, and which the law requires shall be received as well in payment of all debts between citizens as of all Government dues, excepting imposts; and third, gold and silver coin. By the operation of our present system of finance, however, the metallic currency, when collected, is reserved only for one class of Government creditors, who, holding its bonds, semi-annually receive their interest in coin from the national Treasury. There is no reason which will be accepted as satisfactory by the people why those who defend us on the land and protect us on the sea; the pensioner upon the gratitude of the nation, bearing the scars and wounds received while in its service; the public servants in the various Departments of the Government; the farmer who supplies the soldiers of the Army and the sailors of the Navy; the artisan who toils in the nation's workshops, or the mechanics and laborers who build its edifices and construct its forts and vessels of war, should, in payment of their just and hard-earned dues, receive depreciated paper, while another class of their countrymen, no more deserving, are paid in coin of gold and silver. Equal and exact justice requires that all the creditors of the Government should be paid in a currency possessing a uniform value. This can only be accomplished by the restoration of the currency to the standard established by the Constitution; and by this means we would remove a discrimination which may, if it has not already done so, create a prejudice that may become deep rooted and wide-spread, and imperil the national credit.

The feasibility of making our currency correspond with the constitutional standard may be seen by reference to a few facts derived from our commercial statistics.

The aggregate product of precious metals in the United States from 1849 to 1867 amounted to \$1,174,000,000, while, for the same period, the net exports of specie were \$741,000,000. This shows an excess of product over net exports of \$433,000,000. There are in the Treasury \$103,407,985 in coin; in circulation in the States on the Pacific coast about \$40,000,000, and a few millions in the national and other banks—in all less than \$160,000,000. Taking into consideration the specie in the

country prior to 1849 and that produced since 1867, and we have more than \$300,000,000 not accounted for by exportation or by the returns of the Treasury, and therefore most probably remaining in the country.

These are important facts, and show how completely the inferior currency will supersede the better, forcing it from circulation among the masses, and causing it to be exported as a mere article of trade, to add to the money capital of foreign lands. They show the necessity of retiring our paper money, that the return of gold and silver to the avenues of trade may be invited, and a demand created which will cause the retention at home of at least so much of the productions of our rich and inexhaustible gold-bearing fields as may be sufficient for purposes of circulation. It is unreasonable to expect a return to a sound currency so long as the Government and banks, by continuing to issue irredeemable notes, fill the channels of circulation with depreciated paper. Notwithstanding a coinage by our mints, since 1849, of \$874,000,000, the people are now strangers to the currency which was designed for their use and benefit, and specimens of the precious metals bearing the national device are seldom seen, except when produced to gratify the interest excited by their novelty. If depreciated paper is to be continued as the permanent currency of the country, and all our coin is to become a mere article of traffic and speculation, to the enhancement in price of all that is indispensable to the comfort of the people, it would be wise economy to abolish our mints, thus saving the nation the care and expense incident to such establishments, and let all our precious metals be exported in bullion. The time has come, however, when the Government and national banks should be required to take the most efficient steps and make all necessary arrangements for a resumption of specie payments. Let specie payments once be earnestly inaugurated by the Government and banks, and the value of the paper circulation would directly approximate a specie standard.

Specie payments having been resumed by the Government and banks, all notes or bills of paper issued by either of a less denomination than twenty dollars should by law be excluded from circulation, so that the people may have the benefit and convenience of a gold and silver currency which in all their business transactions will be uniform in value at home and abroad.

"Every man of property or industry, every man who desires to preserve what he honestly possesses, or to obtain what he can honestly earn, has a direct interest in maintaining a safe circulating medium—such a medium as shall be real and substantial, not liable to vibrate with opinions, not subject to be blown up or blown down by the breath of speculation, but to be made stable and secure. A disordered currency is one of the greatest political evils. It undermines the virtues necessary for the support of the social system, and encourages propensities destructive of its happiness. It wars against industry, frugality, and economy, and it fosters the evil spirits of extravagance and speculation." It has been asserted by one of our profound and most gifted statesmen that "of all the contrivances for cheating the laboring classes of mankind none has been more effectual than that which deludes them with paper money. This is the most effectual of inventions to fertilize the rich man's fields by the sweat of the poor man's brow. Ordinary tyranny, oppression, excessive taxation—these bear lightly on the happiness of the mass of the community compared with a fraudulent currency, and the robberies committed by depreciated paper. Our own history has recorded for our instruction enough and more than enough of the demoralizing tendency, the injustice, and the intolerable oppression on the virtuous and well-disposed of a degraded paper currency authorized by law or in any way countenanced by Government." It is one of

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the most successful devices, in times of peace or war, of expansions or revulsions, to accomplish the transfer of all the precious metals from the great mass of the people into the hands of the few, where they are hoarded in secret places or deposited under bolts and bars, while the people are left to endure all the inconvenience, sacrifice, and demoralization resulting from the use of depreciated and worthless paper.

The Secretary of the Interior, in his report, gives valuable information in reference to the interests confided to the supervision of his Department, and reviews the operations of the Land Office, Pension Office, Patent Office, and the Indian Bureau.

During the fiscal year ending June 30, 1868, six million six hundred and fifty-five thousand seven hundred acres of public land were disposed of. The entire cash receipts of the General Land Office for the same period were \$1,632,745, being greater by \$284,883 than the amount realized from the same sources during the previous year. The entries under the homestead law cover two million three hundred and twenty-eight thousand nine hundred and twenty-three acres, nearly one fourth of which was taken under the act of June 21, 1866, which applies only to the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida.

On the 30th of June, 1868, one hundred and sixty-nine thousand six hundred and forty-three names were borne on the pension rolls, and during the year ending on that day the total amount paid for pensions, including the expenses of disbursement, was \$24,010,982, being \$5,391,025 greater than that expended for like purposes during the preceding year.

During the year ending the 30th of September last the expenses of the Patent Office exceeded the receipts by \$171; and, including reissues and designs, fourteen thousand one hundred and fifty-three patents were issued.

Treaties with various Indian tribes have been concluded, and will be submitted to the Senate for its constitutional action. I cordially sanction the stipulations which provide for reserving lands for the various tribes, where they may be encouraged to abandon their nomadic habits and engage in agricultural and industrial pursuits. This policy, inaugurated many years since, has met with signal success whenever it has been pursued in good faith and with becoming liberality by the United States. The necessity for extending it as far as practicable in our relations with the aboriginal population is greater now than at any preceding period. While we furnish subsistence and instruction to the Indians, and guaranty the undisturbed enjoyment of their treaty rights, we should habitually insist upon the faithful observance of their agreement to remain within their respective reservations. This is the only mode by which collisions with other tribes and with the whites can be avoided, and the safety of our frontier settlements secured.

The companies constructing the railway from Omaha to Sacramento have been most energetically engaged in prosecuting the work, and it is believed that the line will be completed before the expiration of the next fiscal year. The six per cent. bonds issued to these companies amounted on the 5th instant to \$44,337,000, and additional work had been performed to the extent of \$3,200,000.

The Secretary of the Interior in August last invited my attention to the report of a Government director of the Union Pacific Railroad Company, who had been specially instructed to examine the location, construction, and equipment of their road. I submitted for the opinion of the Attorney General certain questions in regard to the authority of the Executive which arose upon this report, and those which had from time to time been presented by the commissioners appointed to inspect each successive section of the work. After carefully considering the law of the case

he affirmed the right of the Executive to order, if necessary, a thorough revision of the entire road. Commissioners were thereupon appointed to examine this and other lines, and have recently submitted a statement of their investigations, of which the report of the Secretary of the Interior furnishes specific information.

The report of the Secretary of War contains information of interest and importance respecting the several bureaus of the War Department and the operations of the Army. The strength of our military force on the 30th of September last was forty-eight thousand men, and it is computed that, by the 1st of January next, this number will be decreased to forty-three thousand. It is the opinion of the Secretary of War that within the next year a considerable diminution of the infantry force may be made without detriment to the interests of the country; and in view of the great expense attending the military peace establishment, and the absolute necessity of retrenchment where ever it can be applied, it is hoped that Congress will sanction the reduction which his report recommends. While in 1860 sixteen thousand three hundred men cost the nation \$16,472,000, the sum of \$65,682,000 is estimated as necessary for the support of the Army during the fiscal year ending June 30, 1870. The estimates of the War Department for the last two fiscal years were, for 1867, \$33,814,461; and for 1868 \$25,205,669. The actual expenditures during the same periods were, respectively, \$95,224,415 and \$123,246,648. The estimate submitted in December last for the fiscal year ending June 30, 1869, was \$77,124,707; the expenditures for the first quarter, ending the 30th of September last, were \$27,219,117, and the Secretary of the Treasury gives \$66,000,000 as the amount which will probably be required during the remaining three quarters, if there should be no reduction of the Army—making its aggregate cost for the year considerably in excess of \$93,000,000. The difference between the estimates and expenditures for the three fiscal years which have been named is thus shown to be \$175,545,343 for this single branch of the public service.

The report of the Secretary of the Navy exhibits the operations of that Department and of the Navy during the year. A considerable reduction of the force has been effected. There are forty-two vessels, carrying four hundred and eleven guns, in the six squadrons which are established in different parts of the world. Three of these vessels are returning to the United States and four are used as storeships, leaving the actual cruising force thirty-five vessels, carrying three hundred and fifty-six guns. The total number of vessels in the Navy is two hundred and six, mounting seventeen hundred and forty-three guns. Eighty-one vessels of every description are in use, armed with six hundred and ninety-six guns. The number of enlisted men in the service, including apprentices, has been reduced to eight thousand five hundred. An increase of navy-yard facilities is recommended as a measure which will, in the event of war, be promotive of economy and security. A more thorough and systematic survey of the North Pacific ocean is advised in view of our recent acquisitions, our expanding commerce, and the increasing intercourse between the Pacific States and Asia. The naval pension fund, which consists of a moiety of the avails of prizes captured during the war, amounts to \$14,000,000. Exception is taken to the act of 28d July last, which reduces the interest on the fund loaned to the Government by the Secretary, as trustee, to three per cent, instead of six per cent., which was originally stipulated when the investment was made. An amendment of the pension laws is suggested to remedy omissions and defects in existing enactments. The expenditures of the Department during the last fiscal year were \$20,120,394,

and the estimates for the coming year amount to \$20,993,414.

The Postmaster General's report furnishes a full and clear exhibit of the operations and condition of the postal service. The ordinary postal revenue for the fiscal year ending June 30, 1868, was \$16,292,600, and the total expenditures, embracing all the service for which special appropriations have been made by Congress, amounted to \$22,730,592, showing an excess of expenditures of \$6,437,991. Deducting from the expenditures the sum of \$1,896,525, the amount of appropriations for ocean steamship and other special service, the excess of expenditures was \$4,541,466. By using an unexpended balance in the Treasury of \$3,800,000, the actual sum for which a special appropriation is required to meet the deficiency is \$741,466. The causes which produced this large excess of expenditure over revenue were the restoration of service in the late insurgent States, and the putting into operation of new service established by acts of Congress, which amounted, within the last two years and a half, to about forty-eight thousand seven hundred miles—equal to more than one third of the whole amount of the service at the close of the year. New postal conventions with Great Britain, North Germany, Belgium, the Netherlands, Switzerland, and Italy, respectively, have been carried into effect. Under their provisions important improvements have resulted, in reduced rates of international postage and enlarged mail facilities with European countries. The cost of the United States transatlantic ocean mail service since January 1, 1868, has been largely lessened under the operation of these new conventions, a reduction of over one half having been effected under the new arrangements for ocean mail steamship service which went into effect on that date. The attention of Congress is invited to the practical suggestions and recommendations made in his report by the Postmaster General.

No important question has occurred during the last year in our accustomed cordial and friendly intercourse with Costa Rica, Guatemala, Honduras, San Salvador, France, Austria, Belgium, Switzerland, Portugal, the Netherlands, Denmark, Sweden and Norway, Rome, Greece, Turkey, Persia, Egypt, Liberia, Morocco, Tripoli, Tunis, Muscat, Siam, Borneo, and Madagascar.

Cordial relations have also been maintained with the Argentine and the Oriental republics. The expressed wish of Congress that our national good offices might be tendered to those republics, and also to Brazil and Paraguay, for bringing to an end the calamitous war which has so long been raging in the valley of the La Plata, has been assiduously complied with and kindly acknowledged by all the belligerents. That important negotiation, however, has thus far been without result.

Charles A. Washburn, late United States minister to Paraguay, having resigned, and being desirous to return to the United States, the rear admiral commanding the South Atlantic squadron was early directed to send a ship-of-war to Asuncion, the capital of Paraguay, to receive Mr. Washburn and his family, and remove them from a situation which was represented to be endangered by faction and foreign war. The Brazilian commander of the allied invading forces refused permission to the Wasp to pass through the blockading forces, and that vessel returned to its accustomed anchorage. Remonstrance having been made against this refusal it was promptly overruled, and the Wasp, therefore, resumed her errand, received Mr. Washburn and his family, and conveyed them to a safe and convenient seaport. In the meantime an excited controversy had arisen between the president of Paraguay and the late United States minister, which, it is understood, grew out of his proceedings in giving asylum in the United States legation to

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alleged enemies of that republic. The question of the right to give asylum is one always difficult, and often productive of great embarrassment. In States well organized and established, foreign Powers refuse either to concede or exercise that right, except as to persons actually belonging to the diplomatic service. On the other hand, all such Powers insist upon exercising the right of asylum in States where the law of nations is not fully acknowledged, respected, and obeyed.

The president of Paraguay is understood to have opposed to Mr. Washburn's proceedings the injurious and very improbable charge of personal complicity in insurrection and treason. The correspondence, however, has not yet reached the United States.

Mr. Washburn, in connection with this controversy, represents that two United States citizens attached to the legation were arbitrarily seized at his side, when leaving the capital of Paraguay, committed to prison, and there subjected to torture for the purpose of procuring confessions of their own criminality and testimony to support the president's allegations against the United States minister. Mr. McMahon, the newly-appointed minister to Paraguay, having reached the La Plata, has been instructed to proceed without delay to Asuncion, there to investigate the whole subject. The rear admiral commanding the United States South Atlantic squadron has been directed to attend the new minister with a proper naval force to sustain such just demands as the occasion may require, and to vindicate the rights of the United States citizens referred to, and of any others who may be exposed to danger in the theater of war. With these exceptions, friendly relations have been maintained between the United States and Brazil and Paraguay.

Our relations during the past year with Bolivia, Ecuador, Peru, and Chili, have become especially friendly and cordial. Spain and the republics of Peru, Bolivia, and Ecuador have expressed their willingness to accept the mediation of the United States for terminating the war upon the South Pacific coast. Chili has not finally declared upon the question. In the meantime the conflict has practically exhausted itself, since no belligerent or hostile movement has been made by either party during the last two years, and there are no indications of a present purpose to resume hostilities on either side. Great Britain and France have cordially seconded our proposition of mediation, and I do not forego the hope that it may soon be accepted by all the belligerents, and lead to a secure establishment of peace and friendly relations between the Spanish American republics of the Pacific and Spain—a result which would be attended with common benefits to the belligerents and much advantage to all commercial nations. I communicate, for the consideration of Congress, a correspondence which shows that the Bolivian republic has established the extremely liberal principle of receiving into its citizenship any citizen of the United States, or of any other of the American republics, upon the simple condition of voluntary registry.

The correspondence herewith submitted will be found painfully replete with accounts of the ruin and wretchedness produced by recent earthquakes, of unparalleled severity, in the republics of Peru, Ecuador, and Bolivia. The diplomatic agents and naval officers of the United States who were present in those countries at the time of those disasters furnished all the relief in their power to the sufferers, and were promptly rewarded with grateful and touching acknowledgments by the congress of Peru. An appeal to the charity of our fellow-citizens has been answered by much liberality. In this connection I submit an appeal which has been made by the Swiss republic, whose Government and institutions are kindred to our own, in behalf of its inhabitants, who are suf-

fering extreme destitution produced by recent devastating inundations.

Our relations with Mexico during the year have been marked by an increasing growth of mutual confidence. The Mexican Government has not yet acted upon the three treaties celebrated here last summer for establishing the rights of naturalized citizens upon a liberal and just basis, for regulating consular powers, and for the adjustment of mutual claims.

All commercial nations, as well as all friends of republican institutions, have occasion to regret the frequent local disturbances which occur in some of the constituent States of Colombia. Nothing has occurred, however, to affect the harmony and cordial friendship which have for several years existed between that youthful and vigorous republic and our own.

Negotiations are pending with a view to the survey and construction of a ship-canal across the Isthmus of Darien, under the auspices of the United States. I hope to be able to submit the results of that negotiation to the Senate during its present session.

The very liberal treaty which was entered into last year by the United States and Nicaragua has been ratified by the latter republic.

Costa Rica, with the earnestness of a sincerely friendly neighbor, solicits a reciprocity of trade, which I commend to the consideration of Congress.

The convention created by treaty between the United States and Venezuela in July, 1865, for the mutual adjustment of claims, has been held, and its decisions have been received at the Department of State. The heretofore recognized Government of the United States of Venezuela has been subverted. A provisional government having been instituted under circumstances which promise durability, it has been formally recognized.

I have been reluctantly obliged to ask explanation and satisfaction for national injuries committed by the president of Hayti. The political and social condition of the republics of Hayti and St. Domingo is very unsatisfactory and painful. The abolition of slavery, which has been carried into effect throughout the Island of St. Domingo and the entire West Indies, except the Spanish islands of Cuba and Porto Rico, has been followed by a profound popular conviction of the rightfulness of republican institutions, and an intense desire to secure them. The attempt, however, to establish republics there encounters many obstacles, most of which may be supposed to result from long-indulged habits of colonial supineness and dependence upon European monarchical Powers. While the United States have, on all occasions, professed a decided unwillingness that any part of this continent or of its adjacent islands shall be made a theater for a new establishment of monarchical power, too little has been done by us, on the other hand, to attach the communities by which we are surrounded to our own country, or to lend even a moral support to the efforts they are so resolutely and so constantly making to secure republican institutions for themselves. It is, indeed, a question of grave consideration whether our recent and present example is not calculated to check the growth and expansion of free principles, and make those communities distrust, if not dread, a Government which at will consigns to military domination States that are integral parts of our Federal Union, and, while ready to resist any attempts by other nations to extend to this hemisphere the monarchical institutions of Europe, assumes to establish over a large portion of its people a rule more absolute, harsh, and tyrannical than any known to civilized Powers.

The acquisition of Alaska was made with the view of extending national jurisdiction and republican principles in the American hemisphere. Believing that a further step could be taken in the same direction, I last year entered into a treaty with the king of

Denmark for the purchase of the islands of St. Thomas and St. John, on the best terms then attainable, and with the express consent of the people of those islands. This treaty still remains under consideration in the Senate. A new convention has been entered into with Denmark, enlarging the time fixed for final ratification of the original treaty.

Comprehensive national policy would seem to sanction the acquisition and incorporation into our Federal Union of the several adjacent continental and insular communities as speedily as it can be done peacefully, lawfully, and without any violation of national justice, faith, or honor. Foreign possession or control of those communities has hitherto hindered the growth and impaired the influence of the United States. Chronic revolution and anarchy there would be equally injurious. Each one of them, when firmly established as an independent republic, or when incorporated into the United States, would be a new source of strength and power. Conforming my administration to these principles, I have on no occasion lent support or toleration to unlawful expeditions set on foot upon the plea of republican propagandism or of national extension or aggrandizement. The necessity, however, of repressing such unlawful movements clearly indicates the duty which rests upon us of adapting our legislative action to the new circumstances of a decline of European monarchical power and influence and the increase of American republican ideas, interests, and sympathies.

It cannot be long before it will become necessary for this Government to lend some effective aid to the solution of the political and social problems which are continually kept before the world by the two republics of the Island of St. Domingo, and which are now disclosing themselves more distinctly than heretofore in the Island of Cuba. The subject is commended to your consideration with all the more earnestness because I am satisfied that the time has arrived when even so direct a proceeding as a proposition for an annexation of the two republics of the Island of St. Domingo would not only receive the consent of the people interested, but would also give satisfaction to all other foreign nations.

I am aware that upon the question of further extending our possessions it is apprehended by some that our political system cannot successfully be applied to an area more extended than our continent; but the conviction is rapidly gaining ground in the American mind that, with the increased facilities for intercommunication between all portions of the earth, the principles of free government, as embraced in our Constitution, if faithfully maintained and carried out, would prove of sufficient strength and breadth to comprehend within their sphere and influence the civilized nations of the world.

The attention of the Senate and of Congress is again respectfully invited to the treaty for the establishment of commercial reciprocity with the Hawaiian kingdom, entered into last year, and already ratified by that Government. The attitude of the United States toward these islands is not very different from that in which they stand toward the West Indies. It is known and felt by the Hawaiian Government and people that their Government and institutions are feeble and precarious; that the United States, being so near a neighbor, would be unwilling to see the islands pass under foreign control. Their prosperity is continually disturbed by expectations and alarms of unfriendly political proceedings, as well from the United States as from other foreign Powers. A reciprocity treaty, while it could not materially diminish the revenues of the United States, would be a guarantee of the good will and forbearance of all nations until the people of the islands shall of themselves, at no distant day, voluntarily apply for admission into the Union.

The emperor of Russia has acceded to the

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treaty negotiated here in January last for the security of trade-marks in the interest of manufacturers and commerce. I have invited his attention to the importance of establishing, now while it seems easy and practicable, a fair and equal regulation of the vast fisheries belonging to the two nations in the waters of the North Pacific ocean.

The two treaties between the United States and Italy for the regulation of consular powers and the extradition of criminals, negotiated and ratified here during the last session of Congress, have been accepted and confirmed by the Italian Government. A liberal consular convention which has been negotiated with Belgium will be submitted to the Senate. The very important treaties which were negotiated between the United States and North Germany and Bavaria, for the regulation of the rights of naturalized citizens, have been duly ratified and exchanged, and similar treaties have been entered into with the kingdoms of Belgium and Wurtemberg, and with the Grand Duchies of Baden and Hesse-Darmstadt. I hope soon to be able to submit equally satisfactory conventions of the same character now in the course of negotiation with the respective Governments of Spain, Italy, and the Ottoman empire.

Examination of claims against the United States by the Hudson Bay Company and the Puget Sound Agricultural Company, on account of certain possessory rights in the State of Oregon and Territory of Washington, alleged by those companies in virtue of provisions of the treaty between the United States and Great Britain of June 15, 1846, has been diligently prosecuted under the direction of the joint international commission to which they were submitted for adjudication by treaty between the two Governments of July 1, 1863, and will, it is expected, be concluded at an early day.

No practical regulation concerning colonial trade and the fisheries can be accomplished by treaty between the United States and Great Britain until Congress shall have expressed their judgment concerning the principles involved. Three other questions, however, between the United States and Great Britain remain open for adjustment. These are the mutual rights of naturalized citizens, the boundary question involving the title to the island of San Juan, on the Pacific coast, and mutual claims arising since the year 1853 of the citizens and subjects of the two countries for injuries and depredations committed under the authority of their respective Governments. Negotiations upon these subjects are pending, and I am not without hope of being able to lay before the Senate, for its consideration during the present session, protocols calculated to bring to an end these justly exciting and long-existing controversies.

We are not advised of the action of the Chinese Government upon the liberal and auspicious treaty which was recently celebrated with its plenipotentiaries at this capital.

Japan remains a theater of civil war, marked by religious incidents and political severities peculiar to that long-isolated empire. The Executive has hitherto maintained strict neutrality among the belligerents, and acknowledges with pleasure that it has been frankly and fully sustained in that course by the enlightened concurrence and coöperation of the other treaty Powers, namely, Great Britain, France, the Netherlands, North Germany, and Italy.

Spain having recently undergone a revolution marked by extraordinary unanimity and preservation of order, the provisional government established at Madrid has been recognized, and the friendly intercourse which has so long happily existed between the two countries remains unchanged.

I renew the recommendation contained in my communication to Congress dated the 18th July last, a copy of which accompanies this message, that the judgment of the people should

be taken on the propriety of so amending the Federal Constitution that it shall provide—

First. For an election of President and Vice President by a direct vote of the people, instead of through the agency of electors, and making them ineligible for reelection to a second term.

Second. For a distinct designation of the person who shall discharge the duties of President in the event of a vacancy in that office by the death, resignation, or removal of both the President and Vice President.

Third. For the election of Senators of the United States directly by the people of the several States, instead of by the Legislatures; and

Fourth. For the limitation to a period of years of the terms of Federal judges.

Profoundly impressed with the propriety of making these important modifications in the Constitution, I respectfully submit them for the early and mature consideration of Congress. We should as far as possible remove all pretext for violations of the organic law, by remedying such imperfections as time and experience may develop, ever remembering that "the Constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all."

In the performance of a duty imposed upon me by the Constitution, I have thus communicated to Congress information of the state of the Union, and recommended for their consideration such measures as have seemed to me necessary and expedient. If carried into effect, they will hasten the accomplishment of the great and beneficent purposes for which the Constitution was ordained, and which it comprehensively states were "to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity." In Congress are vested all legislative powers, and upon them devolves the responsibility as well for framing unwise and excessive laws, as for neglecting to devise and adopt measures absolutely demanded by the wants of the country. Let us earnestly hope that before the expiration of our respective terms of service, now rapidly drawing to a close, an all-wise Providence will so guide our counsels as to strengthen and preserve the Federal Union, inspire reverence for the Constitution, restore prosperity and happiness to our whole people, and promote "on earth peace, good will toward men."

ANDREW JOHNSON.

WASHINGTON, December 9, 1868.

Report of the Secretary of War.

WAR DEPARTMENT,

WASHINGTON CITY, November 20, 1868.

MR. PRESIDENT: I have the honor to submit a general report of the operations of this Department since the last annual report of the Secretary of War, with the reports of the chiefs of bureaus and military commanders for the same period.

ADJUTANT GENERAL'S DEPARTMENT.

The strength of the Army on the 30th of September was 48,081, which by the 1st of January next will be reduced, by the expiration of term of service alone, to about 43,000.

Orders were issued in November last to reduce all regiments of infantry and artillery (except ten light batteries) to fifty men per company. No recruiting rendezvous are now in operation except for the cavalry service, and the expense of the recruiting service is reduced to the minimum.

All volunteer officers except one have been mustered out of service.

At the suggestion of Lieutenant General Sherman authority was given on the 6th of October last for the muster-in of one regiment

of volunteer cavalry from the State of Kansas for service against hostile Indians. The service of this regiment is not expected to exceed six months, after which it is hoped the regular cavalry will be sufficient for the frontier service.

It may be reasonably expected that a considerable reduction of the infantry of the Army may be made within the next year without detriment to the interests of the country. I recommend that such reduction be authorized by law to be made gradually by ordinary casualties, by discharge of incompetent and unworthy officers, and by consolidation of regiments. I also recommend that the four regiments constituting the Veteran Reserve corps be disbanded, officers unfit for active service to be retired, and all others to be transferred to active regiments.

The term of enlistment for all arms of the service should be increased to five years, as a measure of economy and efficiency.

INSPECTION SERVICE.

Through the agency of the inspection branch of the service, the entire Army, with a few exceptions, otherwise especially provided for, has been thoroughly and constantly inspected during the year, and numerous special investigations have been made, resulting in material improvement in the efficiency of the troops, in the economical management of the administrative branches, and in the care and disposition of public moneys and property.

Both here and abroad inspections have come to be regarded as indispensable to successful management of a military establishment, and the conviction of the usefulness is everywhere gaining ground.

The importance of the duties to be performed, and the insufficient number of officers of the regular inspection service, has resulted in the adoption of a system whereby the required number will be supplied by detail of field officers in addition to the regular inspectors, the selections to be made by the War Department. This plan is designed to secure officers of proper capacity, judgment, and experience, and to obviate the necessity of an immediate increase in the corps of inspectors, which now numbers but nine officers.

BUREAU OF MILITARY JUSTICE.

The officers of this bureau consist of a Judge Advocate General, an Assistant Judge Advocate General, and eight judge advocates. The two vacancies in the grade of judge advocate, and the absence of any legal provision for filling them, has prevented a compliance with several applications from department commanders for such officers.

The work of the bureau is comprised in 15,046 records of military courts received, reviewed, and registered, and 1,457 reports on various subjects especially referred for opinion.

It is recommended that the number and grades of officers of the bureau be permanently fixed by law, so that vacancies may be filled.

SIGNAL SERVICE.

Provision has been made during the past year for such general instruction in military telegraphy and signaling as may be necessary for the service. Books of instruction have been furnished each company and post, and steps have been taken to provide necessary telegraphic apparatus and the equipments for signaling.

The courses of study in military telegraphy and signaling have been pursued with success at the Military Academy at West Point. By concert with the officers of the Navy, nearly similar courses of study and practice in these branches have been had at the Naval Academy at Annapolis.

A drill with a field electric telegraph train has been introduced and practiced at West Point, the cadets discharging all the duties of running out and erecting the lines, working the telegraphic instruments, and sending and receiving messages by sound.

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Report of the Secretary of War.

SENATE & HO. OF REPS.

A school of telegraphy and signaling has been established at Fort Grebel, Maryland, and is in successful operation. At this school selected officers and enlisted men are instructed in all the duties pertaining to the service with electric telegraphs and signals. A simple telegraphic code, easily acquired, is used for this purpose.

The report of the chief signal officer, and the sub-reports covered by it, give details of the duties of his office for the past year, and the results so far attained.

QUARTERMASTER'S DEPARTMENT.

The report of the Quartermaster General shows the total expenditure of that department during the fiscal year ending June 30, 1868, including claims for stores taken for the use of the Army during the war, to be \$36,506,381 53. Claims for property taken during the war have been allowed to the amount of \$500,313 28; rejected, \$2,654,430 38; and are still pending to the amount of \$6,905,691 18.

In the national cemeteries 316,233 remains of soldiers have been collected, of which 175,764 are identified. The total cost has been about \$2,700,000.

The fire-proof warehouse at the Schuylkill arsenal has been completed, and the expense of rent greatly reduced thereby. The warehouse authorized at Jeffersonville will not be erected, as that depot will be broken up. The \$150,000 appropriated for that warehouse has been remitted to the Treasury.

Of the debt of southern railroads for material sold to them after the war, \$4,627,695 77 remain unpaid.

The erection of a suitable building to accommodate the several branches of the War Department is recommended as a measure of economy and efficiency.

An appropriation of \$50,000 is asked for a stock farm to supply horses for the cavalry.

No appropriation for clothing or camp equipment is required.

An increase of the number of assistant quartermasters to fifty is urgently recommended as necessary to the proper administration of that department.

Attention is invited to the operation of the joint resolution of March 30, 1868, by which the control of the appropriations for the War Department is taken, in a great measure, from the Secretary of War and vested in the accounting officers of the Treasury, in consequence of which large sums have been and are being paid from those appropriations contrary to the advice and opinion of the War Department.

SUBSISTENCE DEPARTMENT.

During the past year the supplies for the Army have been mainly purchased in the large markets of the country, though the policy has been steadfastly adhered to of purchasing near to the points of consumption whenever and wherever the same could advantageously be done. The prospect of supplying the troops in the Territories and on the Pacific in this manner is increasing, and the subject is being diligently inquired into by the department.

The average cost of the Army ration during the year has been slightly above twenty-three cents.

Tobacco to the monthly value of \$20,000 has been furnished the troops at cost prices.

Subsistence to the value of over \$630,000 has been supplied for the purposes of the Freedmen's Bureau, and to the value of more than \$370,000 for the support of Indians—a large decrease in both instances.

In settlement of the claims for commutation of rations of Union soldiers while prisoners of war \$134,056 have been expended.

On account of supplies taken for the use of the Army during the war claims to the amount of nearly three million dollars have been received, of which nearly two hundred thousand dollars have been allowed, \$630,000 are await-

ing decision, and the balance have been rejected for various causes.

The officers of the subsistence department number twenty-nine; but accounts have been received from time to time during the year from over eight hundred different officers. The appointment of assistant commissaries of subsistence from lieutenants of the line, with a trifling increase of pay while so acting, is again recommended, as is also the appointment of post commissary sergeants.

Measures have been instituted for executing the law abolishing the office of Army sutler, by providing a considerable variety of articles for sale to officers and men.

There remains a large unexpended appropriation for this Department, which should be returned to the Treasury, and an appropriation made of the sum necessary for the next fiscal year.

MEDICAL DEPARTMENT.

No cases of the epidemic cholera or yellow fever which prevailed among the troops at the date of the last report have been reported during the present year.

One hundred and forty-six thousand one hundred and ninety-seven cases (being an average of three for each man in service) received medical treatment during the year ending June 30, 1868, of which about ninety per cent. were cases of disease, and the rest of wounds, accidents, and injuries. The total number of deaths from all causes was 1,621, of which about eighty-eight per cent. was from disease, and the rest from wounds, injuries, and accidents; 452 deaths were from yellow fever and 228 from cholera. The discharges upon certificate of disability number 1,074. The strength of the Army during this period was 50,000 men.

Sixteen casualties (including five deaths) have occurred in the medical corps, and there are forty-nine vacancies in the grade of assistant surgeon.

The actual expenditures during the fiscal year were \$342,124 20, and the balance on hand was \$1,473,792 20 on the 30th of June last.

The disbursements of the pay department during the last fiscal year have been:

For the regular Army.....	\$17,803,963 53
For the Military Academy.....	163,199 04
To volunteers.....	42,696,444 08
Total.....	\$60,663,611 65

There are now in service 59 paymasters of the regular establishment and 18 of the temporary establishment, it being expected that all of the latter will be mustered out prior to the date of the next report.

In the report of the Paymaster General the organization of the pay department is discussed; the advantages of the present system over the old system of regimental paymasters pointed out; the causes why payments cannot be made monthly, or even more frequently and regularly than now, stated, and the impracticability of reducing the present authorized number of paymasters, (60,) even with a large reduction of the Army, demonstrated.

Attention is asked to the statement, that while under the old system, during the war of 1812, the defalcations and expenses amounted to over seven per cent. on the amount disbursed, under the present organization and during the late war the total losses, defalcations, and expenses amounted to less than three fourths of one per cent. on the sums disbursed. During the Mexican war, under the present system, not a dollar was lost by defalcation.

The disbursements for reconstruction purposes have been \$2,261,415 02. There remains an available balance of \$467,626 46, which, it is believed, will cover all future expenses; but as the specific amount for each military district is fixed by law, authority is asked for the transfer of amounts from dis-

tricts not requiring them to others insufficiently supplied.

During the year claims for additional bounty were allowed to the number of 241,992, involving an expenditure of \$23,649,157 78. Claims were rejected to the number of 19,407, and 109,104 were still unsettled at the close of the fiscal year. Since the date of the act 435,199 claims have been received, 387,091 paid, 32,403 rejected, and 15,705 were yet unsettled at the date of the Paymaster General's report. The total disbursements on these claims have been \$37,764,774 78, to which must be added the claims settled by the accounting officers of the Treasury, bringing the aggregate up to more than \$54,000,000. The expense of settling these claims has been kept within five sixths of one per cent. on the amount disbursed, or about the average cost of seventy cents per claim. It is recommended that the 4th of March next be fixed by law as the date beyond which no more claims will be received, and that all claims then remaining unsettled be transferred to the Second Auditor of the Treasury for disposition.

ENGINEER DEPARTMENT.

All officers of the Corps of Engineers, except fifteen, are employed on various special and detached duties—engaged upon the permanent national defenses, survey of the lakes, improvement of rivers and harbors, explorations, command and instruction of engineer troops, and in charge of the public buildings, grounds, and works in the District of Columbia.

Work on the permanent defenses has been continued on a smaller scale, and reduced appropriations are asked to continue such work as is not liable to future modification.

Experiments with iron targets, shields, and other structures designed to resist heavy ordnance, have been and are being continued.

Three engineer depots have been established, at each of which engineer trains and materials have been collected and will be held ready for service.

Estimates amounting to \$46,000 for erecting and continuing the erection of engineer barracks are submitted.

Extensive surveys for the improvement of rivers and harbors have been and are being made, and the preparation of the necessary plans is being conducted with great energy. The report of the chief of engineers, with accompaniments, will supply the information essential to legislative action.

The late appropriation of \$1,500,000 has been distributed, as designed by law, among those works where most required. Such modification of the contract system prescribed for these works, as experience has shown to be advisable, is again earnestly recommended.

The appropriations for public works in the District of Columbia have been well applied and with satisfactory results.

Geographical and geological explorations and surveys in the far West have been continued during the year. These surveys, and the military reconnaissances made by engineer officers accompanying troops, afford valuable information for military and other national purposes.

The several appropriations required for the various purposes of the engineer department are heartily recommended to favorable consideration.

ORDNANCE DEPARTMENT.

The expenditures of the ordnance department during the last fiscal year, for all purposes, inclusive of the payment of war claims, were a little more than \$3,000,000—less than three fifths of the expenditure of the preceding year.

There are twenty-seven military arsenals in all, including the national armory at Springfield. The work done at them by the hired mechanics and enlisted men of the ordnance corps, under the direction of skilled officers of the corps, has been economically and satisfactorily performed.

SENATE & HO. OF REPS.

Report of the Secretary of War.

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Measures have been taken for the construction of the Rock Island bridge, the sale of damaged and unserviceable ordnance stores, and the sale of St. Louis and Liberty arsenals, all of which were provided for by law.

Legislative authority for the sale of the arsenals at Rome, New York, and Vergennes, Vermont, and the lands at Harper's Ferry, is again recommended, and the establishment of an arsenal at Omaha or other suitable point again advocated.

Highly favorable reports of the breech-loading converted Springfield musket have been received from those portions of the Army where it has been distributed. Further supplies are now in preparation.

A few smooth-bore and rifle guns of heavy caliber are being made for trial of their power and endurance. When the most suitable kinds have been determined, a large number of guns for fortifications will have to be made, and authority to make them as fast as can be done is asked.

The necessity of draining the extensive marsh lands reclaimed by enlargement of the Washington arsenal grounds is set forth in the report of the chief of ordnance.

FREEDMEN'S BUREAU.

Large reductions of the officers and agents of the bureau have been made during the year, and arrangements are in progress to close it up by the 1st of January next, except the educational and claims divisions.

The abandoned lands yet in possession of the bureau are mostly worthless for cultivation, and will be restored at once or dropped from the returns.

Claims of colored soldiers to the number of nearly 2,000 have been settled through the bureau, without cost to the claimants, and a little more than 3,800 remain unsettled. Treasury certificates and checks for settlement of claims of colored soldiers and marines have been collected by the bureau to the number of 17,000, and to the value of nearly \$3,500,000.

Transportation has been furnished to 6,418 persons—less than one third of the number transported last year.

Over 150,000 persons have received medical treatment during the year; 27 hospitals have been closed, and 21 yet remain; also 6 orphan asylums, which are in charge of the bureau.

Efforts have been made to turn over to the local civil authorities the charge of the sick, the infirm, and the insane, and in some instances with success.

The sanitary condition of the freed people has, in general, improved.

Subsistence supplies have been issued to a daily average of 16,000 persons, the number of rations issued during the year being 2,802,478. For a part of these supplies liens have been taken upon the crops.

The schools have in the main progressed, though in some places seriously injured by local opposition and want of means. Private associations have continued their liberal support, and teachers have labored faithfully, though in many cases beset with difficulties. The number of day and night schools is 1,831, with 2,295 teachers and 104,327 pupils. The aggregate number of Sunday and day schools of all kinds is 4,026, with 241,819 scholars. The amount expended for support of schools during the year was \$942,523.66; this does not include the expenditures by benevolent societies, estimated at \$700,000, and by freedmen, estimated at \$360,000. Fifteen normal schools and colleges have been chartered or incorporated in different parts of the country.

The total expenditures of the bureau during the fiscal year were \$3,977,041.72. The balance on hand was \$3,622,067.99.

The Commissioner recommends appropriations to continue hospitals at New Orleans, Vicksburg, Richmond, and Washington.

To dispose of the school buildings it is proposed to transfer them to the corporations and

trustees who now have them in charge, guaranteeing to be taken that they shall not be diverted from their proper uses. A grant of public lands in aid of the schools of the District of Columbia, of all grades, is recommended.

For an account of the operations of the bureau in the several States reference is made to the report of the Commissioner.

MILITARY ACADEMY.

The corps of cadets, on June 1, 1868, numbered 210 members, under the care and instruction of a superintendent, eight professors, and 32 officers of the Army. Fifty-four members of the first class were graduated June 15, and appointed to the army. During the past academic year 96 candidates have been admitted into the Academy, and 37 rejected. The cadets now at the Academy number 225, which, under existing laws, can eventually be increased to 290. The necessity of a further increase is again mentioned, and the superiority of the Military Academy over all other plans lately proposed for meeting that want is pointed out by the inspector in his report.

The great value and importance of the annual Board of Visitors, both to the Academy and the Government, is referred to, and the report of the board for 1868 is attached to the inspector's report. The board report very favorably upon the discipline, instruction, administration, and fiscal affairs of the Academy, and recommend several appropriations as especially necessary to be made. They highly commend the public value of the institution, and ask for it a generous support. The favorable report of the board is concurred in by the inspector from personal observation during his semi-annual inspections. The charges once, but now no longer, directed against the Military Academy of its alleged costliness, exclusiveness, and the disloyalty of its graduates, are referred to and refuted by facts and figures, among the most interesting of which are the statements that during the late war, of the graduates from all the southern States, one half remained loyal; that of the graduates from the actual rebel States more than one fourth remained loyal; and that of the graduates engaged on the side of the Union one fifth lost their lives.

The past honorable record of the Academy, and its present high standing at home and abroad, are cited as evidence of the great usefulness to which it will in the future attain.

ARTILLERY SCHOOL.

This school was organized at the close of 1867 by order of the General of the Army, and Brevet Major General Barry, colonel second artillery, was assigned to its command. It was established at Fortress Monroe, and one battery from each of the five regiments of artillery was ordered to that post as the instruction batteries for the first year.

The course of instruction adopted for the school is both theoretical and practical, embracing a variety of subjects, and is pursued both by the officers and non-commissioned officers of the batteries. The practical course for the present year has just been completed by an examination of the officers under instruction. The theoretical part of the course is now in operation, and will likewise be closed by an examination before the 1st of April next. It embraces mathematics, military surveying and engineering, artillery, military history, and military, international, and constitutional law.

It is believed that this school will supply a long-felt want in the artillery arm, and prove greatly beneficial to the military service.

EXPENDITURES AND ESTIMATES.

The actual current expenses of the War Department for the last fiscal year were \$68,743,094.71, to which is to be added the sum of \$9,961,406.48, old war debts paid during the year, making the total expenditures of the Department \$78,704,501.14. The appropriations for the present fiscal year were

\$85,400,557.47; the estimated deficiencies for the current year are \$13,975,000. It is estimated that the sum of \$65,682,388.85 will be required for the expenses of this Department for the fiscal year ending June 30, 1870. There will be a surplus of \$60,240,221.81 from unexpended appropriations to be paid into the Treasury at the close of the present fiscal year.

THE ARMY.

The General of the Army submits, with the following letter, the reports of commanders of military divisions, departments, and military districts:

HEADQUARTERS ARMY OF THE UNITED STATES,
WASHINGTON, D. C., November 24, 1868.

SIR: I have the honor to submit the reports of division, district, and department commanders for the past year. These reports give a full account of the operations and services of the Army for the year, and I refer to them for details.

I would earnestly renew my recommendation of last year that the control of the Indians be transferred to the War Department. I call special attention to the recommendation of General Sherman on this subject. The recommendation has my earnest approval. It is unnecessary that the arguments in favor of the transfer should be restated; the necessity for the transfer becomes stronger and more evident every day.

While the Indian war continues I do not deem any general legislation for the reduction of the Army advisable. The troops on the Plains are all needed; troops are still needed in the southern States, and further reduction can be made in the way already used and now in operation where it is safe, namely: by allowing companies to diminish by discharges, without being strengthened by recruits, and by stopping appointments of second lieutenants.

If it should be deemed advisable, the Veteran Reserve regiments might be discontinued, by absorption and retirement of officers and discharge of men without detriment to the service.

Very respectfully, your obedient servant,
U. S. GRANT, General.
General J. M. Schofield, Secretary of War.

ABSTRACTS OF REPORTS.

Military Division of the Missouri.

This division, commanded by Lieutenant General Sherman, is composed of the military departments of the Missouri, the Platte, and Dakota, embracing the territory west of the Mississippi river to the Rocky mountains, and commanded respectively by Major General Sheridan and Brevet Generals Augur and Terry.

The war of races, which is the normal condition of things on the Plains, has continued without interruption during the past year. The Indian Peace Commission, created by act of Congress last year to devise a practical, and, if possible, a peaceful solution of our Indian troubles, and of which General Sherman was constituted a member, gave the unanimous opinion that peace with the Indians east of the Rocky mountains could only be secured by their collection on reservations and maintenance by the Government till able to provide for themselves. Two such reservations were selected by the commission and treaties made with several tribes to go on them; but the necessary legislative action, setting apart the reservations and providing necessary governments for them, (these being the vital principles of the plan,) was not taken, and to this many attribute the failure of a lasting peace and the occurrence of a costly war with four of the principal tribes with whom treaties were made.

Concerning the existing war, it is proved beyond dispute that it was begun by the Indians without any provocation whatever on the part of the whites. Its object is supposed to be to procure the abandonment of the Smoky Hill route, the best hunting grounds of America; and those engaged in it are believed to have been instigated by the Sioux, to whom the Powder River road had been abandoned at their entreaty, principally because it was of no further value; but they attributing this action to fear, doubtless so represented to the other tribes, thus leading them to believe that they, too, could enforce a compliance with their demands. The troops have been reinforced by seven companies of cavalry, and a mounted

regiment of Kansas volunteers will soon be in active service. With these it is designed during the coming winter, the only time for efficient operations, to punish the hostile Indians so that they will not again resort to war, and to collect them by force upon their reservations and compel them there to remain. It is useless any longer to attempt the occupation of these plains in common with these tribes. The country is adapted only to grazing, which necessitates scattered settlements, while the horses and cattle tempt the hungry Indian, who, deprived of his accustomed subsistence, will steal rather than starve, and will kill in order to steal. With such opposing interests the races cannot live together, and it is the Indians who must yield. They have been assigned reservations which in fifty years will enrich their descendants, and mean time they must be fed while learning to cultivate the soil and rear domestic animals.

But personal labor and restriction to one place being at variance with the hereditary pride and habits of the Indian, the desired result can only be obtained by coercion, and it was for this reason that the peace commission, in view, too, of recent events, was impelled to the conclusion, in their late report, that the management of Indian affairs should be again vested in the War Department, as the only branch of the Government able to use the required force promptly and without the circumlocution unavoidable, no other Department being able to act with such vigor and promptness as to warrant any hope that the plans and purposes of the commission could be carried into execution.

The plan of the peace commission is by General Sherman believed to be the only means of saving the Indians from total annihilation, and he urges upon Congress its immediate adoption. Meanwhile, his purposes are declared to be to protect the Missouri river traffic and the Union Pacific railroad with jealous care; to gather in the wandering bands of Sioux to the reservation selected north of Nebraska, and feed and protect them to the extent of his means, and to destroy or punish, to his utmost power, the hostile Indians, till they are willing to go and remain upon the reservation assigned to them at Fort Cobb, where he is prepared to provide for them to a limited extent. This double policy, of peace within their reservations and war without, must soon, in his opinion, bring matters to a determination.

The appropriation of \$500,000 for carrying out the treaty stipulations and defraying the expenses of the commission has been applied to those objects; the outstanding accounts amounting to about \$150,000, and the balance being applied to the care and support of the Indians collected on the reservations.

The appropriation of \$212,500 for the Navajo Indians of New Mexico, placed in charge of General Sherman, has been intrusted to General Getty, commanding in that Territory, who will cause it to be properly expended. An appropriation of \$150,000, under control of the Interior Department, for the removal of these Indians to their new reservation, was also made; but the removal had already been effected by the military authorities at a cost of less than one third of that amount.

Military Division of the Pacific.

This division, commanded by Major General Halleck, includes three military departments, embracing three States and four Territories, with an area of nearly 1,250,000 square miles, more than 12,000 miles of sea-coast, and a population of about 700,000 whites and 130,000 Indians. Two regiments of cavalry, one regiment of artillery, and four regiments of infantry compose the military force of the division.

The department of Alaska, commanded by Brevet Major General Davis, comprises the

territory lately known as Russian America. Its area is about 578,000 square miles, and its population about 2,000 whites and 60,000 half-breeds and Indians. The military force of the department consists of five companies of artillery and one of infantry, distributed at six military posts. The remarks of the department commander respecting the best policy to pursue toward the Indians, the needlessness of a civil government for the Territory at present, and his especial recommendation that no Indian agents or superintendents be sent there at this time, are commended to attention.

The department of the Columbia, commanded by Brevet Major General Crook, includes the State of Oregon and the Territories of Washington and Idaho. Its area is about 275,000 square miles, with a population of 130,000 whites and 35,000 Indians. Twenty companies, distributed at fifteen military posts, constitute the military force of the department. The Indian war, which for many years has been waged in this region, has by the skill and energy of General Crook been brought to a virtual termination. No depredations have lately been committed. A reduction of the military force may probably be made next year.

The department of California, commanded by Brevet Major General Ord, includes the States of California and Nevada and the Territory of Arizona, with an area of about 365,000 square miles, and a population of 553,000 whites and 35,000 Indians. Forty-eight companies of troops of all arms constitute the military force of the department, of which twenty-nine companies are serving in Arizona alone, though the 8,000 inhabitants of the Territory are far from being satisfied with that number.

The erection of Arizona into a separate military department, and an increase of the force, with a view to more energetic operations against the Apache, the worst of all Indians, is recommended by the division commander, who speaks highly of the agricultural capacity of the Territory.

Department of the South.

The second and third military districts, composed of the States of North Carolina, South Carolina, Georgia, Alabama, and Florida, were in August last, after the admission of those States to representation in Congress, organized into the department of the South, and Major General George G. Meade assigned to the command. The department commander issued orders conforming the action of the military to the changed state of affairs in the several States, and adopted such measures as to make the transition from military to civil authority gradual and almost imperceptible. The troops have been so distributed throughout the different States composing the department that they could at any time be used to coöperate with and sustain the State authorities; and the officers and men of the Army have, as a rule, conducted themselves in the discharge of their delicate and responsible duties in a manner creditable to themselves and conducive to the best interests of the people in the States where they are stationed.

Department of the Cumberland.

This department embraces the States of Kentucky, Tennessee, and West Virginia, and is commanded by Major General Thomas, to whose accompanying report attention is invited. He reports no improvement in the state of public and social affairs, nor does he look for any immediate improvement. In some sections affairs are decidedly worse, and generally the necessity for the presence of troops is as great as heretofore.

The lawless operations of a mysterious organization known as the "Ku-Klux Klan," and the terror inspired by it in Tennessee, are described at length, together with the action taken by the State authorities and himself respectively.

Considerable lawlessness is also reported as

prevalent in Kentucky, and the services of troops have been called into requisition for the protection of various Federal civil officers in the discharge of their duties.

The attempts of certain railroad companies to evade their obligations to the United States are mentioned in the report.

Military Division of the Atlantic.

This division, composed of the department of the Lakes, department of the East, and department of Washington, was created by order of the President on the 12th of February, 1868, and Lieutenant General Sherman assigned to its command, with headquarters at Washington. General Hancock, however, was afterward substituted for General Sherman, and assumed command on the last day of March.

The division embraces the States of Ohio, Michigan, Indiana, Illinois, and Wisconsin, the New England States, New York, New Jersey, Pennsylvania, Maryland, and Delaware, and the District of Columbia.

No military operations have taken place in the division since its establishment, though reports of intended Fenian movements against Canada have from time to time been made.

The headquarters of the division have recently been transferred to New York city.

Department of Louisiana.

The department of Louisiana, consisting of the States of Louisiana and Arkansas, was organized on the 28th of July, after the admission of those States to representation in Congress, and Brevet Major General L. H. Rousseau assigned to the command. Prior to the arrival of General Rousseau at the headquarters, on the 15th day of September, Brevet Major General R. C. Buchanan commanded the department.

The duties of the department commander have been principally to preserve the peace and sustain the State authorities of the newly organized State governments of Louisiana and Arkansas. The difficulties experienced in carrying out these objects, and the means adopted to overcome those difficulties, are set forth in his report.

First Military District.

This district consists of the State of Virginia, and is commanded by Brevet Major General George Stoneman, who succeeded Brevet Major General J. M. Schofield on the 1st of June. The military force of this district is composed of two regiments of infantry and one company of artillery, which force has been found sufficient to protect the citizens in their lives and property and preserve the peace in the district. In pursuance of the policy pursued in the district ever since its formation the State courts and civil authorities generally throughout the State have been permitted to exercise the functions appertaining to their respective offices, subject, however, to appeal to the military authorities by any person who might conceive that injustice had been done him by their action.

The constitutional convention, called under the reconstruction acts of Congress, which was in session at the date of the last annual report, framed a constitution to be submitted to the people, but in consequence of Congress having failed to make the necessary appropriation for defraying the expenses of an election, it was not so submitted, the district commander referring the matter of the appropriation, as well as designating a day for the election, to Congress, which has, as yet, failed to designate the day, although the necessary appropriation was made at its last session. The delicate and perplexing questions growing out of the removal of civil officers, the appointment of others in their places qualified for their positions and eligible under the reconstruction acts, are pointed out, and the repeal of the 9th section of the act of Congress passed July 19, 1867, recommended.

SENATE & HO. OF REPS.

Report of the Secretary of War.

40TH CONG....3D SESS.

Second Military District.

At the date of the last report of the Secretary of War the second military district, composed of the States of North Carolina and South Carolina, was under command of Brevet Major General E. R. S. Canby. The principal duties of the district commander were those assigned him by the reconstruction acts, under which he so established the jury system in the States composing his district that the jury lists embraced all citizens who were identified with the community in which they resided by the payment of taxes, and were mentally and morally qualified for the proper performance of jury duty. Measures were adopted for the purpose of securing quiet and order by the enforcement of the State laws for the prevention and punishment of crimes, through and by means of the local authorities, and not to interfere with the usual mode of procedure, except where the proper civil authorities refused or failed to act, or where it became manifest that from past political action, or by reason of prejudice against color or caste, impartial justice would not be administered.

In both North and South Carolina elections were held for the purpose of deciding whether there should be a convention for framing a new constitution for the State and electing delegates to the convention. The elections passed off quietly, and a majority of the electors having voted for a convention the delegates were called together, and after having framed a constitution which was submitted to the people and adopted by them, and the Representatives elected under that constitution admitted to their seats in Congress, under the act of Congress of June 25, 1863, the military district ceased to exist, and was merged into the department of the South, under command of Major General Meade.

Third Military District.

At the date of the last annual report the third military district consisted of the States of Georgia, Alabama, and Florida, and was under command of Brevet Major General John Pope, who remained in command until the 6th day of January, 1868, when he was relieved by Major General George G. Meade, who assumed command in compliance with orders from the War Department.

At the time Major General Meade assumed command the condition of affairs in the several States composing his district was as follows:

In Georgia a convention, elected under the reconstruction laws, was in session at Atlanta, but hampered and embarrassed for want of funds.

In Alabama a convention had met, framed a constitution, nominated a ticket for State officers, and adjourned.

In Florida an election had been held for members of a convention, but under General Pope's orders was not to meet until the 20th of January.

During General Meade's administration the following events occurred prior to the discontinuance of the district:

In Georgia, the officers of the State government having refused to recognize the authority of the district commander, because, as the Governor alleged, the reconstruction acts were unconstitutional, General Meade removed the Governor and two other officers of the State government and appointed officers of the Army to their positions, who continued to fulfill the duties with faithfulness and efficiency until the qualification of State officers elected under the new constitution, which was framed by the convention and ratified by the people.

In Alabama the constitution framed by the convention was submitted to the people, and although in the opinion of General Meade it was rejected by the people it was adopted by Congress.

In Florida the convention assembled, and after a great deal of bickering and dissension

adopted a constitution, which was subsequently ratified by the people of the State.

Congress having admitted the States of Georgia, Alabama, and Florida to representation in Congress, orders were issued from headquarters of the Army dated July 23, 1868, discontinuing the third military district, and assigning the States composing it to the department of the South.

Fourth Military District.

At the date of the last annual report this district comprised the States of Arkansas and Mississippi, and was commanded by Brevet Major General E. O. C. Ord, who was relieved on the 8th day of January last by Brevet Major General Alvan C. Gillem. On the 28th of July last Arkansas, having, in compliance with the reconstruction acts, adopted a constitution and been admitted to representation in Congress, was detached from the fourth military district and attached to the department of Louisiana. The State of Mississippi, having rejected the constitution submitted by the convention convened under the reconstruction acts, is still retained as a military district.

The citizens of the State of Mississippi have devoted themselves to repairing the losses resulting from the war, and the following extract from the report shows the present agricultural and financial condition of affairs in the State:

"Thanks to energy and industry, favored by a good season, an abundant crop of corn—more than a year's supply, and by some estimated as a supply sufficient for two years—has been secured, while the yield of cotton in the State is very great, estimated as high as 350,000 bales. At present prices this will produce more than \$30,000,000."

The civil courts have continued to dispense justice under the supervision of the military authorities, and there has been no necessity for the use of the troops stationed in the State.

Fifth Military District.

This district, composed of the States of Louisiana and Texas, at the date of the last report was under the temporary command of Brevet Major General Mower, until the arrival of Major General Hancock on the 29th November last, when that officer assumed and exercised command until relieved on the 28th of March, 1868, the command of the fifth military district being devolved, first upon Brevet Major General Reynolds, and subsequently upon Brevet Major General Buchanan.

The State of Louisiana having adopted a constitution and been admitted to representation in Congress, orders were issued from headquarters of the Army on the 28th of July, 1868, reducing the fifth military district to the State of Texas, and assigning Brevet Major General J. J. Reynolds to the command.

General Reynolds reports the existence of armed secret organizations in the State, the objects of which seem to be to "disarm, rob, and in many cases murder Union men and negroes, and, as occasion may offer, murder United States officers and soldiers." "The murder of negroes is so common as to render it impossible to keep an accurate account of them." "These organizations are evidently countenanced, or at least not discouraged, by a majority of the white people in the counties where the bands are most numerous. They could not otherwise exist." "Free speech and free press, as the terms are generally understood in other States, have never existed in Texas."

In consequence of this state of affairs General Reynolds has found it necessary to withdraw troops from the frontier posts "to such an extent as to impair their efficiency for protection against Indians; but the bold, wholesale murdering in the interior of the State seems at present to present a more urgent demand for troops than Indian depredations."

DISCIPLINE OF THE ARMY.

During the short time I have had charge of the War Department it has been my constant

aim to systematically reduce the expenses of the Department; to improve the discipline and efficiency of the Army; to prosecute such experiments in engineering and ordnance, and to continue such instruction of the officers and men as are necessary to the perfection of our military establishment; to give all needful strength to the forces operating against hostile Indians; and to give the greatest practicable assistance to the civil authorities in the States where recently organized governments need military support.

The discipline of the Army is believed to be better than at any previous time since the late war. The efficient action of courts-martial, with prompt executive confirmation, has resulted in dismissal from the service of a considerable number of unworthy officers and exemplary punishment of others. Provision has also been made, under authority of the acts of Congress approved August 3, 1861, and June 25, 1864, for dropping from the rolls of the Army, upon the report of an examining board, such officers as may be unfit for the service by reason of intemperate or vicious habits. These measures, having the earnest support of the great body of officers, have already produced beneficial results, and cannot fail soon to relieve the Army of such officers as have proved wholly unworthy, and to reform such as have only temporarily yielded to temptation. From thorough discipline and efficiency among the officers the same essential qualities among the enlisted men follow as a matter of course.

INDIANS.

I refer to the report of Lieutenant General Sherman for an instructive statement of facts and valuable suggestions in respect to Indian affairs. I believe it manifest that an important change should be made in our mode of dealing with the Indians. While good faith and sound policy alike require us to strictly observe existing treaties so long as the Indians maintain like good faith, when any tribe has violated its treaty it should no longer be regarded as a nation with which to treat, but as a dependent uncivilized people, to be cared for, fed when necessary, and governed.

It is manifest that any branch of the public service cannot be efficiently and economically managed by two Departments of the Government. If the Interior Department can alone manage Indian affairs, and thus save the large expense of the Army in the Indian country, very well. But if the Army must be kept there for the protection of railroads and frontier settlements, why not require the Army officers to act as Indian agents, and thus save all the expense of the civilians so employed. Besides, an Army officer has his military reputation and commission at stake, and is subject to trial by court-martial for any misconduct in office. Thus is afforded the strongest possible security the Government can have for an honest administration of Indian affairs by officers of the Army, while the civilian agent, being only a temporary officer of the Government, and practically exempt from trial and punishment for misconduct, gives the Government the least possible security for honest administration.

For the sake of economy to the Government, for the sake of more efficient protection to the frontier settlements, and for the sake of justice to the Indians, I recommend that the management of Indian affairs be restored to the War Department, with authority to make regulations for their government and for their protection against lawless whites.

MILITARY AID TO STATE GOVERNMENTS.

The relation of the Army to the civil authorities in the States recently restored to civil government has been a subject of no little perplexity.

While those governments were yet imperfectly organized, lacking, to a great extent, the sympathy and support of the most influential citizens, without organized police or militia

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forces, without arms and without money, and without even authority of law to organize and arm a militia, the military government, which the people had learned by more than three years' experience to rely upon for protection of life and property, was suddenly withdrawn. Immediately followed an exciting political canvass, having for its alternative results, in popular expectation, the support or overthrow of those newly-formed governments. The result has been unusual disposition to lawlessness and crime and comparative inefficiency of civil government in those States.

The only laws of Congress providing for the employment of the military force of the United States in support of the government of any State were passed in the infancy of the Republic, with a jealous care to avoid undue interference by the national Government in State affairs, and not designed for such a condition of society as now exists in the southern States.

Hence, with an earnest desire to do all in the power of the Executive to preserve peace in those States, and enable the people to fairly decide at the polls the exciting questions involved in the canvass, it has been found possible to attain these objects only in an imperfect degree, but it is believed that, considering the difficulties of the situation, there is abundant reason to be satisfied with the comparative good order that has prevailed throughout the country. The instructions issued from this Department, with the President's sanction, for the government of department commanders, and correspondence with those commanders and Governors of States, are submitted with this report for the information of Congress.

J. M. SCHOFIELD,
Secretary of War.

Report of the Secretary of the Treasury.

TREASURY DEPARTMENT,
December 1, 1868.

In compliance with the requirements of law the Secretary of the Treasury has the honor to make to Congress the following report:

In his former communications the Secretary has expressed so fully his views upon the great subjects of the currency, the revenues, and the public debt, that it may be thought quite unnecessary for him again to press them upon the attention of Congress. These subjects, however, have lost none of their importance; on the contrary, the public mind during the past year has been turned to their consideration with more absorbing interest than at any former period. The Secretary will therefore, he trusts, be pardoned for restating some of the views heretofore presented by him.

If there is any question in finance or political economy which can be pronounced settled by argument and trial it is that inconvertible and depreciated paper money is injurious to public and private interests, a positive political and financial evil for which there can be but one justification or excuse, to wit: a temporary necessity arising from an unexpected and pressing emergency; and it follows, consequently, that such a circulation should only be tolerated until, without a financial shock, it can be withdrawn or made convertible into specie. If an irredeemable bank-note circulation is an evidence of bankrupt or badly managed banking institutions, which should be deprived of their franchises, or compelled to husband and make available their resources in order that they may be prepared at the earliest day practicable to take up their dishonored obligations, why should not an irredeemable Government currency be regarded as an evidence of bad management of the national finances, if not of national bankruptcy? And why should not such wise and equal revenue laws be enacted, and such economy in the use of public moneys be en-

forced, as will enable the Government either judiciously to fund or promptly to redeem its broken promises?

The United States notes, although declared by law to be lawful money, are, nevertheless, a dishonored and disreputable currency. The fact that they are a legal tender, possessing such attributes of money as the statute can give them, adds nothing to their real value, but makes them all the more dishonorable to the Government and subversive of good morals. The people are compelled to take as money what is not money; and becoming demoralized by its constantly changing value, they are in danger of losing that sense of honor in their dealings with the Government and with each other which is necessary for the well-being of society. It is vain to expect on the part of the people a faithful fulfillment of their duties to the Government as long as the Government is faithless to its own obligations; nor will those who do not hesitate to defraud the public revenues long continue to be scrupulous in their private business. Justifiable and necessary as the measure was then regarded, it is now apparent that an unfortunate step was taken when irredeemable promises were issued as lawful money; and especially when they were made a valid tender in payment of debts contracted when specie was the legal as well as the commercial standard of value. The legal-tender notes enabled debtors to pay their debts in a currency largely inferior to that which was alone recognized as money at the time they were incurred, and thus the validity of contracts was virtually impaired. If all creditors had been compelled by law to pay into the public Treasury fifty per cent., or ten per cent., or, indeed, any portion of the amounts received by them from their debtors, such a law would have been condemned as unequal and unjust; and yet the effect of it would have been to lessen, to the extent of the receipts from this source, the necessity for other kinds of taxation, and thus to relieve in some measure the class unjustly, because unequally, taxed. By the legal-tender acts a portion of the property of one class of citizens was virtually confiscated for the benefit of another, without an increase thereby of the public revenues, and consequently without any compensation to the injured class. There can be no doubt that these acts have tended to blunt and deaden the public conscience, nor that they are chargeable in no small degree with the demoralization which so generally prevails.

The economical objections to these notes as lawful money—stated at length in previous reports of the Secretary—may be thus briefly restated. They increased immensely the cost of the war, and they have added largely to the expenses of the Government since the restoration of peace; they have caused instability in prices, unsteadiness in trade, and put a check upon judicious enterprises; they have driven specie from circulation and made it merchandise; they have sent to foreign countries the products of our mines, at the same time that our European debt has been steadily increasing, and has now reached such magnitude as to be a heavy drain upon the national resources and a serious obstacle in the way of a return to specie payments; they have shaken the public credit by raising dangerous questions in regard to the payment of the public debt; in connection with high taxes—to the necessity for which they have largely contributed—they are preventing ship-building, and thereby the restoration of the commerce which was destroyed by the war; they are an excuse for—if, indeed, they do not necessitate—protective tariffs, and yet fail, by their fluctuating value, to protect the American manufacturer against his foreign competitor; they are filling the coffers of the rich, but, by reason of the high prices which they create and sustain they are almost intolerable to persons of limited in-

comes. The language of one of the greatest men of modern times, so often, but not too often, quoted, is none too strong in its descriptions of the injustice and the evils of an inconvertible currency:

"Of all the contrivances for cheating the laboring classes of mankind, none has been more effectual than that which deludes them with paper money. Ordinary tyranny, oppression, excessive taxation—these bear lightly on the happiness of the mass of the community compared with a fraudulent currency and the robberies committed by depreciated paper. Our own history has recorded for our instruction enough and more than enough of the demoralizing tendency, the injustice, and the intolerable oppression, on the virtuous and well-disposed, of a degraded paper currency authorized or in any way countenanced by Government."

The experience of all nations that have tried the experiment of inconvertible paper money has proved the truth of the eloquent words of Mr. Webster. If our country is in a measure prosperous with such an incubus upon it, it is because it is so magnificent in extent, so diversified in climate, so rich in soil, so abundant in minerals, with a people so full of energy that even a debased currency can only retard but not put a stop to its progress.

The Secretary still adheres to the opinion so frequently expressed by him, that a reduction of the paper circulation of the country until it appreciated to the specie standard was the true solution of our financial problem. But as this policy was emphatically condemned by Congress, and it is now too late to return to it, he recommends the following measures as the next best calculated to effect the desired result.

Agreements for the payment of coin seem to be the only ones, not contrary to good morals, the performance of which cannot be enforced in the courts. "Coin contracts" executed before the passage of the legal-tender acts, as well as those executed since, are satisfied in all the States except California by the payment of the amounts called for in depreciated notes. This shackle upon commerce, this check upon our national progress, this restriction upon individual rights, should no longer be continued. If it be admitted that the condition of the country during the war, and for a time after its close, created a necessity for laws and decisions making promissory notes (fluctuating in value according to the result of battles and of speculative combinations) the medium in which contracts should be discharged, this necessity no longer exists. Steps should now be taken to give stability to business and security to enterprise; and to this end specific contracts to be executed in coin should at once be legalized. Perhaps no law could be passed which would be productive of better results with so little private or public inconvenience. Such a law would simply enable the citizen to do what the Government is doing in its receipts for customs and in the payment of its bonded debt; it would merely authorize the enforcement of contracts voluntarily entered into according to their letter. The effect of such a law would be to check the outflow of specie to other countries by creating a necessity for the use of it at home; to encourage enterprises extending into the future by removing all uncertainty in regard to the value of the currency with which they are to be carried on. Such a law would remove a formidable embarrassment in our foreign trade, would familiarize our people again with specie as the standard of value, and show how groundless is the apprehension so generally existing that a withdrawal of depreciated notes or the appreciation of these notes to par would produce a scarcity of money, by proving that specie, expelled from the country by an inferior circulating medium, will return again when it is made the basis of contracts and is needed in their performance. Business is now necessarily speculative because the basis is unreliable. Currency, by reason of its uncertain future value, although usually plentiful in the cities, and readily obtained there at low rates on short

time with ample collaterals, is comparatively scarce and dear in the agricultural districts, where longer loans on commercial paper are required. Prudent men hesitate both to lend or to borrow for any considerable period by reason of their inability to determine the value of the medium in which the loans are to be paid. With currency now worth seventy cents on the dollar, and which within six months may advance to eighty or decline to sixty, it is strange that the flow is to the business centers, where it can be loaned "on call," leaving the interior without proper supplies at reasonable rates for moving the crops and conducting other legitimate business? Is it strange that, in such an unsettled condition of the currency, gambling is active while enterprise halts, trade stagnates, and distrust and apprehension exist in regard to the future? It is not supposed that such a measure as is recommended will cure the financial evils which now afflict the country, but it will be a decided movement in the right direction, and the Secretary indulges the hope that it will receive the early and favorable consideration of Congress.

The legal-tender acts were war measures. By reference to the debates upon their passage it will be perceived that by all who advocated them they were expected to be temporary only. It was feared that irredeemable Government notes, in the unfortunate condition of the country, could only be saved from great depreciation by being made a legal tender—the great fact not being sufficiently considered that, by possessing this character, their depreciation would not be prevented, but merely disguised. Hence it was declared that they should be "lawful money and a legal tender in payment of all debts, public or private, within the United States, except duties on imports and interest on the public debt." They were issued in an emergency, for which it then seemed that no other provision could be made. They were, in fact, a forced loan justified only by the condition of the country, and they were so recognized by Congress and the people. By no member of Congress and by no public journal was the issue of these notes as lawful money advocated on any other ground than that of necessity; and the question arises, should they not now, or at an early day, be divested of the character which was conferred upon them in a condition of the country so different from the present. The Secretary believes that they should, and he therefore recommends, in addition to the enactment by which contracts for the payment of coin can be enforced, that it be declared that after the 1st day of January, 1870, United States notes shall cease to be a legal tender in payment of all private debts subsequently contracted; and that after the 1st day of January, 1871, they shall cease to be a legal tender on any contract, or for any purpose whatever, except Government dues, for which they are now receivable.

The law should also authorize the conversion of these notes, at the pleasure of the holders, into bonds, bearing such rate of interest as may be authorized by Congress on the debt into which the present outstanding bonds may be funded. The period for which they would continue to be a legal tender would be sufficient to enable the people and the banks to prepare for the contemplated change, and the privilege of their conversion would save them from depreciation. What has been said by the Secretary in his previous reports on the pernicious effects upon business and the public morals of inconvertible legal-tender notes, and what is said in this report upon the advantages which would result from legalizing coin contracts, sustain this recommendation. It may not be improper, however, to suggest another reason for divesting these notes of their legal tender character by legislative action. Although the decisions of the courts have been generally favorable to the constitutionality of the acts

by which they were authorized, grave doubts are entertained by many of the ablest lawyers of the country as to the correctness of these decisions; and it is to be borne in mind that they have not yet been sustained by the Supreme Court of the United States.

The illustrious lawyer and statesman, whose language upon the subject of irredeemable paper money has been quoted, in the Senate of the United States on the 21st day of December, 1836, expressed the following opinion:

"Most unquestionably there is no legal tender in this country, under the authority of this Government or any other, but gold and silver, either the coinage of our own mints or foreign coins at rates regulated by Congress. This is a constitutional principle, perfectly plain and of the very highest importance. The States are expressly prohibited from making anything but gold and silver a legal tender in payment of debts, and although no such express prohibition is applied to Congress, yet, as Congress has no power granted to it in this respect but to coin money and to regulate the value of foreign coins, it clearly has no power to substitute paper or anything else for coin as a tender in payment of debts and in discharge of contracts. Congress has exercised this power fully in both its branches. It has coined money, and still coins it; it has regulated the value of foreign coins, and still regulates their value. The legal tender, therefore, the constitutional standard of value, is established and cannot be overthrown. To overthrow it would shake the whole system."

It is, by no means certain that the Supreme Court will differ from Mr. Webster upon this question, and no one can fail to perceive how important it is that the legislation recommended should precede a decision (from which there can be no appeal) that United States notes are not, under the Federal Constitution, a legal tender.

The receipts from customs for the last three years have been as follows:

For the fiscal year ending June 30, 1866...	\$179,046,651 58
For the fiscal year ending June 30, 1867...	176,417,810 88
For the fiscal year ending June 30, 1868...	164,464,599 56

While it appears from these figures that the customs receipts since the commencement of the fiscal year 1865 have been, in a revenue point of view, entirely satisfactory, the question naturally arises, what do these large receipts, under a high tariff, indicate in regard to our foreign trade and to our financial relations with foreign nations.

It is impossible to ascertain with precision the amount of our securities held in Europe, nor is there any perfectly reliable data for ascertaining even what amount has gone there annually since the first bonds were issued for the prosecution of the late war. In his report of 1866 the Secretary estimated the amount of United States securities of different kinds, including railroad and other stock, held in Europe at \$600,000,000. He soon after became satisfied that this estimate was too low by from one hundred to one hundred and fifty millions. It would be safe to put the amount so held at the present time, exclusive of stocks, at \$850,000,000, of which not less than \$600,000,000 are United States bonds, nearly all of which have left the United States within the last six years. The amount is formidable; and little satisfaction is derived from the consideration that these securities have been transferred in payment of interest and for foreign commodities; and just as little from the consideration that probably not over \$500,000,000 in gold values have been received for these \$850,000,000 of debt. In this estimate of our foreign indebtedness railroads and other stocks are not included, as they are not a debt, but the evidence merely of the ownership of property in the United States. Fortunately, for some years past individual credits have been curtailed, and our foreign and domestic trade in this particular has not been unsatisfactory. In addition, then, to the stocks referred to and the individual indebtedness, of the amount of which no accurate estimate can be made, Europe holds not less than \$850,000,000 of American securities, on nearly all of which interest, and on the greater part of which interest in gold, is being paid. Nor, under the

present revenue systems, and with a depreciated paper currency, is the increase of our foreign debt likely to be stayed. With an abundant harvest, and a large surplus of agricultural products of all descriptions, United States bonds are still creating, to no small extent, the exchange with which our foreign balances are being adjusted. We are even now increasing our debt to Europe at the rate of sixty or seventy million dollars per annum in the form of gold-bearing bonds.

The gold and silver product of California and the Territories since 1848 has been upwards of \$1,300,000,000. Allowing that \$100,000,000 have been used in manufactures, and that the coin in the country has been increased to an equal amount, the balance of this immense sum—\$1,100,000,000—has gone to other countries in exchange for their productions. Within a period of twenty years, in addition to our agricultural products, and to our manufactures, which have been exported in large quantities, we have parted with \$1,100,000,000 of the precious metals; and are, nevertheless, confronted with a foreign debt of some eight hundred and fifty millions, which is steadily increasing; and all this has occurred under tariffs in a good degree framed with the view of protecting American against foreign manufacturers. But this is not all. During the recent war most of our vessels engaged in the foreign trade were either destroyed by rebel cruisers or transferred to foreigners. Our exports as well as our imports are now chiefly in foreign bottoms. The carrying trade between the United States and Europe is almost literally in the hands of Europeans. Were it not for the remnant of ships still employed in the China trade, and the stand we are making by the establishment of a line of steamers on the Pacific, the coastwise trade, which is retained by the exclusion of foreign competition, would seem to be about all that can, under existing legislation, be relied upon for the employment of American shipping.

There are many intelligent persons who entertain the opinion that the country has been benefited by the transfer of our bonds to Europe, on the ground that capital has been received in exchange for them, which has been profitably employed in the development of our national resources, and that it matters little whether the interest upon the debt is received by our own people or by the people of other countries. This opinion is the result of misapprehension of facts, and is unsound in principle. It is not to a large extent true that capital, which is being used in developing the national resources, has been received in exchange for the bonds which are held in Europe. While many articles, such as railroad iron, machinery, and raw materials used in manufacturing—the value of which to the country is acknowledged—have been so received, a large proportion of the receipts have been of a different description. Our bonds have been largely paid for in articles for which no nation can afford to run in debt, for articles which have neither stimulated industry nor increased the productive power of the country, which have in fact added nothing to the national wealth. A reference to the custom-house entries will substantiate the correctness of these statements. Two thirds of the importations of the United States consist of articles which, in economical times, would be pronounced luxuries. The war and a redundant currency have brought about unexampled extravagance, which can only be satisfied by the most costly products of foreign countries. No exception could be taken to such importations if they were paid for in our own productions. This, unfortunately, is not the fact. They are annually swelling our foreign debt without increasing our ability to pay it. How disastrous such a course of trade, if long continued, must be, it requires no spirit of prophecy to predict.

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Nor is it an unimportant matter that the interest upon a large portion of our securities is received by citizens of other countries instead of our own. If the interest upon a public debt is paid out where the taxes to provide for it are collected, the debt, although a burden upon the mass of tax-payers who are not holders of securities, may be so managed as not to be a severe burden upon the nation. The money which goes into the Treasury by means of taxes will flow out again into the same community in the payment of interest; and were it not for the expenses attending it, the process would not, in a purely economical view, be an exhausting one. If the bonds of the United States were equally distributed among the people of the different States there would be less complaint of the debt than is now heard. Anti-tax parties will attain strength only in those States in which few bonds are held. If the people of the West are more sensible of the burdens of Federal taxation than are those of the eastern States it is because they are not holders to the same extent of national securities. This inequality cannot of course be prevented by legal or artificial processes. The securities will be most largely held where capital is the most abundant; and they will be more equally distributed among the respective States—if not among the people—as the new States approach the older ones in wealth.

These manifest truths indicate how important it is that the debt of the United States should be a home debt; so that the money which is collected for taxes may be paid to our own people in the way of interest. In fact, a large national debt to be tolerable must of necessity be a home debt. A nation that owes heavily must have its own people for creditors. If it does not, the debt will be a dead weight upon its industry, and will be quite likely to force it eventually into bankruptcy. The United States are not only able to pay the interest on their debt, but to set a good example to other nations by steadily and rapidly reducing that debt. What is now required, as has been already intimated, are measures which will tend not only to prevent further exportation of our bonds, and in the regular course of trade to bring back to the country those that have been exported, but which will also tend to restore those important interests that are now languishing, as the result of the war and adverse legislation. The first and most important of these measures are those which shall bring about, without unnecessary delay, the restoration of the specie standard. The financial difficulties under which the country is laboring may be traced directly to the issue, and continuance in circulation of irredeemable promises as lawful money. The country will not be really and reliably prosperous until there is a return to specie payments. The question of a solvent, convertible currency, underlies all other financial and economical questions. It is, in fact, a fundamental question; and until it is settled, and settled in accordance with the teachings of experience, all attempts at other financial and economical reforms will either fail absolutely or be but partially successful. A sound currency is the life-blood of a commercial nation. If this is debased the whole current of its commercial life must be disordered and irregular. The starting point in reformatory legislation must be here. Our debased currency must be retired or raised to the par of specie, or cease to be lawful money, before substantial progress can be made with other reforms.

Next in importance to the subject of the currency is that of the revenues. Taxes are indispensable for the support of the Government, for the maintenance of the public credit, and the payment of the public debt. To tax heavily, not only without impoverishing the people, but without checking enterprise or putting shackles upon industry, requires the

most careful study, not only of the resources of the country and its relations with other nations, but also of the character of the people as affected by the nature of their institutions. While much may be learned by the study of the revenue systems of European nations, which have been perfected by years of experience and the employment of the highest talent, it must be obvious that these systems must undergo very considerable modifications before they will be fitted to the political and physical condition of the United States. In a popular Government like ours, where the people virtually assess the taxes as well as pay them, the popular will, if not the popular prejudice, must be listened to in the preparation of revenue laws. Justice must, in some instances, yield to expediency; and some legitimate sources of revenue may be unavailable because a resort to them might be odious to a majority of tax-payers. The people of the United States are enterprising and self-reliant. Most of them are the "architects of their own fortunes;" few the inheritors of wealth. Engaged in various enterprises, with constantly varying results, and in sharp competition with each other, they submit reluctantly to inquisitions of tax-gatherers, which might not be obnoxious to people less independent and living under less liberal institutions. Then, too, the United States are a new country, of large extent and diversified interests; with great natural resources, in the early process of development. Not only may systems of revenue which are suited to England or Germany or France be unsuited to this country, but careful and judicious observation and study are indispensable to the preparation of tax bills suited to the peculiar interests of its different sections. It was with a view of supplying Congress with such information as was needed to secure the passage of equal and wise excise and tariff laws, which would yield the largest revenue with the least oppression and inconvenience to the people, that a revenue commission was created in 1865. The creation of this commission was the first practical movement toward a careful examination of the business and resources of the country, with a view to the adoption of a judicious revenue system. The reports of this commission were interesting and valuable, and they exhibited so clearly the necessity for further and more complete investigations that by the act of July 13, 1866, the Secretary of the Treasury was authorized to appoint an officer in his Department, to be styled the Special Commissioner of Revenue, whose duty it should be "to inquire into all the sources of national revenue, and the best method of collecting the revenue; the relation of foreign trade to domestic industry; the mutual adjustment of the systems of taxation by customs and excise, with a view of insuring the requisite revenue with the least disturbance or inconvenience to the progress of industry, and the development of the resources of the country," &c. Under this act Mr. David A. Wells was appointed Special Commissioner of the Revenue. With what energy and ability he has undertaken the very difficult duties devolved upon him has been manifested by the reports which he has already submitted to Congress. That which accompanies or will soon follow this communication will prove, more fully than those which have preceded it have done, the importance of the investigations in which he is engaged and the judicious labor which he is bestowing upon them. The facts which he presents and the recommendations based upon them are entitled to the most careful consideration of Congress. These reports of the Commissioner are so complete that they relieve the Secretary from discussing elaborately the questions of which they treat. His remarks, therefore, upon the internal revenues and the tariff will be general and brief.

The following is a statement of receipts from internal revenues for the last three fiscal years:

For the year ending June 30, 1866.....	\$309,226,813 42
For the year ending June 30, 1867.....	285,027,537 43
For the year ending June 30, 1868.....	191,087,589 41

It thus appears that the internal revenue receipts for the year ending June 30, 1867, fell below the receipts for the year ending June 30, 1866, \$43,199,275 99, and that the receipts for the year ending June 30, 1868, fell short of the receipts for 1867, \$74,939,948 02. The receipts for the first four months of the present fiscal year were \$48,736,848 33. If the receipts for these months are an index of those for the remaining eight, the receipts for the present fiscal year will be \$146,209,044.

This large reduction of internal revenue receipts is attributable both to inefficient collections, and to a reduction of taxes. It is quite obvious that the receipts from customs cannot be maintained without an increase of exports or of our foreign debt. If the receipts from customs should be diminished, even with a large reduction of the expenses of the Government, our internal revenues must necessarily be increased. The first thing to be done is to introduce economy into all branches of the public service, not by reduced appropriations to be made good by "deficiency bills," but by putting a stop to all unnecessary demands upon the Treasury. There is no department of the Government which is conducted with proper economy. The habits formed during the war are still strong, and will only yield to the requirements of inexorable law. The average expenses of the next ten years for the civil service ought not to exceed \$40,000,000 per annum. Those of the War Department, after the bounties are paid, should be brought down to \$35,000,000, and those of the Navy to \$20,000,000. The outlays for pensions and Indians cannot for some years be considerably reduced, but they can doubtless be brought within \$30,000,000. The interest on the public debt when the whole debt shall be funded, at an average rate of interest of five per cent., will amount to \$125,000,000 which will be reduced with the annual reduction of the principal.

When the internal revenue and tariff laws shall be revised so as to be made to harmonize with each other, it is supposed that \$300,000,000 can annually be realized from these sources without burdensome taxation. How much shall be raised from each can be determined when the whole subject of revenue shall be thoroughly investigated by Congress, with the light shed upon it by Commissioner Wells in his exhaustive report of the present year. The Secretary does not doubt, however, that the best interests of the country will be subserved by a reduction of the tariff and an increase of excise duties.

According to this estimate the account would stand as follows:

Receipts from customs and internal revenues.....	\$300,000,000
Expenditures for the civil service.....	\$40,000,000
Expenditures for the War Department.....	35,000,000
Expenditures for the Navy Department.....	20,000,000
Expenditures for pensions and Indians.....	30,000,000
Expenditures for interest on the public debt.....	125,000,000
Total.....	\$250,000,000

Leaving as an excess of receipts \$50,000,000 to be applied to the payment of the principal of the debt. If the growth of the country should make an increase of expenditures necessary, this increase will, by the same cause, be provided for by increased receipts under the same rate of taxation; and as it is to be hoped that the regular increase of the revenues, without an increase of taxation, resulting from the advance of the country in wealth and population, will be greater than the necessary increase of expenses, there will be a constantly increasing amount in addition to that arising from a

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decrease of interest to be annually applied to the payment of the debt. If large additional expenditures should be unavoidable they should at once be provided for by additional taxes. What is required, then, at the present time, is a positive limitation of the annual outlays to \$300,000,000, including \$50,000,000 to be applied to the payment of the principal of the debt, and such modifications of the revenue laws as will secure this amount, without unwise restrictions upon commerce, and with the least possible oppression and inconvenience to the tax payers. In the foregoing estimates of resources miscellaneous receipts and receipts from sales of public lands are omitted. The miscellaneous receipts heretofore have been derived from sales of gold and of property purchased by the War and Navy Departments during the war and no longer needed. On a return to specie payments there will be no premiums on coin, very little Government property will hereafter be sold, and under the homestead law and with liberal donations of the public domain, which are likely to be made as heretofore, no considerable amount can be expected from lands. Whatever may be received from these sources will doubtless be covered by miscellaneous expenses, of which no estimate can be made.

The act of March 31, 1868, exempting from taxes nearly all the manufactures of the country other than distilled spirits, fermented liquors, and tobacco, was sudden and unexpected. It not only deprived the Treasury of an immense revenue, but the reduction was so great as to leave an impression on the public mind that it would be only temporary, and that a tax in some degree equivalent to that which was removed would of necessity soon be resorted to. It is, perhaps, for this reason that this measure has failed to give relief to the public by a diminution of prices, and has benefited manufacturers rather than consumers. The frequent and important changes which have been made in the internal revenue laws, the ease with which exemptions from taxation have been obtained, and the suddenness with which taxes have been greatly augmented or reduced, have constituted one of the greatest evils of the system. Sudden changes in the revenue laws are not only destructive of all business calculations, but they excite—not unreasonably—a feeling of discontent and a sense of injustice among the people, most unfavorable to an efficient collection of taxes. While it is admitted that in a new and growing country like ours modifications of the taxes will be frequently necessary, some definite policy should at once be inaugurated in regard to our internal revenues, the general principles of which should be regarded as finally established.

Assuming that the receipts from customs will be reduced by a reduction of duties or by the effects of a return to specie payments upon importations under the present tariff, and that, consequently, there must be an increase of internal taxes, there are three sources of revenue which are likely to be considered.

First. An increase of taxes upon distilled spirits.

The idea of deriving the bulk of the revenue from this article is a very popular one; and even our unfortunate experience has only partially convinced the public of its impossibility. The late exorbitant tax on distilled spirits, intended, perhaps, not merely as a revenue measure, but as an encouragement to temperance, proved to be the most demoralizing tax ever imposed by Congress, corrupting both the manufacturers and the revenue officers, and familiarizing the people with stupendous violations of the law. The restoration of it, or any considerable increase of the present tax, would lead to a repetition of the frauds which have brought the internal revenue system into such utter disgrace.

Second. A restoration of the tax on manufactures abolished in March last.

The objections to the restoration of this tax are, that it would indicate vacillation on the part of Congress, and that this tax, principally on account of numerous exemptions, was partial and unjust. It is also apparent that, if restored, it would fail to be permanent by reason of the persistent and united hostility of a class of citizens influential and powerful, and whose influence and power are rapidly increasing.

Third. An increased and uniform tax on sales; and this the Secretary respectfully recommends.

Under the present law wholesale and retail dealers in goods, wares, and merchandise of foreign or domestic production, wholesale and retail dealers in liquors, and dealers in tobacco are subject to a similar but unequal tax upon sales. This inequality should be removed, and a tax levied upon all sales sufficient, with the revenues from other sources, to meet the wants of the Government. The reasons in favor of a tax upon sales are that it could be levied generally throughout the country, and would not be liable to the imputation of class legislation; that it would be so equally distributed as not to bear so oppressively as other taxes upon individuals or sections; and that no depression of one branch of industry which did not injuriously affect the business of the entire country could greatly lessen its productiveness.

As has been already stated, the receipts from customs for the fiscal year ending June 30, 1866, were \$179,046,651 58; for the year ending June 30, 1867, \$176,417,810 88; and for the last fiscal year, \$164,464,599 56. These figures show that the tariff has produced large revenues, although it is in no just sense a revenue tariff. In this respect it has exceeded the expectations of its friends, if, indeed, it has not disappointed them. It has not checked importations, and complaint is made that it has not given the anticipated protection to home manufactures, not because it was not skillfully framed to this end, but because an inflated currency—the effect of which upon importations was not fully comprehended—has, in a measure, defeated its object. It has advanced the prices of dutiable articles, and, by adding to the cost of living, has been oppressive to consumers without being of decided benefit to those industries in whose interest it is regarded as having been prepared. In his last report the Secretary recommended the extension of specific duties, but did not recommend a complete revision of the tariff, on the ground that this work could not be intelligently done as long as business was subject to constant derangement by an irredeemable currency. The same difficulty still exists, but as decided action upon the subject of the currency ought not to be longer postponed the present may not be an unfavorable time for a thorough examination of the tariff. It is obvious that a revision of it is required, not only to relieve it of incongruities and obscurity, and to harmonize it with excise taxes and with our agricultural and commercial interests, but also to adapt it to the very decided change which must take place in the business of the country upon the restoration of the specie standard. Large revenues are now derived from customs, because a redundant currency produces extravagance, which stimulates importations. If the currency were convertible, and business were regular and healthy, the tariff would be severely protective, if not in many instances prohibitory. Indeed, of some valuable articles it is prohibitory already.

There will be in the future, as there have been in the past, widely different opinions upon this long vexed and very important subject, but the indications are decided that the more enlightened sentiment of the country demands that the tariff shall hereafter be a tariff for rev-

enue and not for protection, and that the revenues to be derived from it shall be no larger than, in connection with those received from other sources, will be required for the economical administration of the Government, the maintenance of the public faith, and the gradual extinguishment of the public debt. While the country is not at present, and may not be for many years to come, prepared for the abrogation of all restrictions upon foreign commerce, it is unquestionably prepared for a revenue tariff. The public debt is an incumbrance upon the property of the nation, and the taxes, the necessity for which it creates, by whatever mode and from whatever sources collected, are at last a charge upon the consumers. Taxes should not, therefore, be increased, nor will the tax-payers permit them to be permanently increased, for the benefit of any interest or section. Fortunately, or unfortunately, as the question may be regarded from different standpoints, the necessities of the Government will be such for many years that large revenues must be derived from customs, so that a strictly revenue tariff must incidentally benefit our home manufactures. According to the estimate made by the Secretary, an annual revenue of \$300,000,000 will be required to meet the necessary demands upon the Treasury, and for a satisfactory reduction of the public debt. How much of this amount shall be derived from customs it will be for Congress to determine.

In examining this difficult question, the magnitude of our foreign debt, and the necessity not only of preventing its increase but of rapidly reducing it, must be kept steadily in view. It may be necessary that a large portion of our bonds now held in Europe be taken up with bonds bearing a lower rate of interest, payable in some European city, in order that they may be less likely to be returned to the United States at unpropitious times. Whether this is accomplished or not, it is of the last importance that our tax laws, and especially the tariff, should be so framed as to encourage exports and enlarge our commerce with foreign nations, so that balances may be in our favor, and the interest, and in due time the principal, of our foreign debt may be paid by our surplus productions. Many of the investigations of the Revenue Commissioner have been made with the view of furnishing Congress with the data necessary for a thorough examination and a wise determination of this most important question, and it is fortunate that the subsidence of political excitement removes many of the difficulties heretofore in the way of an impartial consideration of it.

The public debt on the 1st day of November, 1867, amounted to \$2,491,504,450, and consisted of the following items:

Debt bearing coin interest.....	\$1,778,110,991 80
Debt bearing currency interest.....	426,768,640 00
Matured debt not presented for payment.....	18,237,538 83
Debt bearing no interest.....	402,385,677 80

Total.....	2,625,502,848 02
Cash in the Treasury.....	133,998,398 02

Amount of debt less cash in the Treasury.....	\$2,491,504,450 00
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On the 1st day of November, 1868, it amounted to \$2,527,129,552 82, and consisted of the following items:

Debt bearing coin interest.....	\$2,107,577,950 00
Debt bearing currency interest.....	114,519,000 00
Matured debt not presented for payment.....	9,758,723 64
Debt bearing no interest.....	400,151,898 92

Total.....	2,641,002,572 06
Cash in the Treasury.....	113,873,019 24

Amount of debt less cash in the Treasury.....	\$2,527,129,552 82
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By a comparison of these statements it appears that the debt, between the 1st day of November, 1867, and the 1st day of November,

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1868, increased \$35,625,102 82. Of this increase \$24,152,000 is chargeable to the Pacific railroads, and \$1,200,000 to the purchase of Russian America. Within the same period there was paid for bounties \$44,000,515, and at least \$4,000,000 for interest on compound and seven three-tenth notes, which had accrued prior to the 1st of November, 1867. If these extraordinary advances and payments had not been made the receipts would have exceeded the expenditures \$43,787,412 18. Considering the heavy reduction of internal taxes, made at the last session of Congress, and the large expenditures which have attended the military operations against the Indians on the frontier, and the maintenance of large forces at expensive points in the southern States, this statement of the amount of the debt cannot be regarded an unsatisfactory one. The bounties will, it is expected, be entirely paid within the next three months, and very little interest, except that which accrues upon the funded debt, is hereafter to be provided for. Should there be henceforth no extraordinary expenditures, and no further donations of public moneys in the form of bounties or of additional subsidies to railroad companies, with proper economy in the administration of the General Government, and with judicious amendments of the revenue laws and proper enforcement thereof, the public debt, without oppressive taxation, can be rapidly diminished and easily extinguished within the period heretofore named by the Secretary.

The ability of the United States to maintain their integrity against insurrection as well as against a foreign enemy can no longer be doubted. The question of their ability, under democratic institutions, to sustain a large national debt, is still to be decided. That this question should be affirmatively settled, it is, in the opinion of the Secretary, of the highest importance that the tax-paying voters should be encouraged by the fact that the debt is in the progress of rapid extinguishment and is not to be a permanent burden upon them and their posterity. If it be understood that this debt is to be a perpetual incumbrance upon the property and industry of the nation, it is certainly to be feared that the collection of taxes necessary to pay the interest upon it may require the exercise of power by the central Government inconsistent with republicanism and dangerous to the liberties of the people. The debt must be paid. Direct repudiation is an impossibility; indirect repudiation, by further issues of legal-tender notes, would be madness. To insure its payment without a change in the essential character of the Government every year should witness a reduction of its amount and a diminution of its burdens. The Secretary is confident that he expressed the sentiments of the intelligent tax-payers of the country when he said in his report of 1865:

"The debt is large, but if kept at home, as it is desirable it should be, with a judicious system of taxation, it need not be oppressive. It is, however, a debt. While it is capital to the holders of these securities, it is still a national debt, and an incumbrance upon the national estate. Neither its advantages nor its burdens are or can be shared or borne equally by the people. Its influences are anti-republican. It adds to the power of the Executive by increasing Federal patronage; it must be distasteful to the people, because it fills the country with informers and tax-gatherers. It is dangerous to the public virtue, because it involves the collection and disbursement of vast sums of money, and renders rigid national economy almost impracticable. It is, in a word, a national burden, and the work of removing it, no matter how desirable it may be for individual investment, should not long be postponed.

"As all true men desire to leave to their heirs unincumbered estates, so should it be the ambition of the people of the United States to relieve their descendants of this national mortgage. We need not be anxious that future generations shall share the burden with us. Wars are not at an end, and posterity will have enough to do to take care of the debts of their own creation.

"The Secretary respectfully suggests that on this subject the expression of Congress should be decided and emphatic. It is of the greatest importance in the management of a matter of so surpassing interest that the right start should be made. Nothing but

revenue will sustain the national credit, and nothing less than a fixed policy for the reduction of the public debt will be likely to prevent its increase."

And in his report of 1867, when he remarked:

"Old debts are hard debts to pay; the longer they are continued the more odious they become. If the present generation should throw the burden of this debt upon the next, it will be quite likely to be handed down from one generation to another, a perpetual if not a constantly increasing burden upon the people. Our country is full of enterprise and resources. The debt will be lightened every year with great rapidity by the increase of wealth and population. With a proper reduction in the expenses of the Government, and with a revenue system adapted to the industry of the country, and not oppressing it, the debt may be paid before the expiration of the present century. The wisdom of a policy which shall bring about such a result is vindicated, in advance, by the history of nations whose people are burdened with inherited debts, and with no prospect of relief for themselves or their posterity."

In his last report the Secretary referred to the condition of the Treasury at the close of the war and at some subsequent periods, alluding especially to the emergency in the spring of 1865, arising from the very large requisitions which were waiting for payment, and the still larger requisitions that were to be provided for, to enable the War Department to pay arrearages due to the Army, and other expenses which had already been incurred in the suppression of the rebellion. In briefly reviewing the administration of the Treasury from April, 1865, he did not think it necessary to state how much of the large revenue receipts had been expended in the payment of debts incurred during the war; and he would not undertake to do it now did not misapprehension exist in the public mind in regard to the expenditures of the Government since the conclusion of hostilities, prejudicial to both the law-making and the law-executing branches of the Government.

The war was virtually closed in April, 1865. On the first day of that month the public debt amounted, according to the books and accounts of the Department, to \$2,366,955,077 34. On the 1st day of September following it amounted to \$2,737,689,571 43, having increased in four months \$390,734,494 09. From that period it continued to decline until November 1, 1867, when it had fallen to \$2,491,504,450. On the 1st day of November last it had risen to \$2,527,129,552 82. By this statement it appears that between the 1st day of April, 1865, and the 1st day of September of the same year, the debt increased \$390,734,494 09, and that between the 1st day of September, 1865, and the 1st day of November, 1868, it decreased \$230,560,018 61; and that on the last day mentioned it was \$160,174,475 48 larger than it was on the 1st day of April, 1865. Since then the Treasurer's receipts from all sources of revenue have been as follows:

For April, May, and June, 1865.....	\$93,519,164 13
For the year ending June 30, 1866.....	553,032,620 06
For the year ending June 30, 1867.....	490,634,010 27
For the year ending June 30, 1868.....	405,633,083 32
June 30 to November 1, 1868.....	124,652,184 42
Total of receipts.....	1,662,476,062 20
To which should be added the increase of the debt between the 1st day of April, 1865, and the 1st day of November, 1868.....	160,174,475 48
	<u>\$1,822,650,537 68</u>

This exhibit shows that the large sum of \$1,822,650,537 68 was expended in the payment of the interest and of other demands upon the Treasury in three years and seven months, being an annual average expenditure of \$508,646,661 68.

If the statement of the public debt on the 1st day of April, 1865, had included all debts due at that time, and \$1,822,650,537 68 had really been expended in payment of the interest on the public debt, and the current expenses of the Government between that day and the 1st day of November last, there would have been a profligacy and a recklessness in the expenditures of the public moneys discredit-

able to the Government and disheartening to tax-payers. Fortunately this is not the fact. That statement—as is true of all other monthly statements of the Treasury—exhibited only the adjusted debt, according to the books of the Treasury, and did not, and could not, include the large sums due to the soldiers of the great Union Army—numbering at that time little less than a million men—for "pay" and for "bounties," or on claims of various kinds which must of necessity have been unsettled. For the purpose of putting this matter right the Secretary has endeavored to ascertain from the War and Navy Departments how much of their respective disbursements, since the close of the war, has been in payment of debts properly chargeable to the expenses of the war. The following is the result of his inquiries:

By the War Department.....	\$595,431,125 90
By the Navy Department.....	35,000,000 00

It has been impossible to obtain an exact statement of the amount of such debts paid by the Navy Department, but sufficient information has been received to justify the Secretary in estimating it in round numbers at \$35,000,000, which is probably an under rather than over estimate. The expenditures of the War Department have been furnished in detail, and are believed to be substantially correct.

These figures show that the money expended by the War and Navy Departments, between the 1st day of April, 1865, and the 1st day of November, 1868, on

Claims justly chargeable to the expenses of the war, amounted to.....	\$630,431,125 90
To which should be added amount advanced to the Pacific roads.....	42,194,000 00
Amount paid for Alaska.....	7,200,000 00
	<u>\$679,825,125 90</u>

Deducting this sum from the amount of the revenues, \$1,662,476,062 20, and \$160,174,475 48, the increase of the public debt, the remainder, \$1,142,825,411 78, or an average of \$318,928,021 89 per annum, is the amount actually expended in the payment of current expenses and interest.

It is thus shown that within a period of three years and seven months the revenues, or the receipts from all sources of revenue, reach the enormous sum of \$1,662,496,062 20, and that \$630,431,125 90 were paid on debts which were actually due at the close of the war, and for bounties which, like the pay of the Army, were a part of the expenses of the war. Adding the amount thus paid to the debt, as exhibited by the books of the Treasury on the 1st day of April, 1865, it appears that the debt of the United States at that time was \$2,997,386,203 24, and that the actual reduction has been \$470,256,650 42; and but for the advances to the Pacific roads, and the amount paid for Alaska, would have been \$519,650,650 42.

Nothing can better exhibit the greatness of the resources of this young nation than this statement, or show more clearly its ability to make "short work" of the extinguishment of the public debt. It will be borne in mind that these immense revenues have been collected while one third part of the country was in a state of great destitution, resulting from its terrible struggle to separate itself from the Union, with its political condition unsettled and its industry in a great degree paralyzed; and while also the other two thirds were slowly recovering from the drain upon their productive labor and resources, a necessary accompaniment of a gigantic and protracted war.

The Secretary has noticed with deep regret indications of a growing sentiment in Congress—notwithstanding the favorable exhibits which have been from time to time made of the debt-paying power of the country—in favor of a postponement of the payment of any part of the principal of the debt, until the national resources shall be so increased as to make the payment of it more easy. If this sentiment

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shall so prevail as to give direction to the action of the Government, he would feel that a very great error had been committed, which could hardly fail to be a severe misfortune to the country. The people of the United States will never be so willing to be taxed for the purpose of reducing the debt as at the present time. Now the necessity for its creation is better understood and appreciated than it can be at a future day. Now it is regarded by a large majority of tax-payers as a part of the great price paid for the maintenance of the Government, and therefore a sacred debt. The longer the reduction of it is postponed the greater will be the difficulties in the way of accomplishing it, and the more intolerable will seem to be the burden of taxation. The Secretary, therefore, renews the recommendations made in his first report, that a certain definite sum be annually applied to the payment of the interest and the principal of the debt. The amount suggested was \$200,000,000. As the debt is considerably smaller than its maximum was estimated at, the amount to be so applied annually might now safely be fixed at \$175,000,000, according to the estimate already made in this report.

The subject of the currency in which the five-twenty bonds may be paid—agitated for some time past—was freely discussed during the recent political canvass, and made a question upon which parties, to some extent, were divided. The premature and unfortunate agitation and discussion of this question have been damaging to the credit of the Government, both at home and abroad, by exciting apprehensions that the good faith of the nation might not be maintained, and have thus prevented our bonds from advancing in price, as they otherwise would have advanced, after it was perceived that the maximum of the debt had been reached, and have rendered funding at a low rate of interest too unpromising to be undertaken. In his report in 1865 the Secretary used the following language:

"Before concluding his remarks upon the national debt, the Secretary would suggest that the credit of the five-twenty bonds, issued under the acts of February 25, 1862, and June 30, 1864, would be improved in Europe, and, consequently, their market value advanced at home, if Congress should declare that the principal as well as the interest of these bonds is to be paid in coin. The policy of the Government in regard to its funded debt is well understood in the United States, but the absence of a provision in these acts that the principal of the bonds issued under them should be paid in coin, while such a provision is contained in the act under which the ten-forties were issued, has created some apprehension in Europe that the five-twenty bonds might be called in at the expiration of five years, and paid in United States notes. Although it is not desirable that our securities should be held out of the United States, it is desirable that they should be of good credit in foreign markets on account of the influence which these markets exert upon our own. It is, therefore, important that all misapprehensions on these points should be removed by an explicit declaration of Congress that these bonds are to be paid in coin."

Without intending to criticise the inaction of Congress in regard to a matter of so great importance, the Secretary does not hesitate to say that if his recommendations had been adopted the public debt would have been much less than it is; and that the reduction of the rate of interest would ere this have been in rapid progress. The Secretary does not think it necessary to discuss the question in this report. His opinions upon it are well known to Congress and the people. They were definitely presented in his report for 1867, and they remain unchanged. He begs leave merely to suggest, as he has substantially done before, that alleviation of the burden of the public debt is to be obtained not in a decial of the national credit, not in threats of repudiation, not in a further issue of irredeemable notes, not in arguments addressed to the fears of the bondholders, but in a clear and explicit declaration by Congress that the national faith, in letter and spirit, shall be inviolably maintained; that the bonds of the United States, intended to be negotiated abroad as well as at

home, are to be paid, when the time of payment arrives, in that currency which is alone recognized as money in the dealings of nation with nation. Let Congress say this promptly, and there can be but little doubt that the credit of the Government will so advance that within the next two years the interest on the larger portion of the debt can be reduced to a satisfactory rate. He therefore earnestly recommends that it be declared without delay, by joint resolution, that the principal of all bonds of the United States is to be paid in coin.

It is also recommended that the Secretary be authorized to issue \$500,000,000 of bonds, \$50,000,000 of which shall mature annually; the first \$50,000,000 to be payable, principal and interest, in lawful money—the principal and interest of the rest in coin; and also such further amount of bonds as may be necessary to take up the outstanding six per cents. and the non-interest bearing debt, payable in coin thirty years after date, and redeemable at any time after ten years at the pleasure of the Government—the interest to be paid semi-annually in coin, and in no case to exceed the rate of five per cent.; provided that the Secretary may, in his discretion, make the principal and interest of \$500,000,000 of these bonds payable at such city or cities in Europe as he may deem best.

The fact that, according to the recommendation, \$50,000,000 of the bonds to be issued are to become due each year for ten consecutive years (at the expiration of which time all of the bonds would be under the control of the Government) would insure an annual reduction of \$50,000,000 of the public debt, and impart a credit to the other bonds which would insure the negotiation of them on favorable terms.

Of the expediency of an issue of bonds corresponding to some extent in amount with those held in Europe, the interest and principal of which shall be paid in the countries where they are to be negotiated, there can be but little doubt. On this point the Secretary used the following language in his report of 1866:

"The question now to be considered is not how shall our bonds be prevented from going abroad—for a large amount has already gone, and others will follow as long as our credit is good and we continue to buy more than we can pay for in any other way—but how shall they be prevented from being thrown upon the home market to thwart our efforts in restoring the specie standard? The Secretary sees no practicable method of doing this at an early day, but by substituting for them bonds which, being payable principal and interest in Europe, will be less likely to be returned when their return is the least to be desired. The holders of our securities in Europe are now subject to great inconvenience and not a little expense in collecting their coupons; and it is supposed that five per cent., or perhaps four and a half per cent. bonds, payable in London or Frankfurt, could be substituted for our six per cents. without any other expense to the United States than the trifling commissions to the agents through whom the exchanges might be made. The saving of interest to be thus effected would be no inconsiderable item; and the advantages of having our bonds in Europe placed in the hands of actual investors is too important to be disregarded."

The Secretary has nothing further to say on this point than that careful reflection has only strengthened his convictions of the correctness of the views expressed in the foregoing extract.

In recommending the issue of bonds bearing a lower rate of interest, to be exchanged for the outstanding six per cents., the Secretary must not be understood as having changed his opinion in regard to the expediency or the wisdom of the recommendation in his last report:

"That the act of March 3, 1865, be so amended as to authorize the Secretary of the Treasury to issue six per cent. gold-bearing bonds, to be known as the consolidated debt of the United States, having twenty years to run, and redeemable, if it may be thought advisable, at an earlier day, to be exchanged at par for any and all other obligations of the Government, one sixth part of the interest on which, in lieu of all other taxes, at each semi-annual payment, shall be reserved by the Government, and paid over to the States according to population."

He refers to what he then said in advocacy of that recommendation as an expression of

his well-considered opinions at the present time, and he is only prevented from repeating the recommendation by the fact that it met with little approval at the last session, and has not grown into favor since. He sincerely hopes that the future history of the debt will vindicate the wisdom of those who are unable to approve the proposition.

The following is a statement of the public debt on the 1st of July, 1868:

DEBT BEARING COIN INTEREST.	
5 per cent. bonds.....	\$221,588,400 00
6 per cent. bonds of 1867 and 1868.....	6,893,441 80
6 per cent. bonds, 1881.....	283,677,200 00
6 per cent. 5-20 bonds.....	1,557,844,600 00
Navy pension fund.....	13,000,000 00
	<u>2,083,003,641 80</u>

DEBT BEARING CURRENCY INTEREST.	
6 per cent. bonds.....	\$29,089,000 00
3-year compound-interest notes.....	21,604,890 00
3-year 7-30 notes.....	25,534,900 00
3 per cent. certificates.....	50,000,000 00
	<u>126,228,790 00</u>

MATURED DEBT NOT PRESENTED FOR PAYMENT.	
3-year 7-30 notes, due on the 15th of August, 1867, and June 15, and July 15, 1868.....	\$12,182,750 00
Compound-interest notes, matured June 10, July 15, August 15, October 15, and December 15, 1867, and May 15, 1868.....	6,556,920 00
Bonds, Texas indemnity.....	256,000 00
Treasury notes, acts July 17, 1861, and prior thereto.....	155,111 64
Bonds, April 15, 1842.....	6,000 00
Treasury notes, March 3, 1863.....	555,492 00
Temporary loan.....	797,029 00
Certificates of indebtedness.....	18,000 00
	<u>20,527,302 64</u>

DEBT BEARING NO INTEREST.	
United States notes.....	\$356,141,723 00
Fractional currency.....	32,626,951 75
Gold certificates of deposit.....	17,678,640 00
	<u>406,447,314 75</u>
Total debt.....	2,636,207,049 19
Amount in Treasury coin.....	\$100,500,561 28
Amount in Treasury currency.....	30,505,970 97
	<u>131,006,532 25</u>

Amount of debt, less cash in Treasury.....	<u>\$2,505,200,516 94</u>
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The following is a statement of receipts and expenditures for the fiscal year ending June 30, 1868:

Receipts from customs.....	\$164,464,599 56
Receipts from lands.....	1,348,715 41
Receipts from direct tax.....	1,788,145 85
Receipts from internal revenue.....	191,087,589 41
Receipts from miscellaneous sources (of which amount there was received for premium on bonds sold to redeem Treasury notes, the sum of \$7,078,203 42).....	46,949,093 09
Total receipts, exclusive of loans,.....	<u>\$405,638,083 32</u>

Expenditures for the civil service (of which amount there was paid for premium on purchase of Treasury notes prior to maturity, \$7,001,151 04).....	\$60,011,018 71
Expenditures for pensions and Indians.....	27,883,069 10
Expenditures by War Department.....	123,246,648 62
Expenditures by Navy Department.....	25,775,502 72
Expenditures for interest on the public debt.....	140,424,045 71
Total expenditures, exclusive of principal of public debt.....	<u>\$377,340,284 86</u>

The following is a statement of receipts and expenditures for the quarter ending September 30, 1868:

The receipts from customs.....	\$49,676,594 67
The receipts from lands.....	514,895 03
The receipts from direct tax.....	15,536 02
The receipts from internal revenue.....	38,735,863 08
The receipts from miscellaneous sources (of which amount there was received from premium on bonds sold to redeem Treasury notes the sum of \$587,725 12).....	6,249,979 97
Total receipts, exclusive of loans,.....	<u>\$95,892,868 77</u>

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Expenditures for the civil service (of which amount there was paid as premium on purchase of Treasury notes prior to maturity \$300,000).....	\$21,227,106 33
Expenditures for pensions and Indians.....	12,358,647 70
War Department.....	27,219,117 02
Navy Department.....	5,604,785 33
Interest on public debt.....	38,742,814 37

Total expenditures, exclusive of principal of public debt..... \$105,152,470 75

The Secretary estimates that, under existing laws, the receipts and expenditures for the three quarters ending June 30, 1869, will be as follows:

From customs.....	\$125,000,000
Lands.....	1,000,000
Internal revenue.....	100,000,000
Miscellaneous sources.....	20,000,000

Receipts..... \$246,000,000

And that the expenditures for the same period, if there be no reduction of the Army, will be—

For the civil service.....	\$40,000,000
Pensions and Indians.....	18,000,000
War Department, including \$6,000,000 bounties.....	66,000,000
Navy Department.....	16,000,000
Interest on public debt.....	91,000,000

Expenditures..... \$231,000,000

The receipts and expenditures under existing laws for the fiscal year ending June 30, 1870, are estimated as follows:

From customs.....	\$160,000,000
Internal revenue.....	140,000,000
Lands.....	2,000,000
Miscellaneous sources.....	25,000,000

Receipts..... \$327,000,000

The expenditures for the same period, if the expenses of the Army should be kept up to about the present average, will be as follows:

For the civil service.....	\$50,000,000
Pensions and Indians.....	30,000,000
War Department.....	75,000,000
Navy Department.....	20,000,000
Interest on public debt.....	128,000,000

Expenditures..... \$303,000,000

The accompanying report of the Commissioner of Internal Revenue gives the necessary information in regard to the Bureau, and contains many very judicious recommendations and suggestions which are worthy the careful consideration of Congress.

The internal branch of the revenue service is the one in which the people feel the deepest interest. The customs duties are collected at a few points, and although paid eventually by the consumers, they are felt only by the great mass of the people in the increased cost of the articles consumed. Not so with the internal taxes. These are collected in every part of the Union, and their burdens fall, to a large extent, directly upon the tax payers. Assessors, collectors, inspectors, detectives—necessary instruments in the collection of the revenues—are found in every part of the country. There is no village or rural district where their faces are not seen, and where collections are not made. The eyes of the whole people are therefore directed to this system, and it is of the greatest importance that its administration should be such as to entitle it to public respect. Unfortunately this is not the case. Its demoralization is admitted; and the question arises, where is the remedy? The Secretary is of the opinion that it is to be found in such amendments to the act as will equalize the burdens of taxation, and in an elevation of the standard of qualification for revenue officers.

Upon the subject of internal taxes the Secretary has already spoken. In regard to the character of the revenue officers he has only to say that there must be a decided change for the better in this respect if the system is to be

rescued from its demoralized condition. After careful reflection the Secretary has come to the conclusion that this change would follow the passage of the bill reported by Mr. JENCKES, from the joint Committee on Retrenchment and Reform, on the 14th of May last, entitled "A bill to regulate the civil service and promote the efficiency thereof." The Secretary gives to this bill his hearty approval, and refers to the speech which was made upon its introduction by the gentleman who reported it, for an able and lucid exposition of its provisions, and for a truthful and graphic description of the evils of the present system of appointments to office.

On the 5th day of October last, the day for their regular quarterly reports, the number of national banks was sixteen hundred and forty-four, seventeen of which were in voluntary liquidation:

Their capital was.....	\$420,634,511 00
Their discounts.....	655,875,277 35
Their circulation.....	295,684,244 00
Their deposits.....	601,830,278 40

In no other country was so large a capital ever invested in banking, under a single system, as is now invested in the national banks; never before were the interests of a people so interwoven with a system of banking as are the interests of the people of the United States with their national banking system. It is not strange, therefore, that the condition and management of the national banks should be to them and to their representatives a matter of the deepest concern. That the national banking system is a perfect one is not asserted by its friends; that it is a very decided improvement, as far as circulation is regarded, upon the systems which it has superseded, must be admitted by its opponents. Before it was established the several States, whether in conformity with the Constitution or not, jointly with the General Government during the existence of the charter of the United States Bank, and solely after the expiration of that charter, exercised the power of issuing bills of credit, in the form of bank notes, through institutions of their own creation, and thus controlled the paper money, and thereby, in no small degree, the business and commerce of the country. In May, 1863, when the National Currency Bureau was established in Washington, some fifteen hundred banks, organized under State laws, furnished the people of the United States with a bank-note currency. In some of the States the banks were compelled to protect—partially, at least—the holders of their notes against loss by deposits of securities with the proper authorities. In other States the capital of the banks (that capital being wholly under the control of their managers) was the only security for the redemption of their notes. In some States there was no limit to the amount of notes that might be issued, if secured according to the requirements of their statutes, nor any necessary relation of circulation to capital. In others, while notes could be issued only in certain proportions to capital, there was no restriction upon the number of banks that might be organized. The notes of a few banks, being payable or redeemable at commercial centers, were current in most of the States, while the notes of other banks (perhaps just as solvent) were uncurrent beyond the limits of the States by whose authority they were issued. How valueless were the notes of many of the State banks is still keenly remembered by the thousands who suffered by their insolvency. The direct losses sustained by the people by an unsecured bank-note circulation, and the indirect losses to the country resulting from deranged exchanges, caused by a local currency constantly subject to the manipulations of money changers, and from the utter unsuitableness of such a currency to the circumstances of the country, can be counted by millions. It

is only necessary to compare the circulation of the State banks with that furnished by the national banks to vindicate the superiority of the present system. Under the national banking system the Government, which authorizes the issue of bank notes, and compels the people to receive them as money, assumes its just responsibility and guarantees their payment. This is the feature which especially distinguishes it from others and gives to it its greatest value.

The object of the Secretary, however, in referring to the national banks is not to extol them, but to call the attention of Congress to the accompanying instructive report of the Comptroller of the Currency, especially to that part of it which exhibits the condition and management of the banks in the commercial metropolis, and to the amendments proposed by him to the act.

On the 5th day of October last the loans or discounts of the banks in the city of New York amounted to \$163,634,070 23, only \$90,000,000 of which consisted of commercial paper, the balance being chiefly made up of what are known as loans on call, that is to say, of loans on collaterals, subject to be called in at the pleasure of the banks. Merchants or manufacturers cannot, of course, borrow on such terms, and it is understood that these loans are confined mainly to persons dealing or rather speculating in stocks or coin. This statement shows to what extent the business of the banks in New York has been diverted from legitimate channels, and how deeply involved the banks have become in the uncertain and dangerous speculations of the street.

The deposits of these institutions on the day mentioned amounted to \$226,645,655 80, and of their assets \$113,332,689 20 consisted of certain cash items which were in fact mainly certified checks, which had been passed to the credit of depositors, and constituted a part of the \$226,645,655 80 of deposits, although the banks always deduct such checks from their deposits in making up their statement for the payment of interest and their estimates for reserves. It is understood to be the practice of a number of the banks (perhaps the practice exists to a limited extent in all) to certify the checks of their customers in advance of the deposits out of which they are expected to be paid; in other words, to certify checks to be good, under an agreement between the banks and the drawers that the money to protect them shall be deposited during the day, or at least before the checks, which go through the clearing-house, can be presented for payment. The Secretary has learned with great surprise that a number of banks—generally regarded as being under judicious management—certify in a single day the checks of stock and gold brokers to many times the amount of their capitals, with no money actually on deposit for the protection of the checks at the time of their certification. A more dangerous practice, or one more inconsistent with prudent, not to say honest, banking, cannot be conceived. It is unauthorized by the act, and should be prohibited by severe penalties.

Aside from the risk incurred by this reckless method of banking, the effect of such practices is to foster speculation by creating inflation. It is, in fact, part and parcel of that fictitious credit which is so injurious to the regular business of the city, and to the business of all parts of the country, which feel and are affected by the pulsations of the commercial center. It is this very dangerous practice, combined with the more general practice of making loans "on call," which leads to unsafe extensions of credits, and makes many of the banks in New York helpless when the money market is stringent. Can anything be more discreditable to the banks of the great emporium of the country, or afford more conclusive evidence of their imprudent management, than the fact that with a capital—including their surplus

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and their undivided profits—of \$100,000,000, the withdrawal from circulation of ten or fifteen millions of legal-tender notes, by combinations for speculative purposes, can create a money stringency, by which not only the stock market is broken down, but the entire business of the city, and to some extent the business of the country, is injuriously affected? If the banks were no more extended than they ought to be, or had proper control over their customers, no such combinations would be likely to be formed, or if formed they would utterly fail of their object.

These remarks do not, of course, apply to all of the banks in New York, for some of them are strictly commercial institutions, and are under the control of men who are distinguished alike for their talents and their conservatism. They are, however, applicable to them as a class, and they undoubtedly apply in some measure to many banks in other cities.

The recommendation of the Comptroller, that all national banks be prohibited by law from certifying checks which are not drawn upon deposits actually existing at the time the checks are certified to be good, is heartily concurred in.

The Secretary has long entertained the opinion that the practice of paying interest on deposits—tending, as it does, to keep the banks constantly extended in their discounts—is injudicious and unsafe. He therefore approves of the recommendation of the Comptroller that national banks be prohibited from paying interest on bank or individual balances.

The Secretary also agrees with the Comptroller in his recommendation that authority be given to him to call upon the banks for reports on days to be fixed by himself. If a reserve is necessary, it should be kept constantly on hand, and the business of the country ought not to be disturbed by the preparation of the banks for the quarterly reports.

The views of the Secretary in regard to the necessity of a central redeeming agency for the national banks have been frequently presented, and it is not necessary for him to repeat them.

There are other suggestions in the Comptroller's report deserving the attention of Congress which the Secretary lacks the time to consider. There is one subject, however, not discussed by the Comptroller, to which the Secretary invites special attention.

Although the national banking system should be relieved from the limitation now imposed upon the aggregate amount of notes that may be issued, this cannot safely be done as long as the suspension of specie payments continues. Nevertheless, measures should at once be adopted to remedy, as far as practicable, the inequality which exists in the distribution of the circulation. As the Government has, by the tax upon the notes of State banks, deprived the States of the power of furnishing facilities to their citizens, it is obviously just that those States which are thus deprived of these facilities, or which do not share equally with other States in the benefits of the national banking system, should be supplied with both banks and notes. There are two modes by which this may be accomplished: one by reducing the circulation of the banks of large capital only, the other by limiting the amount of notes to be furnished to all the banks, say to seventy per cent. of their respective capitals. The latter mode is preferable, as by it no discrimination would be made between the banks, and all would be strengthened by a reduction of their liabilities, and by a release of a part of their means now deposited with the Treasurer, which would be of material service to them in the preparation they must make for a return to specie payments. If a redeeming agency should be established, the reduction of the circulation of the existing banks could be effected as rap-

idly as new banks can be organized in the western and southern States where they are needed.

The new Territory of Alaska has been the object of much attention during the past year, but its distance and the uncertainty and infrequency of communication with it and our imperfect knowledge of its condition have somewhat embarrassed the Department in organizing therein a satisfactory revenue system.

Under the authority of the act of the last session the Administration, by special agency, (which in the absence of the regular machinery was of necessity resorted to,) has been superseded by the appointment of a collector to reside at Sitka, who left for his post in September last, and has probably ere this entered upon the discharge of his duties.

A gentleman from this Department accompanied him to assist in establishing the collection service on a proper foundation, and in perfecting arrangements for the prevention of smuggling.

Recognizing also the vast importance of reliable information on matters not immediately connected with these objects, but having nevertheless a most important bearing upon them more or less direct, another agent, long familiar with that country, was at the same time dispatched with directions to apply himself to the ascertainment of its natural resources, the inducements and probable channels of trade, and the needs of commerce in the way of lights and other aids to navigation. He was also particularly intrusted with a supervision of the fur interests and the enforcement of the law prohibiting the killing of the most valuable fur-bearing animals.

The existence of coal at numerous points has been known for years, and some of the beds were worked by the Russians with indifferent success; none, however, has been hitherto procured on the North American Pacific coast equal to that from the Nanaimo mines, on Vancouver's Island; and this, though raised from a considerable depth, is not of superior quality. The officers of the cutters were therefore instructed to explore the coast as far as practicable for the purpose of ascertaining the supply and the quality of coal in the Territory. A number of localities producing coal were visited, including the abandoned Russian mines, but at none did the outcroppings exhibit any flattering promise except on the coast of Cook's inlet. There, near Fort Kenay, about seven hundred miles from Sitka, were found upon the cliffs numerous parallel veins extending many miles along the shore. Some of the coal taken from them proved to be superior to that from the Nanaimo mines. The indications are that the supply is abundant and the quality fair.

The protection of the fur-bearing animals is a matter of importance hardly to be overrated. In consequence of information received last spring, the captain of the *Wayanda* was directed to visit, as early in the season as practicable, the islands in Behring's sea, where the fur seal chiefly abounds. On his arrival at St. Paul's and St. George's Islands he found there several large parties engaged in hunting the animals indiscriminately, and in traffic with the natives in ardent spirits and other forbidden articles. Quarrels had arisen, and the natives complained that the reckless and unskillful movements of the new hunters had already driven the animals from some of their usual haunts. The captain of the cutter instituted such measures as he felt authorized to institute for the maintenance of the peace and the protection of the animals from indiscriminate slaughter.

The preservation of these animals, by the observance of strict regulations in hunting them, is not only a matter of the highest importance in an economical view, but a matter of life or death to the natives. Hitherto seals have been hunted under the supervision of the Russian company, and exclusively by the na-

tives, who are trained from children to that occupation, and derive from it their clothing and subsistence. They have been governed by exact and stringent rules as to the time of hunting and the number and kind of seals to be taken. It is recommended that these rules be continued by legal enactment, and that the existing law prohibiting absolutely the killing of the fur seal and sea otter be repealed, as starvation of the people would result from its strict enforcement. The natives (with the exception of the Indians in the southern part of the Territory, who are fierce and warlike) are a gentle, harmless race, easy to govern, but of great enterprise and daring in the pursuit of game, many of them passing annually in their skin canoes from the main land and Aleutian Islands to the islands of St. Paul and St. George, a distance of about one hundred and fifty miles, through a strong sea, and returning with the proceeds of their hunt.

The seals are extremely timid and cautious. They approach their accustomed grounds each year with the greatest circumspection, sending advance parties to reconnoiter, and at once forsaking places where they are alarmed by unusual or unwelcome visitors. They have been in this way driven from point to point, and have taken refuge in these remote islands, whence, if they are now driven, they must resort to the Asiatic coast. There can be no doubt that, without proper regulations for hunting, these valuable animals, and the more valuable but less numerous sea-otters, a very profitable trade will very soon be entirely destroyed.

The United States cannot of course administer such a trade as a Government monopoly, and the only alternative seems to be to grant the exclusive privilege of taking these animals to a responsible company for a series of years, limiting the number of skins to be taken annually by stringent provisions. A royalty or tax might be imposed upon each skin taken, and a revenue be thus secured sufficient to pay a large part of the expenses of the Territory.

Our relations with the Hudson Bay Company, and the regulation of the transit of merchandise between their interior trading posts and the sea-coast, by way of Stikine river, will doubtless require early attention, but at present the Secretary is not sufficiently advised to offer any recommendations upon the subject.

The recent political changes in Spain, and the indications of a more liberal commercial policy on her part, before the revolution took place, add force to the remarks and recommendation of the Secretary in his last report in regard to our commercial relations with that country. He again strongly recommends the repeal of the acts of July 13, 1832, and June 30, 1834, so that Spanish vessels may be subject to our general laws, which are ample to afford protection against unfriendly Spanish legislation, and are free from the innumerable difficulties of administration which exist under these special enactments.

The Secretary asks attention to the necessity of more exact and stringent laws respecting the carriage of passengers, and also of such legislation as shall settle, so far as they can be settled in this manner, some of the vexed questions arising under steamboat laws.

It is necessary merely to repeat, what has been at other times stated, in regard to the insufficiency of the tax fund to meet the necessary expenses of the marine hospitals, notwithstanding the economy which, during the past year, has reduced the expenditures more than twelve thousand dollars. It is impossible to ignore the fact that these hospitals are and must be, unless the rate of the tax is largely increased, a constant drain upon the Treasury.

The revenue-cutter service now comprises twenty-five steamers and seventeen sailing vessels. Of the six steamers on the lakes all but one are at present, agreeably to the views of

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Congress, out of commission, the Sherman alone being in active service.

Five of the steamers on the sea-coast are small tugs, from forty to sixty tons burden, the utility and efficiency of which at the leading ports—as substitutes for the ordinary row-boats on the one hand, and for the light cutters on the other, both in the harbor duties of inspection and police, and in the prevention and detection of smuggling—have been so thoroughly tested by experience that it is thought they should be employed still more extensively than they are now. Upon the lakes in particular they would be of the greatest value, and they should be substituted for the large steamers now there, which should, with one exception, be sold, as they are depreciating in value and are a useless expense. The exception is the *S. P. Chase*, which is of such dimensions that she might be brought to the sea-coast, where she could be used to advantage. This would probably be preferable to a sale of her where she lies. The schooner *Black*, being old and not fit for further service, has been sold. The *Morris*, also, is about to be disposed of for the same reason. The steamer *Nemaha*, stationed at Norfolk, has been destroyed by accidental fire.

On the Pacific coast are the *Wayanda*, in Alaska, and the *Lincoln*, at San Francisco, both in excellent condition; the schooner *Reliance*, recently ordered to Sitka, is also in good order. The schooner *Lane*, at Puget sound, is old and unfit for the requirements of that station.

The addition of several thousand miles of sea-coast, by the purchase of Alaska, renders the cutter force in the Pacific inadequate for even the ordinary duties pertaining to the service, without regard to the additional demands upon it for the protection of the fur-bearing animals. The recommendation heretofore made that two first-class steamers be built or purchased for the western coast is therefore renewed. A steam cutter is also needed for Charleston, and one for the coast of Texas.

In his report for the year 1866, the Secretary called the attention of Congress especially to the condition of the shipping interest of the United States. In his report of last year he again referred to it in the following language:

"The shipping interest of the United States, to a great degree prostrated by the war, has not revived during the past year. Our ship-yards are, with rare exceptions, inactive. Our surplus products are being chiefly transported to foreign countries in foreign vessels. The Secretary is still forced to admit, in the language of his last report, 'that with unequalled facilities for obtaining the materials, and with acknowledged skill in ship-building, with thousands of miles of sea-coast, indented with the finest harbors in the world, with surplus products that require in their transportation a large and increasing tonnage, we can neither profitably build ships nor successfully compete with English ships in the transportation of our own productions.'

"No change for the better has taken place since that report was made. On the contrary, the indications are that the great ship-building interest of the eastern and middle States has been steadily declining, and that consequently the United States is gradually ceasing to be a great maritime power. A return to specie payments will do much, but will not be sufficient to avert this declension and give activity to our ship-yards. The materials which enter into the construction of vessels should be relieved from taxation by means of drawbacks; or if this may be regarded as impracticable, subsidies might be allowed as an offset to taxation. If subsidies are objectionable, then it is recommended that all restrictions upon the registration of foreign-built vessels be removed, so that the people of the United States, who cannot profitably build vessels, may be permitted to purchase them in the cheapest market. It is certainly unwise to retain upon the statute-books a law restrictive upon commerce when it no longer accomplishes the object for which it was enacted."

What was said by the Secretary in 1866 and 1867 upon this subject is true at the present time; and he therefore feels it to be his duty to repeat his recommendations. The shipping interest was not only prostrated by the war, but its continued depression is attributable to the financial legislation and the high taxes consequent upon the war. The honor and

the welfare of the country demand its restoration.

Accompanying this report there is a very accurate and instructive chart, prepared by Mr. Nimmo, jr., a clerk in this Department, which presents, in a condensed form, the progress of ship-building in the United States from 1817 to 1868.

Since the abrogation of the treaty of June 4, 1854, between the United States and Canada, no favorable opportunity for a reconsideration of the commercial relations of the two countries has been presented. Canada has yet to consolidate a political confederation with the other English colonies and possessions on this continent, and until the hostility of Nova Scotia to that measure is removed, and the concurrence of Northwest British America is secured, the authorities at Ottawa are in no situation to make an adequate proposition to the United States, in exchange for the great concession of an exceptional tariff, on our northern frontier, in favor of the leading Canadian staples. On the other hand, until the United States shall have fully matured a satisfactory system of duties, external as well as internal, the Secretary would be indisposed to favor any special arrangement which would remove any material branch of the revenue system from legislative control. Meanwhile a Canadian policy for the enlargement of the Welland and St. Lawrence canals to dimensions adequate to pass vessels of one thousand tons burden from the upper lakes to the Atlantic, will doubtless be regarded as indispensable to any substantial renewal, by treaty or legislation, of the former arrangement. The discussions and experience of the last twelve months are regarded by the Secretary as warranting an authoritative comparison of views between the representatives of Great Britain and Canada and the Government of the United States, and in that event this Department will cheerfully contribute, by all appropriate means, to comprehensive measures which shall assimilate the revenue systems of the respective countries, make their markets mutually available, and for all commercial or social purposes render the frontier as nearly an imaginary line as possible. There certainly seems no just reason why all the communities on the American continent might not imitate the example of the Zollverein of the German States.

The progress of the Coast Survey has been satisfactory and commensurate with the appropriations, as will be seen from the annual report of the Superintendent of that work. During the past year surveys have been in progress in the following localities, named in geographical order, namely: on the coast of Maine, in Penobscot bay and on the islands lying within its entrance; on the shores of St. George's and Medoniak rivers; in Muscougus bay; on the estuaries of Quolog bay, and in the vicinity of Portland; completing all the in-shore work between the Penobscot and Cape Elizabeth; in Massachusetts, between Bainsable and Monomay, completing the survey of Cape Cod; in Rhode Island, on the western part of Narragansett bay; in New York, at Rondout and in the Bay of New York; in New Jersey, on the coast near the head of Barnegat bay; in Maryland and Virginia, on the Potomac river and the southern part of Chesapeake bay; in North Carolina, in Pamlico sound and on its western shore, including Neuse and Bay rivers, and off the coast north of Hatteras; in South Carolina, on the estuaries of Port Royal sound; in Georgia, on St. Catherine's, Doboy, and St. Andrew's sounds; in the Florida straits and in the bay between the keys and main shore of Florida; on the coast between Pensacola and Mobile entrances; at the passes of the Mississippi, and in Galveston, Matagorda and Corpus Christi bays, on the coast of Texas; in California surveying parties have been at work on the coast between Buenaventura and Santa Barbara, at Point Sal, and on the peninsula of San

Francisco; in Oregon, on Yaquina bay, Columbia and Uehaleur rivers; in Washington Territory, on Coos straits and in Puget sound.

In the Coast Survey Office forty-eight charts have been entirely or partially engraved during the year, of which nineteen have been published. Regular observations of the tides at seven principal stations have been kept up, and tide tables for all parts of the United States for the ensuing year have been published. A new edition of the Directory or Coast Pilot for the western coast has been prepared, and a preliminary guide for the navigation of the northwestern coast has been compiled.

This brief glance at the operations of the Coast Survey during the past year shows the great scope of that work, which has justly earned a large measure of public favor. Its importance to the commerce and navigation of the country are now well understood, nor can its incidental contributions to science fail to be appreciated by the representatives of the people. The work should be pressed steadily forward, with means sufficient for the most effective working of the existing organization, so that it may embrace, at no distant period, the whole of our extended coast line within its operations, including the principal harbors in our newly-acquired territory of Alaska.

The report of the Light-House Board is, as usual, an interesting one. No bureau of the Treasury Department is conducted with more ability or with a more strict regard to the public interests than this.

In view of the extension of the light-house system, consequent upon the increase of the commerce of the country and the acquisition of sea-coast territory, it is respectfully submitted that some authoritative definition of the limit to which aids to navigation shall be extended by the General Government should be established.

It may well be doubted whether the General Government should be called upon to do more than to thoroughly provide the sea and lake coasts with lights of high order, both stationary and floating, and so to place lights of inferior order as to enable vessels to reach secure anchorages at any season of the year.

The act of Congress, approved August 31, 1852, establishing the Light-House Board, directs that the coasts of the United States shall be divided into twelve districts. It is recommended that authority be given to increase the number of districts to fourteen.

The business of the bureau would be facilitated if Congress should confer the franking privilege upon the Light-House Board in the same manner and upon the same terms as it is now exercised by the several bureaus of the Treasury Department.

The attention of Congress is called to the annual report of the Director of the Mint, which contains the usual statistics of the coinage of the country, and various suggestions and recommendations which are worthy of consideration.

The total value of the bullion deposited at the Mint and branches during the fiscal year was \$27,166,318 70, of which \$25,472,894 82 was in gold, and \$1,693,423 88 in silver. Deducting the redeposit, the amount of actual deposit was \$24,591,325 84.

The coinage for the year was: in gold coin, \$18,114,425; gold bars, \$6,026,810 06; silver coin, \$1,136,750; silver bars, \$456,236 40; nickel, copper, and bronze coinage, (one, two, three, and five cent pieces,) \$1,713,385; total coinage, \$20,964,560; total bars stamped, \$6,488,046 54.

The gold deposits of domestic production were: at Philadelphia, \$1,300,338 53; at San Francisco, \$14,850,117 84; at New York, \$5,409,996 55; at Denver, \$357,935 11. The silver deposits were: at Philadelphia, \$67,700 70; at San Francisco, \$651,239 05; at New York, \$262,312 96; at Denver, \$5,082 67.

The gold and silver deposits of foreign pro-

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duction were \$1,686,602 35. The amount of gold coined at Philadelphia was \$3,864,425; at San Francisco, \$14,979,558 52; of silver, at Philadelphia, \$314,750; at San Francisco, \$822,000; of nickel, copper, and bronze, at Philadelphia, \$1,713,885. Total number of pieces struck, 49,735,840.

The branch mint at Denver has never coined money, and its expenses are entirely out of proportion to its business. The law under which it was organized should be repealed, and the institution reorganized as an assay office.

During the past year the branch mint building at Carson City, Nevada, has been completed, and the necessary machinery and fixtures have been forwarded. It will be ready for work early next season.

The Mint at Philadelphia and the branch mint at San Francisco have the confidence of the people and of the Government, and when the new mint building in San Francisco is erected these mints will be of ample capacity to supply coinage for the whole country. The business of coinage requires large and expensive establishments, under charge of men of science and of undoubted integrity; and such can be successfully maintained only at commercial centers, where bullion of different degrees of fineness is continually offered for manipulation. The establishment of additional branch mints is, therefore, unnecessary, and would be injudicious.

The entire deposits at the branch mint in San Francisco were formerly in unparted bullion; now nearly two thirds of the amount is deposited in bars, refined by private establishments. The law requires that the parting charge shall equal the actual cost of the process; but the experience of the past four years shows that not less than \$30,000 annually may be saved to the Government by discontinuing the business of refining upon the Pacific coast; and it is, therefore, recommended that the Secretary be authorized to exchange the unparted bullion deposited at the mint for refined bars whenever in his opinion it may be for the public interest to do so.

It is also recommended that authority be given for the redemption of the one and two cent pieces by the Treasurer, under such rules and regulations as may be prescribed by the Department.

On the 1st day of April last Mr. R. W. Raymond was appointed commissioner of mining statistics, in place of Mr. J. Ross Browne, now commissioner to China.

Mr. Raymond was instructed to continue the work so ably commenced by his predecessor, and his report will show with what diligence and ability he is performing the duties assigned to him. The Secretary invites the attention of Congress to this report, and asks for the recommendations which it contains due consideration.

The following extract from the Secretary's report of 1867 presents, in language which he cannot make more explicit, his present views:

"The Secretary respectfully recommends the reorganization of the accounting offices of the Treasury Department, so as to place this branch of the public service under one responsible head, according to what seems to have been designed in the original organization of the Department, and followed until the increase of business led to the creation of the office of Second Comptroller, and subsequently to that of Commissioner of Customs. There are now three officers controlling the settlement of accounts, each independent of the others, and, as a consequence, the rules and decisions are not uniform where the same or like questions arise. In the judgment of the Secretary the concentration of the accounting-offices under one head would secure greater efficiency, as well as greater uniformity of practice, than can be expected under a divided supervision. It is believed, also, that it would be advantageous to relieve the Commissioner of Customs of the duty of settling accounts, and to confine his labors to the supervision of the revenue from customs, now sufficiently large to demand his whole time. It is therefore recommended that the office of Chief Comptroller be created, having general supervision of the accounting officers and appellate jurisdiction from their decisions; to which should be transferred the duty of examining and countersigning warrants on the Treas-

ury, and of collecting debts due the Government, now constituting a part of the duties of the First Comptroller; and that the adjustment of accounts pertaining to the customs be restored to the latter office.

"The Secretary also renews the recommendation contained in his last annual report, of a reorganization of the bureaus of the Department, and most respectfully and earnestly solicits for it the favorable action of Congress. The compensation now paid is inadequate to the services performed, and simple justice to gentlemen of ability and character of those employed in the Department, requires a liberal addition to their present compensation. Since the rates of compensation now allowed were established, the duties, labors, and responsibilities of the bureaus have been largely increased, and the necessary expenses of living in Washington have been more than doubled."

The Secretary also again recommends that a change be made in regard to the adjustment and settlement of accounts in the office of the Third Auditor; that a period be fixed within which war claims shall be presented, and that measures be adopted to perpetuate testimony in cases of claims that are disallowed.

The able report of the Treasurer gives a detailed account of the operations of the Treasury during the last fiscal year, and contains many valuable suggestions for the consideration of Congress.

The report of the supervising architect gives full and detailed accounts of the progress that has been made in the construction of public buildings.

The reports of the heads of all the respective bureaus will be found to be of unusual interest, containing, as they do, accurate information in regard to the affairs of the Government in this interesting period of its history.

Mr. S. M. Clark having resigned the office of superintendent of the Bureau of Engraving and Printing, Mr. G. B. McCartee has been placed temporarily in charge of it. As the past management and present condition of this bureau are now under investigation by the joint Committee on Retrenchment and Reform, the Secretary feels at liberty only to say, at this time, that, from the examinations which he has caused to be made by officers and clerks of this Department, he feels justified in remarking that the reports which have been at various times put in circulation in regard to overissues of notes or securities, and of dishonesty in the administration of the bureau, are unfounded.

A systematic effort is being made to reduce the expenses of the administration of the customs service, and with considerable success. The process is necessarily slow and beset with difficulties; but material reduction has been already made, and still greater is in progress.

During the war the business of the Treasury Department was so largely and rapidly increased, and so many inexperienced men were necessarily employed, that perfect order and system could not be enforced. Many accounts were unsettled, and some branches of business had fallen into confusion. Much attention has been given by the Secretary "to straightening up" the affairs of the Department. He is now gratified in being able to say that order and system have been introduced where they were found to be needed; that the bureaus are in good working order; and that the "machinery" of the Department is in as satisfactory condition as perhaps it can be under existing laws. The result of the examinations which he has caused to be made has excited his admiration of the wisdom displayed by Mr. Hamilton in the system of accounting which he introduced, and most favorably impressed him with the value of the services of the men who, poorly paid, and little known beyond the walls of the Treasury building, have for years conducted, with unflinching fidelity, the details of a business larger and more complicated than was ever devolved upon a single Department by any Government in the world.

In concluding this communication it may not be inappropriate for the Secretary, in a few brief words, to review some points in the

general policy of the administration of the Treasury for the past four years.

The following statement—published in the last Treasury report—exhibits the condition of the Treasury on the 1st of April, 1865:

Funded debt.....	\$1,100,361,241 80
Matured debt.....	349,420 09
Temporary loan certificates.....	52,452,328 29
Certificates of indebtedness.....	171,790,000 00
Interest-bearing notes.....	526,812,800 00
Suspended or unpaid requisitions.....	114,256,548 93
United States notes, legal tenders.....	433,160,569 00
Fractional currency.....	24,254,094 07
Cash in the Treasury.....	2,423,437,002 18
	56,481,924 84
Total.....	\$2,366,955,077 34

By this statement it appears that, with \$56,481,924 84 in the Treasury, there were requisitions waiting for payment (the delay in the payment of which was greatly discrediting the Government) to the amount of \$114,256,548 93; that there were \$52,452,328 29 of temporary loan certificates liable to be presented in from ten to thirty days' notice, and \$171,790,000 of certificates of indebtedness which had been issued to contractors for want of the money to pay the requisitions in their favor, and which were maturing daily. At the same time the efforts to negotiate securities were not being attended with the usual success, while the expenses of the war were not less than \$2,000,000 per day. The vouchers issued to contractors for the necessary supplies of the Army and Navy—payable one half in certificates of indebtedness and the other half in money—were being sold at a discount of from ten to twenty per cent., indicating by their depreciation how low was the credit of the Government and how uncertain was the time of payment.

The fall of Richmond and the surrender of the army of Virginia under General Lee (which virtually closed the war) had not the effect of relieving the Treasury. On the contrary, its embarrassments were increased thereby, inasmuch as it seemed to leave the Government without excuse for not paying its debts, at the same time that popular appeals for subscriptions to the public loans were divested of much of their strength. As long as the Government was in danger by the continuation of hostilities the patriotism of the people could be successfully appealed to for the purpose of raising money and sustaining the public credit, without which the war could not be vigorously prosecuted. When hostilities ceased, and the safety and unity of the Government were assured, self-interest became again the controlling power. It will be remembered that it was then generally supposed that the country was already fully supplied with securities, and that there was also throughout the Union a prevailing apprehension that financial disaster would speedily follow the termination of the war. The greatness of the emergency gave the Secretary no time to try experiments for borrowing on a new security of long time and lower interest, and removed from his mind all doubts or hesitation in regard to the course to be pursued. It was estimated that at least \$700,000,000 should be raised, in addition to the revenue receipts, for the payment of the requisitions already drawn and those that must soon follow—preparatory to the disbandment of the great Union Army—and of other demands upon the Treasury. The anxious inquiries then were, by what means can this large amount of money be raised? and not what will be the cost of raising it. How can the soldiers be paid and the Army be disbanded, so that the extraordinary expenses of the War Department may be stopped? and not what rate of interest shall be paid for the money. These were the inquiries pressed upon the Secretary. He answered them by calling to his aid the well-tried agent who had been employed by his immediate predecessors, and by offering the seven-and-three-tenth notes—the most popular

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loan ever offered to the people—in every city and village, and by securing the advocacy of the press throughout the length and breadth of the land. In less than four months from the time the work of obtaining subscriptions was actively commenced the Treasury was in a condition to meet every demand upon it.

But while the Treasury was thus relieved the character of the debt was by no means satisfactory. On the 1st day of September it consisted of the following items:

Funded debt.....	\$1,109,568,191 80
Matured debt.....	1,503,020 09
Temporary loan.....	107,148,713 16
Certificates of indebtedness.....	85,093,000 00
Five per cent. legal-tender notes.....	33,954,230 00
Comp'd.-interest legal-tender notes.....	217,024,160 00
Seven-thirty notes.....	830,000,000 00
United States notes, legal tenders.....	433,160,569 00
Fractional currency.....	26,344,742 51
Suspended requisitions uncalled for.....	2,111,000 00
Total.....	2,845,907,626 56
Defunct cash in Treasury.....	88,218,055 13
Balance.....	\$2,757,689,571 43

From this statement it will be perceived that \$1,276,834,123 25 of the public debt consisted of various forms of temporary securities; \$433,160,569 of United States notes—the excess of which over \$400,000,000 having been put into circulation in payment of temporary loans—and \$26,344,742 of fractional currency. Portions of this temporary debt were maturing daily, and all of it, including \$18,415,000 of the funded debt, was to be provided for within a period of three years. The seven-thirty notes were, by law and the terms of the loan, convertible at maturity at the will of the holder, into five-twenty bonds, or payable like the rest of these temporary obligations in lawful money.

It was of course necessary to make provision for the daily maturing debt, and also for taking up, from time to time, such portions of it as could be advantageously converted into bonds, or paid in currency, before maturity, for the purpose of avoiding the necessity of accumulating large sums of money, and of relieving the Treasury from the danger it would be exposed to if a very considerable portion of the debt were permitted to mature, with no other means for paying it than that afforded by sales of bonds, in a market too uncertain to be confidently relied upon in an emergency. In addition to the temporary loan, payment of which could be demanded on so short a notice as to make it virtually a debt payable on demand—the certificates of indebtedness, which were maturing at the rate of from fifteen to twenty millions per month, the five per cent. notes which matured in January following, and the compound-interest notes, which were payable at various times within a period of three years—there were \$830,000,000 of seven-thirty notes which would become due as follows, namely:

August 15, 1867.....	\$300,000,000
June 15, 1868.....	300,000,000
July 15, 1868.....	230,000,000

As the option of conversion was with the holders of these notes, it depended upon the condition of the market whether they would be presented for payment in lawful money or to be exchanged for bonds. No prudent man intrusted with the care of the nation's interest and credit would permit two or three hundred millions of debt to mature without making provision for its payment; nor would he, if it could be avoided, accumulate large sums of money in the Treasury which would not be called for if the price of bonds should be such as to make the conversion of the notes preferable to their payment in lawful money. The policy of the Secretary was, therefore, as he remarked in a former report, determined by the condition of the Treasury and the country, and by the character of the debt. It was simply, first, to put and keep the Treasury in such condition as not only to be prepared to pay all claims upon presentation, but also to be strong enough to prevent the success of any combinations that might be formed to control its man-

agement; and, second, to take up quietly in advance of their maturity by payment or conversion such portions of the temporary debt as would obviate the necessity of accumulating large currency balances in the Treasury, and at the same time relieve it from the danger of being forced to a further issue of legal-tender notes or to a sale of bonds at whatever price they might command.

In carrying out this policy, it seemed also to be the duty of the Secretary to have due regard to the interests of the people, and to prevent, as far as possible, the work of funding from disturbing legitimate business. As financial trouble has almost invariably followed closely upon the termination of protracted wars, it was generally feared, as has been already remarked, that such trouble would be unavoidable at the close of the great and expensive war in which the United States had been for four years engaged. This, of course, it was important to avoid, as its occurrence might not only render funding difficult, but might prostrate those great interests upon which the Government depended for its revenues. It was, and constantly has been, therefore, the aim of the Secretary so to administer the Treasury, while borrowing money and funding the temporary obligations, as to prevent a commercial crisis, and to keep the business of the country as steady as was possible on the basis of an irredeemable and constantly fluctuating currency. Whether his efforts have contributed to this end or not, he does not undertake to say; but the fact is unquestioned, that a great war has been closed; large loans have been effected; heavy revenues have been collected, and some thirteen hundred million dollars of temporary obligations have been paid or funded, and a great debt brought into manageable shape, not only without a financial crisis but without any disturbance to the ordinary business of the country. To accomplish these things successfully, the Secretary deemed it necessary, as has been before stated, that the Treasury should be kept constantly in a strong condition, with power to prevent the credit of the Government and the great interests of the people from being placed at the mercy of adverse influences. Notwithstanding the magnitude and character of the debt, this power the Treasury has for the last three years possessed; and it has been the well-known existence, rather than the exercise of it, which has, in repeated instances, saved the country from panic and disaster. The gold reserve, the maintenance of which has subjected the Secretary to constant and bitter criticism, has given a confidence to the holders of our securities, at home and abroad, by the constant evidence which it exhibited of the ability of the Government, without depending upon purchases in the market, to pay the interest upon the public debt, and a steadiness to trade, by preventing violent fluctuations in the convertible value of the currency, which have been a more than ample compensation to the country for any loss of interest that may have been sustained thereby. If the gold in the Treasury had been sold down to what was absolutely needed for the payment of the interest on the public debt, not only would the public credit have been endangered, but the currency, and consequently the entire business of the country would have been constantly subject to the dangerous power of speculative combinations.

Of the unavailing effort that was made by the Secretary to contract the currency, with the view of appreciating it to the specie standard, he forbears to speak. His action in respect to contraction, although authorized, and for a time sustained, was subsequently disapproved (as he thinks unwisely) by Congress. This is a question, however, that can be better determined hereafter than now.

Complaint has been made that, in the administration of the Treasury Department since the war, there has been too much of interference with the stock and money market. This

complaint, when honestly made, has been the result of a want of reflection, or of imperfect knowledge of the financial condition of the Government. The transactions of the Treasury have from necessity been connected with the stock and money market of New York. If the debt after the close of the war had been a funded debt, with nothing to be done in relation to it but to pay the accruing interest, or if business had been conducted on a specie basis, and consequently been free from the constant changes to which it has been and must be subject—as long as there is any considerable difference between the legal and commercial standard of value—the Treasury could have been managed with entire independence of the stock exchange or the gold room. Such, however, was not the fact. More than one half of the national debt, according to the foregoing exhibits, consisted of temporary obligations, which were to be paid in lawful money or converted into bonds; and there was in circulation a large amount of irredeemable promises constantly changing in their convertible value. The Secretary, therefore, could not be indifferent to the condition of the market, nor avoid connection with it, for it was in fact with the market he had to deal. He would have been happy had it been otherwise. If bonds were to be sold to provide the means for paying the debts that were payable in lawful money, it was a matter of great importance to the Treasury that the price of bonds should not be depressed by artificial processes. If the seven-thirty notes were to be converted into five-twenty bonds, it was equally important that they should sustain such relations to each other, in regard to prices, that conversions would be effected. If bonds were at a discount the notes would be presented for payment in legal tenders; and these could only be obtained by further issues or the sale of some kind of securities. For three years, therefore, the state of the market has been a matter of deep solicitude to the Secretary. If he had been indifferent to it, or failed carefully to study the influences that controlled it, or had hesitated to exercise the power with which Congress had clothed him, for successfully funding the temporary debt by conversions or sales, he would have been false to his trust. The task of converting a thousand millions of temporary obligations into a funded debt, on a market constantly subject to natural and artificial fluctuations, without depressing the prices of bonds, and without disturbing the business of the country, however it may be regarded now when the work has been accomplished, was, while it was being performed, an exceedingly delicate one. It is but simple justice to say that its successful accomplishment is, in a great measure, attributable to the judicious action of the Assistant Treasurer at New York, Mr. Van Dyck.

Similar complaint has also been made of the manner in which gold and bonds have been disposed of, by what has been styled "secret sales;" and yet precisely the same course has been pursued in these sales that careful and prudent men pursue who sell on their own account. The sales have been made when currency was needed, and prices were satisfactory. It was not considered wise or prudent to advise the dealers precisely when and to what amount sales were to be made, (no sane man operating on his own account would have done this,) but all sales of gold have been made in the open market, and of bonds by agents or the Assistant Treasurer in New York, in the ordinary way, with a view of obtaining the very best prices, and with the least possible disturbance of business.

In the large transactions of the Treasury agents have been indispensable, but none have been employed when the work could be done equally well by the officers of the Department. Whether done by agents or officers the Secretary has no reason to suppose that it has not been done skillfully and honestly, as well as

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economically. He is now gratified in being able to say that unless a very stringent market, such as was produced a few weeks ago by powerful combinations in New York, should send to the Treasury large amounts of the three per cent. certificates for redemption, no further sales of bonds are likely to be necessary. Until, however, the receipts from internal revenues are increased the necessities of the Government will require that the sales of gold shall be continued. These sales are now being made by advertisements for sealed bids instead of the agencies heretofore employed. The result, so far, has not been entirely satisfactory, but a proper respect for what, according to the tone of the press appeared to be the public sentiment, seemed to require it. The new mode will be fairly tested, and continued if it can be without a sacrifice of the public interest.

The Secretary has thus referred to a few points in his administration of the Treasury, for the purpose of explaining some things which may have been imperfectly understood, and not for the purpose of defending his own action. Deeply sensible of the responsibilities resting upon him, but neither appalled nor disheartened by them, he has performed the duties of his office according to the best of his judgment and the lights that were before him, without deprecating criticism, and plainly and earnestly presented his own views without seeking popular favor. It has been his good fortune to have had for his immediate predecessors two of the ablest men in the country, to whose judicious labors he has been greatly indebted for any success that may have attended his administration of the Treasury. Nor is he under less obligation to his associates, the officers and leading clerks of the Department, whose ability and whose devotion to the public service have commanded his respect and admiration.

HUGH McCULLOCH,

Secretary of the Treasury.

HON. SCHUYLER COLFAX,

Speaker of the House of Representatives.

Report of the Secretary of the Navy.

NAVY DEPARTMENT,

December 7, 1868.

SIR: I respectfully submit the annual report of the Navy Department and of that branch of the public service during the past year.

EXHIBIT OF THE NAVAL FORCE.

The number of vessels in squadron service, as cruisers, storeships, and returning, is 42, carrying 411 guns; a reduction during the year of 14 vessels, carrying 96 guns. The number of vessels of all descriptions in use, as cruisers, storeships, receiving ships, tugs, &c., is 81, carrying 693 guns; a reduction from last year of 22 vessels, carrying 205 guns. The total number of vessels borne upon the Navy list is 206, carrying 1,743 guns; a reduction during the year of 32 vessels, carrying 126 guns. The following tables exhibit the present employment and condition of the naval force:

	No.	Guns.
Cruising vessels in squadron service.....	35	356
Vessels returning from squadrons.....	3	24
Storeships for squadrons.....	4	31
Special and lake service.....	3	19
Apprentice ship.....	1	11
Practice vessels, and in use at Naval Academy.....	10	115
Receiving ships.....	6	92
Quarters for officers at League Island and marine barracks, Norfolk.....	2	27
Tugs at navy-yards and stations, powder boats, &c.....	17	18
Total in use.....	81	693
Iron-clad vessels laid up.....	46	107
Iron-clad vessels not completed.....	5	18
Steam sloops not completed.....	15	253
Line-of-battle ships not completed.....	2	80
Other vessels laid up, repairing, fitting for sea, and for sale.....	57	592
Total number of vessels of all descriptions in use, building, repairing, fitting for sea, &c.....	607	1,743

The vessels of the Navy are classified as follows:

	No.	Guns.
Vessels of the first rate—of 2,400 tons and upwards.....	35	662
Vessels of the second rate—of 1,200 to 2,400 tons.....	37	483
Vessels of the third rate—of 600 to 1,200 tons.....	76	414
Vessels of the fourth rate—under 600 tons.....	58	184
Total.....	206	1,743

The following table indicates the character of the vessels:

	No.	Guns.
Iron-clad vessels.....	52	129
Screw steamers.....	95	938
Paddle-wheel steamers.....	28	199
Sailing vessels.....	31	477
Total.....	206	1,743

THE SQUADRONS.

The organization of the squadrons remains essentially the same as when I made my last annual report. Some changes of commanding officers and of vessels have taken place, and the force of each squadron has, in consequence of the limited number of seamen allowed by the act of 17th of June last, been necessarily reduced.

At the commencement of the rebellion the naval force on foreign stations was recalled to assist in establishing and enforcing the blockade, leaving the commerce and persons of our citizens abroad greatly exposed. On the restoration of peace the Department immediately took measures to reestablish the squadrons which had been broken up, and a course of active cruising was ordered by which the flag, so long withdrawn, might be promptly exhibited in every important port where the commerce of our country had penetrated. This order has been efficiently and satisfactorily carried into effect by the distinguished naval officers selected for service on foreign stations, and at no previous period in our history have the power and prestige of the American Navy and name been more honored and respected.

If our commerce and shipping interests have not recovered from the depression consequent upon the war, and are not as expanded as formerly, it is from no inattention or neglect on the part of the Navy. Since the squadrons were reorganized, our countrymen and their interests abroad have been as vigilantly guarded and protected on every sea and at every accessible point as at any former period. It has been the purpose of the Department to have one or more of our naval vessels visit annually every commercial port where American capital is employed, and that a man-of-war should not be long absent from the vicinity of every merchant ship that might need assistance or protection.

To accomplish this purpose and meet the requirements of the Department, great activity and vigilance were necessary with our limited Navy, numbering in men and ships less than one fourth the effective force of any one of the principal maritime powers. Yet the work has been performed with energy and zeal, and the views of the Department well sustained.

EUROPEAN SQUADRON.

Admiral D. G. Farragut, who was in command of the squadron at the date of my last report, returned to New York in the flag-ship on the 10th of November, leaving the squadron in temporary charge of Commodore A. M. Pennock. The Franklin is to return with Rear Admiral William Radford, who has been designated to command the squadron, which is composed of the following vessels:

Franklin (flag-ship).....	39	guns.
Ticonderoga.....	9	"
Swatara.....	10	"
Frolic.....	5	"
Guard (storeship).....	3	"

The Canandaigua is on her way to the United States from this squadron.

Admiral Farragut has visited during the year Holland, Belgium, England, Scotland, France,

Portugal, Spain, Italy, Austria, Prussia, Greece, Turkey, and Morocco. His reception in every place which he has visited was equally flattering with his reception the preceding year in the north of Europe, and cannot be less acceptable to the Government and people of the United States. While honoring that distinguished officer, the sovereigns and other high officials of these Powers have availed themselves of the occasion to compliment, in friendly terms, the nation he represents. It is a gratification to remark, while noting the movements of this officer and his squadron, that in no instance has an appeal been made for his interference in any manner to relieve or extend aid to our countrymen scattered along the shores where the flag has been exhibited, nor has any application been made to him to assert and vindicate their rights. Throughout Europe the rights of American citizens are respected, and wherever the flag has been carried by the Navy the privileges to which they are entitled and which are guaranteed by treaty stipulations and international law have been asserted and maintained.

He left Lisbon in November, 1867, where the usual courtesies had been exchanged, and where, by invitation, Admiral Farragut, with many of his officers, had been received by the king and queen of Portugal and Don Fernando, and proceeded along the coasts of Spain, France, and Italy, touching at Gibraltar, Carthage, Port Mahon, Toulon, Villefranche, and Spezzia, at each of which places he was the recipient of many courtesies and attentions, civil and naval. On the occasion of an excursion to Madrid he was cordially welcomed by the queen and king consort and other high officials.

At Port Mahon, where he arrived in December, his reception was peculiarly gratifying; each village in Minorca through which he passed was profuse in compliments, and in many instances sent out deputations to meet him as a descendant of one of their ancient families, his father having been a native of and emigrant from Ciudadela, in that island.

When the Franklin was at Spezzia, Admiral Farragut visited Florence, Venice, and Genoa. He dined at Florence with his Majesty Victor Emmanuel, and was entertained by many distinguished officials, both of Italy and other countries, at each of the places named. From Spezzia he proceeded to Naples, where he arrived in March.

While on a visit to Rome, Admiral Farragut was received by the prime minister and presented to his holiness the Pope. He left Naples April 6, and, touching at Messina and Syracuse, arrived at Malta on the 12th. He was there joined by the Ticonderoga and Frolic, and his departure on the 18th was marked by unusual honors. The squadron was followed to sea by Vice Admiral Paget, commanding her Britannic Majesty's fleet in the Mediterranean, in his flag-ship, the Caledonia, which passed close alongside, the crews manning the rigging and cheering, and the band playing "Hail Columbia." The other vessels of the fleet passed successively, extending similar courtesies. When all had passed, Admiral Paget hoisted the American flag at the main and fired a salute of seventeen guns. These courtesies were acknowledged by the crew of the Franklin, who manned the yards, the band playing "God save the Queen," and the salute was returned.

Admiral Farragut returned to Lisbon on the 28th of April, and after taking in supplies, proceeded to Holland. He arrived at Flushing in June, where he remained until the 21st. With a number of his officers he visited, on invitation, his Majesty King Leopold, at Brussels, and dined with him. Subsequently, his Majesty, accompanied by the queen and attendants, was received on board the Franklin at Ostend. From Brussels he made a short tour to Liege and Essen, and proceeded from thence to Southampton, where he left the Franklin,

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and made a tour to the north, passing through London, York, Newcastle, Edinburgh, and Glasgow, and rejoined the Franklin in July. On this tour he received every attention from the authorities of the respective places visited, and inspected the dock-yards and other establishments of interest to naval officers.

On the 10th of July the Franklin was visited officially by the Duke of Edinburgh, captain of her Britannic Majesty's ship *Galatea*, and on the 12th Admiral Farragut and other officers dined with him, many distinguished persons of England being present. The Prince of Wales and his brother, the Duke of Edinburgh, visited the Franklin on the 14th. On the 17th Admiral Farragut called on her Majesty the queen, at Osborne House. On the 18th the corporate authorities and others of Southampton visited the Franklin, and on the 19th she sailed from Cowes for Syria, at which place she arrived on the 4th of August.

Here Admiral Farragut transferred his flag to the *Frolic* and proceeded to Constantinople. The Franklin sailed for Smyrna. He reached the Dardanelles on the 6th of August, and having received a firman from the Sultan, anchored in the Bosphorus, off Constantinople, on the 8th. On the 13th of August, accompanied by a large number of officers of the Navy, he was received by his Majesty the sultan, Abdul Aziz, in his palace on the Asiatic shore, and on a subsequent day called on the viceroy of Egypt, then on a visit to Constantinople. The Franklin having been detained several days at the Dardanelles awaiting a firman, anchored off Constantinople on the 21st. Here he was entertained by the grand vizier and other officials. He left the Bosphorus on the 29th, and anchored in the harbor of Piræus, Greece, on the 31st of August.

At Athens he was presented to the king and queen, and upon invitation of the king was present at the baptism of the young prince, and attended a banquet at the palace. The Franklin was visited by the king, the Grand Duchess Alexandra Josephina, and the Grand Duke Constantine, (mother and brother of the queen,) with their respective suites; also by the Greek officials and the diplomatic corps.

On the 10th of September he left Piræus, and on the 14th arrived off Trieste, where official calls were exchanged and other courtesies extended. He sailed from Trieste on the 27th, anchored off Gibraltar October 9th, and left for New York on the 18th.

Thus terminated one of the most marked and interesting cruises in naval history, which cannot fail to prove of national benefit, during which extraordinary courtesies and entertainments were everywhere received and reciprocated.

The principal points of the west coast of Africa, as far as St. Paul de Loando and the neighboring groups of islands which lie within the limits of the European squadron, have been visited by the *Swatara*. She left Lisbon February 5, and returned to that port April 27, having touched at Porto Grande, Porto Praya, Grand Canary, Teneriffe, Madeira, Monrovia, Cape Palmas, El Mina, Fernando Po, Jella Coffee, and St. Thomas. Commander Jeffers reports that the slave trade is entirely suspended.

The vessels of this squadron have, during the year, in addition to the ports mentioned, visited Valencia, Tarragona, Barcelona, Malaga, Leghorn, Palermo, Civita Vecchia, Tarranto, Ancona, Venice, Brindisi, Candia, Scio, Marseilles, Havre, Cherbourg, Brest, Bordeaux, Pauillac, Basque Roads, Cadiz, Ferrol, Hamburg, Bremerhaven, Antwerp, Plymouth, and various ports on the Irish coast.

ASIATIC SQUADRON.

Rear Admiral Henry H. Bell, who was in command of this squadron at the date of my last report, was drowned at Osaka on the 11th of January by the upsetting of a boat in which he was crossing the bar. The command de-

volved upon Commodore John R. Goldsborough, as senior officer, until the arrival of Rear Admiral S. C. Rowan, who sailed from New York in the *Piscataqua* on the 16th of December, and assumed command at Singapore on the 18th of April.

The squadron is composed of the following vessels:

<i>Piscataqua</i> , (flag-ship).....	23 guns.
<i>Oneida</i>	8 "
<i>Iroquois</i>	6 "
<i>Ashuelot</i>	10 "
<i>Monocacy</i>	10 "
<i>Unadilla</i>	5 "
<i>Aroostook</i>	5 "
<i>Maumee</i>	8 "
<i>Idaho</i> , (store and hospital ship).....	7 "

The *Shenandoah* is on her way home from this squadron under orders issued in June last. The *Hartford* arrived at New York in August.

The United States minister, Mr. Van Valkenburg, was of opinion that our Government should be represented by a strong naval force on the occasion of the opening of the ports of Osaka and Hiogo. Rear Admiral Bell concurred in this opinion and assembled as many vessels of the squadron off Hiogo as were available, including the *Hartford*, *Iroquois*, *Monocacy*, *Aroostook*, *Oneida*, and *Shenandoah*. The latter vessel conveyed the United States minister from Yokohama to consummate the terms of the treaty. No serious trouble was apprehended, but certain discontented factions were known to exist. It was thought, therefore, that the display of foreign power would prove a wholesome restraint on the turbulent and disaffected.

Agreeably to arrangements, Osaka and Hiogo were quietly opened to foreigners on the 1st of January. The event was celebrated by the American and British vessels at those places, their masts being dressed with the respective national flags and the Tycoon's flag at the main. Every vessel simultaneously fired a salute of twenty-one guns, which the Japanese promptly returned at both places.

Although the opening of these ports had been harmonious, affairs bore an aspect so unsettled that Rear Admiral Bell determined to delay his departure, and three days after sending dispatches to the Department announcing this purpose he was drowned by the swamping of his boat off Osaka.

This melancholy event, made the more afflictive by the drowning at the same time of Lieutenant Commander J. H. Reed and ten of the crew of the admiral's barge, occurred on the morning of January 11. His communication with the shore had been interrupted for several days by a storm, and he left his ship as soon as it abated for the purpose of visiting the United States minister. But his barge was capsize by a strong wind and heavy sea on the bar in sight of most of his command. Every effort was made by boats dispatched from the vessels present to rescue the unfortunate party, but only three of the boat's crew were saved. The bodies of the lost were all subsequently recovered.

The harmony which prevailed at the opening of the new ports was of short duration. Difficulties, originating in the innovations on ancient customs and opposition to intercourse with foreigners, appeared among the Japanese, and soon broke out in hostilities.

On the 27th of January the contending parties came in conflict at Osaka. The Tycoon, who favored the extension of commercial intercourse, was defeated; and during the night of January 31 sought shelter with some of his principal adherents on board the *Iroquois*, which was in the harbor. Protection was given him until daylight, when he was transferred to one of his own vessels of war.

On the 1st of February the several foreign ministers were compelled to abandon Osaka, and were received and conveyed in the *Iroquois* to Hiogo, where they established their legations. On the 4th of February an assault was made in the streets of Hiogo by a detachment of Japanese troops on the foreign resi-

dents, during which one of the crew of the *Oneida* was seriously wounded by a musket ball. In consequence of these outbreaks, which threatened the safety of the foreign population, the naval forces present made a joint landing and adopted measures to protect the foreign settlement. But on the 8th of February an envoy from the Mikado arrived at the United States legation with information of a change of Government. Assurance was given that foreigners would be protected, whereupon a settlement was made and the forces withdrawn. The Japanese officer who had command of the detachment of troops, and ordered them to fire on the foreigners at Hiogo, was subsequently executed in the presence of a number of the officers of the vessels of war.

Rear Admiral Rowan reached Yokohama on the 24th of June, and found the open ports in possession of the Mikado party. The foreign naval forces, in pursuance of agreement in conference, have jointly occupied Yokohama for the defense of the foreign settlement. No serious disturbances had taken place there at the date of the last accounts, and Rear Admiral Rowan was awaiting the progress of events between the contending parties.

After the death of Rear Admiral Bell, Commodore Goldsborough transferred his flag to the *Hartford*, and left Nagasaki on the 1st of February for Hong-Kong, on his way to Singapore and the United States. At Hong-Kong he paid an official visit to the Chinese viceroy at Canton, who rules over the two extensive and populous sea-coast provinces, Kwantung and Fokien. The reception was cordial and gratifying; and to check, in some measure, the frequent piracies the viceroy promised to issue a proclamation prohibiting fishing junks from carrying an extra number of men, or arms, or munitions of war.

The limits of this squadron are extensive, and the service required is of a varied character. In December the *Monocacy* examined the track of steamers between Nagasaki and Osaka through the inland sea, the waters navigated by the auxiliary steamers of the Pacific Mail Steamship Company, for the purpose of determining on the proper sites for light-houses. During the same month the *Ashuelot* went to Taku, where the passage of the United States minister, Mr. Burlingame, had been obstructed by the rebels. The minister and family were received on board and conveyed to Shanghai. In June the *Unadilla* visited Bangkok, in Siam, and delivered a present of arms to the prime minister. Courtesies were exchanged with the king, the crown prince, the prime minister, and other officials.

In April the *Shenandoah* was sent to Corea to make another attempt to rescue the crew of the schooner *General Sherman*, which had been destroyed by the Coreans some eighteen months previously, it having been stated upon apparently good authority that some of them were still alive and in captivity. From all the information that Commander Febiger could gather he concluded that none of the crew or passengers of the schooner were living. He succeeded, however, in obtaining a fair survey of the Ping Yang river and its approaches, and in securing other useful data.

The *Aroostook*, Lieutenant Commander Beardslee, conveyed the consuls for Amoy and Foo-Choo to Formosa in April, to enable them to visit the various ports on that island coming under their charge. The savages inhabiting the lower part of this island, it will be recollected, murdered the shipwrecked officers and crew of the American bark *Rover*. Satisfied from inquiry that no foreigners were in captivity on the island, Lieutenant Commander Beardslee obtained assurances from the natives of kind treatment to, and restoration of, any persons who may hereafter be shipwrecked upon the island. This arrangement was effected mainly through the instrumentality of General Le Gendre, United States consul at Amoy, who,

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accompanied by an expedition furnished by order of the captain general of the Foukien province, visited the island in the fall of 1867, and had an interview with the savage chief and made agreements with him for the future. The consul general states that but for the exhibition of the naval power of the United States the previous June he could have accomplished nothing.

The light-draught steamers *Aroostook*, *Undilla*, and *Maumee*, which were sent to the Asiatic squadron principally to cruise for the suppression of piracy, were assigned to localities where such crimes had been most frequent, and have been almost constantly engaged in this special duty. It is believed that their presence, with that of the small gunboats of different nationalities, has in a great measure suppressed the crime.

Although the squadron has been mainly in Japanese waters, the principal commercial ports in China have been visited, and all needed protection given to American interests.

NORTH ATLANTIC SQUADRON.

Rear Admiral James S. Palmer, who was in command of this squadron at the date of my last report, died of yellow fever at St. Thomas on the 7th of December. The flag-ship *Susquehanna* being infected with the disease was, on her return to New York, placed out of commission, and, until the *Contoocook* was ready for sea, the *Wampanoag* was used as a flag-ship. Rear Admiral H. K. Hoff hoisted his flag on board the latter vessel on the 22d of February. The squadron is now composed of the

<i>Contoocook</i> , (flag-ship).....	13 guns.
<i>Saco</i>	10 "
<i>Penobscot</i>	10 "
<i>Yantic</i>	9 "
<i>Gettysburg</i>	9 "
<i>Nipsic</i>	6 "

The rear admiral commanding has, in the flag-ship, visited many of the important points within the limits of his command. During the months of May and June he was at St. Thomas, Santa Cruz, Point-à-Pitre, St. Pierre, La Guayra, Aspinwall, Port-au-Prince, and Key West. He is now making a second cruise through the West India islands, and at last advices was at Havana. The other vessels of the squadron have been actively employed, and have given assistance to our merchantmen and protection to our citizens whenever needed.

A vessel continues to be constantly stationed at Aspinwall for the protection of our citizens and treasure *in transitu* between that place and Panama. In April, upon application of the agents of the steamship company, a force was landed from the *Penobscot* to guard the passengers and treasure, the streets being filled with excited and lawless individuals, the police and native troops having been sent to Chiriqui in consequence of the death of the president of the republic. There was no conflict, however, and when the anticipated trouble had passed the force reembarked.

The disturbed condition of Hayti has called for more than ordinary attention to American interests on that island. Instructions have from time to time been issued to the admiral in command to watch the progress of events, and be prepared at all times to afford necessary protection to our citizens. In pursuance of these directions the *Contoocook*, *De Soto*, *Shawmut*, *Saco*, *Penobscot*, *Gettysburg*, and *Nipsic*, have, at different times, been in Haytian waters, and some of them have remained there for weeks successively. The naval officers in command have exercised prudence, observed neutrality, and exchanged the customary courtesies with the authorities.

In March last the *De Soto*, Commodore Boggs, was ordered to Venezuela to coöperate with our minister in securing the release, and indemnity for their detention, of a part of the crew of the American whaling schooner *Hannah Grant*, who had been captured on the penin-

sula of Paraguana, and carried as prisoners to Coro. At Curaçoa Commodore Boggs learned of the release of the crew of the schooner, but he very properly proceeded to La Guayra, and in company with Mr. Stillwell, the United States minister, visited Caracas and had an interview with the vice-president and other authorities of the republic. The *Saco*, Commander Wilson, took on board at St. Thomas the master of the *Hannah Grant*, and after restoring him to his position at Kingston, proceeded to Venezuela. The question at that stage became one of indemnity, subject to adjustment through other channels. No further occasion for naval action was therefore necessary, and the force was withdrawn.

In June a display of naval force in the gulf was considered necessary in consequence of reports that a hostile expedition against Mexico was concentrating near New Orleans. No occasion for action, however, manifested itself.

SOUTH ATLANTIC SQUADRON.

The South Atlantic squadron, under command of Rear Admiral Charles H. Davis, is composed of the following vessels:

<i>Guerriere</i> , (flag-ship).....	21 guns.
<i>Pawnee</i>	11 "
<i>Quinnebaug</i>	6 "
<i>Wasp</i>	3 "
<i>Kansas</i>	8 "

Two vessels were ordered home in consequence of the reduction of the naval force by act of Congress. The *Huron* arrived at New York in October and the *Shamokin* is daily expected at Philadelphia.

The continuation of the war between the allied Powers and Paraguay has rendered it advisable to keep some portion of the force within as convenient reach as practicable of military operations. Other points, however, within the limits of the command have not been neglected, but our interests have received attention and ample protection. The flag has been shown at Bahia, Rio de Janeiro, St. Catharines, San Carmen, Iha Grande, Falkland islands, Montevideo, Buenos Ayres, and other points on the coast of South America; at Rosario, Curupaity, Corrientes, and other places on the La Plata, Parana, and Paraguay rivers; and at Cape Town, Little Fish Bay, Benguela, St. Paul de Loando, Ambriz, Kinsembo, Kabend, Malemba, Landano, Black Point Bay, and Mayumba, on the southwest coast of Africa.

The presence of naval vessels has generally been all that was necessary for the security of American citizens and their property; but on two occasions it was deemed advisable to land a part of the force at Montevideo. On the 7th of February, in concert with the commanders of other squadrons, and at the request of Governor Flores, fifty seamen and marines were landed for the protection of foreign residents and the custom-house. On the succeeding day, affairs having quieted, the detachment was withdrawn. On the 19th of the same month another force was landed and remained on shore until the 26th, in consequence of disturbances occasioned by the assassination of General Flores.

Early in the year, at the request of the Secretary of State, the *Wasp* was dispatched to the capital of Paraguay for the purpose of bringing away our minister resident, Mr. Washburn. When she arrived at the seat of war in the Parana river the passage of the vessel through the blockading fleet was refused by the Brazilian authorities, and after waiting some months, and failing to convince them of the right of a neutral man-of-war to ascend the river as far as Asuncion for the purpose stated, that vessel returned to Montevideo. In August the Brazilian authorities withdrew their objection, and the *Wasp* again ascended the river, which is of difficult navigation, owing to its tortuous course and shifting sand-bars. Only the smaller class of naval vessels can ascend to Asuncion,

on the Parana river, in the interior of South America, nine hundred and thirty miles from Montevideo. On the 10th of September, at Villeta, (below Asuncion,) the *Wasp* took on board Mr. Washburn and family, and conveyed him to Buenos Ayres. Rear Admiral Davis, at the date of his latest dispatches, was preparing to accompany the newly-accredited minister of the United States, General McMahon, to Paraguay.

The authorities of St. Catharines, of Bahia, and of Uruguay have been respectively received on board the flag-ship, and intercourse with them, and indeed with all the South American States, has been of the most friendly and gratifying character.

NORTH PACIFIC SQUADRON.

On the 6th of August last Rear Admiral H. K. Thatcher, who had been in command of this squadron for two years, was relieved by Rear Admiral Thomas T. Craven. The squadron comprises:

<i>Pensacola</i> (flag-ship).....	20 guns.
<i>Mohongo</i>	10 "
<i>Lackawana</i>	7 "
<i>Saginaw</i>	6 "
<i>Resaca</i>	8 "
<i>Ossipee</i>	6 "
<i>Jamestown</i>	15 "
<i>Cyane</i> (storeship).....	18 "

These vessels have, during the year, given much of their attention to the west coast of Mexico and the ports in the Gulf of California, where their presence has had a salutary influence. Rear Admirals Thatcher and Craven have each in his flag-ship visited that portion of the station; and the following places have been visited, some of them repeatedly, by the several vessels: Mazatlan, Guaymas, Acapulco, San Blas, Manzanilla, La Paz, Cinaloa River, Jicabampo, and Boca Macapule.

The commercial ports of the Central American States of Nicaragua, Costa Rica, and San Salvador have been visited by the *Saranac*, *Mohican*, and *Ossipee*. Our flag has been received with manifestations of pleasure by both the authorities and people. They all respect our rights and those of our countrymen residing there.

A vessel of this squadron continues to be stationed at Panama, for the protection of our interests on the Isthmus. The *Cyane*, now there, answers the double purpose of a guard and store vessel, and is able ordinarily to afford ample protection to American interests. In March last there were threatened difficulties which rendered the display of additional force desirable, and the *Saranac* was accordingly dispatched to that point, but happily the political disturbance on that occasion passed without any necessity for interference.

In June last Rear Admiral Thatcher, in the flag-ship, visited the northwestern coast, touching at Port Townsend and Esquimaux. Several vessels of the squadron have visited the newly-acquired territory of Alaska. The *Ossipee* conveyed the commissioners from San Francisco to Sitka, and was present and participated in the ceremonies incident to the transfer of the flag. The *Resaca* and *Jamestown*, although sent there primarily for the influence of the cold climate in disinfecting them of yellow fever, afforded such protection to our citizens as was desired. In April last the *Saginaw* was dispatched to Alaska, where she remained several months, for the purpose of making explorations and surveys, and of determining the most suitable harbors and anchorages on the coast and in the adjacent islands. The *Suwanee*, under orders for the same point, was wrecked on the 9th of July, by running on a hidden rock in Shadwell Passage, while in charge of a coast pilot. The officers and crew succeeded in landing on the nearest beach. Rear Admiral Hastings, commanding her Majesty's Pacific squadron, and Commander Porcher, of her Majesty's steamer *Sparrowhawk*, were prompt to render

valuable assistance on the occasion. The vessel soon broke up, but Rear Admiral Thatcher, who was at the time at Esquimaux, made the best practicable terms for saving the engines and other articles.

The Lackawanna, which had been at the Sandwich Islands more than a year, was in May relieved by the Mohongo. Our commercial and whaling interests fully justify the constant presence of one or more of our vessels in that quarter—a fact which will be appreciated when it is known that at one time in November, 1867, forty-two American flags were flying from that number of whaling and merchant vessels in the harbor of Honolulu, while but six flags of all other nations could be seen. In July last his Majesty the king of the Sandwich Islands, attended by a portion of his cabinet and his personal staff, visited the Mohongo, and was received with the honors due to his position.

SOUTH PACIFIC SQUADRON.

Rear Admiral Thomas Turner succeeded Rear Admiral Dahlgren in command of this squadron on the 14th of July last. It is composed of the following vessels:

Powhatan, (flag-ship).....	17 guns.
Tuscarora.....	10 "
Kearsarge.....	7 "
Dakota.....	7 "
Nyack.....	6 "
Onward.....	—

The vessels of this squadron have carried the flag into all the principal commercial ports from Panama to Valparaiso, and have rendered such protection to American interests as was needed. On the night of the 10th of January last General Prado, ex-president of Peru, and other officers came alongside the Nyack and requested asylum from personal violence, which he apprehended from the revolutionary party. He also requested transportation to Chili. His requests were complied with, and he was safely landed at Valparaiso.

Australia and the various groups of islands in the South Pacific have not been visited, the disturbed condition of political affairs and disasters from physical convulsions in South America having rendered it advisable that the vessels of the squadron should remain on that coast.

Two vessels, the Wateree and the Fredonia, have been lost by earthquake.

INJURY AND DESTRUCTION OF VESSELS BY EARTHQUAKES.

A violent earthquake, which occurred in the harbor of St. Thomas and in that vicinity on the afternoon of November 18, 1867, caused the stranding of the United States steamer Monongahela, and two other vessels of the squadron barely escaped serious injury. The De Soto, in the harbor of St. Thomas, was swept from her moorings by the force of the waves, both chains snapping, and was thrown violently upon the iron piles of a new wharf, but fortunately the next wave carried her again into deep water, and she sustained but little injury. The Susquehanna, in the same harbor, succeeded in getting away from her dangerous position without damage.

The Monongahela, which at the time was anchored off Frederickstadt, Island of St. Croix, was carried by a wave over the warehouses and into one of the streets of the town. She came back with the returning sea and was left on a coral reef at the water's edge. Fortunately but five of her crew were lost, and no very serious injury was sustained by the ship. As it was deemed practicable to re-launch her, the officers and crew remained by the vessel. On learning the facts the United States bark Purveyor was put in commission at New York, provided with all necessary appliances for launching, and on the 17th of January left for St. Croix, where she arrived on the 31st, and the party, under the supervision of Naval Constructor Davidson, commenced preparations for getting the Monongahela afloat. The first attempt failed,

but on the 10th of May a successful effort was made. She was safely launched, and left St. Croix on the 13th of June, arrived at New York the 29th, and was put out of commission July 8.

On the 13th of August last a violent earthquake visited the western coast of South America, by which two of the vessels of the South Pacific squadron were lost to the service. The store-ship Fredonia had, in consequence of the prevalence of yellow fever at Callao, been moved up to Arica, and was there with the Wateree quietly riding at anchor. A short time after the shock of the earthquake was felt the sea receded, leaving the Fredonia on the bottom, and a moment after the waters rolled in with such power as to break her to fragments. Twenty-seven officers and men were drowned, three officers who were on shore and two seamen who were rescued being all that were saved.

The Wateree was thrown ashore and left high and dry about five hundred yards from high-water mark. She was badly strained, and her position was such that the expense of any attempt to launch her would have exceeded the value of the vessel. Under these circumstances it was deemed for the best interests of the Government to sell her, and the necessary directions were accordingly given. But a single man was lost from the vessel, a seaman in charge of the captain's gig on the beach, who was carried out to sea by the waves.

Rear Admiral Turner was at Callao, in his flag-ship, the Powhatan, when this calamity occurred, and as a matter of security steamed out of the harbor until the next morning. On learning of the disastrous results of the earthquake at Arica, he proceeded to that point. The Powhatan, on application of the authorities of Peru, was permitted to convey surgeons, nurses, &c., for the relief of the thousands of sufferers at Arica. The commanding officer of the Wateree also furnished such aid as he could to the destitute inhabitants, with provisions from the ship's supply. The senior officer at Valparaiso promptly responded to an application of the Chilean Government, by placing the Tuscarora at the service of the authorities to convey provisions and other necessities to the sufferers along the coast.

NAVY-YARD FACILITIES.

In the event of a war with any maritime Power our battles are to be fought upon the sea and not upon the land—by our fleets, not by our armies. No nation of Europe can transport any considerable military force to our shores, but should it be attempted, they would be met upon the ocean and there arrested by our Navy, if it is maintained in a condition at all commensurate with our maritime ability, and such as common prudence admonishes us to have always ready to be put in commission. Our floating bulwarks, not less than our harbor fortifications, should receive attention; for, though peace now prevails, and we hope and expect its continuance, there may be war in the not remote future, for which a wise and prudent Government should be always prepared.

We are also admonished by the experience of the past that among contending belligerents the rights of neutrals are not always respected; and the best guarantee against aggression is a timely exhibition of our ability to maintain the honor and rights of the country.

Unfortunate would be our condition should the country be suddenly involved in hostilities with one of the principal maritime Powers were we no better prepared than when the late rebellion commenced. Our navy-yards and establishments were then wholly inadequate to our wants, and a large portion of the work was consequently executed, often at great disadvantage and with great delay, by private parties. This defect has been but partially remedied, for, notwithstanding our experience and the improvements which have been made, none of the navy-yards possess the area and appliances, nor have they the necessary establish-

ments and machinery for manufacturing engines and armature, nor are we providing from the abundant means which the country possesses the materials that should be collected in anticipation of the national wants.

In none of our navy-yards is there more than a single dry-dock, and there are but six in all—three built of stone and three floating docks. In the event of a maritime war this deficiency would be seriously felt—perhaps to a greater extent than any other of our pressing wants—and it is worthy of consideration whether steps should not be taken without delay to place our naval establishments in this respect in a condition approaching, at least, our relative importance with other naval Powers. The dock-yards at Cherbourg and Toulon in France, and at Portsmouth in Great Britain, each contain a greater number of dry-docks than all our yards combined; and some of the other dock-yards of these Powers are but slightly inferior to those named. While Great Britain, France, and other maritime Powers are increasing their dry-dock facilities, already far greater than ours, we are doing nothing in this direction.

These and kindred subjects have been adverted to in preceding reports, and need not be recapitulated in detail, but could not be wholly omitted.

REDUCTION OF THE FORCE IN NAVY-YARDS.

A reduction of the working force in the navy-yards was commenced soon after the close of the war by gradually dismissing the most inefficient and unreliable mechanics and laborers, and retaining only the experts and most faithful hands for continued permanent employment. This arrangement, while it relieved the Department of the least profitable employés, secured a body of skillful mechanics on whom the Government could always depend, and who would form a nucleus to initiate others in any emergency. Hulls which had been commenced in the navy-yards during the war were in progress of construction and yet unfinished at its close, for which engines were building under contracts. To employ a small force of the best mechanics to complete in due time the work on these vessels was considered true economy, and for the best interests of the Government in all respects. But the action of Congress has necessitated a further reduction, so that but a remnant of that body of superior mechanics who were employed during the war remains, and they are engaged almost exclusively in the repair and refitment of vessels. These reductions have introduced changes, and suggestions for improvements in other particulars have led to reforms, and a reorganization of the management and government of the several navy-yards. Of the large gangs of workmen that were employed in each of the mechanical departments so few are retained in any of the branches that masters to supervise the workmen are no longer required, and they have accordingly been gradually dispensed with as the work has diminished. Foremen and quarter-men, who are skillful mechanics, now perform the service which was assigned to masters when the yards were filled with mechanics.

These reforms, and a more correct distribution of navy-yard duties among the several bureaus, which constitutes an essential feature in the reorganization, whereby a more close and rigid accountability prevails, have saved annually many thousand dollars to the Government at each of the navy-yards.

Congress, by reducing the day's labor of those who work for the Government to eight hours instead of ten, has imposed on the Department, as a necessity, the employment of a larger number of hands to execute the same amount of work; and if it was intended that the per diem compensation for a working day of ten hours in outside establishments should, under the statute, fix the rate of wages in navy-yards, twenty per cent. is added to the cost of labor.

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The estimates for labor for the current year were based on the standard which had always previously been recognized and observed, but Congress, while diminishing the appropriations below the estimates, also lessened the amount of labor to be daily rendered by each individual workman. While, therefore, the Department is furnished with less means, it is compelled to employ one-fifth more laborers than in preceding years for the same amount of work.

To preserve and protect the vessels and other property at our navy-yards is a duty prompted by economy and dictated by a proper regard for the public interest. Work should not be wholly suspended on the ships which have been commenced and are yet unfinished; but they should be completed and gradually launched, and brought into service as they may be wanted. If properly protected they can remain on the stocks for years without injury, after the hulls are finished. Each vessel, when she returns from a cruise, should be at once repaired and placed in an efficient condition. Hulls and engines, after long service in different climates, become worn and injured, and, if neglected, will rapidly decay. It cannot be true economy to withhold appropriations essential for full and thorough repairs, for completing improvements which have been commenced, and for protecting and affording facilities necessary to the good order, proper condition, and efficiency of the navy-yards and navy establishments. In some respects the public interest has been made to suffer from neglect or refusal to make sufficient appropriations for the purposes herein indicated, and it is earnestly recommended that such omission be hereafter avoided.

NAVAL ACADEMY.

Vice Admiral Porter continues in charge of the Naval Academy. The high standing of the institution continues to be maintained, and the officers yearly added to the service possess the advantage of excellent academic culture with professional discipline. The number of graduates at the close of the last academic year was seventy-nine; the number of admissions the present year, forty-nine; total number of midshipmen now at the Academy, two hundred and eighty-six. At the commencement of their practice cruise the current year the midshipmen visited the Military Academy at West Point, where they spent several days in competing exercises and in the interchange of hospitalities. Two of the vessels, the *Savannah* and *Macedonian*, then sailed for the Azores, touched at Madeira on their way home, and arrived at Annapolis on the 20th of August. The *Dale* returned and cruised in Chesapeake bay with the midshipmen who entered in June, and who compose the present fourth class.

Since the passage of the act of March 2, 1865, until the formation of the present class, I have appointed no midshipmen from the States which were excluded from representation; but the admission of Representatives during the current year, though at a late period, has led to the recommendation and appointment of several midshipmen from those States.

The Academy grounds have been enlarged during the year by the purchase of a portion of the farm known as "Strawberry Hill," and a conditional agreement has been made for securing the remainder of this property should Congress make the necessary appropriation.

NAVAL APPRENTICES.

The act of June 17, 1868, limits the number of persons authorized to be enlisted into the Navy, including apprentices and boys, to eight thousand five hundred, and no more. This limitation, which is actually below the maximum which existed prior to the war, has compelled the Department to reduce the number of naval apprentices. A discontinuance of general enlistments was ordered immediately on

the passage of the act, and discharges have taken place to such an extent as to require the Department to put one of the school-ships out of commission. The necessity for this step is to be regretted, because a policy had been adopted for the future of the Navy which, if properly encouraged and sustained, would have furnished both the naval and commercial marine with a body of mariners of unsurpassed excellence. In preceding reports I have stated very fully the plan and purpose which seemed to be necessary, in order to supply the Government and country with seamen to man our ships, and Congress until the present year was understood to have approved the object. Those familiar with the subject are aware that the naval changes which have taken place and are in progress by the introduction of steam, together with the fact of greater inducements to engage in other pursuits, are diminishing the class of man-of-war's men on which we have hitherto depended, and who are fast disappearing.

In point of economy as well as of efficiency it is not to be questioned that the apprentice system, well regulated and maintained, would be of immense benefit to the Government and country. Commencing their profession in early life, apprentices would receive a thorough nautical education, qualifying them to discharge, at the age of eighteen, all the duties of ordinary seamen, and disciplined and trained to the performance of their duties they would become experts, and abler to render invaluable service.

I am unable to perceive reasons for including naval apprentices within the established number of persons employed in the naval service, and the effect must necessarily be to limit their number, and check a system so auspiciously commenced, if it does not wholly defeat the great object intended.

SURVEY OF THE NORTH PACIFIC.

In view of the rapidly increasing intercourse between western America and Asia, of the growing commerce of the Pacific States, and of the important and various interests which are springing up in connection with our recent extensive acquisitions, it is important that a more complete and systematic survey should be made of the North Pacific ocean. The naval vessels on the station continue to perform some useful but necessarily limited and irregular surveys over that extensive and partially explored field, but the period has arrived when something more effective should be done. Our rising States on the Pacific, our increasing intimacy with the islands of that ocean, our growing trade with China and Japan, and the vast and varied interests and plans of commercial enterprise which are opening from the Indian ocean to the islands on the north, demand of us our proper contribution to the cause of navigation and nautical science. In a region where we have such a length of coast line, such large possessions, and such a wonderfully expanding commerce, inviting the enterprise and capital of our citizens, the United States are interested beyond any other Power in giving security to the mariners who traverse that ocean.

Attention is especially invited to Brooks or Midway Islands, discovered a few years ago and recently surveyed by order of this Department. The charts of the survey represent two islands inclosed in a lagoon, forming a perfectly secure harbor, accessible to vessels drawing less than twenty feet, and affording an abundant supply of pure, fresh water. These islands, which are uninhabited and unoccupied, are situated about midway between California and Eastern Asia, on the track of the mail steamships, and furnish the only known refuge for vessels passing directly between the two continents.

It is represented by the naval officers who made the survey, and also by Rear Admiral Thatcher, lately in command of the North

Pacific squadron, that the bar at the entrance of the harbor might be deepened at a very small expense, and a port vastly superior to Honolulu be thus opened to mariners, where a depot might be established for the supply of provisions, water, and fuel to the ocean steam lines, and a refuge afforded to merchant ships navigating that ocean. The importance of taking possession of these islands and making the proposed improvements can scarcely be over-estimated, and should not be delayed.

IRON-CLADS.

The Department has continued previous arrangements for the custody and preservation of the iron-clad fleet which it has on hand. These vessels can be serviceable only in time of war, and the probabilities are that with a prolonged peace they will, from corrosion and other causes, greatly deteriorate and not unlikely become useless before they will be needed for service. In the meantime their keeping and proper care are attended with considerable annual expense, and at no very distant period a large outlay, almost equal to the construction of new vessels, will be required to put them in sailing and fighting condition.

Since the passage of the joint resolution authorizing their sale but two have been disposed of—the *Catawba* and *Oneco*, of a class of eight vessels similar in all respects—at their appraised value, \$755,000, which has been paid into the general Treasury, as directed, and not applied to the purposes of this Department. Exception was taken to this sale and transfer, and Congress, through a committee, ordered an investigation. Delay and embarrassment followed to the annoyance of the foreign Government which was indirectly the purchaser, and the effect has been to deter other Powers from offering to make purchases, and such of our countrymen as interested themselves to effect sales, as a business operation, have apparently abandoned their efforts.

It has been and still is the opinion of the Department that the true policy of the Government is to dispose, if possible, of all the vessels of the classes whose sale has been authorized by Congress. To keep them entails a large annual expense upon the Government, and in a few years if unused they will become valueless as vessels of war, and will have to be broken up and disposed of as old material. It is worthy of consideration, therefore, whether they should not be sold, if opportunity offers, at less than their present appraisal.

PROMOTION OF OFFICERS.

The act of April 21, 1864, provides that "no line officer upon the active list below the grade of commodore, nor any other naval officer, shall be promoted to a higher grade until his mental, moral, and professional fitness to perform all his duties at sea shall be established to the satisfaction of a board of examining officers, to be appointed by the President of the United States," and unless he has "been examined by a board of naval surgeons and pronounced physically qualified to perform all his duties at sea." If not recommended for promotion by both of these boards the act directs that he "shall be placed upon the retired list."

Under the provisions of this act, young officers in the early stages of their active professional career are in some instances placed on the retired list and thus become pensioners for life, after having received an education at the public expense, without rendering any equivalent service. No discretionary power is conferred on the Secretary or President to permit a second examination, even if the officer shall have subsequently overcome the cause of failure, nor can any relief be granted, for the act is mandatory.

It may well be questioned whether any officer below the grade of lieutenant commander should be placed on the retired list for mental or professional disqualification, which is often

the result of indolence or incapacity. In the case of an officer sent before a retiring board and who may be found incapacitated for active service, if it be shown that the disability or incompetency does not "result from long and faithful service, from wounds or injury received in the line of duty, from sickness or exposure therein, or from any other incident of service," the "officer may be retired upon furlough pay, or he shall be wholly retired from the service with one year's pay, at the discretion of the President." Were this rule made applicable to those officers in the lower grades who may fail to pass their examination for promotion no injustice would be done, and the Government would be relieved from the expense of pensioning for life incompetent and useless officers by wholly retiring them from the service on such failure, or on a second failure after a reasonable time for another examination.

LEAGUE ISLAND.

On the 17th of April last a proposed form of deed of this property, with accompanying papers, was received from the city of Philadelphia and transmitted to the Attorney General for examination, as required by statute. The investigation of the various titles involved has necessarily been protracted, and one or two points suggested by the Attorney General yet remain to be reported upon. It is thought that but a short time will elapse before the title will be perfected and the land become the property of the United States.

SITE ON THE THAMES RIVER FOR NAVAL PURPOSES.

In my last annual report it was stated that a tract of land, having a water front of not less than a mile on the Thames river, near New London, Connecticut, had been selected for transfer to the United States, under the provisions of a clause in the act making appropriations for the naval service, approved March 2, 1867. The deeds of the property were offered to the Government by the Governor of Connecticut on the 22d of May, and after examination by the Attorney General, as provided by law, were formally accepted on the 27th of June, 1868.

The act directing its acceptance provides that the property shall "be held by the United States for naval purposes," and good faith requires that action should be taken looking to its occupancy by some branch of the service. An appropriation will be needed for inclosing the land and for the care and preservation of the buildings. Soon after its acceptance Commodore T. A. Hunt was directed to take charge of the property and see that no depredations were made upon it, but for want of an appropriation nothing further has been attempted.

TIMBER LANDS.

In my annual report in 1866 attention was invited to the condition of the lands which had been set apart by the Government in certain States of the South for "the sole purpose of supplying timber for the Navy of the United States." A number of agents were for many years appointed, with considerable salaries and contingent expenses, to superintend these reservations and protect them from depredation; but while payment was promptly made for their supposed services, payment was also made for all timber used by the Navy. It is not known that any live oak was ever procured for the Navy from these reservations, which are located in Georgia, Mississippi, Florida, and Louisiana.

The agencies were discontinued during the rebellion, and since the restoration of peace no appropriations have been made to revive or continue them. A suggestion was made in a former report whether it would not be best for the Land Office to resume possession of these lands and put them in the market for sale. Should this not be done, an appropriation would seem to be advisable to pay such agents as may be appointed to protect these lands against trespassers.

PENSION LAWS.

The second section of an act relating to pensions, passed at the last session of Congress, provides "that no person shall be entitled to a pension by reason of wounds received or disease contracted in the service of the United States subsequently to the passage of this act, unless the person who was wounded or contracted the disease was in the line of duty;" and "if in the naval service, was at the time borne on the books of some ship or other vessel of the United States, at sea or in harbor, actually in commission, or was on his way, by direction of competent authority, to the United States, or to some other vessel or naval station." Some of the most hazardous duty in which naval officers are called upon to engage is discharged at shore stations, and when their names are not borne upon the books of a vessel actually in commission. It is manifestly unjust to deprive the family of an officer or seaman who may lose his life while engaged in proving a gun, or firing a salute, or "in the line of duty" in any other way, of the small pension heretofore allowed in such cases, because his name happens to be borne upon the books of the station instead of a vessel in the harbor actually in commission. Within the past month an officer who had been forty-two years in the service, has died of disease "contracted in the line of duty" on shore, and under the provisions of this act his family are deprived of a pension. It is recommended that the law be amended in this particular.

NAVAL PENSIONS.

The naval pension-roll on the 1st of November, 1868, was as follows:

1,175 invalids, annually receiving.....	\$92,674 19
1,515 widows and children, receiving.....	247,152 00
36 invalids, under act March 2, 1867, receiving.....	4,466 00

2,726 persons, receiving a total amount of \$347,031 19

There has been during the year an increase on the pension list of 248 persons, calling for \$27,202 96.

PRIZES AND PENSION FUND.

In my annual report for 1865 the proceeds of the sale of prizes captured during the war and adjudicated prior to the 1st of November of that year were given. Since that date most of the cases then in court have been determined, and upon the 1st of November of the present year the gross proceeds of such sales, as far as returned, amounted to \$24,875,344 91; expenses as far as returned \$1,828,000 86; net proceeds \$23,029,627 57.

During the year the naval pension fund has been increased \$1,000,000, making a total at the present time of \$14,000,000.

The act of April 23, 1800, provided "that all moneys accruing or which have already accrued to the United States from the sale of prizes shall be and remain forever a fund for the payment of pensions and half-pay, should the same be hereafter granted to the officers and seamen who may be entitled to receive the same." In the revision of the prize law in 1862, when the country was engaged in war, this provision was reenacted, and subsequently, upon the recommendation of this Department, the Secretary of the Navy, as trustee of the fund, was authorized to invest it in registered securities of the United States, which was done at the same rate of interest the Government was paying to other creditors, namely, six per cent. in gold. The statute also provides that if the income of the fund is more than sufficient for the payment of pensions, "the surplus shall be applied to the making of further provisions for the comfort of the disabled officers, seamen, and marines."

In making this my annual report, and stating the condition of the fund, I have considered it my duty as trustee to present the foregoing extracts from the statutes pledging the public

faith that the money arising from the sale of prizes shall be and forever remain a fund for the payment of naval pensions and for the investment in registered bonds bearing interest in gold. It is difficult to reconcile the act of July last, which reduces the interest to three per cent. in currency, with the pledged faith previously given, which involves the national honor. Had this loan been made to States or individuals on the terms specified the contract would have been literally fulfilled. This fund belongs unquestionably to the officers, seamen, and marines of the Navy, who, by their courage, activity, and enterprise, stimulated by the pledged faith of the Government, captured the prizes from the avails of which the fund is derived. The income at the reduced rate of interest—less than is paid by the Government for any other loan, and payable in what is called "lawful money" instead of coin, which is always lawful, and which was originally specified when the loan was made—may be sufficient to meet the necessary disbursements for the pensions at the rates now established. But had not the income been reduced over fifty per cent. by the act of July last, the rate of naval pensions might be increased, and I should have felt it a duty to renew my recommendation for a revision of the naval pension laws for that purpose at the present session of Congress.

I cannot in justice to the distinguished naval officers who have rendered invaluable service to the country, and by their gallantry contributed largely to this fund, omit again calling attention to the fact that the present pension laws make no provision for pensions to the families of the admiral, vice admiral, rear admirals, commodores, and other grades of the line and staff, and again urging that suitable provision be made in each of these cases.

EXPENSES AND ESTIMATES.

The available resources for the fiscal year ending June 30, 1868, were.....\$103,465,754 69
By request of the Navy Department there was carried to the surplus fund of the Treasury, on the 30th of September, 1867.....65,000,000 00

Leaving subject to draft.....28,465,754 69
There remained in the Treasury, on the 30th June, 1868.....18,345,360 07

Showing an expenditure during the fiscal year of.....\$20,120,394 62

The resources for the current fiscal year are as follows:

Balance in the Treasury.....\$18,245,360 07
Appropriations, act June 17, 1868.....17,336,350 00

There has been designated to be carried to the surplus fund.....35,701,710 07
1,123,694 95

Leaving unexpended and available for the current fiscal year.....\$34,520,015 12

The estimates for the fiscal year ending June 30, 1870, are as follows:

Pay of officers and seamen of the Navy.....	\$7,389,726 67
Repairs of buildings, docks, and incidental expenses in navy-yards.....	1,285,996 00
Pay of civil establishment in navy-yards, hospitals, &c.....	425,839 75
Ordnance, repair of magazines, &c.....	450,000 00
Coal, hemp, and equipments.....	1,320,000 00
Navigation and navigation supplies.....	207,500 00
Naval Academy.....	210,584 40
Naval Observatory and Nautical Almanac.....	40,500 00
Repair and preservation of vessels.....	3,790,500 00
Steam machinery, tools, &c.....	1,305,000 00
Provisions and clothing.....	1,672,500 00
Repairs of naval hospitals and laboratories.....	46,000 00
Contingent expenses.....	1,674,500 00
Support of Marine corps.....	1,174,767 77

Total.....\$20,993,414 58

As Congress has for two years declined to make appropriations for improvements in navy-yards, I directed the several bureaus of the Department, in preparing their annual esti-

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mates, to accept the policy so emphatically indicated of the wishes of Congress, and to limit their estimates to the amount necessary for the wants of the service, based upon the authorized number of men, and what is absolutely required to keep in repair and to preserve the public property. Should it be thought advisable to place the navy-yards in more efficient condition, befitting the requirements of the country and the service, former reports can be referred to for statements of improvements considered essential, or should the views of the Department in these respects, or as regards any branch of the service be desired, they will be promptly furnished.

Since the close of the war the estimates of this Department and the appropriations of Congress have, until the present year, been based on a maximum of 15,000 enlisted men. Although the appropriations authorized the enlistment and payment of this number, the Department in organizing the squadrons has employed no more than the necessities of the service on a moderate naval peace establishment required. Less than 12,000 men were enlisted, leaving a reserve of over 3,000 to be called into service in case of emergency. It has been the policy of the Department, while under my administration, to present in each annual report the actual condition of the service in all its branches, with ample estimates for every requirement and proposed improvement. Congress and the country have thus been fully apprised of the necessities and purposes of the Department, and deficiency bills at subsequent sessions have been avoided.

When Congress convened one year ago, and the Department learned informally that it was the intention to reduce the service one half, to defer the completion of vessels which had been commenced, and for which engines had been contracted before the war terminated, and to discontinue improvements in the navy-yards, the estimates were at once revised and made to conform to the new condition of things. The Department had not been consulted in regard to this reduction, nor informed that any change from the then existing number was designed; nor was any time allowed to recall from distant stations the vessels which were to be dispensed with in order that the squadrons might be graduated by the new standard. Measures were, however, promptly adopted upon the passage of the act to reduce the number to the legal limitation, which was accomplished by the 1st of September.

The estimates now submitted are for eight thousand five hundred men, including apprentices, the number established by the act approved on the 17th of last June. Should Congress at its present session enlarge or diminish the number now authorized, the appropriations should be made necessarily to correspond, and the estimates which follow must conform to existing legislation.

THE BUREAUS.

The accompanying reports of the chiefs of the several bureaus, and of the commandant of the Marine corps, give a summary of the operations of their several departments during the year, and are referred to for full information upon points which can here be only briefly alluded to.

The chief of the Bureau of Yards and Docks details with minuteness the improvements made in the several navy-yards, and gives a statement of the work now in progress, and what is considered absolutely necessary, with the closest economy, for the repair of the buildings and the care of the public property. The channel of the Wallabout bay, at the New York navy-yard, has so far filled up as to cause much embarrassment in the docking and moving of heavy ships, and an appropriation will be required for the purpose of dredging. Another effort to obtain from the State of New York jurisdiction over the recently purchased Ruggles property has been made, and failed in

consequence of local opposition. Nothing has been done, for want of an appropriation, with the property at New London, the title to which has been received from the State of Connecticut.

The chief of the Bureau of Ordnance reports that very large amounts of ordnance and ordnance stores, accumulated during the war, still remain on hand, the subsequent wants of the service having made no material diminution in the quantity. Their value is estimated to be about seventeen million dollars, and the charges for their preservation make considerable drafts on the small appropriation allowed for ordnance expenditure. Experimental operations have ceased entirely, but the chief of the bureau recommends an appropriation for renewing them, the solution of the ordnance problem being the principal condition to a successful determination of the proper armature as well as armament of efficient war vessels.

The chief of the Bureau of Equipment and Recruiting reports that, owing to the reduction of the naval force, the only contract made for the current year is for ten thousand tons of coal at \$3 38 per ton. The board appointed to test the comparative tensile strength of wire and hemp rope report that the experiments show that wire rope of less than half the diameter of hemp fully equals the latter in strength. Its manufacture and use is therefore recommended. During the year three hundred and sixty tons of hemp have been manufactured into cordage. The reduction of the naval force to the number authorized by law was accomplished on the 1st of September. The necessity of providing by legislation for a more effective punishment for the crime of desertion is again urged.

The chief of the Bureau of Navigation reports that the usual duties of providing, distributing, and keeping navigation supplies have been satisfactorily performed during the year. Particular attention has been given to the subject of navy chronometers and compasses, and means have been taken to diffuse among naval officers information embodying the results of special inquiries and official experience concerning this subject. The rapidly increasing interests of the United States in the waters of the Pacific and Indian oceans render it desirable that there should be speedily inaugurated a series of surveys of the waters between the American and Asiatic coasts, from Behring's Straits to the Sandwich Islands. It is also suggested that our Navy should do its part toward a resurvey of the western coast of South America, rendered necessary by extensive hydrographical changes produced by the recent earthquakes in that region. The number of naval apprentices on board the apprentice ship is 197; on board cruising vessels, 271; making the total number in the service on the 30th of September 468. The accompanying reports of the Superintendents of the Naval Observatory and Nautical Almanac show the transactions of their respective institutions during the year, and make suggestions for the future.

The chief of the Bureau of Construction and Repair states that, in consequence of the reduced appropriations, the work upon all new vessels has been suspended, except on the four small ones referred to in his last annual report, and that the repair of vessels has been strictly limited to the few necessary to maintain our squadrons abroad, no labor being done upon returning vessels. It is suggested that it would be ultimate economy to place these vessels in efficient condition, as the defects increase very rapidly as their repair is postponed. The enormous loss arising from building ships with unseasoned timber is again adverted to, and a special appropriation of about five hundred thousand dollars for two or three years, for the purpose of gradually accumulating a supply of timber in the navy-yards, is recommended. Such was formerly the policy of the Govern-

ment, but the materials accumulated were exhausted during the war. The necessity of proper tools and workshops to enable us to maintain our standing as a first-class Power is also alluded to. There is no suitable place for the construction of iron and armored vessels or for other necessary work, and an appropriation of \$3,000,000 or \$4,000,000, the expenditure of which could be judiciously extended through several years, will be necessary to place the navy-yards in proper condition for these purposes.

The chief of the Bureau of Steam Engineering reports that the work in his department is reduced to the lowest possible limit, and that in consequence of the small appropriation at his disposal, and the nominal amount being virtually reduced twenty per cent. from its former value by the reduction by Congress of the hours of labor from ten to eight, he is enabled to make but few repairs on steamers returning from foreign service and which should be put in readiness for another cruise. The present condition of the new engines for which vessels have not been provided is stated. The results of the trial of competitive machinery, designed by the bureau and by several private parties, is clearly and elaborately set forth. It is urged that increased facilities for the manufacture of machinery should be provided to enable the Government itself, in any contingency that may arise, to manufacture and repair its own engines without resorting to outside establishments.

The chief of the Bureau of Provisions and Clothing recommends a change in the method of supplying the outfit of the sailor. In the military service the necessary clothing of the soldier is furnished by the Government, while in the Navy the sailor is not only required to pay for his clothing, but for his hammock, bedding, &c., his total outfit costing at present prices eighty-five dollars. This, with his cash advance of from forty to sixty dollars, brings him largely in debt to the Government at the commencement of his cruise, and is both discouraging and demoralizing, and gives great temptation to desertion. It is suggested that some portion of the needed articles be supplied gratuitously. During the year the surplus stores have been reduced, the naval depot at St. Paul de Loando discontinued, and the stores at Panama transferred from the shore to a store-ship. An increase of the compensation of clerks in the pay department upon shore stations is recommended.

The chief of the Bureau of Medicine and Surgery gives interesting tables showing the sickness, deaths, &c., at the several hospitals and naval stations, and in the squadrons, so classified as to exhibit the prevalence of different forms of disease upon different stations. During the year there were 20,751 cases under treatment, of which number 360 died, 19,691 were returned to duty or discharged the service, leaving 700 cases under treatment at the end of the year 1867. The proportion of cases treated to the whole number of persons in the service was about 1.53, or each person was on the sick list 1.53 times during the year; the proportion of deaths .026, and the percentage of deaths to the whole number of cases treated is .017, or less than two per cent. The total number of deaths from October 1, 1867, to September 30, 1868, was 315. The total number of insane in the Government asylum during the year is 29; deaths and discharges, 9; leaving 20 in the institution on the 30th September, 1868. The fund for the support of naval hospitals, derived from a monthly tax of twenty cents upon the pay of officers amounted, on the 1st of October, 1868, to \$424,500 98. For a particular statement of the condition and wants of the several hospitals, &c., reference is made to the report.

The commandant of the Marine corps reports the force in the best possible condition of effi-

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Report of the Postmaster General.

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ciency and discipline, and the barracks and public property in their charge well cared for and in admirable order. A reduction of the force corresponding to that of the naval service has been made, and the entire strength of the corps, officers and men, is now but 2,500. The marine barracks in Washington, built of indifferent material nearly seventy years ago, are represented as rapidly crumbling to decay, and in such a dilapidated condition that it will be impossible for the troops much longer to occupy them. The necessity for the erection of new barracks, which has been repeatedly urged, is again respectfully recommended.

CONCLUSION.

In this my eighth annual report it is a satisfaction to state that the year now drawing to its close has been one of peaceful but active cruising on the part of the Navy. Our commerce and shipping interests, if less extensive than they were eight years ago, are nevertheless as vigilantly guarded and protected.

It has fallen to my lot to sustain a greater responsibility, and to have had a much more eventful and varied as well as a longer experience in this Department than any one of my predecessors. While I claim no exemption from error, it is a gratifying reflection that the duties intrusted to me have been acceptably performed, and that the record which commemorates the services and achievements of our naval heroes also bears evidence, through a most important period of our country's history, of a not unsuccessful administration of our naval affairs.

On this Department, soon after I entered it, devolved the task of creating within a brief period a navy unequalled in some respects, and without a parallel, of enforcing the most extensive blockade which was ever established, of projecting and carrying forward to successful execution immense naval expeditions, of causing our extensive rivers, almost continental in their reach, to be actively patrolled; and finally, after four years of embittered warfare, of retiring the immense naval armament which had been promptly called into existence, of disposing to the commercial marine the vessels procured from that service, and of reestablishing our squadrons abroad in the interest of peace.

The waste of war is always great, but much of the expenditure of the Navy Department, which is but a small per cent. of the national war expenses, is invested in navy-yard improvements, which are worth to the Government all they cost, and in naval vessels and ordnance, which have at all times an intrinsic value. When the fact of this large amount of property on hand, of the return of millions to the Treasury, of the magnitude of the war, of the vast operations of the Navy, and of the depreciation of the currency, and the consequently enhanced prices with which those operations were conducted are considered, the economical and faithful administration of the Navy Department will be admitted.

My acknowledgments are due to the gentlemen who in their several grades have been associated with me in the discharge of the laborious and responsible duties of this Department, for the able and efficient service which they have rendered. In the choice of my assistants, of the chiefs of the several bureaus, and of others who have participated in the civil administration of this Department, as also in the selection and assignment to duty in the Navy of the officers whose meritorious conduct and heroic achievements have illumined our history and given enduring renown to the Navy, I esteem myself to have been most fortunate, and I cannot close this report without expressing towards each my sense of grateful obligations, and commending them to the gratitude of the Government and country.

GIDEON WELLES,
Secretary of the Navy.

To the PRESIDENT.

Report of the Postmaster General.

POST OFFICE DEPARTMENT,
December 3, 1868.

SIR: The ordinary postal revenue for the year ended the 30th day of June last was \$16,292,600 80, and the expenditures during the same period, including service for which special appropriations were made, \$22,730,592 65; showing an excess of expenditures of \$6,437,991 85.

The receipts from postages, as compared with the previous year, show an increase of six per cent., and the expenditures an increase of eighteen per cent.

The ordinary expenses, not including mail transportation for which special appropriations were made, were \$21,555,592 65; and the receipts, including the amount drawn under the acts making appropriations for carrying "free mail matter," were \$20,092,600 80; showing an excess of expenditures of \$1,462,991 85.

The receipts of the Department were, from postages, \$16,292,600 80; the amounts drawn from the Treasury under acts making appropriations for "carrying free matter," \$3,800,000; and under the acts making special appropriations for "overland mail and marine service between New York and California," \$1,125,000; "steamship service between San Francisco, Japan, and China," \$125,000; between the "United States and Brazil," \$150,000; for "carrying the mail on routes established by acts passed during the first session of the Thirty-Ninth Congress," \$486,525; and "for preparing and publishing post route maps," \$10,000; making the receipts from all sources \$21,989,125 80. The expenditures of all kinds were, as above stated, \$22,730,592 65; showing an excess of expenditures over receipts of \$741,466 85, for which a special appropriation will be required.

The revenue account stated by the Auditor (see Appendix) differs from the foregoing because of his adding to the receipts of the Department, from all sources, a balance of \$1,494,469 98, standing to the credit of the revenue account July 1, 1867, but which is not immediately available.

The estimates for the current fiscal year, as submitted to Congress with the last annual report, showed an anticipated deficiency of \$3,296,000; to meet which there was then in the Treasury \$2,000,000, being the unexpended balances of former appropriations standing to the credit of the Department, leaving the amount to be provided by appropriation from the general Treasury \$1,296,000. Of this sum Congress appropriated \$800,000.

The expenses during the fiscal year just closed exceeded the estimated amount, especially in the item of transportation, and thus absorbed the \$2,000,000 relied on to assist in meeting the anticipated deficiency for the current year. The ordinary expenditures for the current year were also estimated too low, from the fact that the Department could not, at the time the estimates were made, anticipate the extraordinary increase of service established by acts of Congress. Taking those of the last fiscal year as a basis, it is anticipated that in the current year there will be a deficiency of \$3,604,500. There will also be required \$97,000 for service on the route from Port Abercrombie to Helena, Montana, authorized by the act of July 27, 1868, from January 1, 1869, to June 30, 1869; and to meet the increased liabilities of the Department for service on the "overland route," \$161,000, making \$3,862,500, which will be required to meet deficiencies in the receipts for the current fiscal year.

The accompanying report of the Auditor fully sets forth the details of the financial operations of the Department.

ESTIMATES FOR 1870.

The ordinary expenditures for the year ending June 30, 1870, (including \$645,260 for overland and sea mails to California,) are estimated at \$24,540,413. The ordinary revenue is estimated at an increase of five per cent. on that of the year just closed, or \$17,100,000. Add the standing appropriations for carrying free mail matter... 700,000

Making the total estimated revenue... 17,800,000

Showing an excess of expenditures of... \$6,740,413 to be provided for from the general Treasury.

It will also be necessary to make the usual special appropriations, as follows:

Mail steamship service between San Francisco, Japan, and China..... \$500,000
Mail steamship service between the United States and Brazil..... 150,000
Mail steamship service between San Francisco and the Sandwich Islands..... 75,000

Comparative statements of revenues and expenditures, exclusive of appropriations for special service, per capita:

Revenues from postage, &c., 1850.....	\$5,499,985 00	23 7-10 cents.
Expenditures, 1850.....	5,212,953 00	22 1-2 cents.
Excess of revenue.....		1 2-10 cents.
Proportion of revenue to expenditures.....		105 per cent.
Revenues from postages, &c., 1860.....	\$8,518,067 40	27 1-10 cents.
Expenditures, 1860.....	14,874,772 89	47 3-10 cents.
Deficiency of revenue.....		20 2-10 cents.
Proportion of revenue to expenditures.....		57 2-10 per cent.
Revenues from postages, &c., 1868.....	\$16,292,600 80	42 9-10 cents.
Expenditures, 1868.....	21,555,592 65	55 6-10 cents.
Deficiency of revenue.....		12 7-100 cents.
Proportion of revenue to expenditures.....		76 per cent.

The following are some of the results of these statements:

First. From 1850 to 1860 the revenue per unit of population increased $14\frac{3}{10}$ per cent., or at the rate of $1\frac{3}{4}$ per cent. per year. From 1860 to 1868 the like increase was $58\frac{3}{10}$ per cent., or $7\frac{3}{10}$ per cent. per year.

Hence the annual increase of revenue for the eight years of the current decade is, *per capita*, about five times greater than the same annual increase of the preceding decade.

Second. From 1850 to 1860 the ordinary expenditures per unit of population increased 110 per cent., or 11 per cent. per year. From 1860 to 1868 the like expenditures increased $17\frac{1}{2}$ per cent., or $2\frac{1}{10}$ per cent. per year.

Hence the annual *per capita* increase of ordinary expenditures for the last eight years is about five times less than the same annual increase for the preceding ten years.

Comparing these two results, relative to the annual average of the present and preceding decade, it appears that, *per capita*, the revenues have increased about fivefold, and that the expenditures have diminished about fivefold.

POSTAGE STAMPS AND STAMPED ENVELOPES.

During the year, 333,470,500 postage stamps, of the value of \$11,751,014, (including 160,000 periodical stamps, valued at \$14,750;) 44,552,300 plain stamped envelopes, representing \$1,285,218; 25,469,750 stamped envelopes, bearing printed cards and requests for return to writers, representing \$759,520; and 3,372,600 newspaper-wrappers, valued at \$67,372, were issued. The aggregate value of these issues was \$13,863,124, being an increase of $3\frac{3}{10}$ per cent. over the issues of the previous year.

The issue of ordinary postage stamps, as compared with the previous year, shows an increase in value of $1\frac{1}{10}$ per cent.; periodical stamps, $11\frac{3}{10}$ per cent.; stamped envelopes, bearing cards and requests, $53\frac{3}{10}$ per cent.; and the newspaper wrappers, $81\frac{3}{10}$ per cent. The issue of plain stamped envelopes was $\frac{1}{10}$ per cent. less than during the year ending 30th June, 1867; thus showing the preference of the public for the envelopes denominated "request" or card envelopes.

The aggregate issue of envelopes was increased during the year $14\frac{5}{10}$ per cent. in value.

The sale of postage stamps and stamped envelopes during the year, as reported by the

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Auditor, was \$14,066,139 32, or \$203,015 32 more than the issue; thus absorbing to that amount the stock remaining unsold in the hands of postmasters June 30, 1867.

The number of packages of postage stamps lost in the mails during the year was thirty-three, representing \$2,672 20; and of stamped envelopes seven, valued at \$226 01.

CONTRACTS.

Transportation Statistics.

There were in the service of the Department on the 30th June, 1868, 6,891 contractors for the transportation of the mails.

Of mail routes in operation there were 8,226; aggregate length, 216,928 miles; aggregate annual transportation, 84,224,325 miles; aggregate annual cost, \$10,266,056; including the compensation of postal railway clerks, route agents, local agents, mail messengers, mail-route messengers, and baggage-masters in charge of mails, namely, \$1,114,633, the aggregate annual cost was \$11,380,689. This service was divided as follows, namely:

Railroad routes: length, 36,018 miles; annual transportation, 34,886,178 miles; annual cost, \$4,177,126, about twelve cents per mile.

Steamboat routes: length, 19,647 miles; annual transportation, 3,797,560 miles; annual cost, \$650,631, about seventeen and thirteen hundredths cents per mile.

Celerity, certainty, and security: length, 161,263 miles; annual transportation, 45,540,587 miles; annual cost, \$5,438,299, about twelve cents per mile.

The length of routes was increased over the preceding year 13,683 miles; the annual transportation, 5,241,536 miles, and cost, \$929,770; to which add increased cost for railway postal clerks, route, local, and other agents, \$93,762, making an aggregate of \$1,023,562.

Overland Mail.

The contracts with Holladay and Dinsmore for the transportation of the overland mail for the Territories and the Pacific coast expired on the 30th of September last. To provide for the service thereafter, the Department, by public advertisement dated March 9, 1868, invited proposals, to be received until the 10th of June following, and decided by the 15th of the same month, for conveying the mail from October 1, 1868, to June 30, 1870, dividing the service into three routes, as follows, namely:

1. No. 16635. From Cheyenne, Dakota, or that point on the Union Pacific railroad to which the mails might be conveyed when this service should go into operation, to Virginia City, Nevada, 1,095 miles, and back, daily; the trip to be performed in nine days each way in summer, and twelve days in winter; the service and pay to be curtailed *pro rata* as each fifty miles of the Union Pacific railroad should be completed westward; and the Department reserving the right to curtail the service at its western terminus, when the eastward progress of the Central Pacific railroad should be sufficient to warrant the starting of the western mails from a point on the railroad rather than from Virginia City.

2. No. 14167. From Coyote, Kansas, the end of the Union Pacific railroad, eastern division, to Denver, Colorado, 265 miles, and back, daily; the trip to be performed in seventy-two hours each way; and the service and pay to be curtailed *pro rata* as the railroad should be extended westward.

3. No. 17035. From Cheyenne, Dakota, to Denver, Colorado, 102 miles, and back, daily; the trip to be performed in twenty-four hours each way.

For route No. 16635, the following proposals were received under the advertisement, namely: Louis McLane, president Wells, Fargo & Co., \$1,314,000 per annum; John Allman and John H. Clark, \$460,000; Charles A. Cook, \$390,000; Charles McLaughlin, \$350,000; Carlton Spaid, \$335,000.

For route No. 14167, Louis McLane, president Wells, Fargo & Co., \$84,000; Charles A. Cook, \$79,000; Carlton Spaid, \$49,000; Henry S. Wheeler, \$45,000; W. B. Hawkes, \$24,600.

For route No. 17035, Charles A. Cook, \$20,000; Louis McLane, president Wells, Fargo & Co., \$17,800; Carlton Spaid, \$15,000; Henry S. Wheeler, \$12,000; L. H. Johnston, \$9,970 50.

The Department accordingly, on the 15th June, accepted the bid of Carlton Spaid, at \$335,000, on route 16635; that of W. B. Hawkes, at \$24,600, on route 14167; and that of L. H. Johnston, at \$9,970 50, on route 17035; and the accepted bidders were duly notified.

On the 23d of September following, upon representations that it was impracticable to stock the road from the terminus of the Union Pacific railroad, eastern division, to Denver, (route 14167), in consequence of raids by hostile Indians, and that the service was unimportant, the mails for Denver being transmissible with almost equal speed via Omaha and Cheyenne, and upon the recommendation and advice of the United States Senators and Representative from Kansas the Department issued an order to rescind the acceptance of the bid of W. B. Hawkes and dispense with service on the route.

During the month of September, Carlton Spaid, the accepted bidder on route 16635, wrote the Department that, Congress having passed a law since the contract was awarded to him the effect of which would be to throw upon this route the documentary and newspaper mails formerly transmitted by the isthmus route, he should expect additional pay *pro rata* for every pound of such matter, and that he desired to be informed, as near as possible, what amount of such matter there would be, and for what additional amount of pay the Department would be responsible. The Department replied by furnishing him with transcripts of reports on its files showing the weights of the mails transmitted both by the overland and the isthmus routes, which contained all the information it possessed on the subject, and remarking that it would expect him to carry the mail strictly according to the terms of the contract, "using therefore such means" (quoting the language of the contract) "as may be necessary to transport the whole of said mail, whatever may be its size or weight." Whereupon, on the 29th September, Spaid gave notice that he had come to the conclusion to decline to transport any mail over the route; and on the 2d October the Department received telegrams, dated the 1st, from its special agent and from the postmaster at Salt Lake City, reporting the failure of Spaid to put the service in operation. A dispatch was immediately transmitted to the next lowest bidder, Charles McLaughlin, at San Francisco, inquiring whether he would carry the mail at his bid, (\$350,000,) and how soon he could commence the service. His reply, received on the 7th, showed that he would require thirty days to prepare for the service. On the 9th, Wells, Fargo & Co., who, as sub-contractors under Holladay and Dinsmore, had carried the mails on their routes for some time prior to the expiration of their contract term, and had continued the service upon the failure of Spaid, gave notice to the Department that they could not continue this temporary service longer than the 10th. An inquiry was thereupon telegraphed to the Department's special agent at Salt Lake City, whether arrangements could be made to carry the letter mail between the termini of the Union and Central Pacific railroads, and at what cost. He replied on the 10th that he could find no one prepared to carry the mails as designated except Wells, Fargo & Co. A dispatch was then sent to Brigham Young, at Salt Lake City, inviting a proposal for the service. He replied

on the 11th, offering to carry fifteen hundred pounds per day for eight months at \$559,375, with an allowance of 10 cents per pound per 100 miles for all additional mail, remarking that grain was now three prices, consequent on the destruction of crops by grasshoppers, and that to put service on the route for the short period of eight months would require proportionately a much higher rate of payment than would be required were the contract to extend for several years. On the same date an offer was submitted on behalf of the Union Pacific railroad to contract for the service for one year at \$1,500,000. Telegrams of the 12th, received on the 13th, notified the department of the stoppage of the temporary service and the accumulation of mails on the route. On the 16th Charles McLaughlin inquired by telegraph whether the contract would be given to him at his bid. The Department replied that it would on condition that he would commence the service immediately. To this he made no answer. And on the 21st the Postmaster General, having, with the Second Assistant Postmaster General, repaired to the city of New York, and consulted with Senator Morgan, Senator Cole, of California, Horace Greeley, Isaac Sherman, Postmaster Kelly, and other leading citizens of New York, under their advice accepted a proposition from Wells, Fargo & Co. to carry the mails between the termini of the Union Pacific and Central Pacific railroads daily for the term of one year, or until the two railroads meet, at the rate of \$1,750,000 per annum, subject to deduction *pro rata* for every section of fifty miles of railroad completed and reported to the Department ready to carry the mails, it being estimated that the gap between the railroads covered by the stage service will be lessened at the rate of fifty miles every fifteen days, or a hundred miles a month, and that it will be closed up entirely by the 1st of August, 1869, and that upon this basis the pay to Wells, Fargo & Co., under their accepted proposal, will amount in all to about \$670,000.

Early in October a Senator from Kansas, the principal public officers of Colorado, and other prominent citizens of the State and Territory, began to urge the restoration of service on the route (No. 14167) from the terminus of the Union Pacific railroad, eastern division, to Denver, representing it to be indispensable; and finally Major General Sheridan, in command of the department of the Missouri, with the concurrence of the Secretary of War, gave assurance that the route was guarded, and would be during the Indian troubles, and that the service was important both to the citizens and soldiers in Colorado. The accepted bidder being released by the order rescinding the acceptance of his bid, the contract was offered to the next lowest bidder, Henry S. Wheeler, who declined; and a temporary arrangement was made on the 31st October, with Wells, Fargo & Co., to carry the mails till 1st July, 1869, at the rate of \$79,000 per annum, subject to deduction *pro rata* for every fifty miles of railroad completed and reported to the Department ready to carry the mail—the rate being that of the bid next above Wheeler's, excepting that of Spaid, the failing contractor on route 16635.

On the remaining route the accepted bidder, L. H. Johnston, having failed, the Department accepted an offer from Wells, Fargo & Co. to perform the service for one year, from 1st October, 1868, at the rate of Johnston's bid, namely: \$9,970 50 per annum.

Under the arrangements thus made, the overland mail service on the three routes is now in regular operation.

TERRITORIAL MAILS.

In the last annual report allusion was made to the route from Fort Abercrombie, Dakota, to Helena, Montana, (or the route from St. Cloud to Pembina,) intended to provide direct mail communication to the Territories of Mon-

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tana, Idaho, and Washington. It was stated that in consequence of Indian hostilities on nearly the whole of the line the service was unreliable, of no value to the Department, and would be discontinued in the spring unless a marked improvement occurred. As there was no improvement, the service was discontinued from March 30, 1868; but at the last session of Congress a resolution was adopted, as follows:

"Resolved, &c., That the Postmaster General is hereby authorized to change the character of the mail service from Fort Abercrombie, Dakota Territory, to Helena, Montana Territory, to post-coach service."

No service existed on the route at the date of this resolution, and the resolution is not mandatory in its terms; but, considering it as indicating that the legislature will require that the mail should be carried, and on post-coaches, and acting on the supposition that a special appropriation would be made to meet the expense, an advertisement was issued July 28, 1868, inviting proposals for service from January 1, 1869, to June 30, 1872, three times a week, in four-horse post-coaches. The lowest bid received was that of Leach, Piper, and Montgomery, of Kittaning, Pennsylvania, at \$194,000 per annum, which was accepted October 2, 1868, and contracts have since been executed.

The service on the route from Sheridan (on the eastern division of the Union Pacific railroad) to Santa Fé has been increased from three to six trips a week, and the schedule time reduced to four days in summer. The service is well performed, though still occasionally interrupted by hostile Indians.

The important route from Salt Lake City to The Dalles, Oregon, has been relet from 1st October last for six-times-a-week service, at the rate of \$149,000 per annum, a saving, as compared with the last contract, of \$164,000 per annum.

READJUSTMENT OF PAY ON RAILROAD ROUTES.

The 30th June, 1868, being the period for the expiration of the term of contracts for transporting mails in the States of New Jersey, Pennsylvania, Delaware, Maryland, and Ohio, the Department, in anticipation of the close of the term, entered upon a systematic revision and readjustment of the rates of pay on railroad routes in those States, based upon returns of the weight of the mails conveyed and the accommodations provided for mails and agents of the Department, received in response to the "railroad weight circular" referred to in the last annual report, (page 11.) Wherever the returns required or justified a change from the former rate a circular (a copy of which is annexed) was addressed to the proprietors of the route, submitting the offer of the Department and explaining its purpose. In many instances the terms offered have, after considerable correspondence, been accepted, and contracts made accordingly. In others, though formal contracts are not executed, the Department has proceeded to settle for the service for the first quarter of the new term at the rates offered. Many routes in other States than those above named have been brought up for review, upon application made by the proprietors of the railroads interested, and in every case where the returns showed a readjustment to be proper it has been ordered. Thus the rates have been changed upon seventy-one routes in all, as appears in the annexed "table showing the readjustment of the rates of pay per mile on certain railroad routes, based upon returns of the weight of the mails conveyed and the accommodations provided for mails and agents of the Department." The routes are arranged, as in table E in the last annual report, not by States, but according to the rate of pay, the highest being first, and those of equal pay according to the average weight carried the whole distance, and the table is accompanied by an alphabetical index,

for easy reference. The total amount of the annual pay upon these routes, under the readjustment, it will be seen, is \$926,043 20, and the total amount of the former annual pay \$775,722 50—an excess of the present over the former of \$150,320 70. In reaching this result the rates on more than one hundred and fifty routes, being more than one third of the whole number of railroad routes in the service of the Department, have passed under review.

In connection with this subject it may be proper to state that at different times within the months of January, February, and March last, while Congress was in session, there were submitted to the Department, in behalf of a "committee on mail service" appointed at a national railroad convention previously held, several schedules of proposed changes in the rates of pay for the transportation of mails on railroad routes, and finally the draft of an act on the subject, to be submitted, if approved by the Postmaster General, to the Post Office Committees of the House and Senate. The proposed act provided that in all contracts hereafter to be made with railroad companies for the transportation of the mail the rates of compensation should be, at the option of the Postmaster General, in proportion either to the weight of matter to be transported or to the number of cubic feet of car space which the Department might require for the accommodation of its mails and agents. The schedule of rates prescribed in the act allowed upon every mile of actual transportation seven cents for car space per day not exceeding 25 cubic feet, or weight per day not exceeding 250 pounds; 12 cents for car space per day exceeding 25 and not exceeding 50 cubic feet, or weight per day exceeding 250 and not exceeding 500 pounds; and so on, ascending, by a similar sliding scale until for 2,600 cubic feet, the largest amount of "car space" found upon any route reported, the rate reached 115 cents for every mile of transportation. The proposed act provided further that an additional sum of one dollar should be allowed for every mile run by a train specially required to be run for the transportation of the mail, and two cents per mile for transporting in the passenger cars any agent traveling on the business of the Department, route agents to be transported free, but at their own risk.

Among the other papers was a "comparative statement," purporting to show the effect of the adoption of the committee's rates upon the whole cost of the railroad mail service in operation, by which it was made to appear that a diminution of thirty-eight per cent. would result, leaving out of the account all car space beyond the amount required to transport the mails as freight, allowing a cubic foot for every ten pounds' weight; and this thirty-eight per cent., it was suggested by the committee, would probably be more than sufficient to cover the cost of extra car service required for the use of route agents and postal clerks. It was found, however, upon estimating the car space used upon the first seven routes in table E in the last annual report, (pages 72-85,) allowing six and a half feet for the height of the car ceiling, as suggested by the committee, that the thirty-eight per cent. would be insufficient to cover the amount of transportation shown upon those routes alone at the committee's rates. To ascertain, therefore, the real effect which the adoption of the proposed rates would have upon the annual cost of mail transportation on railroad routes, a statement was made up in the Department, predicated upon the "car service" and actual transportation already in use, as shown in table E in the last annual report, by which it was found that the increase of expense would be enormous.

Thus, for illustration, on the Philadelphia, Wilmington, and Baltimore railroad mail apart-

ments of eight different sizes were reported, which were estimated to average 1,750 cubic feet. For this amount of "car space" the schedule prescribed in the proposed act allowed 81 cents per mile. The number of trips on the route was reported at 28 per week. Each trip including the run forth and back, the number of trips must be doubled to find the amount of transportation per week on each mile of the road's length, making 56 miles, and this again multiplied by 52 to find the amount per annum, making 2,912 miles, which, at 81 cents per mile, would give \$2,358 72 as the pay per annum for every mile of the road's length. The present rate is \$375. The disparity on some other routes would be still greater, the rates running up from \$75 to \$2,000 and more, and from \$200 to \$3,000 and more. On the whole amount of railroad mail service in operation on the 30th of June, 1867, the effect would be to increase the annual expense from \$3,812,600 to \$21,710,023, an excess of \$17,897,423. The Department forbearing, upon such a showing, to take any part in presenting the proposed act to the Post Office Committees of the two Houses of Congress, has proceeded with the work of readjusting the rates of pay on railroad routes upon a scale within the limits of existing laws and much more compatible with the resources at its command.

POST-ROUTE MAPS.

During the past year an engraved post-route map, in four sheets, has been completed by the topographer, and copies issued for the use of the Department, representing the post offices and mail service in the State of New York and its connections with adjacent States and with the Dominion of Canada.

This map, along with that previously published, representing the northeastern States, has been found of great use in the several branches of this Department in its current work to postmasters and others, and especially to the clerks of the traveling (railroad) post offices, in sorting and distributing letters.

A similar map of the States of Pennsylvania, New Jersey, Delaware, and Maryland was expected to have been issued before this, but the large amount of work required in compilation from insufficiently surveyed State and county maps, and the very extended and minute service in those States to be represented, have delayed the issue. The plates are expected from the engraver within three months.

The map of the State of Maine and adjacent is also well advanced in the engraver's hands, and will be completed about the same time.

Drawings are being prepared for the map of Ohio and Indiana; and those of other States, in groups, will be taken up as fast as the peculiar nature and the magnitude of this work will allow.

FINES AND DEDUCTIONS.

The amount of fines imposed on contractors and deductions made from their pay, on account of failures and other delinquencies, during the year ending June 30, 1868, was \$116,609, and the amount remitted during the same period was \$70,795, leaving the net amount of fines and deductions \$45,814.

MAIL-BAGS, LOCKS, AND KEYS.

A table herewith shows the number, description, and cost of mail-bags, locks, and keys purchased during the year, the amount expended for new mail-bags being \$58,016 87, or nearly 28 per cent. less than the expenditure for like objects during the previous year, when it amounted to \$80,440.

During the fiscal year last ended new contracts for mail-bags were made, after due advertisement for proposals, according to law, at prices averaging, for those of canvas about twenty per cent. less, and for those of leather about twelve and a half per cent. more, than the prices of the last contracts.

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THROUGH MAILS.

The method used by the Department to ascertain the speed and regularity with which through mails are conveyed is shown in a circular, issued in January last, (copy herewith,) referring to the routes from New York to St. Louis, Cincinnati, and Chicago, and from Washington and Baltimore to St. Louis and Cincinnati; and appended hereto are tables exhibiting the state of the service on these and other routes.

With regard to the service on the southwestern route from New York and Washington to New Orleans, via Lynchburg, Virginia, Knoxville, Chattanooga, and Grand Junction, Tennessee, and Canton, Mississippi, it was remarked in the last annual report that the records to October 31, 1867, exhibited a marked improvement. This improvement was maintained going south during the months of November and December of last year; but failures and delays going north in those months, and in both directions in January and part of February following, were so frequent that the Department ordered the mails to be transferred to the western route—a route never before used for the transmission of the great northern and southern mails, except for a few days in the spring of 1867, and then in one direction only, namely: from New York, via Pittsburg, Pennsylvania, Columbus, Ohio, Indianapolis, Indiana, Louisville, Kentucky, Humboldt and Grand Junction, Tennessee, and Canton, Mississippi, to New Orleans, the route from Washington, via Cumberland, Maryland, uniting with it at Columbus. The western route was used for the Washington mails to and from New Orleans from February 9 to March 16, 1868, and for the New York mails from February 10 to May 17, 1868. The Washington mails were restored on the 17th March, on the adoption of a quicker schedule and the promise of improved service, and the New York mails on the 18th May, to the southwestern route, on which they still continue.

Since the 13th of June last two mails a day have passed between New York and Memphis—one by the western and the other by the southwestern route. The comparative speed and regularity of the two routes will be seen by examining the tables.

RAILWAY POSTAL SERVICE.

There are now in operation in the United States twenty-six railway postal lines, subdivided into thirty-four routes, extending in the aggregate over 7,019 miles of railroad and steamboat lines, upon 1,571 miles of which twice-daily service is being performed, making a total equal to 8,090 miles of railway postal service daily each way, and an increase of 3,276 miles over the service in operation in 1867. There are employed in this service 279 men as head clerks, clerks, and assistant clerks, at salaries ranging from nine to fourteen hundred dollars per annum, making an aggregate cost of \$329,700 per annum—an increase of 119 men at a cost of \$141,800 over the previous year. It would require to perform this same service in the ordinary way, by slow mail trains, 141 men as route agents, whose compensation at the rate now paid to such agents on first-class routes would amount to \$152,280 per annum. This shows the increase in the cost of the postal service over the route agent service, on the twenty-six lines upon which this service is in operation, to be \$177,420 per annum. To ascertain to how great an extent this apparent increase in the cost of the one service over the other was offset by saving in clerk-hire, a circular was addressed in June last to all the larger offices in close connection with the railway postal service, inquiring, among other things, how many more clerks, if any, would be required with the natural increase in the size of mails, to perform the labor in their offices if the railway postal service should

be abandoned, and the old system of route agents and direct mails restored. Answers were returned by most of those addressed, admitting and fully indorsing the great superiority of the railway postal over the route-agent service, stating that their mails both in coming and going were facilitated in their transmission from twelve to twenty-four hours, and, in cases where they would, under the old route-agent system, be obliged to go through the process of redistribution, from thirty-six to forty-eight hours; but many could not state definitely the amount of clerical force saved to their offices, they having been appointed postmasters since the introduction of the railway postal service. From the reports of those who responded fully, however, it appeared that the number of clerks saved in local post offices amounted to one hundred and forty-two, whose compensation, at the average rate allowed to good distributing clerks, would amount to \$142,000 per annum. Full returns would doubtless show the number of clerks saved to be still greater. About the same time that the circular above referred to was sent to postmasters, a circular was addressed to all head clerks in railway post offices, requiring them to keep, for one week, as nearly as possible, an accurate account of letters received at the postal cars for mailing, and the number of stamps canceled. Most of the head clerks responded to this circular, and it was found that the average number of stamps canceled by railway postal clerks in that week, upon the routes that made a full report, (19 in number,) amounted, on each line, to 2,321, which, multiplied by the 26 lines, would amount to 60,346 per week, or, in the aggregate, to 3,137,992 per year. Counting each stamp at three cents, the value of stamps canceled by railway postal clerks in the year would amount to \$94,139 76. This count is exclusive of newspaper stamps canceled, or the stamps on foreign letters, which sometimes amount to four or five times as much. Forty per cent. on the amount of stamps canceled being the average amount of commissions, or the amount allowed in the adjustment of salaries to postmasters, this amount saved in salaries to postmasters should be credited to the railway postal service; and forty per cent. on \$94,139 76 being \$37,655 90, the financial result, exclusive of the extra compensation allowed to some railroads for the use of postal cars may be recapitulated as follows:

Salaries to 279 railway postal clerks.....	\$329,700 00
141 route agents at present salaries, \$1,080.....	\$152,280 00
142 clerks saved to local post offices, \$1,000.....	142,000 00
Saving in salaries of post- masters.....	37,655 90
	<u>331,935 90</u>
Net saving.....	\$2,235 90

It is proper to state that the service is being performed, not as formerly by route agents, on the slow way or accommodation trains, but upon the fastest express trains, and that, by means of Ward's mail-bag catcher, the clerks are exchanging pouches at all offices on the line once, and in many cases twice, daily each way. On the Hudson River and New York Central railroads, for instance, the postal car leaves New York at 8 a. m., performing service at all stations to Syracuse, where they arrive at 6.30 p. m.; and from Syracuse to Buffalo, where they arrive at 12 midnight, at all express stops. The night line leaves New York at 11 p. m., performing service for all offices at express stops to Albany; leaving Albany at 7.15 a. m., performing the service at all post offices to Buffalo, where they arrive at 8.30 p. m., so that every office on the line from New York, via Albany, to Buffalo, that chooses to exchange mails twice, is served twice daily with mail each way. Under the old route-agent system this same service was performed as follows:

route agents left New York in the morning and ended in Albany in the afternoon; other route agents left Albany in the morning and arrived in Syracuse in the evening; and still other route agents, leaving Syracuse in the morning, arrived in Buffalo in the afternoon—requiring from two to three days to send a letter from one point to another and receive an answer. Now letters can be sent and answers returned between almost any two offices on the line within twenty-four hours. This is simply an illustration; the same improved facilities for the rapid transmission of mails obtaining on most other lines of railway postal service.

Another feature of marked improvement in this service is the fact that letter mail, which under the route-agent system was required to go into a distributing office for distribution, is now distributed on the railway postal cars while they are in motion. For instance, on the New York Central and Hudson River railroads letters from the interior towns for the New England, southern, or western States, instead of being sent to the Albany, New York, or Buffalo distributing post office, causing a delay of from twelve to twenty-four hours, are now distributed while in transit, pouched, and forwarded on connecting railway postal routes with no delay. And still another is the large increase of mails on all railway postal routes. The chief clerks on the Erie and Lake Shore postal cars report that since the introduction of the service on those routes the letter mail has increased from thirty-three to fifty per cent. Though part of this may be a natural increase, it is believed that a large proportion of it is due to the increased facilities for sending a mail from and to every office on the line, however insignificant it may be. These remarks apply equally well to all other railway postal routes where the full way-service is performed.

FOREIGN MAIL SERVICE.

Statistics.

The aggregate amount of postage (inland, sea, and foreign) upon the letter correspondence exchanged with foreign countries was \$2,153,690 66. Of this amount \$1,706,467 76 accrued on the letter mails exchanged with European countries, \$309,516 43 on letters exchanged with the Dominion of Canada, and \$137,706 47 on the letters exchanged with the West Indies, Mexico, Brazil, Central and South America, the Sandwich Islands, Japan, and China.

The total letter postages on mails exchanged with countries of Europe, during the first six months from July 1 to December 31, 1867, inclusive, under the provisions of the postal conventions then in force, amounted to \$1,057,612 99; and on mails exchanged with the same countries during the residue of the fiscal year from January 1 to June 30, 1868, at the reduced rates established by existing conventions, amounted to \$648,854 77, being a reduction to the advantage of correspondents during said six months of \$408,758 22, on an increased correspondence amounting to 626,548 letters per annum.

The postage collections in the United States on the correspondence exchanged with Great Britain and countries on the continent of Europe amounted to \$1,090,244 03, and the postages collected in Europe amounted to \$616,223 73. Excess of collections in the United States, \$474,020 30.

The estimated amount of United States postage upon the letter mails exchanged with Great Britain and the continent of Europe was \$793,700 64; with Canada and the British North American provinces, \$176,179 55; and with the West Indies, Brazil, Mexico, Japan, and China, and Central and South America, \$128,098 87; making in all \$1,097,979 06, a decrease of \$93,425 61, compared with estimate of previous year. Adding the amount of United States postage upon printed matter

exchanged in United States and European mails, calculated at \$90,000, and \$10,529 40, the reported amount of United States postage on printed matter exchanged with the West Indies, Mexico, South America, China, &c., the total United States postages on foreign mails (exclusive of printed matter interchanged with the British North American provinces, of which no separate account is kept) was \$1,198,508 46.

The number of letters exchanged with foreign countries (exclusive of the British North American provinces) was 11,128,532, of which 5,900,307 were sent from and 5,228,225 received in the United States; increase over number of previous year 830,298. Of this number 10,068,659 were exchanged with European countries, an increase of 626,548, compared with the previous year. Estimating the number exchanged with the British Provinces at 2,476,000, the total number of letters exchanged in the mails with foreign countries was over 13,600,000.

Ocean Mail Transportation.

From the 1st of January, 1868, the date on which the new postal conventions with Great Britain, North Germany, Belgium, &c., came into operation, the arrangements made by this Department for the transatlantic mail steamship service have been restricted to the outward mails, in accordance with the new system adopted in said conventions, that each office shall make its own arrangements for the mails which it dispatches, and shall at its own cost remunerate the owners of the steamships employed for the conveyance of the same; and in like manner, the sea transportation of mails received from Europe since the 1st of January, 1868, has been provided and paid for by the respective foreign post departments dispatching the same to this country.

From July 1 to December 31, 1867, inclusive, the steamers employed by this Department in transporting mails in both directions conveyed mails the total postage on which amounted to \$491,534 13; and those employed in same service by foreign post departments conveyed mails during the same period the total postages on which amounted to \$566,078 86. During the last half of the fiscal year from January 1 to June 30, 1868, inclusive, the total postages on mails sent to Europe under the new arrangements amounted to \$340,835 54, and the total postages on mails received from Europe during the same period amounted to \$308,019 23, these reduced amounts resulting from the reduced rates of international postage charged on and after the 1st of January, 1868, under the provisions of the new postal conventions, which came into operation on that date.

The cost of the United States transatlantic mail steamship service from July 1 to December 31, 1867, under arrangements then in force, allowing the sea postages as compensation, was \$282,017 42, and from January 1 to June 30, 1868, under the new arrangements, \$139,760 02; a reduction of over one half from the cost of the same service during the previous six months. Total cost of transatlantic service for the year, \$421,777 44, being \$129,560 57 less than the preceding year. The amount paid for the transportation of mails to and from the West Indies, &c., by steamers receiving various rates of compensation within the limit of the postages, was \$70,287 67, and the cost of sea and isthmus conveyance of mails to and from Central and South America, via Panama, was \$27,334 33, making a total expenditure for ocean transportation of \$519,399 44, exclusive of payments amounting to the sum of \$497,916 67, made during the year to the steamship lines to Brazil, to Japan, and China, and to the Sandwich Islands, respectively, receiving subsidy grants fixed by special acts of Congress.

POSTAL CONVENTIONS WITH COUNTRIES OF EUROPE.

New postal conventions with Great Britain, the North German Union, Belgium, and the Netherlands, respectively, the leading provisions of which were briefly stated in my last report, were carried into effect on the 1st of January, 1868; and those concluded with Switzerland and Italy went into operation on the 1st of April, 1868. Under the provisions of these conventions important improvements have resulted, not only in reduced rates of international postage, but in greater uniformity of postal details and enlarged facilities of mail accommodation. The detailed regulations arranged and adopted for the execution of each of these conventions are annexed.

On the 13th of December, 1867, before the new convention with the United Kingdom of 18th June, 1867, went into operation, notice was given by the British post office to terminate the same on the 31st of December, 1868, in accordance with the power reserved in the twenty-first article thereof; which notice was accompanied by the announcement that Mr. Anthony Trollope would be dispatched to Washington in the spring of 1868 with full powers to negotiate a new convention better calculated to afford satisfaction to the people of the two countries. The provisions of a new convention to supersede the present one on the 1st of January, 1869, were accordingly arranged with Mr. Trollope at Washington in July last; and, after adjusting by direct correspondence between the two post departments certain modifications on which Mr. Trollope did not consider himself authorized to treat, the modified convention was formally executed on the 24th of November last. Its general provisions are substantially those of the present convention. The only change in the existing rates of international postage is a reduced charge on small pamphlets, book packets, and patterns, not exceeding two ounces in weight; the British post office having declined to assent to a further reduction of the international letter rate, but agreeing to consider the question of such reduction at the expiration of twelve months from the commencement of the convention. A copy of the new convention and detailed regulations for carrying the same into execution is annexed.

The French Government having communicated, through its minister at Washington, an invitation to this Department to send a special delegate to Paris authorized to negotiate and arrange in person the details of a new postal convention between the United States and France, Hon. John A. Kasson was, on the 5th of April, 1867, appointed a special commissioner on behalf of this Department to proceed to Paris, and there to negotiate and arrange the conditions of agreement between the respective post departments of a new convention, subject to the approval of the Postmaster General of the United States. Mr. Kasson's mission was primarily and specially to the French post department, with authority, also, to negotiate and settle the details of new postal conventions with the post departments of Great Britain, Prussia, and Belgium, respectively, and conclude postal conventions with other European Governments, subject to like approval of the Postmaster General of the United States. While Mr. Kasson succeeded in negotiating improved postal arrangements with Great Britain, Belgium, and North Germany, and advantageous conventions with the Netherlands, Switzerland, and Italy, his mission to the French post department failed to accomplish any revision or modification of the postal convention with France.

It being thus made apparent to me that the French post department was indisposed to conclude a new convention modifying the provisions of the convention of March 2, 1857, in conformity with the more liberal and improved arrangements concluded between the United States and other countries on the continent of

Europe, this Department was constrained to avail itself of the power reserved in the present convention to terminate it by a previous notice of one year, and notice was accordingly given on the 8th of January last to terminate the same on the 1st of February, 1869. Subsequently negotiations were opened with the French office for a new convention, this Department submitting for its consideration and approval a statement of the modifications of the convention of 2d March, 1857, considered necessary for the amelioration of the postal service between the two countries. The French department has submitted counter propositions based on so widely different views of the leading principles and features of an international postal arrangement, and claiming so unequal and unjust a proportion of the rates of postage, that there seems to be, in the present state of the negotiations, little probability of harmonizing the conflicting views of the two offices.

POSTAL CONVENTION WITH CANADA.

The postal convention between the United States and the Dominion of Canada was modified, to take effect on the 1st of April, 1868, by reducing the single rate of international letter postage to six cents if prepaid, and continuing the ten-cent rate for all unpaid or insufficiently paid letters; and the like modification has been extended to letter correspondence exchanged with Prince Edward Island.

POSTAL CONVENTION ESTABLISHING AN EXCHANGE OF MAILS WITH BRITISH EAST INDIES.

A postal convention has been concluded with the British post department, establishing and regulating an exchange of mails between the United States and the Straits settlements and the British East Indies, by means, conjointly, of the United States mail packets plying between San Francisco and Hong-Kong, China, and the British mail packets plying between Hong-Kong and Singapore, Calcutta, Madras, Bombay, and Aden, a copy of which is annexed. Its provisions are similar to those of the postal convention concluded between this Department and the colonial government of Hong-Kong, China.

MAIL STEAMSHIP SERVICE TO JAPAN AND CHINA.

During the year ended June 30, 1868, seven round voyages between San Francisco and Hong-Kong were completed by the United States mail packets of the Japan and China line, and two round voyages were completed between said ports during the quarter ended September 30, 1868. The average actual running time on the outward voyages between San Francisco and Hong-Kong, during this period, (omitting the trip during which the steamship Great Republic was disabled by a serious accident in mid-ocean,) was 29 days 21 hours, and 30 days 19 hours on the inward voyages. The Great Republic on her outward trip in March last, when distant 3,827 miles from San Francisco, and 2,100 miles from Yokohama, broke one of her paddle-shafts, but was nevertheless able to proceed on her voyage, reaching Yokohama by the use of one wheel, and attaining, under these adverse circumstances at one of the stormiest seasons of the year, the remarkable speed of 173 nautical miles a day. The steamship New York, prudently stationed at Yokohama, to guard against possible accidents, completed the voyage of the disabled ship, and thus, notwithstanding the outward voyage was by this accident protracted eight days, the round voyage to Hong-Kong and return was terminated at San Francisco within two days of the regular schedule time. The timely precaution of the contractors in providing a spare ship at Yokohama, to guard against the possibility of an interruption of the service, and the energy which they manifested on this occasion in completing the round voyage with as little delay to the mails as possible are worthy of commendation.

The new steamer Japan, four thousand three

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hundred and fifty tons Government register, was added to the line in August last, and the company state that they expect to place the America in service during the coming summer, thus completing the full number of four steamers required by the contract, although three only are actually required to perform monthly voyages, the fourth furnishing the means of relieving the others in case of repairs or accident.

The branch line between Yokohama and Shanghai, touching at Hiogo and Nagasaki, has been run in regular connection with the main line, and has proved a very important addition to the service. The qualified permission granted by the Department to the contractors in April, 1867, to terminate the voyage of the large ships at Yokohama, and to employ one or more branch steamships of a less size to do the service between Yokohama and Hong-Kong, to which reference was made in the last report, was not executed, the company notifying the Department of its decision not to avail itself of said permission, but to continue the service by the large ships to Hong-Kong as provided by the contract. In like manner the company did not avail itself of the authority given at the same time to change the Japan port of calling from Yokohama to Osaka, their president deciding that it would not be for the interest of the Government or that of the company to make such change.

The regular monthly trips provided for by the law authorizing the establishment of this service, and by the contract made in pursuance thereof, delayed by unavoidable causes, which have been satisfactorily explained, were begun on the 3d of June, 1868, and have since been regularly maintained.

It was hoped that the discovery by American citizens of a small group of islands midway between California and China, and conveniently situated with respect to this steamship route, would have resulted in increasing the efficiency of the service by relieving the steamships from the necessity of carrying the great weight of coal required for consumption on their long voyage of five thousand miles, and the effort of the contractors to effect this desirable improvement were regarded with great interest. But, unfortunately, the surveys made by officers of the Navy, as well as those of the steamship company, demonstrated that the project was impracticable of execution at present, owing to shoalness of water at the entrance to the harbor. If it should prove feasible, however, as I am informed is the opinion of competent naval officers whose attention has been given to the subject, to obtain the necessary increased depth of water on the bar, by a reasonable expenditure, the propriety and expediency of undertaking the work would be a question worthy the attention of our Government, as well for the attainment of this object as for other public advantages of a national and commercial character that will readily suggest themselves.

In view of the rapidly-growing importance of our relations, political and commercial, with the great empires of China and Japan, and of the prospective development of our Pacific States, as well as of the territory west of the Rocky mountains and east of the Sierra Nevada, rich in natural resources, but now sparsely peopled, it becomes an important question for consideration whether provision should not be made for an increase and extension of the service on the Japan and China mail line. While submitting this matter to the wisdom of Congress, and without being prepared to offer any suggestions at present as to details, I am clearly of the opinion that the best interests of the Government and people of the United States require that the period of the completion of the Pacific railway across our continent ought not to be allowed to pass without making adequate provision for placing its western terminus at San Francisco in at least

semi-monthly communication with China and Japan. Any legislation with this object should follow the safe and practicable precedent furnished by the successful working of the act authorizing the present service.

MAIL STEAMSHIP SERVICE TO BRAZIL AND TO THE HAWAIIAN ISLANDS.

The required number of monthly trips have been satisfactorily performed by the contractors on the mail steamship route between New York and Rio de Janeiro, Brazil, the average time occupied on the outward voyages being twenty-seven days eight hours, and on the inward voyages twenty-six days; and on the mail steamship route between San Francisco and Honolulu (Hawaiian Islands) the contractors performed eight round trips from 15th October, 1867, to 30th June, 1868, the average length of the outward voyages being eleven days one hour, and of the inward voyages twelve days three hours.

PROPOSED CONTRACT WITH "THE COMMERCIAL NAVIGATION COMPANY."

I have had under careful consideration the provisions of the act of Congress approved July 27, 1868, authorizing and empowering the Postmaster General "to contract with the Commercial Navigation Company of the State of New York, a corporation existing under the laws of the State of New York, under a special charter passed by the Legislature of said State, under the date of April 23, 1866, for the weekly or semi-weekly conveyance of all European and foreign mails of the United States between New York and Bremen, touching at Southampton, England, or Liverpool, touching at Queenstown, in first-class sea-going steamships, to be constructed in the United States and owned by said company, for a term not exceeding fifteen years;" and after a thorough examination of the subject in all its bearings, in which I consulted the Attorney General on the legal questions involved, I decided, in the exercise of the discretion given to me, that it was impracticable to make a contract with said company for only a weekly or semi-weekly mail service to Europe, and accordingly declined to execute a contract in the manner and on the conditions therein stated. I have, however, advised said company of my willingness to make a conditional contract, subject to the approval of Congress, for the conveyance of the United States mails to Europe by American steamships of sufficient number to perform at least four outward trips per week—that being the present number of weekly mails to Europe—and with the additional stipulations necessary to insure regularity and efficiency in the service always inserted in ocean mail steamship contracts; said contract to be approved by Congress by the passage of an act or joint resolution ratifying the same. In view of the great importance of this subject, I earnestly commend the proposed contract to the careful consideration and action of Congress.

CONTINUANCE OF MAIL SERVICE IN TIME OF WAR.

I fully concur in the recommendation of my predecessor, Postmaster General Dennison, in his annual report of November 2, 1864, that provision should be made, by treaty stipulations between nations or otherwise, for the exceptional treatment of regular mail packets in time of war, by authorizing such packets, under proper safeguards against the transportation of persons or articles contraband of war, to continue their navigation without impediment or interruption.

Such a principle ought to be universally recognized and adopted, as all Governments and peoples have a common interest in maintaining regular and uninterrupted postal communications between nations in time of war; and I respectfully recommend that the Postmaster General be authorized, by and with the advice and consent of the President, to incorporate such a stipulation in the postal conventions

already concluded or hereafter to be made with foreign Governments.

APPOINTMENTS.

The operations of the appointment office may be summed up as follows:

Number of post offices established during the year	2,167
Number discontinued	849
Increase of offices	1,318
Number of offices in operation on June 30, 1867	25,163
Number of offices in operation on June 30, 1868	26,481
Number of offices subject to appointment by the President	849
Number by the Postmaster General	25,632

Changes made during the year.

Appointments made to fill vacancies by resignations	4,021
Appointments made to fill vacancies by removals	1,194
Appointments made to fill vacancies by change of name and sites	167
Appointments made to fill vacancies by death of postmasters	267
Appointments made to fill vacancies by establishment of new offices	2,167
Number of cases acted upon	8,665

Aggregate compensation of special agents, route agents, mail-route messengers, postal-railway clerks, local agents, and baggage-masters in service during the fiscal year ending June 30, 1868.

49 special agents, five of whom are in charge of the mails between San Francisco, China, and Japan, at a compensation each of \$1,600 a year, and two dollars a day for subsistence	\$121,065
490 route agents	478,380
54 mail-route messengers	29,890
232 postal-railway clerks	274,360
69 local agents	48,405
150 baggage-masters	9,000
	\$961,070

LETTER-CARRIERS.

The free delivery system has been in operation during the year in forty-eight of the principal cities. It has continued to grow in popular favor, and has to a great extent supplanted the general and box deliveries. In Philadelphia, Chicago, St. Louis, Cleveland, Louisville, and other cities, the number of post office boxes has been greatly reduced, and the hope is confidently entertained that this mode of delivery will ultimately supersede all others. Its necessity in large cities is illustrated by the single example of New York, with its six thousand boxes representing thirty thousand names, any one of which each sorting clerk must be able to recall and associate with the proper box on the instant, a work impossible to be done without liability to error. This difficulty necessarily increases with the growth of the city, and finds no remedy, for the reason stated, in the multiplication of clerks.

The only remedy for this evil known to me is the delivery by carrier, which, after years of experience, has received the sanction of the principal postal departments of Europe, and which, by inducing the habit of directing letters to street and number, renders the sorting comparatively simple, and the delivery accurate and reliable.

Where the system has been judiciously and energetically conducted the people have not been backward in acknowledging its merits and availing themselves of its benefits.

The experience acquired by carriers has greatly facilitated operations, and enabled them to perform an additional amount of work with less proportionate labor.

I would here respectfully suggest that some legislative expression favoring the retention of experienced and efficient carriers would, by making their tenure of office dependent on themselves, conduce to more exemplary conduct, better order, and a more faithful discharge of duty. It would, besides, give stability to the system, conciliate public confidence toward it, and extend its usefulness.

While it is gratifying to state that the postage on local matter has increased in some cities as high as three hundred per cent. during the last four years, still experience has

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shown that in general the postage from this source is insufficient to meet the expense of this mode of delivery, especially in the smaller cities. This, however, should not be expected, nor can it be used as an argument against it, since the local matter constitutes a very small portion of the matter handled. Besides, the facilities afforded by this delivery must operate to increase mail letters as well as local, but whether in the same ratio cannot now be determined for want of the proper data.

Its benefits are also observable in the more thorough and accurate delivery of letters, especially in the populous cities where there are so many persons of the same name, the street and number serving to identify the person addressed. Many of these letters would without the carrier's delivery be advertised and sent to the dead letter office to be there destroyed, or returned to the writers at considerable expense to the Department, and after many vexatious disappointments to correspondents.

The aggregate results for the year are shown in the following figures:

The number of letter-carriers employed was 1,198; mail letters delivered, 64,349,486; local letters delivered, 14,081,906; newspapers delivered, 16,910,715; letters collected, 63,164,625; amount paid carriers, including incidental expenses, \$995,934 59; postages on local matter, \$475,982 36. (See tabular statements in the appendix.)

READJUSTMENT OF SALARIES.

Under the provisions of the second section of the postal act approved July 1, 1864, postmasters are now paid stated salaries in accordance with the amount of business done, instead of commissions, as formerly. These salaries have to be reviewed and readjusted once in two years, throwing upon this office a large amount of extra labor.

The readjustment for the two years commencing July 1, 1868, is now so far completed as to show that the salaries of 23,481 postmasters will amount to \$4,548,137. This business is continually upon the increase, as will appear by a comparison with the two previous adjustments:

For the two years commencing July 1, 1864, the salaries amounted to \$3,383,381
For the two years commencing July 1, 1865, the salaries amounted to 4,033,728
For the two years commencing July 1, 1868, as before stated, the salaries amount to... 4,548,137

In view of the great importance and responsibility of this branch of business I would respectfully request authority to appoint one additional fourth-class clerk to take charge of the same.

BLANK AGENCY.

Under the provisions of the fourteenth section of an act to further amend the postal laws, approved July 27, 1868, a blank agency for the distribution of blanks, wrapping paper, twine, letter balances, and marking-stamps to the several post offices in the United States has been established at Washington, and the agencies heretofore in operation at New York and Buffalo have been discontinued. This change was deemed important and necessary not only on the score of economy in the distribution of the articles named, but because of the very large amount of property to be purchased and distributed, as well as that the operations of the agency might be under the immediate supervision of the Department; and the wisdom of Congress in authorizing its establishment has been fully demonstrated by the recent development of startling frauds perpetrated upon the Department under the old system.

The agency has been organized by the appointment of a competent and reliable superintendent, an assistant superintendent of tried integrity and long experience in the business, with the necessary clerks and laborers to

insure a prompt and faithful discharge of all the duties devolved upon them.

The increase in the number of post offices in 1867 over the number in operation in 1866 was 1,135. The increase in 1868 over the number in operation in 1867 was 1,818.

The number of postal railway clerks in 1865 was 64; the number in 1866, 83; the number in 1867, 170; the number in 1868, 232.

The annual salaries of postal clerks in 1865 aggregated..... \$75,000
Salaries in 1866..... 96,200
Salaries in 1867..... 197,500
Salaries in 1868..... 274,300
Increase of route agents between 1865 and 1868..... 113
Aggregate increase of compensation..... \$148,868

Special attention is called to this increase of postal clerks and route agents and to the increase in their compensation. The service has required, and will continue to require, an increase in this class of departmental agents and employés. Congress passed laws authorizing an increase in compensation of route agents, postal clerks, and letter-carriers. I have increased the compensation of these men so far as I have been able, and regret that it is not in my power to pay them still higher salaries. They are not paid enough, any of them.

The number of letter-carriers has been increased from 757 in 1865 to 1,198 in 1868. The amount paid them, including incidental expenses, is \$995,934 59. These men also are insufficiently paid, and I would increase their compensation if in my power.

DEAD LETTERS.

The whole number of letters of all classes received during the year ended the 30th June last, by actual count, was 4,162,144, showing a decrease of 144,364 letters from the number estimated to have been received during the previous year.

Of these letters 3,995,066 were domestic letters; 167,078 were foreign, and were returned unopened to the countries where they originated.

The domestic letters received may be stated as follows:

Ordinary dead letters..... 3,029,461
Drop and hotel letters..... 522,677
Unmailable..... 363,898
Fictitious addresses..... 9,130
Registered letters..... 3,232
Returned from foreign countries..... 66,558

In the examination of domestic dead letters for disposition, 1,736,867 were found to be either not susceptible of being returned, or of no importance, circulars, &c., and were destroyed. About 333,000 more were destroyed after an effort to return them, making about fifty-one per cent. destroyed. The remainder were classified and returned to the owners as far as practicable.

The whole number returned was 2,258,199, of which about eighty-four per cent. were delivered to owners, and sixteen per cent. returned to Department.

Eighteen thousand three hundred and forty letters contained \$95,169 52 in sums of one dollar and upwards, of which 16,061 letters, containing \$86,638 66, were delivered to owners, and 2,124, containing \$7,862 36, were filed or held for disposition; 14,082 contained \$3,436 68, in sums less than one dollar, of which 12,513, containing \$3,120 70, were delivered to owners; 17,750 contained checks, drafts, deeds, and other papers of value, representing the value of \$3,609,271 80; of these 16,809 were restored to the owners, and 821 were returned and filed; 13,964 contained books, jewelry, and other articles of property, of the estimated value of \$8,500; of these 11,489 were forwarded for delivery, and 9,911 were delivered to owners; 125,221 contained photographs, postage stamps, and articles of small value, of which 114,666 were delivered to owners, and 2,068,842 letters returned had no inclosures.

Thus, of the ordinary dead letters forwarded

from this office, about eighty-four per cent. were delivered, and of the valuable dead letters, (classed as money and minor,) about eighty-nine per cent. were delivered.

The decrease of money letters received (about three thousand) is probably owing to the growing use of money orders for the transmission of small sums.

Prominent among the causes of the non-delivery of letters is the unmailable character of many of them, ascertained during the past year to be 363,898 letters, showing a decrease of 79,888 from the previous year. Of these 290,448 were detained for non-payment of postage; 58,387 returned for misdirection or want of proper address; 13,470 were addressed to places for which no mail service had been established, and 1,593 had no address whatever. There were also returned 23,425 letters addressed to persons stopping temporarily at hotels, departures or non-arrivals preventing delivery, and 9,190 found to be addressed to fictitious names. These are mostly cases where the causes of non-delivery appear from the letters themselves, and no effort was made to deliver them.

The number of dead letters returned during the year to foreign countries was 184,183, and the number received from foreign countries was 66,558. It further appears that out of 4,666,673 letters mailed to the United States, through British, French, and German mails, 126,866 (or 2.7 per cent.) were returned to Europe as dead letters; and out of 5,401,986 letters forwarded from this country through those mails, 30,970 (or .57 per cent.) were returned as dead letters, showing an extraordinary discrepancy between the proportion of dead letters received from Europe and the proportion returned from the United States to European countries.

This difference is doubtless largely owing to causes existing in this country which do not operate in the same proportion in Europe.

The geographical extent of the United States and Territories, as yet largely unsettled, the constant arrival of emigrants in search of new homes in remote regions, and the continual changing of places of abode in a sparsely settled country, all operate to increase the difficulty in the delivery of foreign letters.

The aggregate of postal letter service during the year is estimated at 720,000,000, and the proportion of domestic dead letters to the number of domestic letters mailed is about one to 126.

There were received at this office during the fiscal year 5,459 applications for letters, of which 1,151 were answered satisfactorily, the letters applied for being found. About one third of these applications were for ordinary letters without inclosures, no record of them being kept and search for them being useless.

The amount of money taken from all dead letters undelivered since last report, and deposited in the United States Treasury, was \$27,967 71.

The amount realized from sales of waste paper and deposited was \$1,280 42.

POSTAL MONEY ORDER SYSTEM.

The number of money order offices now in operation is 1,468. Since the date of the last annual report 245 additional offices have been established and one office has been discontinued.

The number of orders issued during the year was 831,937, of the aggregate value of..... \$16,197,858 47
The number of orders paid was 836,940, amounting to..... \$15,976,501 11
To which is to be added the amount of orders repaid to purchasers..... 142,035 92

Total of payments..... 16,118,537 03

Excess of issues over payments..... \$79,321 44

The last annual report shows that during the the fiscal year ending June 30 the aggregate

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amount of orders issued was \$9,229,327 72, and of orders paid and repaid \$9,071,240 73. Hence it appears that during the last fiscal year there was an increase in the amount of orders issued of seventy-five per cent. and in the amount of orders paid of seventy-seven per cent. over the corresponding transactions of the previous year. This large and constant increase from year to year in the amount of money order business plainly indicates the great utility of this system for the public, as a safe and convenient method of transmitting small sums of money through the mail.

The average sum for which money orders were issued last year was \$19 47, being nearly the same as that of the previous year, \$19 45. The number of duplicates was 3,873, of which 3,792 were issued as substitutes for originals lost in the mails or otherwise, 58 were in lieu of orders rendered invalid because not presented for payment until more than one year after date, and 23 to replace orders made invalid in consequence of bearing, contrary to law, more than one indorsement.

The receipts and expenditures of the last fiscal year, as adjusted and stated by the Auditor, were as follows, namely:

<i>Receipts.</i>	
Fees on money orders issued.....	\$124,487 00
Premium received on exchange.....	16 19
	124,503 19
<i>Expenditures.</i>	
Commissions to postmasters and allowances for clerk hire.....	\$65,271 38
Allowances for remittances lost in the mails.....	1,769 00
Incidental expenses for stationery and fixtures.....	3,304 68
	70,345 04

Excess of receipts over expenditures..... \$54,158 15

being the gross amount of revenue derived from the transaction of the money-order business.

Under existing law post-office blanks of every description are furnished exclusively by the Congressional Printer, hence the cost of money-order blanks used by postmasters is not included in the foregoing statement of expenditures.

In the transaction of the money-order business the smaller offices usually issue more orders than they pay, in consequence of the general tendency to remit money to centers of trade and commerce. For the same reason the number of orders paid at the larger post offices greatly exceeds the number issued; and to supply the latter with sufficient funds to meet this excess of payments, postmasters at the smaller offices are required to remit promptly to certain first-class offices, designated as their depositories, all surplus funds that may accrue in their hands from the issue of orders. These remittances are made by means of national bank drafts, or in registered packages by mail when such drafts cannot be procured, as is usually the case at the smaller post offices. During the last year the amount of surplus money-order funds remitted by these methods and deposited in the larger offices was \$11,191,457 04. Whenever a registered package containing money-order funds in course of transmission by mail is reported as missing, a special agent is immediately instructed to investigate the matter, and if it cannot be found after a reasonable time, credit for the amount of the lost remittance is allowed, provided it is proved, after a thorough examination of all the circumstances of the case by the special agent, that the postmaster not only sent the money in a registered package, but in doing so complied strictly with all the requirements of the Department. These are, that he must keep an exact description of the notes remitted by him, and must be ready to prove by the testimony of a disinterested witness that he inclosed these notes in a secure package, which he registered in the mode prescribed, and duly

dispatched in the mail from his office. As above stated, the sum of \$1,769 was allowed during the last year for lost remittances. In addition to this amount an allowance of \$5,265 was made to the postmaster at Austin, Texas, on account of five lost remittances, proved conclusively to have been duly mailed by him during the first quarter of 1868 to the postmaster at New Orleans, Louisiana. These remittances were stolen by a clerk in the post office of that city, as appears from the report of the special agents of this Department, who investigated the case and caused the arrest and commitment of the alleged depredator. The allowance in this instance, however, was not made, and notice thereof transmitted to the Auditor in time for insertion in his report, and will therefore be included in his next annual statement.

The sum of \$1,205,253 01 was transferred by postmasters from the postage to the money-order account, to enable them to meet orders presented for payment at times when their money-order funds were insufficient for the purpose. On the other hand, the transfers from the money-order to the postage account amounted to \$1,217,392 45, showing, at the close of the year, a balance in favor of the former account of \$12,139 44.

Application has repeatedly been made to this Department during the past year by citizens of the United States who reside in or who frequently visit Panama, New Granada, for the establishment of a money-order office at the United States consulate of that city. It is represented that such an office would not only afford much-needed facilities to American artisans and workmen resident in Panama and vicinity for the transmission of small sums to their families or relations at home, but would also accommodate, in a similar way, the large number of travelers who pass through that city on their way to or from the Atlantic States, as well as the numerous American sailors who frequent the port. For like reasons it seems desirable that a money-order office should be opened at Aspinwall. I would therefore recommend that the Postmaster General be authorized to establish an agency at each of the cities in question, for the issue and payment of money orders by the United States consul, in the same manner and under the same regulations as at money-order post offices in the United States. These two consuls at present act as agents of this Department for the receipt and dispatch of mail matter. The addition of the money-order business to these duties would involve an increase of responsibility and of clerical labor, for which they should receive an additional allowance proportionate to the amount of business transacted.

The Department is at present engaged in arranging the details of a convention for the interchange of postal money orders between certain money-order post offices of this country and those of Switzerland. After it shall have been put into successful operation similar arrangements will gradually be made with other foreign countries which may desire the establishment of an international money-order system.

MISCELLANEOUS.

The law requires the salaries of postmasters to be adjusted once in two years. The aggregate salaries of postmasters, as revised July 1, 1864, was \$3,383,381 77. As adjusted July 1, 1866, the sum was \$4,033,728 17. As adjusted July 1, 1868, the sum was \$4,545,888. The increase in a little over two years, from June, 1866, to and including July, 1868, was \$1,162,506 23. This increase of salaries, under the rules prescribed by law, is encouraging. It is based solely upon the continual increase of the business of the Department and of the people.

The increase of the expenses of the postal service, based as it is upon public necessity

and public demand, instead of being cause of discouragement, is a subject of congratulation. The restoration of so large a part of the postal service, suspended during the war, and the new service created by Congress since the close of the war, equal to one-third of the amount of service in operation at that time, have produced a less deficiency than existed in time of peace and prosperity previous to 1860.

The proportion of deficiency to revenue is far less now than then, notwithstanding the service is very much greater than ever before. In 1859 the sum of the deficiency was only \$1,000,000 less than the entire revenue. In 1860 the sum of the deficiency was about three million five hundred thousand dollars less than the entire revenue. For the year 1868 the deficiency is \$10,000,000 less than the entire revenue. The majority of the southern States have never paid their own expenses for postal service. They will not do so for a long time to come. With the exception of Iowa and Missouri none of the States or Territories west of the Mississippi have ever paid a revenue equal to their postal expenses. The cost of the transportation of the mails in all new States and Territories, and in all sparsely-populated portions of the country, never has been paid by those States or Territories out of their own revenues. It is only as population and business increase, and the country is developed, that postal service can be self-sustaining.

The idea that the Post Office Department can be self-sustaining, in the present condition of the country, is absurd. It cannot be, and ought not to be, for fifty years to come. The revenues will largely increase, and so will expenditures. Ten years hence I estimate the expenses of the Post Office Department at \$40,000,000, and the revenues at \$30,000,000. This increase must go on as long as the country prospers and mineral, agricultural, and commercial business increases. The mines are not yet all developed. The lands are not all cultivated. The rivers are not all navigated. The railroads are not all surveyed. The cities are not all built. The sea has not given us all we have a right to exact. Our country is not finished. Until it is finished he is not a wise nor a sagacious man who assumes that the postal service will pay for itself.

The Post Office Department can be made self-sustaining in one way, and that is by cutting off the postal service in the States and Territories where the receipts for postages are not equal to expenses. This would exclude all but Iowa and Missouri west of the Mississippi, and all the States overborne by the rebellion. It could further economize by withdrawing all aid from the China, Brazil, and Sandwich Islands steamship lines, thus saving \$725,000. It could save \$995,000 by abolishing the letter-carrier system for the cities. It could also economize to the extent of over \$700,000 by overturning the system of postal cars. It is true that in public estimation the letter-carriers for cities are thought to be almost indispensable, but the system costs money and brings small revenue. It is all disbursement and no receipt. What if from twelve to twenty-four hours are saved in the transmission of mails between Washington and Cincinnati, or St. Louis, or Chicago, and the whole West and Northwest by these traveling post offices, which put off and receive mails while traveling at thirty miles an hour, and which receive mails, make up mails, and distribute mails as they go hurrying along? It costs money, and the Government, like a miser, can keep its money in its chest. It gives no return and helps nobody, but is safely hoarded. A halting, timid, illiberal policy like this will save one million and lose twenty. Every dollar put out by the Government in subsidies to build railroads, in subsidies to aid ocean commerce, in liberal appropriations to open lines of travel and develop

material resources in a great nation like this, is money put out at exorbitant usury, and will bring returns in development of material wealth, and in making the nation great and rich and strong in everything of value and interest to a great people.

FRANKING.

I have twice in my annual reports called attention to the gross abuses of the franking privilege. It becomes my duty again to speak of the frauds perpetrated upon the revenues of the Post Office Department by these abuses. I have had occasion frequently during the past year to call the attention of members of Congress to the use of their names in sending mailable matter free under a *fac simile* frank. Three dollars will buy the *fac simile* frank of any member of Congress, and the use of it by claim agents and business men in cities in sending books, periodicals, letters, and business circulars defrauds the Department out of immense sums of money. It is estimated that the loss to the Department by this species of abuse of the franking privilege has amounted to from one million to one million and a half dollars during the past year. On former occasions I have urged, in order to avoid the continuance of this serious cheat in the use of names of members of Congress without their knowledge or consent, that the law be so changed as to require the written signature of the person exercising the franking privilege upon the matter franked; and to relieve the heads of Departments and bureaus of great labor, that a franking clerk be authorized by law for each Department of the Government, with the right to frank all matter pertaining to the Department for which he is so appointed; and to relieve members of Congress from great labor and care, that one or more franking clerks be appointed for each House of Congress to frank such letters and public documents as it is desirable to send free through the mails. I have thus far failed to secure any attention to these urgent appeals, and am becoming satisfied that the only way to avoid an abuse which is becoming systematized and which is so severe a tax upon the revenues of the Department is to abolish the franking privilege altogether.

POST OFFICES IN BOSTON AND NEW YORK.

In the city of Boston the Government has purchased, for a large sum of money, a very valuable site for a post office and for revenue offices. It is of very great importance, both to the postal and revenue service, that at as early a day as possible plans for buildings should be adopted and appropriations made to erect them. There is no occasion for any delay, and every reason that economy and public necessity can suggest why the work should go immediately forward. Boston is the capital of New England, and the Government ought to erect public buildings there which would gratify the pride of that people and do honor to itself.

I must again urge that steps be immediately taken to erect a suitable post office in the city of New York. A most eligible site has been purchased there for this purpose. The necessities of the public service demand that there shall be no further delay in this case. The building now occupied for a post office is what is left of an old church. It is patched and battered, full of dark corners and discomforts. The sunlight can scarcely penetrate its gloomy interior. Gas is burnt there day and night, and men work by it. It is over an old graveyard, and under its rotten floors lie skulls and bones, and the damp mold of dead men. On removing the floors for repairs, a short time ago, these unwelcome sights were exposed to view. The building is unfit for any use whatever; yet there, in summer and winter, in heat and cold, by gaslight, from night until morning and from morning until night, three hundred

men are at work for the people of the whole United States, and inhaling a poisoned atmosphere every breath they draw. It is a disgrace to the city of New York and a disgrace to the nation. An average of nearly thirty men are sick all the time from laboring in that unwholesome place. The Post Office Department pays every year for extra help on account of it a sum equal to the interest on half a million dollars. It is not always that the commercial and moneyed center of a nation is the same. But the city of New York is both the moneyed and commercial center of the western hemisphere. In fifty years it may be the moneyed center and commercial center of the world. In less than twenty years the city will contain a population of at least three million people—a population equal to that of all the Colonies at the date of the Revolution. It is time now to begin to do something to meet its growing necessities. The post office building is unsafe. It is liable at any time to burn down, and scarcely a day passes but there goes through that office, in money, drafts, and securities, from ten to thirty million dollars in value. To erect suitable public buildings there is the nation's work, and the nation's representatives ought to attend to it.

In the year 1854 the deficiency of the Department, as between revenues and expenditures, was \$1,621,837 90; in the year 1855 the deficiency was \$2,626,206 16; in the year 1856 it was \$2,787,046 50; in the year 1857 it was \$3,453,718 40; in the year 1858 it was \$4,543,843 70; in the year 1859 it was \$6,996,009 26; in the year 1860 it was \$5,656,705 49; in the year 1861 it was \$4,557,462 71; in the year 1862 it was \$2,112,814 57; in the year 1863 it was \$150,417 25; in the year 1864 it was \$206,532 42; in the year 1865 there was a surplus of revenues over expenditures of \$861,430 42; in the year 1866 the excess of expenditures over revenues left a deficiency of \$965,093 09, making the expenditures for the year ending June 30, 1866, \$1,826,523 57 greater than for the year ending June 30, 1865. The years 1865 and 1866 above mentioned were the two years in which the Department was administered by my immediate predecessor. The deficiency for the year ending June 30, 1867, was \$1,906,789 92, including as revenue \$900,000 drawn under acts making appropriations for carrying free mail matter, and not including as expenditure \$1,191,666 67 paid for service for which special appropriation was made.

The actual difference between revenues independent of special appropriations and expenditures, including special appropriations, was \$3,998,456 59.

The revenues independent of special appropriations, for the year ending June 30, 1868, were \$16,292,600 80; and the expenditures including service for which special appropriations were made, were \$22,730,592 65, showing an excess of expenditures of \$6,437,991 85. To meet this deficiency there were drawn under appropriations made for carrying free matter \$3,800,000, and under acts making special appropriations for overland mail and marine service between New York and California, \$1,125,000; steamship service between San Francisco, Japan, and China, \$125,000; between the United States and Brazil, \$150,000; for carrying mail on routes established by acts passed during the first session of the Thirty-Ninth Congress, \$486,525; and for preparing and publishing post-route maps, \$10,000; leaving a deficiency, as stated in the first part of this report, for the year ending June 30, 1868, of \$741,466 85.

It is seen from the foregoing statement of receipts, expenditures, and appropriations that in supplying necessary postal accommodations for the people the excess of expenditures over revenues rapidly increased from 1854 to 1859 and 1860, inclusive; the deficiency for 1859 being \$6,996,009 26, and for the year 1860

being \$5,656,705 49. After the year 1860 the expensive service in the southern States began rapidly to diminish, until in the year 1865 there was so little mail service performed in the States involved in the rebellion that the revenues exceeded the expenditures by \$861,430 42. The service was almost entirely suspended. Directly after the war ended and during the second year of the administration of my immediate predecessor, ending June 30, 1866, the Postmaster General entered upon the serious task of restoring the service in the insurgent States. In the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, and Texas the service was restored during the year ending June 30, 1866, to an extent costing \$1,086,527.

In the same States the cost of service for the year ending June 30, 1867, increased to \$1,891,531, and for the year ending June 30, 1868, it increased to the sum of \$2,168,459. This expenditure was for transportation alone, and include none of the other large expenses necessarily connected with the postal service in those States.

Before the rebellion, and in times of ordinary prosperity, the excess of expenditures over the revenues of the Department was nearly \$7,000,000. The almost total abandonment of the service in the southern States, and the rapid increase of revenue growing out of the remarkable increase of correspondence connected with the Army and Army operations, and of domestic correspondence between soldiers and their families and friends, soon brought expenses and revenues near together, and in the year ending June 30, 1865, left an unexpended balance in the Treasury, as before stated.

In the year ending June 30, 1865, the aggregate length of routes was 142,340 miles, and the annual transportation reduced to 57,998,694 miles.

During the year ending June 30, 1866, the aggregate length of routes had increased to 180,921 miles, and the annual transportation to 71,837,914 miles, an increase of 38,581 miles in length of routes, and of 13,844,220 miles in annual transportation.

During the year ending June 30, 1867, the aggregate length of routes had increased to 202,245 miles, and the annual transportation to 78,982,789 miles, an increase of 21,324 miles in length of routes, and an increase in transportation of 7,144,875 miles over the previous year.

During the year ending June 30, 1868, the aggregate length of routes increased to 216,928 miles, and the annual transportation increased to 84,224,325 miles, an increase of 14,683 miles in length of routes, and 5,241,516 miles in annual transportation.

Since the 30th day of June, 1865, and to the 1st day of July, 1868, three years, the aggregate length of mail routes has increased 74,588 miles, and the annual transportation has increased 26,230,631 miles.

Since I came to the head of the Post Office Department, in July, 1866, after the close of my immediate predecessor's second and last year as Postmaster General, the aggregate length of mail routes put under contract and in actual operation up to the 1st day of July, 1868, is 36,003 miles, and the increase of annual transportation for the time increased 12,386,411 miles.

The increase of service and great increase of the expenses of the Department for inland mail transportation have not all arisen from the restoration of mail service in the late disordered States. A large amount of the service in operation previous to the war, and discontinued during the war, has not yet been restored. In addition to the increased and increasing railroad transportation, with its increasing expenses, Congress, by a series of acts, between

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the 3d day of March, 1865, and the 25th day of July, 1868—a little over three years—created 1,267 new mail routes, with an aggregate length of 48,744 miles, to wit:

By act of March 3, 1865, 114 routes—6,640 miles.

By act of March 14, 1866, 76 routes—4,901 miles.

By acts of July 18 and 26, 1866, 367 routes—15,741 miles.

By act of March 2, 1867, 139 routes—4,888 miles.

By act of March 30, 1868, 386 routes—10,779 miles.

By act of July 25, 1868, 185 routes—5,795 miles.

Of these, thirty-three were established in the late rebel States, with an aggregate length of less than 1,000 miles. One hundred were established in the Territories with an aggregate length of 12,141 miles. The following is a complete list of States and Territories in which such service was established, with the amount of such service in each State:

Mail routes authorized by acts of Congress, from March 3, 1865, to July 25, 1868, inclusive.

Name of State or Territory.	Aggregate No. of routes.	Aggregate No. of miles.
Alabama.....	1	-
Arkansas.....	3	126
California.....	46	3,242
Connecticut.....	1	15
Delaware.....	6	39
Florida.....	-	-
Georgia.....	-	-
Illinois.....	66	1,339
Indiana.....	47	953
Iowa.....	131	3,728
Kansas.....	85	4,411
Kentucky.....	17	556
Louisiana.....	1	72
Maine.....	22	311
Maryland.....	20	149
Massachusetts.....	3	50
Michigan.....	64	1,650
Minnesota.....	119	4,260
Mississippi.....	2	57
Missouri.....	86	3,655
Nebraska.....	46	2,491
Nevada.....	21	3,437
New Hampshire.....	2	23
New Jersey.....	10	67
New York.....	68	871
North Carolina.....	4	-
Ohio.....	56	883
Oregon.....	22	1,092
Pennsylvania.....	141	1,690
Rhode Island.....	1	-
South Carolina.....	1	-
Tennessee.....	2	30
Texas.....	-	-
Vermont.....	9	96
Virginia.....	1	37
West Virginia.....	20	323
Wisconsin.....	38	1,012
Territories.		
Arizona.....	4	1,690
Colorado.....	12	536
Dakota.....	7	760
Idaho.....	16	1,726
Montana.....	37	4,661
New Mexico.....	14	1,475
Utah.....	7	603
Washington.....	3	690
Wyoming.....	-	-

I have the satisfaction of stating that a decree has been rendered in the high court of chancery of the Dominion of Canada, in the "stamp case," (the United States vs. Boyd et al.,) in favor of the plaintiffs. This action was brought to recover United States postage stamps of the value of about ten thousand five hundred dollars, which had been stolen in July, 1864, from the steamer Electric Spark, conveying the United States mails from New York to New Orleans, which was captured at sea by the armed steamer Florida, a piratical vessel sailing under rebel colors. The court sustained the right of the United States to the stamps, awarding costs of suit and ordering the return of the stamps to this country. The preparation of the case in this country was chiefly conducted by Joseph A. Ware, esq.,

solicitor of the Auditor's office, who deserves great credit for his diligence and skill, and the case was prosecuted under the counsel and direction of Hon. Caleb Cushing. The report of the solicitor of the Auditor's office and the opinion of the chancellor is published in the appendix.

The subject of connecting the postal service with the magnetic telegraph is one deserving the special attention of Congress. An independent report on the subject will be prepared and submitted for consideration at an early day.

The rapid growth of the postal service of the United States since the present organization of the Post Office Department was established by the act of July 2, 1836, has devolved on its officers an amount of business of so extensive, varied, and responsible a character that a reorganization, wisely adapted to the present and prospective condition of the service is necessary to secure the greatest practicable efficiency in its administration. I will take an early opportunity to prepare and submit to Congress for its approval a plan for its reorganization.

Respectfully submitted:

ALEX. W. RANDALL,
Postmaster General.

The PRESIDENT.

Report of the Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
WASHINGTON, November 30, 1868.

SIR: I have the honor to inform you that the reports received by this Department from its bureau and other officers have, pursuant to law, been transmitted to the Public Printer. They furnish copious details touching the several branches of the public service to which they relate.

During the last fiscal year public lands were disposed of as follows:

	Acres.
Cash sales.....	914,911.33
Located with military warrants.....	512,533.42
Taken for homesteads.....	2,328,923.25
Approved to States as swamp.....	259,197.85
Grants to railroads.....	697,257.57
Located with college scrip.....	1,942,889.08
	6,656,742.50

a quantity less by 385,372 acres than that disposed of the previous year.

The cash receipts of the office during the same period, from all sources, amounted to \$1,632,745 90, which exceeds the amount received from the same sources the previous fiscal year by \$284,883 38.

Nearly one fourth of the homestead entries were made under the act of June 21, 1866, which applies only to the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida.

The quantity of land still undisposed of is 1,405,366,678 acres.

Measures have been taken for establishing the boundary lines between Nebraska and Colorado, Nebraska and Wyoming, Nevada, Utah, and Arizona, and for running the northern boundary of New Mexico.

I invite attention to the views presented in my former reports in regard to certain amendments of the preemption and homestead laws.

The report of the Commissioner of the General Land Office is very elaborate, and affords much valuable and interesting information in relation to the agricultural, mineral, and other resources of the several land States and Territories, as well as many judicious suggestions on the operation of the laws regulating the disposal of the public domain.

Of the two revolutionary soldiers pensioned by special acts of Congress in 1867, John Gray, of Ohio, has died. The other, Daniel F. Bakeman, of New York, is reported as living.

There are at the present time on the rolls the names of 888 widows of revolutionary soldiers, and 1,303 widows and children of sol-

diers who served in wars subsequent to the Revolution and prior to the rebellion.

During the past year there were examined and allowed 9,325 new applications for invalid pensions of soldiers, at an aggregate annual rate of \$628,271 70, and 4,854 applications for increased pension of invalid soldiers, at an annual aggregate rate of \$280,487 28. During the same period 19,242 original pensions to widows, orphans, and dependent relatives of soldiers were allowed, at an aggregate annual rate of \$1,910,202 70, and 27,053 applications by the same class for increased pay were also admitted, at a total annual rate of \$1,725,960. On the 30th June, 1868, there were on the rolls 74,782 invalid military pensioners, whose yearly pensions amounted to \$6,828,025 26, and 92,243 widows, orphans, and dependent relatives of soldiers whose yearly pensions amounted to \$12,065,068 94, making the total aggregate of Army pensioners 167,025, at a total annual rate of \$18,893,094 20. The whole amount paid during the last fiscal year to invalid military pensioners was \$7,484,796 85; to widows, orphans, and dependent relatives, \$16,173,801 93; a grand total of \$23,658,598 78, which includes the expenses of the disbursing agencies.

During the same year there were admitted 135 new applications for invalid Navy pensions, at an annual rate of \$12,890; 50 applications for increased pensions of the same class at an annual aggregate of \$2,994; 219 original applications of widows, orphans, and dependent relatives of those who died in the Navy, at an aggregate rate of \$26,012 per annum, and 72 pensions of the same class were increased at a total yearly rate of \$3,600. On the 30th June, 1868, the rolls of the Navy pensioners bore the names of 1,175 invalids, at an annual aggregate of \$94,833 75, and 1,443 widows, orphans, and dependent relatives, at an aggregate annual rate of \$236,256. The amount paid during the last fiscal year to Navy invalids was \$97,340, and to widows, orphans, and dependent relatives of officers and seamen of the Navy, \$255,043 21; a total amount of \$352,383 21.

During the year there were added to the number of pensioners of all classes 28,921, there were dropped, from various causes, 14,752, leaving on the rolls, June 30, 1868, 169,643. The total amount paid for pensions of all classes, including the expenses of disbursement, was \$24,010,981 99, a sum greater by \$5,391,025 53 than that paid the previous year.

There were 1,077 bounty-land warrants issued for 167,720 acres.

The expenditures for special agencies are largely exceeded by the pecuniary gain to the Government. Over 300 claims have thus been found fraudulent, amounting to \$27,000 per annum.

The Commissioner presents in his able report valuable suggestions touching the codification and administration of the pension laws, and other matters relating to the office, to which I respectfully invite attention.

Treaties have been concluded with various Indian tribes, as follows:

With the Kiowas, Comanches, and Apaches, October 21, 1867; the Cheyennes and Arapahoes, October 28, 1867; the Tabeguaches and six other bands of Ute Indians, March 2, 1868; the Cherokees, April 27, 1868; the Mountain Crows, May 7, 1868; the northern Cheyennes and Arapahoes, May 10, 1868; and the Navajoes, June 1, 1868. The foregoing treaties have been ratified. The following treaties, concluded with various tribes since July 1, 1867, have not been ratified: with the Sioux nation, (different bands,) 29th April, 1868; the Osages, 29th May, 1868; the Chippewas of Swan creek and Black river, June 1, 1868; the Bannacks and Shoshones, July 3, 1868; the Gros Ventres, July 13, 1868; the River Crows, July 15,

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1868; the Cherokees, July 19, 1868; the Blackfeet, September 1, 1868; the Bannacks, Shoshones, and Sheep-eaters, September 24, 1868.

The leading stipulations of the treaties which have been proclaimed provide for gathering the respective tribes upon distinct reservations and for securing in due time to each Indian a title to a separate tract of land. Clothing, goods, and farming implements are to be furnished, and school and mission houses, agency buildings, mills, &c., are to be erected. When by a temporary occupation of the Indian hunting grounds or the construction of railways over them we partially deprive the Indians of their accustomed means of subsistence, we should afford them a reasonable indemnity. Our treaties, however, will not be worth the paper upon which they are written if Congress does not furnish the means of executing them. We have no just ground of reproach against most of the tribes for the non-fulfillment of their treaty stipulations. It is a significant fact that during the winter of 1867-68, when more than twenty-seven thousand Indians were subsisted by us, not a single act of depredation or violence was reported. It is believed that peaceful relations would have been maintained to this hour had Congress, in accordance with the estimates submitted, made the necessary appropriations to enable this Department to perform engagements for which the public faith was pledged. A costly Indian war, with all its horrors, would have been avoided.

The lands within the limits of reservations set apart for Indians who have made some progress in the arts of civilized life should not be held in common. When surveyed, the title in severalty to small tracts designated by specific legal subdivisions should be vested in individuals, with no power of alienating them except to members of the tribe. The Government should guaranty to the Indians the perpetual and exclusive right to remain in the undisturbed possession of the reservation, and prohibit, by the severest penalties, the settlement of white persons within it. The latter trespass upon the land of the Indian, and often compel him to abandon his home and seek another in a distant wilderness. So long as this precarious tenure exists, the Indian believes that he has but a temporary right, of which he is to be divested by the advancement of the white population, and the labors of the agents in his behalf will be greatly embarrassed. We have striking examples of the high degree of civilization which the Indians may, under propitious influences, attain. The Cherokees, Choctaws, Chickasaws, Creeks, and Seminoles, residing within the Indian country west of Arkansas, have given evidence of their capacity for self-government. Institutions are organized under which their civil and political rights have for many years been as well protected as in any part of the country. They have adopted measures for the formation of a territorial government, with a view to their ultimate admission as a member of our Federal Union. Such facts should stimulate us to constant and strenuous efforts in reclaiming the wild tribes and instructing them in the arts of civilized life. Although our progress is slow and beset with formidable difficulties, a just regard to our obligations requires us to persist in the work.

The transfer of the Indian Bureau to the War Department has been suggested. Our experience during the period when the Indians were under military care and guardianship affords no ground for hope that any benefit to them or the Treasury would be secured by the measure. I assume that it is our duty to promote, by all appropriate and peaceful means, the moral, intellectual, and material condition of these wards of the Government. There is nothing in the pursuits or character of the soldier which especially adapts him to this duty. It can be better fulfilled by our civil officers.

No divided control should, however, be tolerated. Undue interference with the exercise by this Department of its acknowledged and exclusive jurisdiction over the Indians has seriously impaired its efficiency and disturbed our relations with them.

I refer you to the report of the Commissioner for more specific information in regard to Indian affairs.

An act approved March 2, 1867, established a Department of Education, intrusted the management thereof to a Commissioner, provided for his appointment, and authorized the employment of sundry clerks, who were made subject to his appointing and removing power. It devolved upon him the duty of presenting to Congress annual reports, the first of which was to contain a statement in relation to the land grants made by Congress to promote education. An act of the last session declares that the Department of Education shall cease from and after the 30th of June next, and that there shall be established and attached to this Department an office to be denominated "the Office of Education," the chief officer of which shall be the Commissioner of Education.

As the Department of Education will, at the close of the present fiscal year, no longer exist, I submit that the act works at that date a cesser of the present office of Commissioner. A new office, taking effect *in futuro*, has been created, although the mode of filling it has not been prescribed. The appointment of an officer by legislative enactment is confessedly unconstitutional, as the appointing power is otherwise vested. But without dwelling upon this question, inasmuch as the duties appertaining to the bureau are to be discharged under the direction of the Secretary of the Interior, I beg leave to offer for consideration some general views which have impressed me with the conviction that all legislation touching the Department and the Office of Education should be repealed. The acts of Congress and the reports of the Commissioner of Public Lands disclose the extent of the several land grants made by the General Government for seminaries of learning.

The approaching census will exhibit full and authentic educational statistics; and I am unable to perceive the propriety of maintaining a bureau for the purpose of compiling, from the published reports of the local authorities or other sources, information touching the practical operations of the school systems in force in the several States. Those reports are widely diffused and are accessible to the public. The matter which may be elicited is not required to enable Congress to discharge its legitimate duties. Education in the States falls within their exclusive province. The enlightened and active zeal which most of them have manifested on the subject affords an ample guarantee that systems of common schools will be maintained throughout the country. Such modifications as may be required to adapt them to the peculiar condition and wants of the various classes of the population will be seasonably introduced. We shall all gladly hail the day when a title to instruction in the rudiments of knowledge will be regarded as the birthright of every American child. The management of this great interest may, however, be safely and wisely left to the States, to whom alone under the Constitution it belongs.

As in the past, so in the future, when new States shall be admitted into the Union Congress will grant them land for educational and other purposes, and the administration of the fund derived from the sale of it should be confided to them. Interference by Congress in matters of purely local concern can be productive of nothing but unmixed evil.

Should, however, "the Office of Education" be perpetuated, I suggest the propriety of enacting by whom the Commissioner shall be appointed. The act of last session in other

respects should be modified. Under the Constitution "Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments." It has been judicially determined that clerks are officers within the meaning of this provision, and the power of appointing such as this bureau may, in the opinion of Congress, require, should therefore be vested in the Secretary of the Interior. The Commissioner, as other officers of like grade, should be required to report to the Department under whose supervision he acts, and not to Congress. An appropriation for the next fiscal year of \$6,000 will be required to pay the contingent expenses of the office, salaries of the Commissioner, and two clerks of the first class to be appointed by the Secretary of the Interior. This sum will be ample if the office be economically administered. No greater clerical force should be authorized.

During the year ending September 30, 1868, there were 20,112 applications for patents; 14,153 patents (including reissues and designs) were issued; 1,692 applications allowed on which patents did not issue owing to the non-payment of the final fee; 3,789 caveats filed; 180 applications for the extension of patents received, of which 133 were granted. The receipts were \$695,786 78, being \$171 64 less than the expenditures.

Congress, on the 20th of July last, directed that all moneys standing to the credit of the patent fund, or in the hands of the Commissioner, and all moneys thereafter received at the Patent Office should be paid into the Treasury without deduction, appropriated \$250,000 for salaries, miscellaneous, and contingent expenses, and other purposes, and required it to be disbursed under the direction of the Secretary of the Interior. The cash then on hand, \$63,025 76, was accordingly paid, and the amount to the credit of the patent fund transferred on the books of the Treasury. The expenses from that date to the 31st of October were \$173,461 43. The expenses for this and the following month, including the outstanding claims, are estimated at \$120,000. An appropriation of \$360,000 will be required for the remainder of the fiscal year.

The Commissioner in a communication to me expresses the opinion that in view of the varying amount both of the receipts and expenditures, it is expedient to restore the office to its former position, and, if deemed necessary, to limit the surplus to the credit of the fund. He considers that the miscellaneous character and uncertain extent of clerical and other labor required render impracticable even a proximate estimate of the appropriations for each fiscal year. I do not concur in these views. In my judgment the legislation of the last session was wise and salutary in this regard. The probable expenditures may be estimated with reasonable certainty. The office should report to the Secretary of the Interior and he be authorized and required to exercise an efficient supervision over it. I am satisfied that the absence of such control has led to lavish expenditures and flagrant abuses. The limitations upon the Secretary's appointing power ought to be abolished and this bureau placed upon the same footing in this particular as the other bureaus of the Department. I am gratified to record that the present Commissioner has efficiently and zealously labored to correct irregularities, reduce expenses, enforce a wholesome discipline in the office, and render it in every respect more worthy of public confidence.

I renew my former recommendation in favor of repealing so much of the law as allows an appeal from the decisions of the Commissioner on applications for letters-patent and in interference cases, and respectfully refer to the views on the subject presented in my former reports.

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At the date of my last annual report you had accepted 490 miles of the road and telegraph line of the Union Pacific Railroad Company, and the commissioners were then engaged in the examination of an additional section of 20 miles. Since that date, including said 20 miles, 830 have been accepted. The commissioners have submitted reports upon four additional sections, amounting to 100 miles.

By a report from the Government directors, it appears that the expenses for operating the road for the year ending September 30, 1868, were \$3,213,565 83. The amount received from passengers during the same time was \$1,109,501 28, of which \$130,239 62 was from the United States. The amount received from freight was \$3,077,330 81, of which the Government paid \$550,759 73.

Early attention was given to the proper interpretation of the acts declaring that the roads to which the Government subsidies in lands and bonds were granted should be "first-class." My immediate predecessor, referring to the subject in his annual report, stated that he had invited the directors on the part of the Government and the commissioners to meet for the purpose of determining on a standard of construction and equipment, to which the companies should be required to conform. Their report was submitted to the Secretary, and on February 24, 1868, he directed that it should "be used by the directors and commissioners as a guide for their action in directing or accepting the work."

The act of Congress prescribes that the Government directors shall from time to time report to the Secretary of the Interior in reply to inquiries he may make of them relative to the condition, management, and progress of the work, and shall communicate to him such information as should be in the possession of the Department. I therefore, on the 13th of June last, availed myself of this provision, and directed Mr. Williams and Mr. Rollins, two of the Government directors, to examine the completed portion of the road, and also the regions west thereof over which the company's surveys had been made, and to report touching its location, construction, and equipment, and also the number and condition of the machine and repair shops. Mr. Williams is an experienced civil engineer, and in the absence of Mr. Rollins, who was unavoidably prevented from accompanying him, performed the duty committed to him in a very satisfactory manner. His reports presented such statements that I deemed it my imperative duty, on presenting to you the report of the commissioners on the twenty-fifth section, to invite your attention to the leading facts he communicated, and to request that the Attorney General be directed to advise you whether said report, as to the facts covered by it, was conclusive upon the Executive; and if not, whether upon other satisfactory evidence that the road was not properly constructed you could lawfully withhold from the company all or any part of the lands and bonds to which it would otherwise be entitled.

You acceded to the request. The Attorney General examined the acts of Congress, and the manner in which the executive duty thereby imposed had been discharged, and furnished an elaborate opinion upon the questions submitted. He considered that the duty had, during your and the preceding administration, been judiciously performed; and as it was the main policy of those acts to foster and press on the enterprise, the nature of it required a distinction to be drawn, in some particulars, between a provisional and an absolute completeness of the work. He held that the standard adopted by the Department properly recognized the propriety and necessity of an ultimate revision of the road in order to secure that absolute completeness which in its early stages could not be rightfully exacted as a condition precedent to the advances upon each suc-

cessive section, and added that it was competent for the Executive, by means of further inquiry from engineers and experts in the construction and management of railroads, to provide for a revision of the work theretofore accepted upon the assurances or obligation of the company to supply as far and as fast as might be what was needed to make the road conform in all respects to the standard, and that a reasonable amount of securities might be reserved to enforce the performance of this obligation of the company.

This Department, on the 25th of September, represented to you that the time had come for such revision. Brevet Major General Gouverneur K. Warren, United States Army, Jacob Blickensderfer, jr., of Ohio, and James Barnes, of Massachusetts, were appointed commissioners for that purpose. The first is an accomplished officer of the corps of engineers. The other gentlemen are civil engineers of large experience and are reputed to be thoroughly versed in the science and practice of their profession.

They were directed to make a thorough personal examination of the road, and to report upon its location, construction, and equipment, and to furnish a proximate estimate of the amount of expenditure required to render it, as far as constructed, "equal in all respects to a fully-completed, first-class railroad." They were also required to report upon the most direct, central, and practicable location from the end of the track to the head of Great Salt Lake, and the estimated cost of construction and equipment of the road between the latter point and the mouth of Weber cañon.

The commissioners' report has just been received. The trust confided to them appears to have been executed with intelligence and fidelity. A description of the location of the road is given. The elevation at Omaha is 946 feet above tide-water, and at the head of Great Salt Lake 4,315 feet. The sum of the ascents going westward is 12,995 feet, and the consequent sum of the descents is 9,626 feet. They are of the opinion that the location of the road, as a whole and in its different parts, is upon the most direct, central, and practicable route, but that the line is not in all respects well adapted to the ground, as there are points where the full capabilities of the country have not been developed, and others where, in its details, the location is radically wrong. This has been occasioned by a desire to diminish the cost of work by the introduction of more and sharper curves than the circumstances require, although the saving in cost was but small in comparison to the permanent injury of the road. The commissioners are of opinion that the line, as built, should not be permanently adopted, and that economy and the best interests of the road require alterations and improvements to be made.

The road, when examined, was built 890 miles from Omaha. Its construction, so far as excavations and embankments were required, was remarkably easy. From Omaha to a point 535 miles west there are no rock excavations, and the natural surface of a great portion of the intermediate country presents nearly practicable grades. From the latter point to the end of the track the work is less than on eastern roads of the same length, and the most difficult parts are light in comparison with roads in the Alleghany mountains. There is but one tunnel. It is on the bank of St. Mary's creek, 230 feet in length.

The road-bed was designed to have embankments fourteen feet wide on top, with the usual side slopes, depending on the material excavated, and cuts of not less than sixteen feet in width of bottom. The higher embankments are not brought up to the proper standard, and in some instances the width of the top is less than the length of the ties. The estimated cost of bringing the embankment up to full

width is furnished. Instances also occur where the cuts have not been excavated to the depth designed. The grades are consequently higher than the engineer originally contemplated. In some cases they reach ninety feet per mile, when easier grades were shown upon the profiles. The cuts should all be reduced to the depth at first proposed, in order to secure the proper ruling grades in those divisions of the road where they are located. Many of the cross-ties must be replaced before the track will sustain the traffic that will be thrown upon it on the opening of the road. The average number of them is not less than 2,500 per mile.

The track laying has been done as well as the rapid construction of the road would admit. The commissioners mention a deficiency that on the curves the rails have not been bent to conform to them. There are portions of the road where ballasting material is wanting and can only be supplied by transporting it from the most accessible points by rail. This is the case in the valley of the Bitter creek, where the soil is of an unfavorable character, and where it would be difficult to sustain a track, particularly in the season of melting snows, unless supported by ballast. The track has, without exception, been laid on the bare roadway, without the latter having been previously prepared to receive it. As a consequence, except where the embankments were built of gravel or other good material, the track is without ballast, the surfacing having been done by throwing up the necessary material for that purpose from the sides of the embankments themselves.

The bridging on the line consists of stone culverts, girders, and truss bridges, and many varieties of truss and pile bridges. Between Omaha and the end of the track the total number of structures deemed permanent is 250, consisting of one iron truss-bridge, seven Howe truss-bridges, constructed of wood and iron, and 242 stone box and arch culverts and short girder bridges with stone abutments. The temporary structures consist of pile and trestle bridges, of which there are 153, each less than 25 feet long, 322, varying in length from 25 to 50 feet, and 219, each over 50 feet long, the total number being 694, and the aggregate length, 43,717 feet, or nearly eight miles. Of these 694 structures, 24 over the principal streams are to be replaced by Howe truss-bridges, erected on permanent stone abutments and piers. These will require 70 abutments, 26 piers, and 8,450 lineal feet of Howe truss in spans, respectively, of 100 and 150 feet. In some cases the foundations for permanent pier and abutment masonry, erected or in course of construction, were not placed at a proper depth. The remaining 660 trestle and pile bridges, after providing for those over the principal streams, must be replaced by box culverts, arches, or stone abutments, with girders or trusses of short spans.

The rolling stock of the road consists of 117 locomotives, 19 first-class and eight second-class passenger cars, 15 baggage, 442 box, 1,227 flat, 43 coal, and 72 caboose cars, besides hand and other cars suited to special purposes. The locomotives are well constructed, and the number on hand probably sufficient for the present wants of the road. An additional number will be required for that part of the road when the line is open for through traffic. The cars are equal to those on the best roads, and the accommodations for the care, maintenance, and repair of the rolling stock are now sufficient to meet current demands, but must be enlarged from time to time to meet the increasing necessities of the road.

The commissioners submit the following estimate of expenditure which will be required to render the first 890 miles of the road equal to a fully completed first-class railroad. No allowances are made for work in progress, or materials and equipments ordered or reported

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to be *in transitu* for delivery or already delivered, except so far as they are placed in position in the structures themselves:

Changing locations to improve line and diminish curvature at Black's fork, Red desert, Rawlins, Rock creek, Red Buttes, Dale creek, Granite cañon, and Hazard, not including cutting off large bends on Rock creek.....	\$200,000
Completing embankments to full width, filling trestle work (61 miles) and rip-rapping.....	240,000
Completing excavations of cuts to grade on Black's fork, Bitter creek, &c.....	20,000
Reducing grades between Omaha and Elkhorn, to conform to the condition on which the change of line was approved, Five hundred and twenty-five thousand cross-ties to replace those of cottonwood timber, including transportation, removal of old ties, and placing new in track, at \$1.....	245,000
Ballasting, including transportation, lifting track, placing material, surfacing and readjusting track, and curving rails, 890 miles.....	525,000
Seventy abutment and 26 pier foundations, including excavations, piles, grillage, and securing with rip-rap, at \$1,500.....	910,000
Thirty thousand four hundred and eighty yards masonry in abutments and piers, at \$15.....	144,000
Eight thousand four hundred and fifty linear feet Howe truss, viz., 49 spans of 150 feet and 11 spans of 100 feet, at \$45, Supplying 121 openings of trestle-work, of 50 feet length and under, between Omaha and North Platte, with permanent works of masonry and girders, at \$500.....	457,200
Supplying 254 openings of trestle-work, of 50 feet length and under, between North Platte and end of track, with permanent works of masonry and girders, at \$900, Supplying 184 openings of trestle-work, averaging 103 feet each, with permanent structures of masonry and girders or short trusses, including foundations, at \$1,500.....	380,250
Renewing Dale creek bridge, or replacing same by embankment and arched water way.....	60,500
Probable expenditure for additional waterways in Mary's creek, Bitter creek, and other points not provided for, and renewing and enlarging stone culverts.....	228,600
Sixty new passenger locomotives for through travel on opening of road, at \$14,000.....	276,000
Thorough repair of say one third of locomotives used in construction and on hand when road is opened, say fifty at \$3,000 each.....	100,000
Forty-four new passenger cars, for through travel on opening of road, at \$6,000.....	840,000
Thirty baggage, express, and mail cars, \$3,500.....	150,000
Five hundred box freight cars, \$900.....	264,000
Fifty additional locomotive stalls, \$4,000.....	114,000
Completing shops at Cheyenne, additional shops at Bryan, and enlarging shops at Omaha, with tools for Cheyenne, Rawlins, and Bryan.....	450,000
Additional water stations, and probable additional expenditure to secure full supply of water between Rawlins and Bitter creek.....	200,000
Additional station buildings.....	350,000
Additional snow fences.....	80,000
Additional fencing against stock.....	75,000
	50,000
	30,000
Total.....	\$6,489,550

The following estimate is furnished by the commissioners of the cost of constructing and fully equipping the road from the mouth of the Weber cañon to the head of Great Salt lake:

For grading and bridging, including masonry and foundations complete, 96.3 miles, at \$11,500 per mile.....	\$1,107,450
For superstructure, including rails and fastenings, spikes, ties, track laying, and ballasting, with six per cent. of sidings, 102 miles, at \$17,000 per mile.....	1,734,000
For equipment, including motive power, rolling stock, engine-houses, turn-tables, shops, tools, water stations, and station buildings, 96.3 miles, at \$7,000 per mile.....	674,100
Total.....	\$3,515,550

As the actual cost of this road is a matter of public interest I deem it proper to present, in a condensed form, the estimates submitted, on the 14th instant, by Jesse L. Williams, esq. He states that the cost of the road as shown on the books of the railroad company is, of course, equivalent to the contract price per mile. The actual cost to the contractors forming an association, which embraces most of the larger stockholders of the company, is shown only by their private books, to which the Gov-

ernment directors have no access. The calculations were, therefore, made from the most accurate available data, and the estimated cost of the first 710 miles of the road was taken as the basis for computing that of the whole line. Should the road, as is expected by the company, form a junction with that of the California company, near the northern extreme of Great Salt lake, a little west of Monument Point, its length would be about 1,110 miles. The cost of locating, constructing, and completely equipping it and the telegraph line is \$38,824,821; an average per mile of \$34,977 82.

The Government subsidy in bonds for that distance at par amounts to \$29,504,000; an average per mile of \$26,580. The company's first mortgage bonds are estimated at 92 per cent., and would yield \$27,143,680. The fund realized by the company from these two sources amounts to \$56,647,680, being an average per mile of \$51,034, exceeding by \$16,056 68 the actual cost of constructing and fully equipping the road, and yielding a profit of more than \$17,750,000.

The deficiencies in the road noted by the commissioners are in their opinion, almost without exception, incident to new roads, or of a character growing out of the peculiar difficulties inseparably connected with the unexampled rapidity with which it has been constructed. Supplying them in the first instance would have materially retarded the progress of the work, and the expenditure at the present time for the purpose will but little exceed that originally required. It is obviously the duty, and no doubt the desire, of the company to bring up the constructed portion of the road to the required standard, while at the same time they are energetically pressing forward the work upon the remainder of the line. An imperative duty is devolved upon the Executive to insist upon the exact fulfillment of the engagements of the company, and to use all just and available means to secure it. I have therefore the honor to recommend that the issue of patents for land and of bonds be suspended until such deficiencies shall have been supplied.

The instructions to the commissioners required them, after they should have reported upon the Union Pacific railroad, to examine and report upon the roads of the Union Pacific Railway Company, eastern division, and the Sioux City and Pacific Railroad Company. I have received no further report than that of which I have endeavored to give a faithful summary.

The Central Pacific Railroad Company of California have constructed 390 miles of their road and telegraph line, of which 296 were constructed and accepted since my last annual report. This company filed a map of the definite location of their road from Humboldt Wells via the head of Great Salt lake, to the mouth of Weber cañon. On the 15th of May last I gave my "consent and approval" to the location as far as the head of Great Salt lake, a distance of 140 miles. Subsequent surveys corrected and improved the unaccepted part of the line, and on the 14th ultimo they filed a map and profile from the head of Great Salt lake to Echo Summit, to which location I gave my "consent and approval."

The company state that their earnings for the six months ending June 30, 1868, were from passengers \$145,048 70, and from freight \$264,410 41. Their expenses for the same period were \$157,068 89, and their indebtedness at that date \$26,862,727, of which the sum of \$7,340,000 was on account of bonds issued by the United States in aid of the construction of the road.

On the 13th ultimo special commissioners, Sherman Day, United States surveyor general of California, Brevet Lieutenant Colonel R. S. Williamson, United States Army, and Lloyd Tevis, were appointed to examine the roads

and telegraph lines of the Central Pacific Railroad Company of California and the Western Pacific Railroad Company. They were instructed to report in regard to the location, road-bed, cross-ties, track laying, ballasting, rolling stock, repair shops, station buildings, culverts, bridges, viaducts, turnouts, and all other appurtenances of the roads, and the amount of expenditure required to render them, so far as built, equal in every respect to fully-constructed first-class railroads. No report has been received.

At the date of my last annual report the Union Pacific Railway Company, eastern division, had constructed 305 miles of their road and telegraph line, and 285 miles thereof had been accepted. Since that date 88,344 55 miles have been accepted.

The amendatory act approved July 3, 1866, authorized this company to designate a new route and file a map thereof. They were required, however, to connect with the Union Pacific at a point not more than fifty miles westerly from the meridian of Denver, in Colorado. Their right to bonds was limited to the amount they would have received had the road been constructed on the original route to the one hundredth meridian of longitude. No acceptable survey had been made from Fort Riley to that meridian, and as the Department was not officially advised of the exact distance between those points, Brevet Major C. W. Howell, captain of engineers, United States Army, was at my request assigned on the 8th of June last, by the Secretary of War, to make such survey. He executed the duty, and submitted a report under date of September 28, 1868. He determined the distance to be 258,344 55 miles. He also ascertained that the meridian is 9,300 feet west of the point designated by the Union Pacific Railroad Company. This survey was approved by you. The distance for which the company was entitled to bonds is 398,344 55 miles.

The following summary is made from the report: they have constructed and operated the road 405 miles west of the initial point. It has been provided with round-house accommodations, repair shops, turn-tables, water-tanks, sidings, &c., to meet the immediate wants of business, and the necessary warehouses and depot buildings have been erected at the stations for the accommodation of passengers and freight. The equipment is as follows: 29 locomotive engines, 21 passenger and 878 other cars. The aggregate earnings, from September 1, 1867, to August 31, 1868, were \$1,878,588 33, and the expenses \$1,247,816 38, leaving the net earnings \$630,771 95. The average length of road operated during the year was 331 1/2 miles, and the average earnings per mile \$5,666 93. Surveying parties, employed in examining the routes of the thirty-second and thirty-fifth parallels, have discovered on the latter a practicable route westward from Albuquerque to the Pacific. It crosses the Colorado river south of Fort Mohave, and thence runs westward to the city of San Francisco, through Tehachepah Pass of the Sierra Nevada mountains, which is only 4,020 feet above the sea. The highest point is in the San Francisco mountains, 7,464 feet. The entire line is exempt from obstruction by snow, and traverses a country rich in mineral wealth and abounding in timber and coal. Surveys have also been made from Fort Mohave on the Colorado river to San Diego, and from Fort Wallace, Kansas, via Puntia Pass and San Louis Park, to Albuquerque. The cost of surveys in 1867 and 1868 was about \$225,000.

The hostility of the Indian tribes of the plains seriously interfered at times with the working of the road west of Fort Harker. Stations have been burned, rolling stock destroyed, and a number of men killed. Trains, nevertheless, made their usual trips, but the trade with New Mexico and Colorado was almost entirely suspended.

SENATE & HO. OF REPS.

Report of the Secretary of the Interior.

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Since my last report the Central Branch Union Pacific Railroad Company have completed sixty additional miles of road and telegraph line. They are entitled, under the acts of Congress, to no further subsidy.

Sixty-nine and a half miles of the road and telegraph line of the Sioux City and Pacific Railroad Company were completed, equipped, and accepted in March last. About thirty-one and a half miles, necessary to make a connection with the Union Pacific railroad, are under contract and in process of grading. The iron has been purchased and is *in transitu*. The company have secured a water front of about one mile on each side of the Missouri river, and have contracted for a steam ferry to pass the cars over the river.

The indebtedness of the company is represented to be:

Cash of stockholders.....	\$1,676,000 00
United States bonds received on 691 miles road.....	1,112,000 00
Due contractors.....	511,801 02

Aggregating.....\$3,299,801 02

No stock certificates or first-mortgage bonds have been issued. The amount received is given as—

From passengers.....	\$51,407 79
From freight.....	44,156 14
From telegraph.....	1,135 97

Total.....\$96,699 90

Operating expenses.....\$53,184 98

The company have six first-class locomotives and ninety-nine passenger and other cars in use. They expect to have the whole line of road completed and in operation next month.

No track has been laid by the Western Pacific Railroad Company within the past year. They, however, reported on the 15th of September last that the grading of the unfinished part of the road would be completed and ready for the track in a few months.

No portion of the Northern Pacific railroad has been constructed. The company report that surveys have not been continued during the past season for want of a military escort to protect surveying parties.

In 1867 two lines were run from Lake Superior; one commencing at the west end of the lake and the other at Bayfield. The first, following a westerly course, crosses the Mississippi about twelve miles above Crow Wing; thence runs south of and near to Otter Tail Lake, and pursuing the same general course intersects the Red river at a point between Fort Abercrombie and the mouth of the Sioux Wood river. The second follows a southwesterly course for fourteen miles to Pleasant Bay; thence westerly to within eighteen miles of Superior; thence its course is direct to the Mississippi, crossing that river at St. Cloud; thence northwesterly up the Sauk valley to the Sioux Wood river a little to the south of where it joins the Otter Tail river. Both of these lines have such a direction on approaching the Red or Sioux Wood rivers that when continued westerly they will pass to the south of and near the Cheyenne river in Dakota. The distance of the first is 232 miles, and its estimated cost \$7,967,000, being an average per mile of \$34,357 48. The distance of the second is 317 miles, and its estimated cost \$11,815,000, being an average per mile of \$37,236 05. The alignment is favorable on both routes. The maximum gradients will not exceed thirty to forty feet to the mile, and are of limited extent. Upon the Pacific side the surveys were confined to an examination of the Cascade range, with a view to ascertain the relative elevation and practicability of the passes. Three were found; the Cowlitz or Packwood, 2,600; the Snoqualmie, 3,030; and Cady's, 4,800 feet above the level of the sea.

The Atlantic and Pacific Railroad Company have not filed the report required by the act of June 25, 1868, and no information touching

their doings has been communicated to this Department.

The Southern Pacific Railroad Company report that they have surveyed only that portion of their line lying between the towns of San José and Gilroy, in the county of Santa Clara, a distance of thirty miles. The grading is rapidly progressing. The iron has been purchased and is *in transitu*. They expect to complete this thirty miles of road by the 1st of April, 1869. Their capital stock is \$1,800,000, of which \$72,000 has been actually paid in, and their indebtedness \$480,000.

The following statement exhibits the amount of United States bonds issued to the respective railroad companies:

Union Pacific, 820 miles.....	\$20,238,000
Central Pacific of California, 390 miles.....	14,764,000
Union Pacific, eastern division, 393 9425-10000 miles.....	6,303,000
Sioux City and Pacific, 691 miles.....	1,112,000
Western Pacific, 20 miles.....	320,000
Atchison and Pike's Peak, } 100 miles. {	640,000
Central Branch, Union Pacific, }	960,000
1,793 1/2 miles nearly.....	\$44,337,000

The act of July 13, 1868, authorized the sum of \$6,500, appropriated by the act of March 3, 1865, to be applied to the completion of the bridge over the Dakota river, on the line of the wagon road between Sioux city and the mouth of the Big Cheyenne. A superintendent was appointed in August last and the bridge is in process of construction.

The architect reports the completion of the exterior marble work, and of the arrangements for securing a supply of water to the central building and south wing of the Capitol. Many of the passages and rooms have been painted, and other improvements made. Sewers for drainage have been built, and the archways under the porticoes paved, one with the Nicolson and the other with the Burlew & Smith's tar and gravel concrete pavement. He submits a new plan for the extension of the eastern front of the central building.

The bronze doors designed by Crawford have been finished, and placed in position at the main entrance to the northern wing.

The central portion of the Capitol has been kept in good repair. It is desirable that Congress should, without delay, authorize the construction of apparatus to heat the rotunda, in the same manner as the corridors and other passages of the building are now heated.

The obvious necessity for the extension of the Capitol grounds induced Congress to authorize the appraisal of the contiguous private property, the annexation of which was deemed indispensable. Certain squares were appraised in the year 1860, but in the absence of legislation no further step has been taken in acquiring a title to them. The appreciation of other real estate in that portion of the city would seem to require their reappraisal. Delay complicates the difficulties incident to the subject, and I earnestly repeat my former recommendation of immediate and favorable action by Congress.

The north portico of this Department has been completed, and considerable progress made in inclosing the adjoining grounds and in flagging the sidewalk which borders them. The fund appropriated for these purposes, although carefully and economically expended, was insufficient. I confidently trust that Congress will at an early period of the approaching session provide means for the completion of these necessary improvements and for paving G street, between Seventh and Ninth streets.

The office of Commissioner of Public Buildings was formerly under the supervisory control of the Secretary of the Interior. The act of March 2, 1867, abolished it, and devolved upon the chief engineer of the Army its duties as well as the superintendence of the Washington aqueduct and of all the public works and improvements in this District, unless otherwise provided by law. It was evidently impracticable for him to discharge in person these obli-

gations in addition to his other arduous labors. An act approved the 29th of that month provided that the expenditure of the moneys which had been appropriated for disbursement by the Commissioner should be under the direction of such officer of the corps as the chief engineer might direct. On the following day Congress provided that all moneys appropriated for the Washington aqueduct and for the other public works in this District should be expended under the direction of the Secretary of War. The terms of this act were broad enough to embrace the Capitol and the contiguous public grounds, but by another act of the same date the control of them was reserved to this Department.

I recommend that these acts be repealed, and the office of Commissioner of Public Buildings reestablished. I hazard nothing in saying that since it was discontinued the duties which appertained to it have not been discharged more efficiently than formerly. This improvident legislation divides the charge over the public grounds and works between two Executive Departments and withdraws an officer of the Army from his appropriate duties to perform services having no relation to his professional pursuits and acquisitions.

The following statement shows the amount advanced to marshals of the several districts during the year ending June 30, 1868, for defraying the expenses of the courts of the United States, including fees of marshals, jurors, and witnesses, maintenance of prisoners, and contingencies:

Alabama, northern district.....	\$550 00
Alabama, southern district.....	5,000 00
Arkansas, eastern district.....	13,716 00
Arkansas, western district.....	34,507 00
California.....	18,478 00
Connecticut.....	6,041 96
Delaware.....	5,395 01
District of Columbia.....	123,486 90
Florida, northern district.....	10,450 00
Florida, southern district.....	11,000 00
Georgia.....	28,434 50
Illinois, northern district.....	24,890 00
Illinois, southern district.....	25,645 00
Indiana.....	36,505 00
Iowa.....	33,031 00
Kansas.....	66,056 50
Kentucky.....	14,630 00
Louisiana.....	16,481 78
Maine.....	17,162 00
Maryland.....	30,267 00
Massachusetts.....	51,543 53
Michigan, eastern district.....	21,158 21
Michigan, western district.....	6,115 00
Minnesota.....	7,634 00
Mississippi, northern district.....	13,528 75
Mississippi, southern district.....	12,009 88
Missouri, eastern district.....	17,220 00
Missouri, western district.....	22,892 44
Nebraska.....	10,513 00
Nevada.....	7,420 14
New Hampshire.....	35,660 00
New Jersey.....	87,196 15
New York, northern district.....	47,879 74
New York, southern district.....	27,251 00
New York, eastern district.....	24,696 00
North Carolina.....	22,307 00
Ohio, northern district.....	49,870 66
Ohio, southern district.....	9,639 92
Oregon.....	43,397 00
Pennsylvania, eastern district.....	49,040 10
Pennsylvania, western district.....	2,873 00
Rhode Island.....	35,629 00
Tennessee, eastern district.....	10,865 91
Tennessee, middle district.....	10,038 00
Tennessee, western district.....	11,200 00
Texas, eastern district.....	25,470 00
Texas, western district.....	6,256 42
Vermont.....	6,500 00
Virginia.....	16,856 00
West Virginia.....	10,489 00
Wisconsin.....	9,265 85
Arizona.....	40 00
Colorado.....	10,000 00
Dakota.....	27,372 00
Montana.....	22,596 16
Utah.....	10,920 75
New Mexico.....	27,065 00
Washington.....	5,000 00
Idaho.....	

\$1,337,042 36

The amount paid during the same period to district attorneys, their assistants and substitutes, was \$190,703; to United States commissioners, \$78,522 19; to clerks of the courts of the United States, \$76,584 26; and for miscellaneous expenditures, including rent of court

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Report of the Secretary of the Interior.

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rooms, \$106,325 95. The aggregate amounts to \$1,789,177 76, being but \$159,641 26 in excess of the sum expended for such purposes during the fiscal year ending June 30, 1867, notwithstanding the largely-increased business transacted by the Federal courts. At the latter date the balance on hand amounted to \$332,866 03. Congress appropriated \$1,300,000. There were received on account of fines, penalties, and forfeitures, \$203,685 43; and from repayments by marshals and others, \$10,819 29. The total amount at the disposal of the Department for this branch of the service was \$1,847,370 75, so that the balance at the commencement of the current year was but \$58,192 99. Assuming that during its progress the fines, penalties, and forfeitures would reach the same amount as during the preceding year, and satisfied that the expenses of the courts could not be materially diminished, I estimated that \$1,500,000 would be required. Congress, however, appropriated but \$1,000,000. A deficit of \$459,015 23 will occur unless the fines, &c., should be increased. I recommend that \$500,000 be appropriated in the deficiency bill, and that \$1,600,000 be appropriated for the next fiscal year.

It is proper to add that the large balance on the 30th of June, 1867, as compared with that at the close of the following fiscal year, was occasioned by the great disparity in the amounts realized during the respective years from fines, penalties, and forfeitures. It was \$439,335 76 more during the former than the latter year.

On the 1st instant there were in the custody of the warden of the District jail 141 prisoners. Of this number 33 were females and 113 persons of color. During the year preceding that date 1,022 persons were committed; 233 were convicted of various misdemeanors, and 69 sentenced to imprisonment at hard labor in the penitentiary at Albany. The expenses, including the cost of the transportation of prisoners, were \$34,388 37.

In view of the insecure and crowded condition of the jail, and its unfitness in every respect as a proper place of confinement, Congress authorized the construction of a building of adequate dimensions. My predecessor selected a site therefor on grounds belonging to the Government in this city. The required steps were being taken with all practicable dispatch to "let the contracts." Congress, however, interposed, and directed the selection of a new site. This was done. Perfect plans were then prepared, and after due advertisement and a careful comparison of the bids, contracts were awarded and bonds executed in strict compliance with the statute. The contractors soon after commenced work, and it was actively progressing when, under a mistaken impression of fact, Congress, on the 11th day of January last, directed it to be suspended for forty days. At the expiration of that period the expediency of further legislation in the premises continued to attract attention, and was receiving the consideration of Congress. A bill subsequently passed one House, and is now pending in the other. At the request of the Committee on Public Buildings and Grounds the work has not been resumed. This protracted and unnecessary delay has arisen from causes beyond the control of the Department, and occasioned serious injury to innocent parties and the public. As the projected new building is absolutely necessary, I hope that Congress will take prompt and decisive action in regard to it.

Some years ago the penitentiary in this city was appropriated by the military authorities. It was never restored to its original uses, and has been since destroyed. Adults, convicted of felony and sentenced by the supreme court of this District to imprisonment at hard labor, are sent to an institution in the State of New York. Considerable expense is incurred in transporting and subsisting them. Persons convicted of crime against the United States may be imprisoned in a State prison or house

of correction of an adjoining State or district, if, within the jurisdiction of the court pronouncing the sentence, there be no suitable place of confinement. Convicts from some of the southern States were formerly confined, during the term of their sentence, in the penitentiary here, but are now conveyed to more distant points at increased expense. A penitentiary, properly constructed and judiciously managed, could be rendered self-sustaining by the labor of the convicts. The Government is the proprietor of lands in this vicinity which afford excellent sites for such a building. The neighboring quarries furnish stone of a superior quality. Considerations of economy suggest to Congress the expediency of adopting, at their approaching session, measures for the erection of a District penitentiary.

I am not officially advised of the condition of the House of Correction for this District, as the trustees have submitted no report.

No addition has been made to the Metropolitan police force. Its members have been active and vigilant in the maintenance of good order and the protection of the rights of persons and property within the District. During the past year they made 18,834 arrests, 3,549 of which were females; 11,165 of those arrested were unmarried, and 7,387 could neither read nor write; 6,409 were dismissed, 64 turned over to the military, and 880 committed to jail; 341 gave bail for their appearance at court, 2,056 were sent to the workhouse, and 675 required to enter into bonds to keep the peace. In 327 cases minor punishments were inflicted. Fines in 8,082 cases were assessed, amounting to \$35,274 40; 4,038 destitute persons were furnished with temporary lodgings; 165 lost children were restored to their homes, and 167 sick and disabled persons were assisted and taken to the hospital. Of the number arrested 12,752 were charged with offenses committed upon the person, and 6,032 with offenses against property. The detective force made 458 arrests, recovered lost or stolen property to the amount of \$25,727 35, and discharged other important duties. The labors of the sanitary company, although insufficient for the purpose, were chiefly directed to the abatement of nuisances and the enforcement of the police regulations for promoting the cleanliness of the city. More efficient measures should be devised to secure objects so essential to the health and comfort of the population.

During the month of November, 1867, a complete census of the inhabitants of the District was taken by this force for the use of the Department of Education.

In my previous reports I invited attention to the expediency of creating a court for the summary trial of offenses of a minor grade. A justice of the peace of this District, in the exercise of criminal jurisdiction, chiefly acts as an examining magistrate. Most of such offenses are cognizable in the supreme court, where the accused is rarely put upon his trial until the term after an indictment against him has been found. If unable to give bail he remains in custody. When a *prima facie* case against him has been made out at the preliminary examination the witnesses are recognized to appear before the grand jury, and subsequently before the court after indictment found. Their fees for such attendance are taxed against the United States. Many of them are transient persons without a fixed residence. It often occurs that when the cause is called for trial it is discontinued by reason of their absence beyond the reach of process. The accused thus escapes deserved punishment. During the last fiscal year the expense of the criminal court in this District amounted to \$26,612 12. It was defrayed exclusively by the Government. A tribunal such as I have suggested has been organized in almost every other populous city, and with evident benefit to the public. By its instrumentality the ends of criminal justice would be effectually and cheaply served, and the right of the accused

to a speedy trial attained. The supreme court of the District, relieved of a large and increasing number of prosecutions, could with greater dispatch dispose of the civil cases on its calendar.

During the year ending June 30, 1868, the expenditures of the Government Hospital for the Insane were \$114,035 81, and there were admitted 152 patients, being an excess of 43 over the number admitted the preceding year. One hundred and nineteen of them were males, 69 of whom were from the Army and Navy. The whole number under treatment was 432. Seventy-six were discharged; of these 63 were restored and eight improved. There remained under treatment at that date 329. There have been 1,464 persons treated in the institution since it was opened, of whom 1,145 were natives of this country. The board recommend that there be appropriated \$90,500 for the support of the institution during the year ending June 30, 1870; \$10,000 for the completion of the wall inclosing the grounds, and \$23,000 for the purchase of 148 acres of ground. The excellent management of this institution eminently entitles it to the continued confidence and patronage of Congress. The estimates are reasonable, and I cordially commend them to the most favorable consideration.

During the last fiscal year 22 pupils were admitted into the Columbia Institution for the Deaf and Dumb, and the directors request the following appropriations: to supply a deficit for the current fiscal year, \$17,500; for support of the institution for the year ending June 30, 1870, \$31,000; for buildings, \$66,000; and for improving grounds, \$4,000; making in all \$118,500.

In my last report I earnestly commended to the fostering care of Congress the Columbia Hospital for Women and Lying-in Asylum. The act of the 27th of July last appropriated \$15,000 for the support of the institution during the current year, and required that all expenditures should be made under the direction of the Surgeon General of the Army.

During the year ending the 30th of June last the total number of women under treatment was 631; 33 of them were pay patients, from whom the sum of \$1,339 44 was received; 549 were restored to health; 10 were relieved, and 12 died. The small amount of receipts is ascribed to the want of requisite accommodations. Most of the available space was occupied by free patients, to the exclusion of many who desired to secure private apartments. The increased number of inmates rendered necessary a considerable outlay for furniture and bedding. The funds derived during the last fiscal year, from all sources, were insufficient to cover the actual expenditures, and at the close thereof the institution was \$7,000 in debt. The directors request that a clause appropriating that sum be inserted in the deficiency bill.

The estimates for rent and the support of the institution during the next year are \$18,000. I do not doubt that Congress will cheerfully accord that amount. I also submit an estimate for the purchase of ground and the erection of permanent buildings for the use of the institution. The title to the property, when acquired, should be vested in the United States.

The laws providing for the receipt, custody, and distribution by this Department, of the Statutes of the United States, and other official publications, have, as far as practicable, been carried into effect. I invite attention to the propriety of revising the statutes which relate to the printing and distribution of documents published by the authority of Congress.

One of my predecessors, on the eve of his retirement from office, urged the propriety of an appropriation for erecting and furnishing suitable residences for the Vice President of the United States and the heads of the Executive Departments. After alluding to the value of money when the Government went into operation, and the salaries of those officers

SENATE.

National Debt—Mr. Dixon.

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were originally fixed, as compared with that which it bore in December, 1852, when his report was submitted, he expressed the opinion that \$6,000 at the latter date was not worth much more than \$3,000 at the former. The cost of rent, provisions, fuel, and other necessities of life in this city, had then risen to such a degree that the most rigid economy was required to enable those officers to live within their incomes, and he declared that, as far as his observation extended, few of them had been able to do so.

His remarks in this connection present the facts and my own views in so striking a light that I deem it proper to incorporate them in this paper:

"Upon every change of Administration, or in cases of the death or resignation of members of the Cabinet, their successors, often from remote parts of the country, find themselves embarrassed in obtaining, even at an exorbitant price, a suitable residence for themselves and their families. They are then compelled to expend at least one year's salary in furnishing their establishment, and are consequently obliged to draw upon their private resources for the means of subsistence. Much of their time and attention is occupied by these domestic concerns which might be more profitably devoted to the public interests. At the close of their terms they are forced to dispose of their household effects at a ruinous sacrifice, and return to their homes impoverished in fortune, and with the ungracious reflection that while they devoted their time and talents to the public service their country has refused them even the means of support.

"It may be said in reply, that there is no obligation on any one to accept these positions, and if they do so they must abide by the consequences of their own acts. In one sense this is true. There is no legal obligation on any one to accept an official position, but there is a high moral and patriotic obligation on every citizen to contribute his service to his country when it may be required; and there is a reciprocal obligation on the country not to allow him to suffer in his private fortune by that service."

Congress did not accede to his recommendation; they, however, passed the act of March 3, 1853, which increased the salary of the Vice President from \$5,000, prescribed by the act of September 24, 1789, to \$8,000, and gave to the members of the Cabinet the same amount. The addition thus made was estimated to be sufficient for house rent. No increase has been voted since, notwithstanding the constant appreciation of labor, rent, and every article of consumption. My observation and experience enable me to affirm, with unhesitating confidence, that the income of the office will not equal the outlay if the incumbent lives in a style at all compatible with the proprieties of his position and the relations which a decent regard to the just claims of society compels him to maintain. "The high offices of the country should be open to the poor as well as to the rich; but the practical effect of the present rate of compensation will soon be to exclude from the executive councils all who have not ample resources independently of their official salaries."

Several of the annual reports of this Department refer to the compensation of the judiciary. One of the most thoughtful writers of the last century remarks that the administration of justice seems to be the leading object of institutions of government; that Legislatures assemble; that armies are embodied, and both war and peace made with a sort of reference to the proper administration of laws and the judicial protection of private rights. While this is emphatically true in every free country, the judicial department of the United States is charged, also, with other duties, and its power extends to all cases arising under the Constitution and the acts of Congress. The guardianship of the fundamental law has been thus confided to it. The Supreme Court decides, in the last resort, questions involving the constitutional authority of the Federal Government and its various departments, as well as the reserved powers of the several States, and the consistency of their legislation with the Constitution and laws of Congress. No foreign tribunal possesses so broad a jurisdiction, or deals with issues so vitally affecting national power, dignity, and sovereignty. Its members

should consist of jurists who, having gained the highest honors of the bar, bring to the discharge of their exalted trust mature experience and pre-eminent talents and learning. Their salary, if not equal to their former professional income, should at least secure them an independent support and bear a just relation to their arduous employment. One of the most eminent judges of that court resigned on account of the scanty salary, and a venerable Chief Justice, whose labors during a long life conferred enduring benefits upon his country, died a few years since bequeathing to his family little beyond the legacy of an illustrious name. The salary is far from being proportionate to the weighty responsibilities of the station. It is even less than is paid to some subordinate officers in other branches of the public service. It is a singular and disreputable anomaly that the chiefs of bureaus of the War Department each received in pay and emoluments during the last fiscal year a larger compensation than the Chief Justice of the United States. Recent legislation recognized the just claims of the judges of the district courts and of the supreme court of this District, but Congress inadvertently, I presume, omitted to make a becoming provision for the justices of the Supreme Court of the United States.

The proposition to erect and furnish houses for the Vice President and Cabinet ministers may not meet with more favor now than when it was originally made. I earnestly recommend, therefore, that fifty per cent. be added to their present salary and to that of the justices of the Supreme Court. It will even then be much less than is allowed to officers of a similar grade by any other first-class Government. The Cabinet ministers will not receive more than is now paid in coin to several of our foreign representatives, who discharge much less laborious duties, in capitals not more expensive than Washington. Since the salaries in question were fixed at the present rate Congress have, by successive statutes, nearly quadrupled their own, and I do not doubt that the members of that honorable body will render in some degree to others the justice already secured to themselves.

I have heretofore alluded to the compensation of the Assistant Secretary and the heads of bureaus. The Commissioner of Patents, whose salary is not too large, receives \$4,500, being fifty per cent. more than that of the other officers of equal grade in this Department, and exceeds by more than twenty-eight per cent. that of his official superior, the Assistant Secretary, whose duties involve far more labor and responsibility. This glaring and indefensible inequality should be corrected. I recommend that the annual salary of the Assistant Secretary be fixed at \$5,000, and that the Commissioner of Patents, Commissioner of the General Land Office, Commissioner of Indian Affairs, and Commissioner of Pensions shall each be paid \$4,500 per annum.

The duties of a copyist are merely mechanical, and he is liberally paid, more so, indeed, than the same qualifications in any other walk of life command; but the higher order of clerical labor, requiring for its acceptable performance intelligence and special knowledge as well as faithful training and long continued service, is not adequately remunerated. It is my settled opinion, the result of much reflection and of experience in my present position, that the efficiency of the clerical force would be essentially promoted by thoroughly reorganizing it and securing to clerks of experience and tried ability an enhanced compensation. It is hoped that a subject of so much importance to the successful working of the Executive Departments will receive the consideration it so well merits.

I am, sir, very respectfully, your obedient servant,

O. H. BROWNING,
Secretary of the Interior.

The PRESIDENT.

National Debt.

SPEECH OF HON. JAMES DIXON,
OF CONNECTICUT,
IN THE SENATE OF THE UNITED STATES,
December 17, 1868.

The Senate having under consideration the resolution in regard to the national debt—

Mr. DIXON said:

Mr. PRESIDENT: If we commence by acknowledging the propriety of any expression of opinion by the Senate of dissent or disapprobation of a measure recommended by the President of the United States otherwise than by legislation adverse to it, then we must admit, I think, that the Committee on Finance are entitled to a great deal of credit for having modified the form of the language and phraseology in which the Senator from New Jersey [Mr. CARTELL] saw fit, in the first place, to introduce his resolution. Compared with the somewhat violent language first used it is very temperate and moderate, and I give the gentleman himself great credit for having on further reflection, and perhaps with the advice of the committee, modified and tempered the form of his language. As it now stands, it is merely an expression of opinion adverse to the proposition of the President of the United States, and being myself opposed to that proposition, I can vote for the resolution. I do not approve of the proposition; and I can therefore give a vote against it. But, sir, I do not in giving that vote at all consent to the idea that the President has made a proposition of repudiation or that he is himself a repudiator.

In the first place, this recommendation, if you call it such—and I am willing to take the ground of the gentlemen themselves and regard it as a proposition made by the President—does not appear to be proposed by him as compulsory upon the bondholders. In fact, the form of the language is otherwise. He expressly says, to begin with, that in his judgment our national credit should be sacredly observed. He has before said that it is possible that the bondholders themselves would not be averse to a settlement of our indebtedness upon a plan which would yield them a fair remuneration and at the same time be just to the taxpayers of the nation. Whether the proposition he makes is a fair one or not; whether it is a reasonable one or not; whether it is a practicable one or not, it is perfectly plain that the President proposes it, not as a compulsory scheme, but as one to which the bondholders, in his own language, "may not be averse." He may misjudge in supposing they will not be averse to it, but he expressly so declares.

I do not think the President of the United States has on this floor an enemy—if it may be supposed that he has an enemy anywhere, and especially here—so hostile, so inveterate, as not to rejoice to find, if it be so, that the President does not propose a measure of repudiation. What he proposes may be unwise, impracticable; it may be indiscreet; but no matter how unreasonable, if it is not compulsory it is not in any sense repudiation. Why, sir, he might propose that the bondholders should abandon the whole debt and give it to the nation, and he might say it would be an act of patriotism on their part; but to say so would not be to say that he would compel them to do it.

Now, sir, in examining this subject it is necessary for us to do what Dr. Johnson recommended to Boswell, to "free our minds from cant," from hypocrisy, and from pretension. Is this the first proposition that has been made for a modification of the national debt? One would suppose, from what we have heard here, that there has been no proposition before for any modification of the form of the national debt. Let us see how that is.

I will say here once more by way of caveat,

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for the benefit of the reporters in the gallery, that I am opposed to this scheme and all other schemes having any appearance of repudiation or of any change in the form of the debt, either in principal or interest, except by the free consent of the bondholders; and in examining this proposition I wish that to be understood, otherwise somebody may misunderstand me or misrepresent me as saying that I wish in some way to palliate or excuse repudiation.

Now, sir, let us look at this matter. We have an enormous debt, immense in its total, inconceivable in its amount. When you undertake to conceive of this vast globe of earth on which we live you cannot conceive of it as one body. It is wholly impossible for the human mind to grasp it, because when we think of such a physical object we consider it only through the senses of touch and of sight, and what we cannot see or touch as a whole we cannot conceive of as a physical object except, by dividing it into fragments. So of this debt; no human mind can conceive of \$2,500,000,000. You may conceive of so many separate units; but of the debt itself you can form no conception. It is inconceivably immense in its amount. The condition in which it places us is by no means agreeable. Our duty, however, is plain: we are to meet it boldly and manfully, and the debt must be paid to its uttermost farthing.

We are not the first nation that has been in this condition. If it is feared that the English people may accuse our President of repudiation let us for a single moment consider some of the plans and schemes which have been proposed with regard to their debt, and those plans in many cases compulsory. In the reign of George I there was a proposition made by Mr. Archibald Hutcheson to repudiate one-tenth of the entire debt and to tax the nation for the remainder, and pay off the whole of that remainder at once. In the year 1825 that scheme was revived in the English Parliament, was advocated in the public prints by as distinguished a political economist as Mr. Ricardo, and was also seriously and solemnly advocated, in the year 1827, in an article in the *Edinburgh Review*, as the only means by which the Government of Great Britain could save itself from bankruptcy and destruction. It was said by one statesman that "they must either destroy the debt or the debt would destroy them." The proposition was to actually repudiate ten per cent. as a tax upon the bondholders, and then to tax the whole community, including the bondholders, twelve per cent. of their whole property, for the purpose of paying it off.

But if our English creditors are disposed to attribute to us purposes of repudiation, it may perhaps be well for them to recall to their recollection some of the serious propositions made by British writers of high character and vast influence to repudiate a portion of the national debt of England when the taxes required for its payment shall be so large as to "encroach on the capital of the country." I submit the following from the *Edinburgh Review*, volume thirty-three, page 65. It needs no comment:

"It is no doubt true that the first duty of Government, in matters of finance, is to keep faith with the public creditor; and it was on this principle that Parliament imposed the new taxes at the last session. But if even with these new taxes such a deficit were to arise as we are now contemplating, it is impossible not to see that a case would be made out for the country and against the stockholder to which no former practice or acknowledged principle would any longer be applicable. So long as taxes can be levied from the free income of the subject, so long the most rigid faith must be kept with the public creditor. But when they come to encroach on the capital, and of course to diminish those springs of wealth from which all expenditures must be supplied, their increase becomes not only oppressive but impossible, and their cessation a matter not of nominal but actual necessity. In such a state of things, therefore, which can no longer be represented as extremely unlikely to occur, we shall soon become familiar with other maxims than those to which we have been so long accustomed; and after having witnessed the facility with which the public was led to approve of the application of the sinking fund to the current expenses of the State, we should not be

at all surprised to find the reduction of the dividends become a topic of general speculation, and even a favorite project of finance. We mean neither to argue here nor to express any opinion of our own with regard to it; but we have no doubt that a multitude of plausible arguments will very speedily be mustered up for its support; and that, besides assuiling the purchasers of stock to the purchasers into any other concern where the prospect of gain is compensated by the risk of loss, it will be strongly urged that they are, in strict justice, bound to submit to some deduction on account of the increased value of the currency since the period when at least \$300,000,000 of the existing debt was borrowed. Had the depreciation been openly avowed at the time no subscriber could have objected to its being made a condition that he should be repaid with a sum equal in value though smaller in nominal extent to what he had actually advanced. Those things may become necessary."

I will not follow up the various other propositions made in England with regard to their debt, nor will I go into the manner in which they have reduced their interest by consolidation, much of which has been in a certain sense compulsory; but I will come to our own country. What has been done here? What have been the plans proposed here? I wish to show what, perhaps, may surprise some Senators without considering it, but which they will find to be true as soon as they apply their minds to the subject and resort to a little practical arithmetic. I wish to show that the scheme of the President is certainly as good, if not far better, for the bondholder than some plans which have been proposed by some others who have escaped the denunciation of the Senate.

In the first place, there was the plan known as the plan of Mr. Pendleton, which proposed an entire payment of the debt, as I at first understood it, by an issue of greenbacks. Mr. Pendleton somewhat modified it afterward. If the law had expressly provided that the debt might be paid in paper currency that proposition of Mr. Pendleton, in my opinion, would have been ruinous, not only to the bondholder but to the people, for the reason that it would have unfunded the national debt, so to speak, and poured into the business of this country an immense flood of currency which would have overwhelmed every interest in one universal deluge of destruction. That was the sufficient answer to it. If we had the right to do it I should not have considered it for a moment. I doubt even whether it would be wise to pay off the debt in gold instantly even if we had the money, for that would produce somewhat the same effect of injurious inflation. Mr. Pendleton was by some denounced as a repudiator, but he did not acknowledge the charge. I will say nothing in regard to his purposes or his views, further than that his known character as a patriot and a statesman forbids the idea that he intended repudiation.

There was another proposition made by a Senator on this floor, the honorable Senator from Ohio, [Mr. SHERMAN.] Certainly nobody can call him a repudiator. What did he propose? He proposed a long loan of forty years at three and sixty-five hundredths per cent. interest, and I am compelled to say that, taking his speech by which he accompanied that bill and the bill itself together, it was a compulsory scheme.

Mr. SHERMAN. I do not wish to interrupt my friend, but I must say that I never made such a proposition.

Mr. DIXON. I will show in what sense it was compulsory.

Mr. SHERMAN. It was not to correct that that I rose; but I never made a proposition for a loan at less than five per cent.

Mr. DIXON. Perhaps I have done the Senator injustice. I know the bill was modified greatly by the committee. In the printed bill, between the brackets and italics, it is pretty difficult to tell what was the Senator's view and what was the committee's; but the Finance Committee, of which he was chairman, reported a bill here which proposed on its face

an exchange of the present bonds for bonds at three and sixty-five hundredths per cent. interest, running forty years. That is on the face of the bill. What was the speech of the Senator by which he accompanied it, by which he enforced and advocated it? He declared that, in his judgment, the terms of the law creating the loan authorized the Secretary of the Treasury in negotiating the new loan to tell the existing bondholders that they must accept that or they must take their pay in lawful paper money of the United States. That the Senator declared to be his opinion of the law. He had a right to hold that opinion of the law. To believe that that was the intent and meaning of the law was no repudiation. It was a legal question. There was a great deal in his argument. The same view was at one time in the mind of the honorable Senator from Indiana who addressed us yesterday, [Mr. MORTON.] He declared himself partially of the same opinion. Now, sir, would it be believed, after hearing the remarks of the honorable Senator from Michigan yesterday, that the proposition of the President of the United States is a better plan for the bondholder than that?

Why, sir, the mistake of the President was, if he wished to propose a plan of this kind which would be accepted by the bondholders, that he did not make the annuity long enough; he cut it very short, and in that way it is so objectionable that it will not be accepted. But suppose the President had made a proposition of this kind; suppose he had proposed the same length of time as the Senator did in his bill, a forty-year annuity at six per cent. The Senator would then have said it was repudiation of principal and interest, as he says now; but what would be the effect of it? There would be an extra two and two thirds per cent. interest for forty years to be paid to the bondholder, which at compound interest amounts to not far from three thousand dollars. Senators do not consider what the effect of a long annuity is, nor what the effect of compound interest is. If they will sit down and figure for a few moments they will find that the President has not been guilty after all of such very great injustice. Take a twenty-year annuity; the difference between a four per cent. bond and a six per cent. annuity, at twenty years only, is nearly one thousand dollars at compound interest. Still, the Senator from Michigan says this is repudiation of both principal and interest. If the President had proposed forty years, as the Senator from Ohio did, he would have proposed a scheme most ruinous to this Government. If the President of the United States had said "Let us propose to the bondholders to pay them an annuity of six per cent. for forty years, and they give up the capital," he would have proposed a scheme that would have taken \$2,000 out of the Government for every \$1,000 bond issued; but still, upon the principle of the Senator from Michigan, it would have been repudiation both of the principal and the interest.

I repeat that the difficulty of the President's scheme is that it is too short an annuity to be entirely acceptable. Still I venture to predict that the foreign creditors would rather take it to-day than take their money back and loan it at three per cent. It is vastly better for them than to take greenbacks. Suppose they took the greenbacks on the plan of the Senator from Ohio, [Mr. SHERMAN;] suppose the whole debt was paid to them in greenbacks, they refusing to take a three and sixty-five hundredths per cent. bond, what would be the effect? The greenbacks would fall instantly to about fifty cents on the dollar. They would therefore get but about five hundred dollars on each \$1,000 bond. The President's scheme is much better than that.

Now, sir, I wish to have two things remembered: first, the President has merely proposed a proposition "to which" he says "the bondholders may not be averse;" second, it is not

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by any means so ruinous a scheme for them as has been suggested. If it had been a twenty-five or thirty-years' annuity, certainly if it had been a forty-years' annuity, it would have been generous, liberal to the bondholders, and would actually have been very injurious to this Government. I think, when we view the matter in this light, our wish, if any such exists, to make out Andrew Johnson a bad man, a repudiator, ought to yield to our wish to protect the honor of the Government, and not have it believed that he has proposed a scheme of repudiation if he has not done so.

I have taken up the scheme of the honorable Senator from Ohio, and I have said that he cannot be called a repudiator. What shall we say of the honorable Senator from Massachusetts [Mr. SUMNER] who has introduced a bill on the subject? Need I say that I do not mean to call him a repudiator when I comment upon his scheme. What is his plan presented in this bill? Why, sir, that we shall propose to the bondholders a forty year loan at four and a half per cent. He sees the importance of reducing the vast amount of interest under which the people of this country are groaning, and he makes a proposition, of course to be accepted or not as the bond holders choose. Does that Senator remember that his proposition is far worse for the bondholders than it would be if he proposed to give them an annuity for forty years at six per cent. and pay them no capital. I dare say if the Senator had been told that he would ever make a proposition of that kind, a forty year annuity and the capital to be repudiated, and that he was a repudiator, he would deny it; but it would be better than the scheme he now proposes, and the Dutch and English and German bondholders would seize upon it with avidity. Let him offer them a forty year annuity at six per cent. and at the end of that time to pay them no capital, and see what they would do. The English Government made the same mistake many years ago. They never found out the difficulty until Francis Horner pointed it out to them. They issued certain bonds at five and a half per cent. interest, the capital to be paid at the end of that time; but, thinking they would save something, they concluded to give six per cent. in the form of an annuity and no capital to be paid at the end. It was to run one hundred years; and that one half per cent. difference in the interest, as Francis Horner showed them, amounted at compound interest to more than twice the amount of the bond at the end.

Why, sir, one per cent. interest on a unit of \$10 for one hundred years is \$1,000 without interest; whereas at compound interest it is almost incredible to consider what it amounts to in that time. Compound interest increases so rapidly that Dr. Price calculated that one penny put at compound interest at the birth of our Saviour would have amounted in his time to many globes of gold of the size of this earth; and upon that he founded the plan of paying the English debt by a sinking fund, which Mr. Pitt adopted. The only difficulty was, they found they could not get the compound interest, could not always provide for it; it could not be paid. There were various reasons; but let compound interest go on and the debt would be paid in a short time. One penny at compound interest would pay the debt a great many times over in the space of time mentioned by Dr. Price. Let me read on this subject the following extract from the Edinburgh Review, volume twenty-four, page 295. It is well known, says Dr. Price—

"To what prodigious sums money improved for some time at compound interest will increase."

And then he states, in a note, that—

"A penny so improved from our Saviour's birth as to double itself every fourteen years, or, which is nearly the same, put out to five per cent. compound interest at our Saviour's birth, would by this time—that is, in seventeen hundred and seventy-three years—have increased to more money than would be contained in one hundred and fifty million globes, each equal to the earth in magnitude, and all solid gold."

In a note upon this note his accurate friend, Mr. Morgan nicely observes, that a penny improved so as to double itself every fourteen years would have accumulated only to one hundred and seven millions of such globes, just forty-three millions fewer than the Doctor had calculated; but this, Mr. Morgan wisely observes, is abundantly sufficient to prove the strength of his argument.

The President undoubtedly had all these things in view. I have had no conversation with the President on the subject; I know not what his views were; but I have not the slightest idea that he made this proposition with any view to compulsion. He is acquainted with the subjects which he attempts to discuss. It was a scheme that might be accepted and would be accepted if the time were extended. Let him make it thirty or forty years, and I vouch for it it will be seized with avidity by the foreign bondholders.

Now, sir, I do not propose to vote for the President's plan. I propose to offer an amendment to this resolution suggesting that he has at the same time proposed to keep the public faith, so that we may not say to the world that the President of the United States is a repudiator. As I said before, the Senate ought rather to say to the world that he is not. His proposition, though perhaps rather darkly expressed, is in fact not compulsory, but an offer made which he thinks the bondholders may not be averse to; and I have now shown you, as sensible men, that it is not a disgraceful and outrageous proposition, as the Senator from Michigan states, but that if it had been for ten years longer it would have been very liberal on our part, and if for twenty years longer extremely injurious to the Government. This is a matter of arithmetic. Anybody can understand this. There is no difficulty about it.

In connection with this subject we have before us the vast question of our national debt and what action we shall take with regard to it. It is a question of immense importance, momentous in its consequences, and cannot be overlooked or neglected. Why, sir, under what are we now suffering in this country? There seems to be a difficulty in determining what is the trouble and what is its cause. We know that there is a tremendous pressure upon us; we know that there is a weight bearing us down; that business is prostrated; that everywhere men are disheartened and perplexed. We hear every day of commercial failures in New York and elsewhere. Why is it? The election of General Grant was to restore prosperity. If that was expected it was asking too much of that election.

Now, I will undertake to say what I think is a portion of our difficulty. I believe to-day that one great cause of our difficulties is the enormous amount of interest the Government is paying—not in consequence barely of the amount which the Government pays. The Government may pay six per cent. interest without being utterly ruined; but what follows? Suppose an individual has occasion to borrow \$1,000, and asks his neighbor to loan him that sum, what does he say? "I cannot take less interest than the Government pays me; I am receiving nine per cent., and I must have that; I think I ought to have ten, and if I change my investment I ought to have twelve;" and it is paid. I tell you, sir, the average rate of interest is raised all over this country in all the business relations between man and man, and no part of the country suffers from it more than the very section from which the honorable Senator from Indiana comes. In the State of Indiana the average rate of interest is not less, in my judgment, than ten per cent. Can men in business make money and pay ten per cent. interest? So long as this Government pays six per cent. interest in coin, and we have a depreciated currency so that it amounts virtually to between eight and nine per cent., every man in the country has to pay the same or more. In

all the relations of business between man and man the rate of interest will be more than the Government is willing to pay, and business will be crushed out beneath the weight of this load of interest. There is the trouble. Still, even the Senator from Indiana, [Mr. MORTON,] with all his knowledge upon this question and his immense ability, does not see fit in his comprehensive survey of our situation to enumerate that as one of the troubles under which we labor.

Now what can we do? Can we reduce this rate of interest? One thing we have a right to do; we are bound to pay the debt, that is, the funded debt, and we have a right to pay it in some form. The Senator from Indiana yesterday gave us to understand that to pay the funded debt to-day without paying off the legal-tender currency would be a crime, and he declared to us that by so doing we should be on a par with the man who put off his daily debts to his laborers to pay his long acceptances. That, he says, would be the comparison that ought to be made if we allow this floating debt to continue as it is and pay in any form the national debt; that is, the interest-bearing debt. I say, on the contrary, we have a right to pay it; it is no crime to pay it. And if the creditors object to payment of the principal then they must accept a less rate of interest.

What, then, shall we do? How shall we pay it? The Senator tells us that there is a peculiar sacredness about the legal-tender currency by reason of which it ought to be paid off to-day.

Mr. MORTON. I should like to ask the Senator whether he proposes to pay the bonds now or to shave them?

Mr. DIXON. When I say pay I mean pay. I say we have a right to pay them. I do not say we have a right to shave them. I say we have a right to pay the debt. We have also a right to buy them in the market. The Senator says—I have his language before me—that it is a crime to pay the funded debt before we pay the floating currency of the country, the green-back currency, and he says they cannot be paid under three years. To pay off the national debt and stop the amount of interest before that time has arrived is piracy and robbery according to the honorable Senator.

I think the honorable Senator entirely mistakes the relation of the debt and the people. He compares it to a debt between individuals. He says if A owes B, A is bound to pay; if he does not, it is repudiation. There is a certain degree of truth but also a great fallacy lurking under the Senator's proposition. What is this debt? It is the debt of the people to the people. It is the people's own debt. Who owe it? The people owe it. To whom is it due? To the people. That is the condition of the national debt to a certain extent; but a portion of that debt is not owned by the people of this country. There is not a dollar of the legal-tender currency which is not held by the people of the country. A large portion of the national debt is held out of the country. If the people of this country find that it is for their benefit to allow this debt due from themselves to themselves to float among themselves as currency for their business, having no other, is that such an atrocity as the Senator has represented it? With his ingenuity and his ability he may make it appear to be a criminal matter; but certainly it is far from being so. It is a matter of convenience which shall be first paid, the interest-bearing debt or the other. The people of this country finally pay it all. It comes out of their labor. If they find it more to their interest to pay the funded debt and stop the interest than to pay the debt which takes the form of currency between themselves, they have a right to do so. It may be a matter of uncertainty and doubt as to which is the best policy; but when it is treated as a crime, and we are told it must not be done

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lest we should become pirates and robbers, it is certainly a misapprehension of terms, a misuse of language.

The Senator has presented here a scheme which, I must say, I am compelled to disapprove of. I have examined it, and I listened to his able speech, much of which I agree with, and all of which I admire for its ability. But I think his scheme, if carried out, would be a scheme of protracted agony, of long-continuing misery up to the time when he proposes specie payments to be made. Let that scheme be carried out, and everything under which we are now suffering would be intensified, in my judgment. What does he propose? He proposes to hoard gold for a long period; he proposes that the banks shall keep all the gold that is paid in to them; he proposes, in short, a scheme which would compel that which he considers injurious, contraction. He declares that the Government must not contract. But suppose the banks contract in the way proposed? I will not go into that. I have not time nor strength to go through the whole of that subject.

The Senator supports his plan by what seem to me to be some very great, and I will say alarming, fallacies. In the first place the Senator commences by telling us that the currency is not expanded to a very great extent more than in 1860. How does he show that? He adds some items to the currency that I never heard called currency before except by Mr. Micawber. He declares that promissory notes and bills of exchange constituted at that time a part of the currency, and should be offset against our currency now, thus showing we had the same amount then as now. There may be a case in which a bill of exchange payable at sight may come to be considered a part of the currency, although as a general rule it does not. It is the same as a check on a bank. Is that currency? Suppose the Senator goes to his bank and takes out money, gives his check for it himself, and pays it out, are both the check and money to be considered currency? What difference does it make if he gives me the check and I get the money? The check is not money. It is a mere voucher, proof, evidence that a certain amount of money has been paid upon it. But he makes both currency. Then he speaks of promissory notes. I will read what he said upon that, for it struck me as a very singular idea in regard to promissory notes and their nature:

"It is said by many that the currency is redundant and that we cannot return to specie payments until contraction has taken place."

Then he goes on to calculate what the amount of the currency is. He says:

"The bank notes of the northern States were not current in the southern States, and *vice versa*. Hence the payment of debts and commercial transactions between different parts of the country were conducted by bills of exchange and promissory notes, which amounted to many hundred millions of dollars during the year."

I never heard of any one who considered that a mode of payment except our distinguished friend, Micawber, who felt his mind entirely relieved when he had given his note; the thing was then off his mind and honorably settled and paid. Promissory notes were given, and are still, but they paid no debt; the debt still existed. But what does the Senator go on to say? He says, they now being out of the question, there is \$100,000,000 of currency used in their place sent by express agents. He admits, then, that the currency is vastly increased and inflated to that extent.

The question is, whether there is a greater amount of currency now in existence and afloat in the channels of business than there was in 1860. The honorable Senator says there is not. I think that is an alarming idea, because I undertake to say that among the causes of the depreciation of the currency is the amount of it now outstanding, which, as I shall hereafter show, he says has no

effect as a cause of its depreciation. One great difficulty with us is the amount of our floating currency as well as the amount of our funded indebtedness. I began by saying that the weight of our immense burden, the inconceivable amount of our funded and floating debt, was the evil under which we are suffering, and the vast amount of interest also paid upon it upon all business loans by the people of this country. I should not comment upon this mistake which I think the Senator has made if I did not think it an alarming idea to go out to the country; because what follows? If the currency is not expanded, if that is not an evil, if the depreciation has not been caused in any degree by the expansion, then we may expand still further without causing any further depreciation. If the Senator is correct, you may *unfund*, if I may use the expression, the whole national debt without depreciating the national currency; for what does he further tell us? He goes on to say that the amount of the currency has nothing to do with its depreciation; and he actually says that if the amount of currency was only \$1,000,000, if it was irredeemable and unredeemed, it would be depreciated as it is now.

Mr. MORTON. I do not wish to interrupt the Senator, but he is mistaken. I did not say in my speech that the amount of the currency had nothing to do with the depreciation of it. I said the existence of the bonded debt was not the cause of the depreciation of the currency. I argued that the currency was not redundant; but I did not say anywhere that the amount of the currency would have nothing to do with the depreciation of it, because that would not be true. If there was an excess of currency that very fact might increase the depreciation. But I said the existence of the bonded debt had but little to do with the depreciation of the currency.

Mr. DIXON. If the Senator will allow me to read from the report of his speech, whether authorized or not I do not know, in the National Intelligencer, he will find I have not misrepresented him. He says:

"Here the Secretary reiterates his former opinion, that by largely contracting the paper currency the rest of it would be appreciated to par. How such contraction would have this result he has never shown, and the opinion results from a misapprehension of the causes which depreciate the paper currency. Suppose the greenback currency was contracted down to one hundred millions, could the remaining hundred millions be brought to par in any other way than by making arrangements to redeem it?"

Is not the inference from that directly that the reduction to one hundred millions would have no tendency to bring it to par? But he goes on further:

"You cannot pay a debt without paying it, and every trick or device to bring the currency up to par without making preparations to redeem it according to the promise on its face will be abortive and disastrous. The currency is depreciated because it is overdue and dishonored, draws no interest, and there is no time fixed or preparation made for its redemption; and these causes would depreciate it if there were but one million of it afloat."

He does not say depreciated to the same amount; but that seems to be the inference, because he has told us he does not agree with the opinion of the Secretary that contracting the paper currency would appreciate the balance to par. Now let us take an example. We will take A and B, each worth \$100,000. A has \$10,000 of irredeemable paper in circulation, and B has \$1,000 of the same kind of paper in circulation. Which of those liabilities would be the most depreciated? I take it, one of the first questions a broker would ask, in considering the value of the paper, would be, "How much of it is on the market? How much of this paper is in circulation?"

It is too plain for argument that the amount of our currency is one of the greatest causes of its depreciation. There are other causes to which I shall allude. Elementary writers on this question state that there are two causes which go to the depreciation of public funds.

The first is a doubt as to their payment, whether they will be finally paid at all. The second is their vast amount. It will be observed that the second reacts upon the first. But aside from that, if you declare that it is perfectly certain to be paid, when you find the amount vast, it is depreciated in the very nature of things, precisely as gold would be depreciated if the amount of it in circulation was enormous. If we had a currency of \$2,500,000,000 of gold to-day, the very fact of its amount would depreciate it. It would become comparatively worthless in consequence; it would buy less. If that is true of gold is it not equally true, and still more true, of paper, aside from any question as to the ability of the party to pay?

As I said I should not have commented upon this, although I confess I think it a dangerous fallacy, if the Senator had not gone further and declared that the amount of the national debt, the funded debt, had no effect whatever upon the depreciation of our currency. Let me consider that for a single moment. In the first place, suppose our national debt to-day were canceled, and we had our whole legal-tenders to pay, what would be our condition? The Senator may theorize. It is very easy to involve this question in doubt and uncertainty by theories; but let us look at the fact. What would be our condition? We would have \$150,000,000 in gold paid in as duties every year; no national debt to pay off; no interest to be paid; every dollar of that to be appropriated to the payment of the floating currency; and still the existence of the funded debt, the interest of which exhausts a large portion of our revenue, has no depreciating effect whatever! It has this fatal effect: it exhausts our means of payment, the very worst effect possible. If I find that a man's means of payment in a certain direction are exhausted I have some little doubt whether he can pay in another direction.

The Senator, I think, will see that he greatly erred in instructing the people of this country that the amount of their debt had nothing to do with the depreciation of the currency. If so, there is little reason for economy; there is no ground for trying to diminish our expenses, or for trying to reduce our debt, except to reduce a certain amount of interest. When I hear fallacies stated in this body which have gone abroad in the public press with approbation, and which I think are dangerous, I must, so far as I can, attempt to counteract them.

Sir, the amount of the funded and unfunded debt is our great evil. How are the two divided? There is no difference between them in one sense; they are to be considered as a unit—all as one national debt. A part of it pays interest, and part of it does not; and still we are told that the only evil is with that part which does not pay interest, and that it is of no consequence how much we pay interest on so far as the depreciation of the unfunded portion is concerned. Why, sir, the very reverse is true. If the Senator could, in justice to the bondholders and without injuring the business of the country by the ruinous inflation of prices, unfund the whole national debt and reduce it to a currency among the people, then he would relieve them from an immense burden; but the other evil, that of inflation, would, perhaps, be the greatest.

The Senator proposes to force the resumption of specie payments by legislation, and he has a long-continuing plan by which we are to reach it. I must say I think the plan of the Senator from Massachusetts [Mr. SUMNER] is better, although I doubt whether his is practicable. The Senator from Indiana proposes to reach specie payments by a long, grinding process upon the people of the country, which would, in my opinion, redouble the evils under which we are now laboring.

I beg leave to say to that Senator and to other Senators that I very much doubt the possibility of resuming specie payments by legislation. It never yet has thus been done

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in the history of the world. We talk about legislating specie payments. Sir, the only mode in which specie payments have ever been resumed in England or anywhere else has been by the course of events, by the renewed prosperity and restored ability of the country. It may be thought that Sir Robert Peel's bill in 1819 was an exception to this statement. I wish to show what was the state of England at that time. I think some facts in regard to it may be interesting to Senators who may not have considered them and to the people of the country. I say there never was yet an instance where specie payments have been restored by mere legislation. What was done in England? In 1819, when the bill passed for the restoration of specie payments, to take effect in the year 1821, what do you suppose was the rate of discount at that time on Bank of England notes? What was the depreciation? How great a step was it necessary to take in England in 1819 in order to resume specie payments? Only two and a half per cent. In 1819 the discount on Bank of England paper was only two and a half per cent. It never exceeded twenty-five per cent. at the very worst, and for a long series of years after the battle of Waterloo it was but two and two and a half per cent. up to 1819; so that when the bill passed for the resumption of specie payment in England it was already almost restored.

To show that I am not wrong in this, let me read a few words from an article in the *Edinburgh Review*. This is not mere speculation on my part. First, I will read with regard to the rate of discount on depreciated, irredeemable paper in England during their great wars to restore the Bourbons. The Senator tells us the amount of currency has nothing to do with it, that the depreciation takes place from other causes. This writer says:

"It appears by the tables of the price of bullion, published by order of the House of Commons, that until 1801 bank notes were on a par with gold. In 1801 and 1802, however, they were at a discount of from eight and a third to seven and a third per cent., but they again recovered their value; and from 1803 to 1809, both inclusive, they were only at a discount of £2 13s. 2d. per cent. But in 1809 and 1810 the directors appear to have totally lost sight of every principle by which their issues had previously been governed. The average amount of bank notes in circulation, which had never exceeded £17,500,000, nor fallen short of £16,500,000 in any one year from 1802 to 1808, both inclusive, was in 1809 raised to £18,927,833; and in 1810 to £22,541,523."—*Edinburgh Review*, vol. 35, p. 477.

They made the same mistake that the Senator has. They thought the amount had nothing to do with it; that they could increase the amount without increasing the depreciation. Let us see what the effect was:

"The issues of country bank paper were increased in a still greater proportion; and, as there was no corresponding increase in the business of the country, the discount on bank notes rose from £2 13s. 2d. in 1809, to £13 9s. 6d. per cent. in 1810."

That is, it rose from about two to about thirteen per cent. merely in consequence of the increase of the issue.

"The recommendation to return to cash payments contained in the report of the bullion committee presented to the House of Commons in 1810 appears to have given a slight check to the issues of the bank. All apprehensions from this quarter were, however, speedily dissipated, for in May, 1811, when guineas were notoriously bought at a premium and bank notes were at an open discount, as compared with gold bullion, of upwards of ten per cent., the House of Commons not only refused to fix any certain period for reverting to cash payments, but actually voted a resolution declaring that the promissory notes of the Bank of England had hitherto been, and were at that time held to be, in public estimation, equivalent to the legal coin of the realm.

"This ever-memorable resolution—a resolution which took for granted that a part was equal to a whole; that ninety pounds and one hundred pounds were the same thing—relieved the bank from all uneasiness respecting the interference of Parliament, and stimulated the directors to increase the number of their notes in circulation. The consequence was that in 1812 they were at an average discount of twenty and three fourths; in 1813, of twenty-three; and in 1814, of twenty-five per cent. This was the maximum of depreciation."—*Edinburgh Review*, vol. 35, page 480.

That was the greatest depreciation ever

known in England—twenty-five per cent., which we should consider very moderate, and would now be very thankful if our paper money was of equal value. The writer goes on:

"In 1817 and 1818 the average discount on bank paper, as compared with gold, did not exceed £2 13s. 2d. per cent. In the early part of 1819 it rose to about six per cent., but it very soon declined, and for the last two years paper has been nearly on a level with gold."

Then the writer goes on to comment on what was the effect of the act of Sir Robert Peel, of 1819, to restore specie payments, and he says that that bill did not restore specie payments, that they were already restored by the operation of various causes, and that the act only confirmed what already existed, and even then, before the act was allowed to go into force, a tremendous effort was made to repeal it, because that act, although specie payments were almost restored, and the only difference between gold and paper was two per cent., shook the whole commercial fabric of business in England and brought immense ruin in its train. Now, sir, what will be the effect of an act here establishing by a rigid rule specie payments at a certain day with paper at thirty-four per cent. discount? It is impossible to imagine it, if we may judge by what took place in England under the same circumstances, or I may say very different circumstances, because there the rate of discount was very much lower. The writer says, in commenting upon the effect of the bill of Sir Robert Peel, showing that what I have said in regard to it is true:

"It must be remembered that much of that inconvenience and distress, which must always result from every sudden rise in the value of money, had been got over in 1817 and 1818. The rents of such farms as been entered into during the depreciation had been very generally reduced, and a vast number of annuity bills had been canceled, and prices and wages had begun to accommodate themselves to the new scale of value. The adoption of Mr. Peel's bill only gave stability to arrangements which had been brought about by the natural course of events, and by fixing the standard at its former limit secured us, so long at least as we have good sense and honesty to maintain it inviolate, against the risk of future derangement and fluctuation.

"But even if it could be shown that the act of 59, George III., was inexpedient at the time when it was passed, that would add but little real strength to the plea of those who are now contending for its repeal. Every objection which it was possible to make to the degradation of the standard in 1819 must apply with tenfold force to the scheme for degrading it in 1821; while, on the other hand, all the arguments that could have been urged in favor of the measure at the former period must now be proportionably weakened."

"The proceedings in 1819"—

That is, Sir Robert Peel's bill—

"did not really add three per cent. to the value of bank paper, nor were they intended to raise it. Their great object was to shut the door against a new depreciation, and to prevent the value of paper, which had for three years been nearly on a level with gold, from being again degraded."

I beg the attention of Senators to this; I ask the attention of the honorable Senator from Indiana to that fact, that the great object of the bill of Sir Robert Peel was to shut the door against a new depreciation, and to prevent the value of paper, which had for three years been nearly on a level with gold, from being again degraded. That was the condition of things in England then—far from our condition now. Instead of a discount of thirty per cent. and upward on paper money, the fact was that the progress of business, the restoration of prosperity, and the return of peace in the long lapse of time that had taken place between the battle of Waterloo and the resumption of specie payments in 1821, had restored specie payments and brought about what the Senator desires now in a gradual manner, instead of a hurried precipitous one, leading to destruction.

I say I very much doubt, although it may be unpopular to say so, whether it is possible by legislation alone to restore specie payments. You may pass a bill providing that on such a day specie will be paid; but will you therefore be able to pay it then? The Senator says confidence will be restored, and nobody will ask

for specie; and that seems to be the confident hope of those who favor such legislation, that as the day approaches we may be able to resume, because nobody will ask us to pay; but if they do ask it I fear very much that the Senator will find that the vast amount of specie which he proposes to take out of the channels of business and to accumulate during three years will not be sufficient, after all the injury that that accumulation has wrought, to enable the Government to maintain specie payments, unless renewed prosperity shall enable the country to do so.

Now, let me refer with regard to this hoarding of gold—and I do it in no party sense—to the sub-Treasury law. What was our idea in that? It seems to be thought now that the hoarding of gold is of no consequence in this country, because, we are told, it is merchandise. Is it so? Calling it merchandise makes no difference; it is still gold, still money; and you propose to hoard up \$200,000,000 or \$300,000,000 under the pretext that it is merchandise, like corn in a crib or wheat, and you say that will not derange the finances of this country. There are those here who recollect what was the supposed effect of the sub-Treasury scheme. There are some who think it had no effect, the operation of it being on so small a scale. But in 1857 we know it was in full force and effect, and in 1857, while that scheme was in full force and effect, the most ruinous revulsion happened that ever happened in this country, and every bank in the Union was compelled to suspend specie payments. The advocates of that scheme, which was a scheme for hoarding gold precisely like this, told us that there never could be a revulsion, provided the Government would keep a large amount of specie on hand. In 1857 they had a large amount on hand, and continued specie payments, and were the only parties in the country who did. Not a bank in the Union paid specie; and not only that, values went down, stocks depreciated. The banks were not only unable to pay their debts in specie, but their stocks went down. The average rate of bank stocks in the city of New York at that time was about fifty cents on the dollar, and so of stocks and property all over the country.

I do not say that we ought to make no effort, therefore, to relieve ourselves from this condition, because I think legislation may do something. We may try experiments. They may turn out different from what we suppose. What is the cause of the depreciation of our paper currency? I propound that as a question to the Senate. If they can explain it to me they can answer a difficult riddle.

Why is it that the currency of this country is so depreciated? Is it a thing which other Governments have been subject to? In France the *assignats* were, it is true, depreciated; they were utterly worthless finally, and went down to nothing. But how about Bank of England notes after the battle of Waterloo? They were irredeemable. The bank was authorized by act of Parliament to refuse specie. The amount of their notes, it is true, was not so great as ours. It was only about one hundred million dollars, somewhat over twenty million pounds at the outside. But the depreciation the moment that Napoleon was conquered at the battle of Waterloo was only about two per cent., and it remained at that figure from that time, with one exception in 1819, when, as it appears, probably on account of speculation resulting from the fears entertained of Sir Robert Peel's bill, the premium went up to six per cent. for a short time; but before the bill went into effect, and at the time of its passage, bank notes and specie were at par.

Now, I say, if any Senator can tell me why it is that our paper money is depreciated I should like to have him explain it. Is it because our Government has no credit? Is it because it is supposed that the debt will never be paid? Is it because there are repudiation

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schemes abroad? Not at all. Every scheme of repudiation has been put down, as gentlemen themselves say, by the voice of the people. Nobody proposes to repudiate. Everybody declares that the debt must be paid. The President himself, whom you stamp as a repudiator, or attempt to, says the debt must be paid; that the national credit must be preserved.

What, then, is the cause of this depreciation? I confess that I am unable to say. The honorable Senator from Maine [Mr. FESSENDEN] and the honorable Senator from Indiana [Mr. MORTON] do not attempt to explain it. I think I know one reason, and I will suggest it. In the first place, this Government is dishonoring its own paper, and has been for the last five years. It refuses to take its paper for the very purpose for which it is wanted; that is, in the payment of import duties. Suppose you went further; suppose after having refused to take it for your tariff duties, you refused to take it in payment of internal revenue taxes; I ask you how much lower it would be then? Does anybody doubt that such a refusal on the part of the Government would carry it down still lower?

On this subject we have the light of experience. In the year 1861 we passed an act issuing \$50,000,000 of paper money, which we declared should be receivable for tariff duties; and all other dues to the Government. We did not make it a legal-tender. We did not clothe it with that sanction. We only declared that the Government would not discredit its own paper, but would take it for duties on imports. What was the consequence? For a long period of time you found that paper quoted in the newspapers at par with gold. While the balance of your Treasury notes went down till gold was at a premium compared with them of 180, that irredeemable paper dollar of the Government receivable for duties was on a par with gold.

It may be said, where will you get your gold with which to pay the interest on the debt if you do not require the duties to be paid in gold? If it is true that the depreciation of the currency is occasioned by your discrediting your own paper, then if you take off that discredit and thus raise your paper to near par you could buy gold very easily without much loss. If you have caused the discredit in that way, by removing the discredit the difference between gold and paper is nothing; it is immaterial. I think there may be the great error that we have committed. I do not know whether it could be remedied now. I am inclined to think that the removal of that discredit might have a very great and favorable effect; I doubt very much whether it is not true to-day that the fact that the Government rejects and refuses and discredits its own paper at the custom-house has a very great effect upon the depreciation of that paper everywhere. If so, it has been a very costly experiment. It never was done anywhere else. Did the British Government do it? Did they refuse to take Bank of England notes for duties and for all debts to the Government? Not at all. They received them for everything. They were a legal tender for everything, and even were paid for the interest on their debt, which they were solemnly bound to pay in specie, but refused to pay, and paid in paper, and now call us repudiators because some propose to pay ours in paper. What did they do from 1801 to 1821? They paid all their interest in Bank of England notes, part of the time depreciated, and received it for every debt of the Government. In consequence of its being received the depreciation was very slight.

I think another cause of the depreciation of our currency is the enormous expenditures of the Government. I do not say that in any party sense. I am not talking as a partisan. The time for that has gone by. But we have raised, say, \$1,500,000,000 in taxes since the

war closed. That money has been paid out for various purposes. How much of it might have been saved? Why, sir, if we had come here with a self-sacrificing spirit at the close of the war and determined to do our duty, to cut down every expense, to refuse to raise every salary—not excluding our own; if we had come here in a spirit of self-sacrifice and said we will stay here and do our duty and not ask that our own salaries shall be raised, nor will we raise any others, nor will we pay a dollar which is not inevitably necessary, I believe our paper money to-day would have been nearly as good as gold.

The reason why I comment upon the Senator's statement that the amount of our debt and the amount of our paper currency has nothing to do with this depreciation is because I think it leads directly to this spirit of extravagance. If he is correct, it is comparatively no matter how much we spend; our paper is not depreciated; our debt is nothing. I beg leave to say to you, Mr. President, that our debt is a rather serious thing. It is a great, enormous fact, tremendous in its consequences. I trust in Heaven it will be paid in all its parts; but I tell you, Senators, you have a duty to perform in regard to it which is not to be shirked off, nor to be avoided by claiming that its amount is of no consequence and has no effect upon the value of money.

It is very popular in stump speeches and in popular assemblies to tell the people that they have vast resources; that they possess an immensely rich country; that they owe comparatively nothing. Sir, the national debt is a mortgage upon one fifth of all the personal property of the country, and it is a very serious question how it shall be paid. When the President of the United States proposes a plan which may be unwise, what is said? He is denounced as a repudiator, and our credit is sunk still lower than it was before for the sake of getting an opportunity to injure President Johnson.

Now, sir, the first thing which I would do to raise the credit of our country would be, as I have said, to adopt a rigid system of economy. I think that the Senate of the United States and the House of Representatives should pass a joint resolution declaratory of their purpose to enter upon and persist in at all hazards a system of rigid, unbending economy that should yield to no appeal, and pay out nothing that was not absolutely necessary. That mere fact would benefit our public credit much more than the resolution which is now proposed. I would stop everything; I would stop even the Pacific railroad if necessary; I would not pay out another dollar until our credit was restored. I say I would stop the Pacific railroad if necessary. I trust it would not prove necessary. The honorable Senator from California [Mr. CONNESS] looks alarmed. I do not wish to cut off intercourse with him when he and I retire to private life; but I say, rather than repudiate the public debt, cut even that off. I would stop the purchase of real estate from foreign Governments. I would not buy Cuba. I would not buy Mexico. I would pay our debt; and when our debt was paid, if we had any money to expend in foreign luxuries, in the form of icebergs or torrid zones, I would then indulge in them.

What would be the next step? Then—and here I am perhaps encroaching upon party ground—I would adopt a system of policy like that pointed out by my honorable colleague [Mr. FERRY] the day before yesterday. I would extend to the people of the South the hand of friendship and kindness. I would remove all their political disabilities. I would invite them to this entertainment of paying our public debt, and let them join us in it.

Now, sir, I have a few words to say with regard to that plan of my colleague. I have nearly concluded what I had to say on the financial question; but I have a few words to

say with regard to the speech of my colleague in connection with this subject of restoring our national credit. He proposes two measures: one a joint resolution to repeal the disabilities made by the fourteenth amendment to the Constitution, and the other a bill which does not require a two-thirds vote. I thank my honorable colleague for those two measures, and I thank him for his speech upon them. The honorable Senator from Nevada [Mr. STEWART] proposed a scheme which called up my colleague—a scheme which seems to me utterly shocking in its character, proposing to create a new set of crimes, proposing to make it a crime in the United States of America for a citizen to hold an office. The comment made upon that by my colleague was sufficient, and I will not add to it. The only fault I had to find with my colleague's speech was that it was a little too late. If he had made that speech one year ago he would have stood with me and with my friend from Wisconsin, [Mr. DOOLITTLE,] and he might have done some good. It is not too late now for some benefit to result from it. While I am up I will read a few extracts from it. It is precisely, except in its eloquence and ability, what I might have said myself. He is speaking of the laws which we adopted last year, against which I protested, against which I took the liberty to make a speech, imposing political disabilities upon a portion of our own people. He says:

"These laws, limiting and restraining the suffrage, serve now only to gail and irritate, and to do no good whatever, unless, indeed, sir—that which I too often hear and too often read in the newspapers—we are here to continue disabilities upon those people for the purpose of maintaining the ascendancy of the Republican party in those communities; and I take it that legislation for such a purpose as that, or for any merely partisan purpose, is not to be entertained by the Senate of the United States."

"Well, now, sir, is there any necessity that the fragment that remains of the operation of these limitations upon the suffrage in those States should be longer continued? And if there is not; if the original necessity of these disabilities of both kinds has passed away, has actually been driven out of existence by the action of the people of the United States in the recent presidential election, why should we retain them here longer?"

"We want them to come back to build up a strong, free, and enduring nationality; and it is true, Senators, that the disabilities imposed by this third section to-day deprive the States and the Republic of the assistance and services of the greater portion of the intelligence, the culture, and the property of those communities."

Precisely what I objected against the bill a year ago. He goes further:

"But the imposition of your disabilities goes further. It scatters broadcast all over the South a race of political outlaws, sullen and discontented, from the feeling, right or wrong, that they are suffering injustice, and naturally enough so fits them to become centers of conspiracy."

That is an objection which occurred to me and which I attempted to express. I thought it would produce that effect. And still every day, although by our legislation we have made them centers of conspiracy and made them outlaws, we are hearing complaints continually because they are disquieted and uneasy. It reminds me—to quote Dr. Johnson again—of what he one day said to Boswell. He told Boswell he had seen that day an instance which manifested human nature to him in a new light. "I was passing a fishmonger's stall and I saw the fishmonger skinning an eel alive, and he was cursing the eel because he would not lie still." [Laughter.] That is precisely what we are doing in regard to the South, according to the Senator's own statement, skinning them alive, imposing disabilities upon them, making them outlaws, and cursing them because they will not lie still. I think their misconduct, if there has been any misconduct, has been greatly overrated. I have no doubt there has been some misconduct, but I do not believe it to exist to the extent that my friend from Massachusetts [Mr. WILSON] does, who told us that one individual killed one hundred and twenty-four men. I do not think a manslayer is abroad to that extent. That was an idle boast. There has

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been some illegal action undoubtedly. What is the cause? My colleague answers that question. He says our legislation makes them "sullen and discontented outlaws." Let that answer be spread broadcast before the people of the State of Connecticut, and there is my vindication, for which I most profoundly thank my colleague.

Mr. CONNESS. Will my friend allow me at this point to make a suggestion merely?

Mr. DIXON. I rather prefer, as I am so nearly through, that the Senator should wait; he will have an opportunity in a few moments. Now, sir, what I want is precisely what my colleague wants, with one or two exceptions. He proposes to amend the Constitution of the United States in a manner which to me is very revolting, not because I hate negro suffrage, but, sir, I do desire that the proud old State of Connecticut shall not be humbled in the dust. Having enjoyed the right of suffrage and of regulating her own suffrage for more than two hundred years—longer, I believe, than any State in the Union—I do not desire that at this late day she should be compelled to submit to the commands of the State of Massachusetts or any other State with regard to who shall vote within her borders; and I do most deeply regret that my colleague feels it his duty to support such a constitutional amendment. When I called attention a year and a half ago to the proposition of the Senator from Massachusetts [Mr. SUMNER] to establish negro suffrage in Connecticut and other States by act of Congress I was regarded as attempting to excite a false alarm. Sir, I knew what was coming. I saw it then. That Senator never has failed in any of his attempts. Some Senators resist him for a while, but all must eventually yield. I say it in no sense of reproach. The fact is, extreme men in a party always do carry their point.

When the honorable Senator from Massachusetts proposed his scheme I predicted when I reached home, in a speech which I there made, that the time was near at hand when the proud State of Connecticut would see herself compelled to accept a suffrage law from Massachusetts. Massachusetts is a great State, and we are ready to take advice from her at any time, but compulsion is hard to submit to. I deeply regret that my colleague deems it his duty to support that measure. I had hoped his course would be the other way. If he will consent that when the measure is forced upon us it shall, by the terms of the resolution proposing it, be submitted for adoption to a convention of the people of Connecticut chosen for the purpose, instead of the Legislature; if the people of Connecticut by a convention consent to it, I will not object. If the people of Connecticut see fit to alter their suffrage law I am perfectly willing. I think if a constitutional amendment on the subject is submitted to the States it ought to be provided that it shall be ratified by conventions chosen for the purpose, and not forced through Legislatures chosen for another purpose. The latter would be a fraud upon the people.

On looking at a speech which I made less than a year ago, among other things I find language which he has almost repeated with regard to the disabilities imposed upon the people of the South. I then said:

"I find, sir, under this law, that almost every man capable of holding the pettiest office comes under the ban of your proscription, and is to be allowed no share in the government of the community in which he lives."

The Senator says that a large portion of the property, intelligence, and culture of the South is excluded. I added:

"How is this done? Not on the face of the law, but in a manner furtive and deceptive. The fourteenth proposed amendment to the Constitution provides that a certain specified class, including all who ever held any office, shall, under certain circumstances, be deprived of the privilege of holding office under the State or Federal Government. The reconstruction law simply provides that all who, by this

proposed amendment, were to be excluded from office, shall be refused registration as voters. Thus the work is done."

And that is the work the Senator proposes to undo. I said further:

"How many white men are thus reduced to a political condition beneath that of their former slaves it is difficult accurately to ascertain. The Senator from Indiana [Mr. MORRIS] admits the number to be fifty thousand. I have no doubt, judging from the effect which such an exclusion would have if existing in my own State, that the number disfranchised in the entire South is at least two hundred thousand. But take the estimate of the Senator from Indiana, namely, fifty thousand, that number accomplishes the object of the disfranchisement."

Now, the Senator himself declares, as I have already read, that a class quite as large as that which I specified in my remarks have had disabilities imposed upon them, the effect of which has been to make them outlaws, rebels, and to make them necessarily centers of conspiracy. He speaks of the necessity for it. Why, sir, it is as necessary now as it was a year ago. He says, or the inference is, that the only necessity for it now is to keep in power the Republican party. He says the newspapers advocate it for that purpose. Why, sir, they advocated it for that purpose then. It may have been a little disguised; but does not the Senator know that that was the whole object and purpose? If that is atrocious now, was it righteous then? All that can be said in regard to it now might have been, and was by me and others said at that time. The Senator, therefore, as I say, was only a little too late in his remarks.

Now, one other thing I beg to observe, not for the purpose of showing inconsistency in my colleague, but for the purpose of showing the extent of candor to which he has now reached. He said a year ago that they were not disfranchised; that the disfranchisement already existed, and that we had only refused to enfranchise them. I thought then he was mistaken. He now sees what was then the truth, that we had by legislation "imposed disabilities" upon them.

I do not like, Mr. President, to refer to remarks which I have made here in former days; but I will take the liberty, as I desire to have them go upon the record, of reading a few more words from the speech which I then made upon this subject, with which I will close. I said:

"If my voice could reach them I would entreat them to cast their eyes backward on the events of the last three years and calmly consider whether all that they apprehended as the consequence of the radical policy has not been more than realized. Do they find in its full development anything which invites them to aid in establishing it as the permanent policy of the Government? Do they not see more plainly than ever before that it is incompatible with constitutional freedom and the true interests of the people? It is now fully exposed to their view, with its military despotism, its contempt of the supreme judicial power of the nation, its usurpation of executive authority by Congress, its instigation of a conflict of races for supremacy by refusing to an immense class of white men the privilege of suffrage granted indiscriminately to uneducated blacks"—

the very thing which now shocks my colleague—

"its sectional bitterness, its spirit of undying revenge, its gospel of hereditary hatred."

That was thought to be unjustifiable language by many when I used it; but I ask my colleague if it is not borne out by what he himself has said in his speech, if we have made them outlaws and rebels and centers of conspiracy, which I conscientiously believe, as he does, to be the case—

"It is in the power of this great body of intelligent conservative voters, with whom party ties are less strong than love of country, to overthrow this policy and restore peace, good-will, and unbounded prosperity to a suffering and distracted people."

I wished to overthrow this policy then. One year only elapses, and my colleague wishes to overthrow it now. I then added:

"It is in their power even now to compel the adoption of a policy modified and amended in the manner proposed by the Senator from Wisconsin, con-

sistent with all the rights of humanity in which the intelligent minds of the North and the South shall cordially agree and which shall harmonize conflicting opinions in both sections.

If they exert their power, and, by a united effort through the ballot-box, accomplish this great work, our Union may yet be restored upon the constitutional basis, the rights of every human being may be protected, liberty may be established upon the sure foundation of law, and, through all the years of the nation's life, the people of the North and the South, having no further possible ground of quarrel, may become more and more harmoniously joined together in the willing bonds of fraternal union. But if the policy and the spirit which now control our legislation are to receive the popular sanction, and be perpetuated, our history will be no longer a glorious record of human progress and of an unexampled national and individual prosperity, but its dark and bloody pages will be written, like the roll in the vision of the prophet Ezekiel, within and without, with lamentations and mourning and woe."

That is what I thought would be the effect of these measures less than one year ago. My colleague now proposes to strike them all out for the reasons which he has given. I approve of his reasons, and I shall vote for his proposition.

Claims of Loyal Alabamians.

SPEECH OF HON. T. HAUGHEY,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

January 5, 1869,

In Committee of the Whole on the state of the Union on the President's annual message.

Mr. HAUGHEY. Mr. Chairman, near the close of the session in July last I introduced a joint resolution, which reads as follows:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the law of July 4, 1864, restricting the jurisdiction of the Court of Claims, and providing for the payment of certain demands of loyal citizens of States not in rebellion for quartermaster's stores and subsistence supplies furnished to the Army of the United States, be extended so as to include loyal citizens of the State of Alabama."

This resolution was referred to the Committee of Claims. As it is uncertain when that committee will report, I propose to submit my remarks in support of the resolution in Committee of the Whole.

Relief is sought in this resolution for such loyal citizens of Alabama as furnished to the Army of the United States quartermaster's stores and subsistence supplies for which they have received no compensation. The class of men for whom relief is sought are those whose sufferings and sacrifices and whose persecutions during and since the war entitle them to the favorable consideration of Congress. They are the true and faithful Union men of Alabama. They are those who opposed secession, opposed rebellion, and never during the war or since did any act which could be construed as giving voluntary aid or comfort to the enemies of the Government.

They are generally men of moderate means—small farmers—whose horses, cattle, corn, and hogs, which were taken or furnished for the use and support of the Army of the United States, constituted nearly all their wealth. Very few of them had any interest, present or prospective, in slaves or slavery. Though impoverished, in many instances, by the Union forces they never faltered in their love and attachment to the Government. Thousands of them, rather than submit to rebel tyranny and despotism, left their homes, their wives, children, and all that life holds dear, and took refuge within the Union lines, and there remained until the close of the war. Several thousand of them enlisted in the Union Army, and many of them acted as scouts and performed valuable services in aid of the Union cause. While many of these brave men were fighting in the ranks of the Union Army and exposing themselves to all the privations and hardships incident to camp life their families at home were stripped of all their means of

support by a branch of that Army in whose ranks they were fighting.

For reasons satisfactory to Congress the claims of these men have hitherto been ignored. Though the justice of the claims and the loyalty of the claimants can be established by the highest and most positive evidence, and though nearly four years have elapsed since the claims originated, they have thus far failed to be recognized and still remain unsettled. The tendency of legislation in regard to these claims is to increase rather than diminish the difficulties attending their adjustment.

In the enactment of laws and the establishment of rules and regulations for the proper adjustment of claims growing out of the rebellion much embarrassment has been experienced in agreeing upon a uniform standard by which the justice of claims and the loyalty of claimants should be established. The standard of loyalty so far as it affects southern claimants has changed very materially within the last few years. It is much more rigid in its requirements now than it was during the first few years of the war. Until the passage of the act of July 4, 1864, all that was required to establish the loyalty of a claimant and secure the settlement of his claim was to prove that he never voluntarily aided the rebellion. Now he must prove in addition that he had not been a resident of nor did the claim originate during the war in a seceding State, Tennessee and West Virginia excepted. Excepting in these two States no claims growing out of the rebellion originating in a seceding State can be settled or in any way adjudicated, either by the Court of Claims or by the Executive Departments of the Government.

According to existing laws it is of no avail that a claimant can prove by demonstrative evidence that he never voluntarily aided the rebellion. He may even prove by incontrovertible evidence that he not only gave no aid to the rebellion but that he had served in the United States Army during the whole period of the war, and aided to the full extent of his ability in suppressing the rebellion, yet from the simple fact that his property was taken by the United States forces in one of those States that are excluded from the benefits of the act of July 4, 1864, no settlement of his claim can be permitted. Even the widows and orphans of Federal soldiers may establish the fact that they have been impoverished and brought to misery and want by the Union Army, and yet because they were residents of the South no compensation is allowed for their losses.

If the citizens of the seceding States had been a unit in voluntarily engaging in rebellion, and the citizens of the non-seceding States had unanimously endeavored to suppress it, the legislative and executive departments of the Government would have had no difficulty in the enactment of laws and the establishment of rules for the proper adjustment of claims growing out of the rebellion and in determining the loyalty of claimants.

The question of loyalty would always have been determined in any case by ascertaining the State in which the party resided during the war. In the examination of claims the Executive Departments of the Government would have been relieved of all embarrassment in the adjustment of them after ascertaining the section of the country in which the party resided during the war and the locality in which the claim originated. The jurisdiction of the Court of Claims would thus have been confined to the adjudication of such war claims as originated in non-seceding States and belonged to residents of those States. Geographically, then, the jurisdiction of the court would extend to the line dividing the seceding from the non-seceding States. All claims growing out of the rebellion in the non-seceding States would have been adjudicated upon their merits without reference to the loyalty of the claimants, and all those of a similar character originating in

a seceding State would have been rejected without examination or without reference to their merits upon the ostensible ground of the disloyalty of the claimants. One of the many advantages which would probably have attended this condition of affairs would have been the exclusion of a few fraudulent claimants. A few thousand dollars out of which the Government may have been defrauded might possibly have been saved to the Treasury and placed to the credit of the national debt.

But it is well known that this hypothetical condition of affairs did not and could not exist. From the very nature and object of the war such an imaginary state of affairs was practically impossible. It is a well-known fact that during the whole period of the war, from its commencement to its close, there was a large number of the citizens of each of the seceding States who opposed secession, who never voluntarily aided the rebellion, and whose political status among their neighbors was that of Union men. Amid all the changing scenes of the rebellion, through the sorrows of defeat and the joys of success, they remained firm, and earnestly and prayerfully desired the final success of the Union cause. It is also a well-known fact that in some of the non-seceding States there were many who during the whole period of the rebellion earnestly sympathized with it and on all suitable occasions gave to it their aid, countenance, and support.

Hence, to discriminate by law in favor of the loyal claimants in the non-seceding States and against the same class of claimants in the seceding States is to sectionalize loyalty and create an unfair and unwarranted distinction between citizens who were identified in making common sacrifices in a common cause and in behalf of an imperiled but common country. To grant a monopoly in the settlement of claims growing out of the rebellion to loyal citizens of the non-seceding States is to discriminate unfairly and unjustly against citizens of the seceding States, who have at all times and under all circumstances been warm and unwavering friends of the Government. Thousands of those citizens against whom the discrimination is thus made never conceived a disloyal thought, nor did they ever utter a disloyal sentiment.

Loyalty consists in fidelity to the Government and obedience to its laws. In a Government like that of the United States, where all men are permitted to enjoy equal privileges and have an equal voice in making the laws, it seems strange that any of its citizens should be disloyal. Yet, such was the ambition of a few political leaders in the southern States, and such was their power to deceive and mislead the southern people through the only channels of intelligence that these leaders would tolerate, that a majority of these people were led into an attitude of hostility to the Government. A large number of the citizens of each of the southern States, however, resisted the appeals of these leaders, and notwithstanding the unparalleled persecutions to which they were subjected, they remained true to their Union principles during the whole period of the war. They are true and loyal to-day, and even at this late day they are still the victims of rebel proscription and persecution.

Under ordinary circumstances no man is entitled to honor or preferment for his loyalty. Loyalty is due from the citizen to the Government which protects him. Hence the citizens of the non-seceding States in adhering to the Government during the war simply performed their duty. The Government gave them protection, and their present and future welfare depended upon its unity and perpetuity. For their loyalty, then, they are not justly entitled to any special privileges or preferments beyond those which are granted equally to loyal citizens in the southern States.

Loyal citizens of the southern States remained

loyal under extraordinary circumstances. To be loyal in a disloyal State was to sacrifice business, friendship, property, and to incur social proscription, persecution in a thousand forms, frequently imprisonment, and in many cases death by the hands of rebel assassins. Notwithstanding these unfavorable circumstances under which these citizens maintained their loyalty they neither ask nor expect any privileges which are not equally accorded to all loyal citizens throughout the Union. They simply desire that their claims shall receive the same recognition that is granted to the claims of loyal citizens of the non-seceding States.

The provisions of the act of July 4, 1864, providing for the payment of quartermaster's stores and subsistence supplies furnished to the Army of the United States are confined, in their application, to States not in rebellion. By joint resolution approved June 18, 1866, these provisions of the law were extended to the counties of Berkeley and Jefferson in West Virginia, and on the 24th of July following the benefits of the law were again extended so as to include the State of Tennessee. These provisions of the act having been misconstrued by the attorneys of southern claim agents, and appeals having been taken from the decisions of the heads of the quartermaster's and commissary departments of the Government, another act was passed in February, 1867, explanatory of the act of July 4, 1864.

The act of February, 1867, declares that the provisions of the act of July 4, 1864, shall not be construed so as to authorize the settlement of any claim for supplies or stores taken or furnished for the use of or used by the armies of the United States, nor for the occupation of or injury to real estate, nor for the consumption, appropriation, or destruction of or damage to personal property by the military authorities or troops of the United States where such claim originated during the war for the suppression of the southern rebellion in a State or part of a State declared in insurrection by the proclamation of the President of the United States, dated July 1, 1862, or in a State which by an ordinance of secession attempted to withdraw from the United States Government; provided, that nothing herein contained shall repeal or modify the effect of any act or joint resolution extending the provisions of said act of July 4, 1864, to the loyal citizens of the State of Tennessee or of the State of West Virginia, or any county therein.

These laws, then, prohibit the settlement of all claims originating during the war in any of the rebellious States, Tennessee and West Virginia excepted. They declare in effect that the loyal citizens of these States are not, according to the Constitution of the United States, entitled to all the privileges and immunities of citizens of the several States, nor are they entitled to just compensation for their private property that had been taken for public use. The mere residence or domicile of loyal citizens during the war in any of these States, is regarded as *prima facie* evidence of disloyalty, and is considered a sufficient reason to deprive them of those inherent and inalienable rights guaranteed to them by the Constitution of the United States.

These laws, however, are assumed to be constitutional upon the ground that the States which are excluded from the benefits of their provisions were at the time of their enactment in rebellion against the authority of the Government. They were then subject to the laws of war, and it is assumed that none of the citizens of those States could legally be entitled to any protection from the Constitution of the United States. All the citizens of those States, without regard to their private acts or opinions, were in contemplation of law public enemies.

The provisions of the Constitution to which reference has been made are applicable to a condition of peace, and could have no binding

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force in relation to the enemies of the Government. But even if binding, so far as they might apply to the loyalists of the southern States, such was the demoralized condition of society in those States at the date of the passage of these laws that the proper application of these provisions of the Constitution would have been impracticable. It was impossible to do justice to the loyal men of the South without doing great injustice in thousands of instances to the Government. The rights of both when practicable should ever be held sacred. In this case, however, it seems the rights of loyal citizens for practical purposes were held in subordination to the supposed paramount rights of the Government. The great obstacle in the proper adjustment of the claims of loyal citizens at that time was the extreme difficulty in discriminating in many cases between the loyal and disloyal.

For practical purposes, then, those States in which the rebellion had been suppressed were properly regarded as conquered territories or conquered provinces. By rebellion they had forfeited their rights as States in the Union. Hence, in the enactment of laws or in the establishment of rules and regulations for the proper government of these territories, Congress was not supposed to be limited in its action by that clause of the Constitution which enjoins equality of privileges and immunities among the citizens of the several States. These States by rebellion had ceased to be States, and the citizens inhabiting these conquered territories, without regard to their private acts or opinions, had ceased to be citizens of States within the meaning of the Constitution. These premises, then, being assumed to be correct Congress had the constitutional right in the enactment of laws to make such discrimination between the loyal and disloyal States, and between the citizens of these several States as are made in the laws of 1864 and 1867.

Politicians, however, have differed very widely in opinion as to the correctness of the theory upon which the war was conducted, and as to the effect of the war upon the rights of the rebellious States. The same difference of opinion exists as to the best mode of reconstructing those States. An appeal was taken from the congressional theory and plan of reconstruction to the people, and the people in the late presidential election decided emphatically in favor of Congress. From the people's decision there is no appeal. Whatever differences of opinion may exist as to the rights of States and as to the effects of the war in impairing or destroying those rights in the rebellious States, and in regard to the rights, privileges, and immunities of the citizens of those States, all private opinions must yield to the great aggregate opinion of the nation as unequivocally expressed at the ballot-box in the late election. The acts of Congress, so far as they relate to the reconstruction and government of the rebel States, have been so triumphantly indorsed by the people that the constitutionality of those acts has ceased forever to be a question of dispute.

Recognizing, then, to the fullest extent the constitutionality of these acts in relation to the settlement of claims originating during the war in the rebellious States, it is submitted that to continue the discriminating features of these acts against States which have been reconstructed and have been admitted into the Union upon terms of equality with the other States, would be contrary to good policy and to the best interests of the Government. To continue those discriminating features against the loyal claimants of the South after the States have been reconstructed and admitted into the Union would be to weaken that confidence which these men have always manifested in the justice and magnanimity of Congress. Notwithstanding the correctness of the congressional theory of the war loyal men in the southern States can never appreciate the justice of

a law which authorizes the payment of a loyal claimant in a northern State, and prohibits the payment of a loyal claimant in a southern State where the claims are in point of merit and justice equally the same.

The object of the joint resolution now under consideration is to extend the benefits of the law of 1864 to the loyal citizens of Alabama. The law of February, 1867, to the contrary notwithstanding. This resolution might with propriety have included the other interdicted States which are now represented in Congress. But as the arguments in favor of Alabama apply with equal force to the other States it is deemed of no consequence that the others are not included. All that is sought in the resolution is that the loyal claimants of Alabama shall be placed upon an equal footing with loyal claimants in those States which are not excluded from the benefits of the law of 1864.

Alabama is no longer a rebellious State. Her legitimate and practical relations with the Union are now fully restored. A large majority of her people are loyal to the Government. They prefer the Government of the United States to every other Government, and in case of need an overwhelming majority of her fighting men would defend the Government against all other Governments on earth. She has a full representation of loyal men in Congress. A large majority of the Legislature of the State and of the State and county officers are loyal and always have been loyal. Her constitution and laws guaranty equal rights and privileges to all. They are pre-eminently liberal, and in entire harmony with Republican principles and with the enlightened and progressive spirit of the age. Alabama, then, being a State in the Union and of the Union, it is sincerely believed that if the benefits of the law of 1864 were extended to the undoubtedly loyal claimants of that State the law would be as safely and guardedly administered as in any other State of the Union.

The loyal claimants of Alabama have a war history very similar to that of loyal citizens in Tennessee, to whom claims originating during the war in that State are now authorized to be paid. Like the loyal citizens of Tennessee, those of Alabama resisted secession and rebellion to the full extent of their ability. When resistance was found to be hopeless they yielded a reluctant submission to a fate which they were powerless to avert. Like the Tennessee loyalists, thousands of the Union men of Alabama lay hidden in caves and mountain gorges and deep ravines awaiting their chances to escape to the Federal lines. Many thus situated were captured by rebel bloodhounds, and if not instantly shot they were carried in chains to loathsome rebel dungeons, and allowed to linger and die from bad treatment, or to be taken from their prison cells by vigilance committees and either shot or hung for no other crime than that of Unionism.

Like the Unionists of East Tennessee a large number of the able-bodied Unionists in North Alabama enlisted in the Union Army and fought with it until the end of the war. Though the Tennessee Federal soldiers largely outnumbered those from Alabama, this disparity in numbers is due to the greater difficulties to be overcome by the latter than by the former in reaching the Federal lines. It is fair to presume that the love of the Union was equally intense in the eastern counties of Tennessee and the northern counties of Alabama. The difference in the manifestation of that love was solely due to the difference in the geographical position of those two Switzerland of America. All the arguments, then, which have heretofore been urged in favor of the payment of loyal claimants in Tennessee apply with equal force and cogency to loyal claimants in Alabama.

To deny these men the small pittance which some of them claim for property taken by the Union Army, or for supplies taken by or fur-

nished to the Union Army upon the simple plea that these men were citizens of a rebellious State, during the war, does not comport with that justice and magnanimity which have hitherto been characteristic features in the conduct of the Government toward its loyal citizens. It was not the fault but the misfortune that they were citizens of those States during the war. Nor was it their fault but their great misfortune that their homes had been the chosen battle-ground of a causeless and wicked rebellion. Moreover, it was not their fault but their exceedingly great calamity that the United States Government failed to extend its protecting arm to its loyal citizens in those States and save them from falling into the meshes of a rebel despotism. If there is any culpability in residing under a rebel despotism during the war the Government is entitled to a reasonable share of that culpability in permitting that rebel despotism to exist.

Allegiance and protection are reciprocal, and correlative obligations between the Government and the citizen. The citizen owes allegiance to the Government, and the Government in return owes him protection. If the citizen refuses to obey the behests of the Government and manifests a desire to overthrow or attempts to overthrow it he is a traitor, and forfeits his claim upon the Government for protection. And on the other hand, if the Government is unwilling, unable, or fails from any cause to protect the citizen, the allegiance which the latter owes to the Government is absolved. A Government which is unable, or fails from any cause to protect its citizens can justly have no claim upon the latter for allegiance.

At the commencement of the war a majority of the people in the southern States revolted against their lawful Government and organized in its stead a revolutionary one. A minority of the citizens of those States opposed the revolution and adhered to the lawful Government until they were overpowered by the revolutionists. The rightful Government, however, for four long years failed to protect this minority, and suffered it to be ruled and controlled by the revolutionary government. The citizens composing this minority were at all times anxiously desirous of resuming their allegiance, but during the whole of this gloomy period the protecting arm of the Government was too short to reach them. Finally, however, when the Government did succeed in conquering this revolutionary majority and resumed its sway over the rebellious States, the citizens of the minority with joy and exultation resumed that allegiance which for four years they had held in abeyance but had never absolutely relinquished.

Under such circumstances these Union citizens composing the minority had no right to expect that the Government, in resuming its rightful authority over those States and in establishing rules and regulations for the payment of claims growing out of the rebellion, would impose upon them the same disabilities as are imposed upon the revolutionary majority. By existing laws there is no distinction made in those States between the innocent and the guilty—between those who tried to destroy and those who tried to save the Government. The rebel assassin is classed with the Union man who was the victim of his assassination. The persecuted Union man is entitled to no more consideration than his rebel persecutors. No distinction is made between claims for supplies furnished to the rebel forces and those for supplies furnished to the Army of the United States. All are reduced to a common level by the laws of July 4, 1864, and that of February, 1867. As it was in the taking of property for the use of the Army, so it is in the payment of claims for that property. No distinction is made between loyalty and disloyalty. All are treated alike and equally excluded from the benefits of the law of July 4, 1864.

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In view of the long suffering, privations, and persecutions to which the loyal citizens of Alabama have been subjected, it would almost appear to be a work of supererogation to ask Congress for such a recognition of the justice of their claims as has been granted to the loyal claimants of Tennessee and West Virginia. Four fifths of the loyal claimants in Alabama are small farmers of moderate or limited means. Their claims are generally small. But though small they are very much needed. They are in many cases small when compared with the resources of the Government to pay, but large in many cases when compared with the ability of the claimants to lose their claims. Their property that was taken for the use of the Army was such, in many cases, as was indispensable for the support of their families. In many cases their horses, mules, cattle, hogs, and corn were all taken, and they were thus left without the means of making a support for their families. Even the families of Federal soldiers who were at the time fighting the battles of the Union were thus stripped and left dependent upon the charity of their more fortunate rebel neighbors.

In the latter part of March and beginning of April, 1865, United States troops under the command of General Wilson marched through the very heart of Alabama, from the Tennessee river on the north to the Alabama river on the south. They lived on the country through which they passed, giving no receipts or vouchers for any of the property used or taken by the Army. The Union people were generally the greatest sufferers, because they would not conceal their property, while the rebels, whenever they had timely warning, would usually carry their property off to remote and secluded localities and conceal it on the approach of the Army. All that these Union men ask is simple, even-handed justice. They have committed no crime; they have forfeited no rights; they firmly adhered to the Government, so far as adherence was practicable, through good and evil report. They were the friends of the Government before the war and during the war, and are the friends of the Government to-day, and, if need be, would fight in its defense.

This joint resolution is no party measure, nor is it to be considered in the light of policy or expediency merely. It is a measure which addresses itself to the justice, magnanimity, and liberality of Congress. The reasons which induced Congress to extend the benefits of the law of July 4, 1864, to the States of Tennessee and West Virginia are equally forcible in the case of Alabama. The provisions of the law have been justly and wisely extended to those States without any important losses or any serious detriment to the interests of the Government. It is believed that the aggregate amount of loyal claims in Alabama is considerably less than it was in Tennessee, and that the payment of fraudulent claims can be guarded against with as much facility and efficiency in the former State as in the latter.

Congress has hitherto responded promptly and very favorably to the appeals of the loyal citizens of Alabama in matters of political reconstruction. For this the loyal citizens of that State are profoundly grateful. A few of these same loyal citizens again appeal to Congress for some degree of financial reconstruction. Their property has been taken and used by the United States Army. They appeal to Congress for compensation. It is confidently hoped and believed that this last appeal will be met with the same promptness and the same spirit of liberality that characterized the responses to their former appeals. The sectional and discriminating features of the law being removed, the long-neglected and downtrodden Unionists of the South will thus have cause to rejoice that their sufferings and sacrifices in behalf of an imperiled Union have not been in

vain; that their faith and confidence in the justice and beneficence of the Government have not been misplaced. They will thus have fully realized that this great Government of the people, for the people and by the people, knows no North, no South, no East, no West; that the rights, interests, and welfare of all sections are equally favored and equally protected.

Niagara Ship-Canal.

SPEECH OF HON. J. M. HUMPHREY,
OF NEW YORK,
IN THE HOUSE OF REPRESENTATIVES,
January 14, 1869.

The House having under consideration bill No. 1212, to provide for the construction of a ship-canal around the Falls of Niagara—

Mr. HUMPHREY said:

Mr. SPEAKER: In the discussion of this bill I shall not occupy any very great portion of the time of the House in considering the power of the Federal Government to engage in the work contemplated by it. It is sufficient for me to say that this is the first time in the history of this country that it has been proposed to set to work the Secretary of War or any of the officers of the Government in building canals or railroads. All that has been done by the Government heretofore has been simply to make appropriations to aid in the construction of such works, leaving the work to be done by the States or corporations having that subject in charge. This bill proposes to vest in the Secretary of War the power of going into the State of New York, take the territory of that State, and erect upon it a public work, irrespective of the giving or withholding of any approbation or consent on the part of that State. The policy of this bill strikes at the very foundation of State sovereignty.

But, Mr. Speaker, there are connected with this subject questions of a more practical character; economical questions which, in my judgment, should be sufficient to condemn a project of this sort at the present time, when the condition of our revenues is such that the Government can with difficulty meet its honest obligations incurred in carrying on the war for its preservation. Certainly we are not now in a condition to appropriate millions of money upon a work in which there can be no reasonable probability of advantage to the commercial interests of the country; a work, too, which affords every evidence of being no more and no less than one of those schemes whose projectors have been hanging around this Capitol during the last three or four years asking aid from the Government, because individual capitalists will not consent to be plundered and robbed by them.

By the first section of this bill it is proposed that the Army shall be taken to the frontier, and there, under the control of the Secretary of War, shall go to work and build this canal. I am not aware that there is more than one instance in the history of our country when the Army has been employed in digging canals, and that instance was one not very satisfactory in its results. But it is unnecessary for me to point out the impracticability and absurdity of this proposition. It was incorporated in this bill only as a screen to prevent this House from seeing its real objects and purposes, as the skillful hunter disguises his person so that he may better take his game.

Mr. Speaker, let us consider for a moment whether this bill does not come here under a false and fraudulent guise; whether it is not one of those schemes which should receive no support in any shape or form from Congress. I agree with everything that has been said by my colleague [Mr. VAN HORN] in relation to the duty of the Government to afford all the aid it can within its constitutional powers for the purpose of enlarging our borders, for the purpose

of facilitating commerce—ay, for the purpose, if you please, of protecting us from the incursions of our enemies. The gentleman talks about this being a "military necessity." Why, Mr. Speaker, if war were declared to-morrow between Great Britain and the United States, there are Irishmen enough upon our border to take possession of Canada in less than twenty-four hours. Why, sir, this has been one of our great difficulties in keeping out of war. Within the last two years the exercise of the whole power of the Government has been required for the purpose of preventing the Fenians from taking possession of the Canadian territory. Yet now, when we are, as I suppose, under the reign of peace, we are asked to expend \$12,000,000 for the purpose of defending us against this feeble colony of Great Britain. It is idle to talk about danger from that source. It can be done only for the purpose of bringing about results which, if the real state of the case were known, would not be countenanced for a moment by any intelligent or honest man.

It is a well-known fact that there are schemes before this House that will involve the expenditure of two or three hundred millions of dollars; and, Mr. Speaker, this scheme is presented as one fitted to take the lead of them all. There are appropriations asked for for the several Pacific railroads. One wants \$56,000,000; another wants \$50,000,000. And I say to the House that if we shall pass this bill we are pledged in honor or at least in consistency to stand by all the rest of the swindling schemes that may be presented.

Now, Mr. Speaker, in connection with the practical questions involved in this subject, it will take but a moment to present such facts as must, it seems to me, cause this House to hesitate before adopting any such measure. What are they? Why, sir, this is a proposition to connect Lake Erie with Lake Ontario by the building of a canal through the State of New York from one of these lakes to the other. It is a scheme which the gentleman who preceded me says was agitated as early as 1808. It has been agitated ever since by a few interested speculators, but it has never attained sufficient importance in the judgment of capitalists to secure a combination of capital sufficient to organize a company to build it. Nay, these speculators themselves either would not or could not raise sufficient money to pay the expense of such organization. Does any man suppose that in the great State of New York, with more railroads than any other State, with more money invested in canals and railroads than all the other States of this Union, if this work was feasible and would afford any profit to the men and capital engaged in its construction it would remain entirely untouched during more than a quarter of a century? I say, sir, that the very fact that it has not been is the very best evidence that it cannot be made of any possible utility or benefit to commerce.

A bill for the building this canal the House passed in the Thirty-Ninth Congress. It provided for the organization of a company, and appropriated \$6,000,000 of the public money for the purpose. But mark! It was on this condition: that the company should expend \$300,000 before it should be entitled to a cent of the public money; and that it should go on expending \$300,000 and receiving \$200,000 until the \$6,000,000 were expended. That bill went to the Senate, where it was never finally acted upon. What is the reason that the same bill is not introduced here again? Why should the friends of this scheme present a different one? I will tell the House why. It was because when they began to talk to capitalists about subscribing and putting their own funds, dollar for dollar, with the Government into the scheme they could not get them to do it; and, sir, it is for that reason that they present this bill making an appropriation of \$12,000,000 from the national Treasury sufficient to pay for the whole work. Does any man doubt, if this

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work could be made profitable, if it could be made useful, that there are capitalists in this country who would have been glad to have taken stock in a company where the Government paid half the expense? This, then, is another evidence that instead of being a work of merit, it is a scheme of demerit entirely, from the beginning to the end.

Again, Mr. Speaker, there are facts within the knowledge of every business man, demonstrating beyond the power of contradiction that this measure has no commercial value or importance whatever. I ask the attention of this House to some of them. The Welland canal through Canadian territory, connecting these two lakes, has been built upward of twenty years. It is of larger capacity than the New York canals, being sufficient to pass vessels of six hundred tons burden. The tolls are only enough to keep the canal in repair, and to pay for its superintendence; and what are the facts in reference to that canal? Since 1864, instead of the business of that canal increasing, it has fallen off. It has fallen off, sir, twenty per cent. since 1864, and this canal was built by the Canadian Government to accomplish the same purpose of this Niagara ship-canal; that is, of enabling the commerce of the West to pass from Lake Erie to Lake Ontario without change of vessels. By the report of the Canadian Government for the year 1867 in reference to the trade on this canal I find the following statement;

Total movement of property, passengers, and vessels on the Welland canal for the fiscal year 1867, and the three preceding years ending the 30th of June.

	1864.	1865.	1866.	1867.
Total tons.....	1,146,722	868,078	980,178	916,252
Total number of passengers.....	7,698	7,263	9,387	7,173
Number of vessels and boats of all kinds.....	7,443	6,347	6,149	5,405

Total tonnage..... 1,332,837 1,135,806 1,077,314 993,938

Percentage of decrease of 1867 compared with 1864 20.10 per cent.

Showing a falling off of a little over twenty per cent. in four years in the business of a canal connecting the same waters and accommodating the same commerce that the Niagara ship-canal will if it is ever built. Does this Government wish to engage in such an unprofitable undertaking? I hope not. But, sir, how is the commerce of the West to be benefited by building this canal? True, it can pass by it from Lake Erie to Lake Ontario without change of vessel, but it will not then attain any wider range of markets or diminish the existing rates of freight or other obstacles in reaching our own or foreign markets. The St. Lawrence river is not navigable from Montreal to Lake Ontario. There are forty-three miles of canal with twenty-six locks owned by Canadians, and upon their own territory, through which every vessel must pass before reaching the Atlantic ocean. And still it is gravely urged by the supporters of this bill that to build this canal with no outlet to the ocean except through a hostile or at least a foreign country, and through canals built by and subject at all times to the control of that foreign Government, which may whenever it sees fit exclude our commerce from them entirely by excessive tolls or otherwise, is a great national work and must be built by the Government out of the national revenues; but if we owned the St. Lawrence river and its canals, before this ship-canal would be available for western commerce these Canadian canals would require to be enlarged at an expense of not less than \$30,000,000.

Sir, may it not be a part of this scheme to first commit our Government to the construction of this canal and then, after we have expended so much money for a work wholly unavailable to our commerce without the free use of the Canadian canals, to use it as an argument to force upon this country another treaty

giving Canada the free use of our markets in consideration of the right to use their canals? There are now upon the files of this House two reports, sent here by the honorable Secretary of the Treasury made by Mr. Brega, who, I am informed, is the agent here of the Canadian Government, in the interest of a proposed treaty. The statements made and arguments used in these reports have led me to believe, and I doubt not will convince any member of this House who may read them, that the Canadian Government is deeply interested in the passage of this bill.

Mr. VAN HORN, of New York. Will my colleague yield to me for a moment? Do I understand my colleague to say that I am in favor of the revival of this reciprocity treaty with the Canadian Government, and that this bill is part of it?

Mr. HUMPHREY. I say that this scheme is a part of it.

Mr. VAN HORN, of New York. I say that myself and friends are opposed to it.

Mr. HUMPHREY. I say that this is a part of that scheme. Mr. Brega, it is said, is here with British gold to revive that reciprocity treaty.

In regard to the question of military necessity I will read an extract from an article written by a prominent citizen of Canada upon this subject. He says:

"Another argument against the theory of a new nationality is the exposed and defenseless condition of the colonies. The territorial formation of British North America presents an insurmountable obstacle to its defense against the United States. With three thousand miles of a frontier bordering upon a populous nation, with whom a *casus belli* might arise at any time, it would be utterly impossible to defend this country. Very reliable authorities are quoted in support of this generally conceded position, among which is Hon. Mr. Aytown, in the imperial Parliament, who said: 'He never had met with any man not a member of the Government who considered that it was possible to defend Canada against an attack in force by the United States;' and the decision of the writer is, that 'if British North America cannot be defended it cannot exist as a separate or dependent State.'"

Mr. Speaker, in view of the fact that this work can afford no relief to the commerce of the West, in view of the fact that it is a part and parcel of the schemes of plunder which infest this Capitol, it seems to me it is time that we should consider whether we have got so much money that we can afford to invest it in the manner proposed by this bill.

I am aware that it is supposed that the Representatives of the great West, being so deeply interested in any measure which proposes to cheapen transportation to the East, will favor this project without stopping to consider its practicability. This is one of the reasons why it is presented as the pioneer of all these schemes. I agree that the West should have every facility possible to reach the markets of this country and of Europe. But upon the question whether this canal will cheapen transportation I desire to call the attention of the House to the fact that this canal simply enables the produce of the West to go to Lake Ontario without reshipment, and from there it must find its way to New York or some other market by the present routes. As I have already said, it cannot go from Lake Ontario out through the St. Lawrence river to a foreign market except by the canals of Canada, which must be first enlarged before they can afford any outlet for that trade. This is one route. The other is by way of the Oswego and Erie canal or the Champlain canal, or by railroad to New York city.

It will not be pretended that property can be carried by railroad from Lake Ontario to New York city, a distance of between three and four hundred miles, as cheap as from Buffalo to New York by the Erie canal. Neither can it be carried by way of the Oswego and Erie canals and Hudson river or the St. Lawrence river, Champlain canal, and Hudson river to New York as cheap or quick as by the Erie canal and Hudson river via Buffalo. The dis-

tances are greater, and the tolls and freights charged for the last twenty years more by the first two routes than by the last, the Buffalo route. The carrying capacity by the Oswego and Buffalo routes is the same, but by the St. Lawrence and Champlain route much less. It is apparent, therefore, that unless the Federal Government proposes to construct a ship-canal from Lake Ontario to the Hudson river, a distance of one hundred and eighty miles, the Niagara ship-canal, when completed, will not afford any relief to the western commerce, either by increasing the capacity for its transit or cheapening the cost to the markets of our own or foreign countries.

Mr. LOGAN. Will the gentleman allow me to put a question right here for my own information?

Mr. HUMPHREY. I will allow a question.

Mr. LOGAN. Why is it that wheat raised in California sells at a lower price in Boston than wheat raised in Illinois and Indiana, and flour also? Is it not the fact that water transportation—

Mr. HUMPHREY. I prefer to answer the question.

Mr. LOGAN. Then allow me to add another question. If the enlargement of this canal will decrease the length of railroad transportation between the West, or between Lake Erie or Lake Michigan and the East, so as to reduce it, according to the gentleman's own argument, to only two or three hundred miles by railroad, and if transportation by water is cheaper than by railroad, would it not to that extent advance the interest of the agricultural community, and in fact of the whole people of the western States?

Mr. HUMPHREY. The gentleman asks why the freights from San Francisco to New York are less than from Chicago to New York. It is for the same reason that freights from New York to Liverpool are less than from Chicago or Milwaukee to New York city, although the distance is much greater. There is a much larger amount of property shipped from New York to San Francisco than is brought back; consequently freights outward are much higher than on the return cargoes. Our eastern products are sent to California, and the ships in returning bring next to nothing, so that California wheat, as well as all other property, is brought back at merely nominal cost. Just so it is between New York city and Liverpool; the freight brought here far exceeds, both in amount and cost, that sent back. That is why New York city is the great market of this country for the products shipped to foreign countries. You can get at any time grain and flour carried from New York or Boston to Liverpool for less than you can get it carried through the waters of any one of the western lakes. Thus much in regard to the first question.

Now, then, for the next question. Add the freight and tolls from Lake Erie to the city of Oswego on the Welland canal and Lake Ontario to the charges on the three hundred and fifty miles of railroad from Oswego to New York city together, and it will exceed, by a very large percentage, the cost of freight and tolls from the city of Buffalo by water all the way to New York. That answers the gentleman's other question, as I understand it.

Now, for the purpose of furnishing a test in regard to this matter, I want to call the attention of the House to a comparison of the cost of transportation from the city of Chicago to the city of New York by way of the Welland canal and Lake Ontario, and the Oswego and Erie canal and the Hudson river, and by the way of Buffalo through the Erie canal and the Hudson river; and if there is nothing gained by the Welland canal route now, how can we expect to gain anything by building another canal, which will leave the produce in precisely the same place where the Welland canal leaves it? The building of a second canal, connecting Lakes Erie and Ontario will certainly not

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add anything to the cheapness of freights as long as the property must be carried from there by the same route and the same means of transportation that is used now. The cost of transportation of wheat and corn from Chicago to New York for the year 1864, via lake and canal, via Buffalo, was 28¹⁰/₁₀₀ cents on wheat, and 25⁴⁰/₁₀₀ cents on corn; and via Oswego it was 28⁴⁰/₁₀₀ cents on wheat, and 25²⁰/₁₀₀ on corn—saving in favor of Buffalo one tenth of a cent on wheat, and four tenths on corn. Notice how evenly the charges are balanced in proportion to the work done by each route. The divisions of the charges by both routes for the average for the year were:

VIA BUFFALO.		
	On wheat.	On corn.
Lakes freight.....	9.58 cents.	8.94 cents.
Canal tolls.....	6.21	4.83
Canal and river.....	12.57	11.72
VIA OSWEGO.		
	On wheat.	On corn.
Lakes freight.....	15.37 cents	14.28 cents.
Canal tolls.....	3.54	2.75
Canal and river.....	9.45	8.87

Mr. CHURCHILL. Will my colleague yield to me for a moment?

Mr. HUMPHREY. I have not time.

Mr. WARD. I hope my colleague will be allowed time to make his speech and to answer all questions.

Mr. HUMPHREY. If I can have all the time I need I am entirely willing to be interrupted; but for the present I must decline to yield. Sir, if the Welland canal, as I have shown, with a capacity to pass boats of six hundred tons burden from Lake Erie to Ontario, has not cheapened the cost of the transit of property from the West either to New York or a foreign market, and cannot add to the capacity of such transit without the building or enlarging other routes from Lake Ontario, I ask whether it is advisable that we should expend \$12,000,000 for the purpose of opening another canal between these lakes, which cannot have any other or different effect than the one already built?

Mr. Speaker, it is known to every man who has any knowledge of the trade upon these lakes that within the last five years there has been a great falling off in the quantity of grain passing through the Welland canal. A railroad has been built by private capital upon its banks from lake to lake, and most of the grain destined for Lake Ontario is transferred from the vessels at Port Colborn, on Lake Erie, to the railroad and carried to Lake Ontario, and again delivered into vessels instead of using this canal; this is done as a matter of economy and advantage to those engaged in the trade.

Mr. Speaker, I desire to say a word in relation to the bill which I have presented as a substitute for this bill. The main features of this substitute, as all members know who have taken enough interest in the matter to read it, provides for a grant by the Federal Government to the State of New York of the sum of \$10,000,000 on condition that the State of New York shall enlarge the Oswego and the Erie canals to a size sufficient to enable the passage of vessels of two hundred and fifty feet in length and thirty feet in breadth; this will make those canals sufficiently large that steam-power may be used, an improvement which would reduce the tolls and freights to an enormous extent; it would obviate the necessity of but one transhipment at the city of Buffalo and at the city of Oswego from the large propellers and vessels of the lakes into boats upon these canals, carrying six hundred, eight hundred, or one thousand tons, and thence directly to the city of New York.

Now, a word in relation to the position which the State of New York, which I have the honor in part to represent, occupies in regard to this great question of inter-communication between the States, and particularly between the West and the East, over our canals and railroads. I undertake to say that there has been nowhere, either in this country or any

other, a spirit and policy as wise, unselfish, and statesmanlike in favor of national commerce as that which has been exhibited by the people of New York. The people of the West should not look with any degree of dissatisfaction upon that State, for it is to its money and the wisdom and energy of its citizens that the whole West is indebted, more than to anything else, for the means of becoming the great and populous country it is to-day.

As early as 1808 some of the wisest men who ever lived in this country, Clinton, Morris, Livingston, and others, seeing the means of communication between the East and the West that was offered by the natural construction of the territory of New York, conceived the project of connecting the waters of the ocean with the waters of the great lakes by means of the Erie canal. They did not conceive that project in the narrow spirit of local pride or local interest, but it was in the interest of the nation. They prepared a memorial, which they came here and presented to the Congress, setting forth the advantages of this work, natural and otherwise, and asking that the General Government should make an appropriation for the purpose of constructing it. They asked for aid on the ground that it was a national enterprise. The Federal Government approved the project, but replied to the memorial that the General Government had no money to spare.

New York was then sparsely populated and poor, with less persons in the whole State than now live on Manhattan Island. But those men did not abandon this truly national work. They went home and agitated the project until they had aroused the interest of the people of that State, and in 1817 a law was passed by the Legislature authorizing the building of the Erie canal by the State. They did not stop for aid from the General Government. There was not then any lobby in this Capitol urging the Representatives of the people to let them put their hands into the Treasury and take out the people's money. I am sorry to say that there is a different state of things now from what there was then.

Mr. VAN HORN, of New York. Does my colleague [Mr. HUMPHREY] suppose that we have any lobby around this capital urging the passage of this bill? I will only say that the lobby is all on the other side, and the members of that lobby are in this Hall to-day.

Mr. COVODE. Will the gentleman from New York yield to me for a moment?

Mr. HUMPHREY. For a moment, yes.

Mr. COVODE. I wish merely to correct an expression of the gentleman with regard to who was entitled to the credit of originating the communication between the waters of the East and the waters of the West. I will state to the gentleman that that credit belongs to those who first contemplated the construction of a water communication from the Mohawk river to Wood creek, which was the pioneer of the great enterprise which DeWitt Clinton led when the Erie canal was constructed. It dates back far beyond the period to which the gentleman has referred.

Mr. HUMPHREY. The gentleman has not informed us who those parties were. In the act which authorized the building of the Erie canal one of the reasons, purposes, and objects of the work was, as set forth in the preamble, to enable the commerce of the West to reach the markets of the East. It was in the interest of the whole country, and not in the exclusive interest of the State of New York, that this great work was conceived and carried out.

Mr. SYPHER. Will the gentleman permit me to make a single suggestion, which is directly in the line of his argument? The products of the West are now shipped to New York via New Orleans, and at from ten to twenty-five cents less per bushel on grain than the cost of transportation overland by rail.

Mr. HUMPHREY. It is sufficient for me to say, in answer to that suggestion, that I am not talking about railroads. I am talking about a means of communication infinitely cheaper than railroads and infinitely cheaper than the communication by the Mississippi river. There are natural obstacles connected with the navigation of that river which render it perhaps impossible that it shall ever become the great highway for the commerce of the West to the city of New York and thence to Europe. The State of New York built this canal within about seven years from the time of its commencement. The charges for transporting upon it per one hundred pounds from Albany to Buffalo were, for the first four years, forty-nine cents tolls and forty-five cents freight. The State has enlarged this canal; and the charges have been reduced in such a proportion as to facilitate, in the very highest degree, the transmission of the western produce to the eastern markets, and at the least possible cost. What are those charges to-day? Why, sir, on one hundred pounds the tolls are six cents and the freight six cents—a reduction equal to eighty-eight per cent. on tolls and eighty-seven per cent. on freight. It is a fact known to every man who has any knowledge of this commerce passing from East to West that the State of New York has reduced the tolls on the canals, and consequently the freights, just as fast as it could do so without levying taxes upon her people to pay for their construction and maintenance.

There is another fact of the utmost importance. These tolls are not subject to the fluctuations of supply and demand. They are established every spring, when canal navigation opens, and remain the same throughout the whole season. Upon the lakes there are times in the fall when the freights are fourfold what they are in the summer, the differences being caused by the law of supply and demand. But the State of New York, appreciating the importance of these canals to the whole country, has never taken advantage of the pressure of business to make an increase of the rates of tolls.

Mr. ALLISON. I desire to make a single suggestion with reference to this matter of tolls on the Erie canal. I understand that the report of the auditor of the State of New York shows that this Erie canal has paid into the treasury of the State \$15,000,000 over and above the entire cost of the canal, including the interest upon all the money invested and all the expenditures by the State for repairs.

Mr. HUMPHREY. I say that the gentleman is mistaken on that point. This allegation that the State of New York has been making money out of this canal is a matter to which I was just coming. It was built, as I have already said, with direct reference to the commerce outside of the State; and the lateral canals which have been constructed have been built for precisely the same purpose. The Erie and Oswego canal takes the trade of the West; the Chemung canal takes the trade of Pennsylvania; the Champlain canal takes the trade of New England and Canada. The whole canal debt is now only \$10,000,000; and there has never been a dollar of the proceeds appropriated except to pay the debts incurred in constructing and keeping in repair the canals. The tolls have from time to time been reduced in accordance with what from the beginning of these canals down to the present time has been the avowed policy of the State and of its leading men. Why, sir, in the New York constitutional convention of 1867 the policy with reference to our canals was a subject of discussion, and every prominent leading man of the convention expressed himself in favor of making the canals, as soon as the tolls had paid this balance of \$10,000,000, free, with the single exception of levying sufficient tolls to pay for repairs and superintendence.

This has been the policy of the State from

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the beginning, and is now its policy; and I ask my friends here, and I ask all the Representatives of this great nation, if we are to expend money, whether it is not far better that we should do it in the same way in which it has been done in all like enterprises in this country up to the present time; that is, to let the appropriation be made to the State, and the work be done through its instrumentalities, under the condition that the State shall pledge, before it receives a dollar of money, that upon the repayment of the cost of these canals they shall thereafter be forever free to the commerce of the world.

Mr. Speaker, instead of this Niagara ship-canal being a work which the commercial men of this country are in favor of, the fact is quite the contrary; the men who put through the bill in the Thirty-Ninth Congress found that it was utterly impossible to get anybody to invest their private funds in this speculation, dollar for dollar, with the Government. I say that fact furnishes the best evidence that the commercial men of the country do not regard this as the way in which the commerce of the West, which has become of national importance, is to be benefited or advanced. But, sir, I have other evidence. I have before me the memorial of the national ship-canal convention, held at Chicago in 1863, and I wish this House to hear the conclusion to which these merchants and statesmen arrived. This memorial was published by the order of that convention, and I think my friend from Illinois [Mr. Judd] was a member of that convention.

Mr. JUDD. I was not in the country at the time.

Mr. HUMPHREY. I know if he had been in the country he would have been in this convention and one of its most distinguished members, and would have fully concurred in that memorial I have no doubt. I will read an extract from it:

"The configuration of the North American continent presents the most remarkable adaptation to internal commerce of any portion of the globe. The great interior basin drained by the Mississippi and its tributaries, with ten thousand miles of steamboat navigation; the lakes, with their shore lines of five thousand miles, and with more than ninety thousand square miles of surface; these great Mediterranean seas of the New World can be connected with the great river of the West by a steamboat and ship-canal only thirty-six miles long. The outlet to the Atlantic by the East is equally remarkable with that of the South, and equally favorable to the commercial development and unity of our country. The arm of Almighty God cut down the barriers of the Alleghenies, and ordained that the ocean tides should flow through the highland passes of these mountains. The broad Hudson, stretching away northerly toward the lakes, pointed to the sagacious statesman of New York the pathway to empire. The genius of DeWitt Clinton, quick to catch the clear intimation, consummated what nature had so nearly completed and opened the way by the New York canals from the Atlantic to the lakes. Illinois, by the aid of the Federal Government, followed, completing the water-channel from the Atlantic to the Mississippi, and now we have only to follow the finger of God as interpreted by Clinton and consummate what is so nearly done, and we have an East and West Mississippi from the Missouri to the Atlantic."

The idea of building this Niagara ship-canal seems to be to get from Lake Erie to Lake Ontario. Our effort should rather be to open up all our avenues of trade, so that whatever commerce shall find its way into either of these lakes can pass with the least possible expense to the commercial center of the country, the city of New York, soon to be the center of the commerce and finance of the world.

Therefore it seems to me, Mr. Speaker, that if we are to engage in an enterprise of this character, it should be the one suggested in the substitute which I have offered for this bill. It appeals to every interest which should actuate conscientious men representing the people in an economical administration of the Government.

Now, sir, as to the question whether we are in a condition to appropriate this money at this time I want to say a word; but before

doing so, let me state that I am opposed to the Federal Government engaging in works of internal improvement, such as building railroads and canals. These works should be left to the States, with such aid as the Federal Government may see fit to give. I believe that our unparalleled increase in wealth and population is because we have recognized as a controlling principle that each State must attend to these matters for itself. The States can provide for these works by incorporating companies or otherwise much cheaper and better than the Federal Government had it the constitutional power. The canals and railroads already built throughout the country in this way furnish the best evidence of the truth of this position; and the future prosperity, greatness, and power of this country depend, in my judgment, more upon a strict adherence to this principle than anything else.

Mr. Speaker, will the condition of the national finances at this time permit us to make the appropriation required by this bill? Upon this subject I am happy to be able to quote the opinions of gentlemen much better acquainted with finances in general, and especially the financial condition of the national Treasury, than I am. The gentleman from Massachusetts, [Mr. BUTLER,] when the bill appropriating \$6,000,000 for the improvement of rivers and harbors was before this House at the last session, said:

"Sir, if we upon this side of the House are to stand upon anything as to the policy upon which we propose to go into the next campaign it is upon economy of administration. We have only this floor to show that desire. The Executive Departments of the Government, which substantially control the administration of the finances, are not within our reach or within our control; and the people must look here upon this floor as the only place where we, as a party, can exhibit the principles upon which we stand. If, then, we vote away at this time six or eight million dollars let me say to you that the people will say, 'With our taxes we cannot afford to make the experiment,' and for this reason: without arguing the question as to whether these expenses are necessary or are promising great results or not, I say we are in no condition to meet these expenditures. You might as well ask one of the mill-owners of my State, who is so far in debt that his mill is mortgaged and he cannot get production to meet his expenditures, to go into great expenditure to improve his property and render it more productive at this moment. Wait until we are able, until we are able as a people, then I will vote for this and other expenditures of a like character."

I hope the gentleman will give this House his present views upon the question of economy. I want to know if he thinks, or this House thinks, that our present financial condition has so much improved in the past five months that we can afford to give \$12,000,000 for the purpose of inaugurating a speculative scheme like this, while then we could not afford to appropriate \$3,000,000 to improve all the harbors and rivers throughout the country.

[Here the hammer fell.]

Mr. PAINE obtained the floor.

Mr. HUMPHREY. I ask the gentleman to allow me five minutes more.

Mr. PAINE. I yield five minutes.

Mr. HUMPHREY. Sir, I hope this House will heed the words of that gentleman and that he has not forgotten them.

The distinguished gentleman from Illinois [Mr. WASHBURN] also opposed that appropriation. He used language equally as strong as the gentleman from Massachusetts. But, Mr. Speaker, it was unnecessary for those gentlemen to use such language for the purpose of showing that this country is in a condition not at all fitted for the expenditure of money upon any scheme of this kind. Millions upon millions of debt is now resting upon the people. They are beginning to feel the burden, and will continue to for many years to come.

In view of these facts, in view of the condition of the finances of the country, in view of the burden of taxation that is pressing upon the people, I appeal to members of the House to pause before they sanction a scheme like this, a scheme which as I have already said, is merely the forerunner of others of like character.

Miss Sue Murphey.

SPEECH OF HON. J. S. FOWLER,

OF TENNESSEE,

IN THE SENATE OF THE UNITED STATES,

January 11, 1869.

The Senate having under consideration the bill (S. No. 625) for the relief of Miss Sue Murphey, of Decatur, Alabama—

Mr. FOWLER said:

Mr. PRESIDENT: Personally I have no interest whatever in this claim; politically, I do not care which way it is decided; still I have my views in regard to the *justice* and *propriety* of it. The case is simply this: an officer of the war of 1812, who served his country faithfully, and saved a small amount of means from his scanty earnings, purchased a small estate for his family, which he left at his death in their hands, supposing, of course, that he left them and the estate in the care of his country. The rebellion came and swept over that section of the country, and it became necessary for the officers of the United States to take the home of the two children of this officer for the purpose of erecting a fort upon it. These are the facts so far as the parties are concerned. It was taken in the nature of a contract. The land and house were valued. A fort was built under the express direction of the officer who had command of that place, and the building materials were appropriated by him. He says himself that the value of the property was fully equal to the amount claimed. The question now is whether this claimant shall receive pay or not. This property was taken in 1864.

First, let me say a word in regard to the condition of the country at the time. In 1861 the line of the rebellion extended from, perhaps, the Missouri river to Columbus, Kentucky, through the southern part of Kentucky to the Alleghany mountains, and then north-east to the Potomac river and on to the Atlantic ocean. As early as April, 1862, General Grant had penetrated to Shiloh, and had defeated the rebel army at that place. Halleck soon afterward took Corinth, and the actual line of the enemy had receded from the line already given to southern Arkansas and from that to Corinth and east through northern Alabama to the Alleghany mountains, and nearly all of Tennessee, Arkansas, and Kentucky had been restored to the command of the United States. That was in 1862. Practically no portion of this territory was ever afterward in the hands of the rebels except for a very short time, and, so far as the practical question is concerned, it was no more rebel territory than was the State of Ohio or the State of Indiana when John Morgan made his raid into those States. Practically the rebels were excluded from every portion of this territory at that time, so that, technically only, it may be considered as enemy's territory; and I shall call the attention of the Senate hereafter particularly to this point. I will admit for the sake of the argument, although I do not believe it, that the claimant here may have been technically an enemy. Now, I wish to call the attention of the Senate to these two facts, that those who have opposed this claim oppose it on the ground that this country was technically enemy's country, and that this claimant was technically a public enemy.

There were created during the war two classes of claims. The one class of claims originated from the necessity of the times. The Government was forced to put its bonds in the market, which were sold at a ruinous rate, and the bondholder obtained a bond, as a general rule, for double the amount that he paid to the Government, and six per cent. interest in gold on the entire sum. The sum that those bondholders claim from the Government amounts to something like twenty-five hundred million dollars. I admit, of course, that the Gov-

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ernment needed this money, and that it was in some cases properly expended; but perhaps more than one third of it went to the benefit of speculators and contractors, and those who had the opportunity of selling the bonds in the market. We admit, of course, that we received their money, and I hope the Government may pay every dollar of it. There was another class of claims in the South. When the Army undertook to levy contributions on the people declared in insurrection, they received from the inhabitants large amounts of provisions and military stores which enabled the armies to complete the object for which they had been sent into that country. This class of damages, according to the report of the Secretary of War, amounted last year to about eighteen million dollars. All the claims from the entire southern States that had been preferred did not exceed \$18,000,000. I am very confident that the whole sum will not at any time exceed \$30,000,000. It is really remarkable, when you come to estimate the quantity of provisions supplied by these people, how small the amount of claims is. I wish to call the attention of the Senator from Indiana, [Mr. MORTON,] who, I believe, is a member of the Committee on Military Affairs, to a statement, in his speech in the other House, made by Colonel Hawkins of my State, who was the son of a soldier of the war of 1812, himself a soldier of the war with Mexico, and who, when the rebellion broke out, left his home, sought our lines, and afterward raised a regiment of men, fought gallantly during the war, was taken prisoner and placed under the fire of our own guns in the city of Charleston for several weeks. He states that he has seen six thousand Federal troops fed at one place for two days, without any pay being asked and without any receipts being given for the amount received. The reason why I call the attention of the Military Committee to his name is because he was nominated here for a brevet last year, and that nomination slumbered in the Military Committee. Was it because he was technically a public enemy that his nomination remained there, and that his claims to recognition were allowed to sleep?

I wish to call attention to the fact that these quartermasters' claims have been paid by the Government under the law of July 4, 1864. Under that law the quartermaster's department and commissary department have continued to pay them whenever the proper proof has been furnished to them.

The two classes of claims rest upon precisely the same basis. The Government obtained from those in insurrectionary districts quartermaster supplies and commissary stores, and also the use of real estate, which were as essential and necessary for the purposes of the Government as the money which was obtained in the North and in Europe. Both were obtained for the same purpose and were applied to the same purpose, and the claims of both, in my judgment, rest upon the same ground as to the obligation upon the part of the Government to pay them. I think they rest upon the same basis and that both sets of claimants have the same right in law and equity to be paid, and both ought to be paid.

It is but reasonable that the claimants for whom I am now speaking should be paid. Why not? The objection to the fulfillment of this constitutional obligation, as I understand, rests upon this ground, and this ground alone, that the claimant was technically a public enemy, and that this section of the country was technically enemy's country. Every argument that has been adduced by the Senator from New Jersey, [Mr. FRELINGHUYSEN,] whose argument has covered all the grounds of those opposed to the bill, has been based on the decision of the Chief Justice in Mrs. Alexander's cotton case, in 2 Wallace, 419:

"Being enemy's property, the cotton was liable to capture and confiscation by the adverse party. (Prize Cases, 2 Black, 687.) It is true that this rule, as to

property on land, has received very important qualifications from usage, from the reasonings of enlightened publicists, and from judicial decisions. It may now be regarded as substantially restricted 'to special cases dictated by the necessary operation of the war,' (1 Kent, 92,) and as excluding in general 'these seizure of the private property of pacific persons for the sake of gain.' (Id., 93.) The commanding general may determine in what special cases its more stringent application is required by military emergencies; while considerations of public policy and positive provisions of law, and the general spirit of legislation must indicate the cases in which its application may be properly denied to the property of non-combatant enemies."

What are we to understand by the doctrine advanced in the prize cases concerning enemies' property and public enemies?

It is manifest that the court intended nothing more than was embraced in their decision of the cases in question. All the cases were of ships seized on the high seas while attempting to run the blockade contrary to the proclamation of the President. There is no controversy as to the character of these vessels and their cargoes. What was said by the court applied wholly to the case before them, and not to the status of the citizens of the several States.

The rule adopted in these celebrated cases would never apply to the property of citizens seized on land of a very different character. This class of property could only be confiscated by the authority of the nation. No opinions of publicists and no practice of nations relative to property on the high seas has any reference to real estate. This is the limit of the use made of the terms public enemy and enemy property.

The Chief Justice in the Alexander cotton case referred to the prize cases. But it is very evident that he applied his own sentiments of justice and his enlarged understanding to the solution of the case. He makes the distinction clearly between property seized on the high seas and property taken on land. The general opinions of the court in the prize cases in such cases can never be safely applied to the proper adjudication of property seized on land.

The decision in the prize cases rested on public law, that of the case in question on statute law. It was not subjected to the rules adopted in courts of admiralty for the condemnation of property admitted to be the subject of seizure because it is enemy property, and because it may be and is made use of by the enemy to furnish him the sinews of war. To cripple his resources becomes a matter of the first importance, and is, therefore, resorted to. The rule, however, even in this case is a harsh one, and unworthy of the sanction of a just and honorable people.

In proof of this view of the case I refer to the opinions of Chancellor Kent, who says:

"Vattel condemns very strongly the spoliation of a country without palpable necessity; and he speaks with just indignation of the burning of the Palatinate by Turenne, under the cruel instructions of Louis XIV. The general usage now is not to touch private property upon land without making compensation unless in special cases, dictated by the necessary operations of war, or when captured in places carried by storm, and which repelled all the overtures for a capitulation. Contributions are sometimes levied upon a conquered country, in lieu of confiscation of property, and as some indemnity for the expenses of maintaining order and affording protection. If the conqueror goes beyond these limits wantonly, or when it is not clearly indispensable to the just purposes of war, and seizes private property of pacific persons for the sake of gain, and destroys private dwellings, or public edifices devoted to civil purposes only, or makes war upon monuments of art and models of taste, he violates the modern usages of war, and is sure to meet with indignant resentment, and to be held up to the general scorn and detestation of the world."

It was upon such a rule as that laid down by Chancellor Kent that the Chief Justice was guided in his more liberal and enlightened views. The same spirit of humanity and liberality is shown by Mr. Wheaton in the following summary of the progress of the customs of nations on the rights of enemies over property, part four, page 597:

"In ancient times both the movable and immov-

able property of the vanquished passed to the conqueror. Such was the Roman law of war, often asserted with unrelenting severity; and such was the fate of the Roman provinces subdued by Northern barbarians on the decline and fall of the western empire. A large portion—from one third to two thirds—of the lands belonging to the vanquished provincials was confiscated, and partitioned among their conquerors. The last example in Europe of such a conquest was that of England by William of Normandy. Since that period among the civilized nations of Christendom, conquest, even when confirmed by treaty of peace, has been followed by no general or partial transmutation of landed property. The property belonging to the Government of the vanquished nation passes to the victorious State, which also takes the place of the former sovereign in regard to eminent domain. In other respects, private rights are unaffected by conquest."

The conquest of England and the apportionment of the lands among the soldiers of the victorious leader was the last application of the terrific rule of national law advocated by the Senator from New Jersey. Then ensued a reign of tyranny the like of which never before or since has been witnessed for duration and cruelty. It is the rule of the highwayman, stand and deliver. It arose in an age when it was lawful to kill your enemy in battle and spoil him of his goods or lead him, his wife, and children into slavery. It is a rule worthy of the days when the captive enemies made sport for a Roman audience in the arena of the amphitheater amid the ferocious monsters of Africa that were dragged from their distant retreats to devour their human victims. It is a rule ever "more honored in the breach than in the observance," now tolerable only among nations destitute of either conscience or humanity. The rule of Christian civilization is to respect the private property on land. That the decisions in the prize cases are not free from grave objections in reference to the reasoning outside of the actual question before the court I will call the attention of the Senate to the remarks of Judge Sprague in the Law Reporter.

It is unfortunate for the cause of the country that the cases were decided during the heat of battle, when the minds of men were unsettled by passion, when every energy was directed to the immediate purpose of saving the Union in its then terrible condition. The whole country was intent on the present. The future was dark and uncertain and of no consequence at the time. The idea of subordinating action to the future good of the country did not enter largely into the calculations of men. The court took no care to limit their opinions to the simple decision of the case, but gave color to the idea that in their sweeping generalities they intended to embrace property on sea and land in the same category. This was neither right nor intended:

"An objection to the prize decisions of the district court has arisen from an apprehension of radical consequences. It has been supposed that if the Government have the rights of a belligerent, then, after the rebellion is suppressed, it will have the rights of conquest; that a State and its inhabitants may be permanently divested of all political privileges and treated as foreign territory acquired by arms. This is an error, a grave and dangerous error. Belligerent rights cannot be exercised when there are no belligerents. Conquest of a foreign country gives absolute and unlimited sovereign rights. But no nation ever makes such a conquest of its own territory. If a hostile power, either from without or within a nation, takes possession and holds absolute dominion over any portion of its territory, and the nation by force of arms expels or overthrows the enemy and suppresses hostilities, it acquires no new title, but merely regains the possession of which it had been temporarily deprived. The nation acquires no new sovereignty, but merely maintains its previous rights."—*Law Reporter*, June, 1862, case of the *Amey Warwick*.

When the flag of the nation made its appearance in Alabama, the authority of her laws was reestablished. The insurrection did not destroy the rightful authority of the Constitution, nor change in any respect the rights and obligations of the citizens. It suspended for a time the peaceful execution, and for a time obscured the light of our political sun; but like the national sun when the clouds pass away it shed over the whole land its life-giving and protecting rays when the insurgents gave place to the national soldier.

No new laws, no new form of government,

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no new authorities or rights sprung up; the same republican Government came back to its faithful friends, and covered them again with its protecting ægis. The laws of nations no more supplanted the Constitution than the moon in its transit over the disc of the sun supplants or mars the power and functions of that luminary.

Mr. Phillimore says:

"The United States, by their inferior courts, have decided that when a conquered territory is repossessed by its former sovereign, private individuals acquire a right to all property that belonged to them before it was taken by the conqueror."—*2 Bay, 255.*

This doctrine of constructive treason or enemy property would sweep away all rights, and reduce the people to a degradation worse than slavery.

Confining our attention to public law, and under the direct operation of the rules of war, we have a definite and well-established one applied to the question under consideration. The regenerating principles of Christian civilization have mitigated the asperities of war and rendered men under its awful ordeal humane toward those whom stern duty commands them to fight. Soldiers are not the less men because the ill-advised counsels of princes place them in conflict. So decided are the opinions of publicists on this question that Vattel lays down the following rule for the payment of property taken by the Government:

"The damages under consideration are to be distinguished into two kinds: those done by the State itself or the sovereign, and those done by the enemy. Of the first kind some are done deliberately and by way of precaution, as when a field, a house, or a garden belonging to a private person is taken for the purpose of erecting on the spot a town, rampart, or any other piece of fortification, or when his standing corn or his storehouses are destroyed, to prevent their being of use to the enemy. Such damages are to be made good to the individual, who should bear only his quota of the loss, (181). But there are other damages caused by inevitable necessity, as, for instance, the destruction caused by the artillery in retaking a town from the enemy."

The bill reported by the committee is based upon the admitted loyalty of the claimant. There is no question raised by them on the ground that there has been any failure on her part to maintain her faith inviolable with the Government. Her duty has been constant and complete.

How stands the case with the Government? The insurgents take possession of the government of the State; they overrun the country with their armed soldiers; they enforce compliance; they silence all opposition; not an officer of the nation appears; not a marshal, not a soldier, not a vestige of Federal authority is left. The people are taxed for a cause they detest; they are forced into the army and navy of a pretended Power. Their most sacred rights and dearest interests are trodden in the dust. Who, now, is to be censured? Has the long-delayed action of the Government to preserve its faith given it new and unknown powers over the neglected and ruined citizen? Has its timid action released it from its solemn constitutional duties? Has war made the nation an irresponsible tyrant, cut loose its constitutional restraints and obligations? Has it divested the citizen of any right with which he has been endowed by nature, and which the nation was formed to guard? Even the general laws of nations hold in check the conduct of men, and forbid either cruelty or pillage. The generous and magnanimous barbarian respects the rights of his brave foe, and would scorn to assail his friends and allies and rob them of their property.

What can be said of a nation's right to thus violate her admitted duties? If there be a distinction in actions there can be no mistaking the relation of these parties. Each must fulfill its specified and written duty. The nation must have resources. It can take them on one condition from its own faithful citizens. That condition is fundamental and constantly obligatory.

There is a solemn compact between society and the individual that he shall retain and use

his property for his own happiness so long as he discharges his duties to it. Society promises protection for his property so long as he shall observe the conditions affixed to the tenure. All civilized States have "prescribed the conditions under which property shall be held, aliened, transmitted, or forfeited." "No condition of enjoyment, no cause of forfeiture which they have not specified can be presumed to exist. An extraordinary discretion to resume or take away the thing without any personal fault of the proprietor is inconsistent with the notion of property." It is contrary to all reason and common sense to divest him of a right which the State was ordained to protect for a cause over which he had no control; and which was acting against his interests, his rights, and his will. In our Government those rights have been carefully guarded, not only by the common law, but by solemn constitutional enactment.

It has been urged that if the property of loyal men must be paid for the property of rebels must likewise. There are no distinctions between one class of citizens and the other within the lines of the enemy. The doctrine of writers on public law and the decisions in the prize cases proclaim all public enemies. The decision in favor of the payment of this case would involve the entire amount of all property taken and destroyed during the war.

If it were true that all are public enemies the distinction could still be made. But it is not true in any sense except so far as it refers to property taken on sea. But Congress has by its legislation made the distinction. By the law of July 17, 1862, all the property of those in rebellion was made confiscable. The property of loyal citizens was protected, and has been in all the acts of Congress and in all the proclamations of the Executive. There is, then, no ground to apprehend any difficulty from this source.

Mr. CONKLING. Will the Senator allow me to ask him a question on that point?

Mr. FOWLER. Certainly.

Mr. CONKLING. I understand the Senator to argue that there is, by reason of the legislation of Congress, a distinction between the loyal and the disloyal. I do not wish to direct his attention to the question whether a statute could be operative against the Constitution, but to draw his attention to this point: the President of the United States has recently put out a proclamation of amnesty to all persons whatever who were engaged in the rebellion. That is more than a pardon, because a pardon must be delivered as a deed; it must be pleaded, and it must be proved, whereas an amnesty is an act of oblivion, and makes all acts of treason as if they had never been. Now, I ask the Senator, if that proclamation begood, whether it does not inevitably from this time forth sweep away all distinctions of the kind he speaks of between the loyal and the disloyal; whether by reason of that at all events they are not washed and become as white as any loyal person can be?

Mr. FOWLER. I will answer the Senator from New York in a moment; but before I do so I should like to ask him a question. It is, whether that proclamation of amnesty would relieve a person in the State of Missouri or the State of Tennessee at this time from disabilities imposed by the State in consequence of the rebellion, and also from those disabilities imposed by the third section of the fourteenth article of amendments to the Constitution of the United States?

Mr. CONKLING. My impression would be that the proclamation falls very far short of the effect which the Senator from Tennessee no doubt would assign to it. If he means to argue that it would not reach those disabilities I should very likely agree with him; and so if he were to say that it falls short of removing disabilities of other kinds. But my question to him was upon the hypothesis that that proclamation is of

virtue. If it is of no virtue, of course it takes no effect; but if it is of doubtful virtue, of course the question would suggest itself to the Senate whether we had better anticipate the determination of its effect by acting upon a case like this; because if we hold that this woman, she being loyal, is entitled to recover her damages in this case, then if the proclamation of amnesty is held good, even if there would otherwise be a distinction between the loyal and disloyal, beyond all question traitors are put from this time out on a par with other persons. Indeed, no person could be heard in court to question their loyalty; because, more than a pardon, it is an act of oblivion which relates back and makes as if they had not been all their derelictions against loyalty. It is that question to which I beg to draw the Senator's attention. What the effect will be in that event upon the enactments or provisions of States within States I am not prepared to say, and should not be without knowing what sort of provisions within States he means to direct my attention to.

Mr. FOWLER. Mr. President, I believe the Senator from New York entertains the opinion I was about to express. A proclamation of amnesty is a general pardon, which relieves all persons embraced in it. It differs in this respect from the special pardon, which must be delivered to the person. It can extend only to relieve the individual from the penalties inflicted for the crime he has committed, as treason or otherwise. It may be plead in bar of any action that may be had against him on account of that crime for which he has been pardoned. It could not restore him to his former status if there were any disability imposed upon him either by the State or the nation. The disabilities imposed by the fourteenth article of amendments to the Constitution, or by the constitutions of the States of Tennessee and Missouri, would not be affected by an amnesty or a pardon. It does not wipe out all the past and make the present as if the past had never been, only so far as the penalties prescribed in preëxisting laws are concerned. I come now to another and a much higher consideration of the subject: the moral obligation resting upon the nation to preserve good faith. So important is this in despotic Governments that the idea of bad faith on the part of the prince is not tolerated. No more can he do wrong than the divinity he is supposed to represent. The importance of preserving unstained the faith of the sovereign is so great that the standing maxim, "the king can do no wrong," cannot in thought be violated. It is no less important, indeed, it is far more important, to preserve the faith of the Republic free from the appearance of evil. The one reposes on power as well as justice; it addresses itself to the fears, not alone to the wisdom of its subjects. The other commends itself to the wisdom, virtue, and conscience of the people. Its dignity and power reside in its excellence alone.

There are in the hearts of all men distinctions in actions. Some are approved, others disapproved. These distinctions are fundamental, and no power can change them or our innate sense of their character.

The relation of the citizen to the State is one recognized and admitted in the hearts of all men, the humblest as well as the most exalted. It is as clear as the relative duties of parent and child. The one renders obedience and faith for protection and happiness in the enjoyment of his God-given rights. This relation no mortal or immortal power can destroy with impunity. Sever it once, and then look for the end of your civil institutions. Among the inalienable rights of men that of using and enjoying the proceeds of his own labor is undeniable. Property of all kinds is the representative of his toil, which he treasures up for the support of his hours of decline or for the enjoyment of his children, dearer far than life. The Gov-

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ernment that violates its faith in respect to the citizen's property sets at naught all law human and divine. In the consideration of this question faith is everything. It has led the nation to its present position of power and usefulness. It has carried it successfully over every obstacle in its triumphant history. The people will not now abandon it for the sake of a few millions of dollars. The Government cannot afford to turn bandit for many thousand millions. It cannot say there is no distinction between right and wrong, between innocence and crime. To take the property of a faithful citizen without just compensation is a crime compared with which robbery sinks into insignificance. The more obscure and helpless the citizen the more heinous and fatal is the crime of the nation.

I stated that it had been the policy of the Government always to respect those who were loyal and to pay, or at least promise to pay, them for their property used or destroyed during the insurrection, and I will call your attention to the wishes of General Washington expressed in his first message after the whisky insurrection in Pennsylvania, in regard to this very question:

"Among the discussions which may arise from this aspect of our affairs, and from the documents which will be submitted to Congress, it will not escape your observation that not only the inspector of the revenue but other officers of the United States in Pennsylvania have, from their fidelity in the discharge of their functions, sustained material injuries to their property. The obligation and policy of indemnifying them are strong and obvious. It may also merit attention whether policy will not enlarge this provision to the retribution of other citizens who, though not under the ties of office, may have suffered damages by their generous exertions for upholding the Constitution and the laws. The amount, even if all the injured were included, would not be great; and on future emergencies the Government would be amply repaid by the influence of an example that he who incurs a loss in its defense shall find a recompense in its liberality."

It appears to me, so far as these States and their people are concerned, that if the whole question of right and of law were set aside the policy of the measure is sufficient alone to recommend this claim to the respectful consideration of Congress. A liberal policy would convince them that the Government of the United States was a Government such as they had supposed it to be; that when it had plighted its faith it would not violate it; that they might rely upon the faith they had always reposed in the Government established by the Constitution framed by our fathers and on which they had always relied for their protection and for their rights. Mr. Lincoln, when he issued his proclamation of 22d September, 1862, solemnly promised—

"That the Executive would in due time recommend that all citizens of the United States who shall have remained loyal thereto throughout the rebellion shall, upon the restoration of the constitutional relations between the United States and the respective States, be compensated for all losses by acts of the United States, including the loss of slaves."

He states distinctly in that proclamation that he will recommend to Congress that loyal persons be paid for all losses by acts of the United States, including even the loss of slaves. This doctrine was maintained, according to my recollection, in all the proclamations he issued relating to the subject. In my judgment the distinguished judge who delivered the opinion in the case of *Mrs. Alexander's cotton* gave sanction to the doctrine which I maintain here, that claims for property taken and appropriated by the Government should be paid for, unless the owner were disloyal; and then of course he is deprived of the opportunity of making his claim good by statute law, not by the authority of any writer or public law in modern times. You could not even then, by any decision of the Supreme Court, find any sanction for confiscating rebel property by the authority of a military commander.

Perhaps my own State is more interested in this question than any other, and for this reason: we had forty thousand soldiers in the armies of the United States, and while they

were from home the Federal troops in Tennessee subsisted for a long time off our people. A large amount of supplies were obtained from the families of those very soldiers, so that they were themselves deprived of the means of living. The women and children went into the fields and cultivated the soil while the soldiers were in the Army. These privations and self-sacrifices do not affect the law of the case, provided they are to be regarded in fact and in morals as public enemies. Upon such a miserable technicality as that of a public enemy as understood in national law no gambler would seek to strip his victim of his money. What is there in this disgraceful pretext that preserves even the appearance of truth? What an insult to common decency to call such men as the soldiers of the Union Army from Tennessee, Alabama, and Arkansas public enemies; with what anguish and sorrow the children of those who died that their country might live, as they deck the graves of their heroic fathers upon each returning spring, will recall the heartless Congress that proclaimed all that was honored and dear to them on earth worse than traitors; for they become twice traitors: once traitors to friends and neighbors, to fight for home and country, then to be registered traitors by that country for which their life's blood was poured out as an honored libation would be a deplorable record for fidelity.

The Government has uniformly acted on the principle that no distinction should be made between the loyal citizens South and North. The act of July 4, 1864, was extended February 19, 1867, to the States of Tennessee and West Virginia. Since that period claims from these States have been regularly paid at the quartermaster's and commissary departments.

Government did not refuse to pay the southern soldier for his services. How, then, can it refuse to pay for his property that has been taken and used? The corn, hay, wagons, horses, and houses are the representatives of the soldier's labor. His services in the Army are nothing else. How do you become obliged to pay for the one and not the other? Is it quite reasonable that you are bound to pay him for service in the Army and when you take his labor in the form of quartermaster's or commissary stores you are relieved from any such obligation? No; it has ever been the custom of this nation to pay its citizens for their property, not to rob them.

Two classes of claims have been considered, those of the bondholders and money-changers for bonds purchased at ruinous rates, and those of the loyal South for property taken as a forced loan. Reject the latter because these people have been proclaimed falsely public enemies, and you will not command one vote from the Delaware bay to the Rio Grande in favor of paying the bonds. There will then be found no human being so degraded as to become the slave of the bondholder. You will have set at naught the nation's faith and honor, and who so mean as to do it reverence will be found in all that sad and blasted country? When a mere geographical line shall make an end of right and wrong, of patriotism and treason, there can be no love, no duty, no honor, no faith in such a Government. The Union soldier will scorn to fight the battles of a land that proclaims him infamous. The confederate soldier will toil with reluctance to pay a debt that he hates.

Notwithstanding that he has fought against his old flag long and bravely he has not therefore become insensible to faith and duty. He will never admit the right of the nation to repudiate its honest obligations and dishonor its own citizens. Sad as it may be for him to pay the bonds that overthrew his cause, he will love as ever to serve a country that preserves unstained its promised faith. Animated with a heroism that led him, although unpaid and unfed, to achieve such success, that the world stood astonished, he will in the future as in

the past follow with a devoted heart the march of his country's glory. From the South no step will be taken to sully her fame or stain her history.

The Senator from New Jersey [Mr. FRELINGHUYSEN] has presented, as his most polished and effective argument, the following against this claim: if this lady were loyal to the United States she was an enemy to the confederacy. If she was an enemy to the confederacy her property was liable to confiscation, and therefore worth nothing. The Government should not be required to pay for that which was of no value. I apprehend that a soldier who had fought through the rebellion, and upon returning to his home should find it leveled to the ground and used by the Government, his family turned out to the storm, would find but little difficulty in solving such a fallacy without the aid of logical rules. In the whole range of the debate there has been no argument so well constructed, and I must say so creditable to the genius and even the morals of the opponents of loyal claimants from the South.

The honorable Senator from New Hampshire stated that loyal citizens from New Orleans and Mobile had been refused payment at the War Department for property seized and used by the Army during the war. This fact has been adduced to prove that all such claims have been rejected.

I know of two claims that were paid for houses seized and used for forts in Tennessee under circumstances similar to those under which Miss Murphey's was taken. These were both fine houses. The one cost the Government about thirty-eight thousand dollars, the other twenty-nine thousand. I give the amounts in round numbers. The actual sum cannot vary far from these figures. I am not aware that this account was ever preferred to the Department.

Mr. DOOLITTLE. I desire to inquire of the Senator where that property was situated?

Mr. FOWLER. The property was situated in Nashville, Tennessee. One of the houses was taken during General Buell's term of service, the other by General Rosecrans, who appointed a commission to assess the value of the property. This was done, the house removed and used, the fort built, and the owner received his pay. The other house was paid for on the award of a commission appointed by the Secretary of War, at the head of which was General Canby.

One argument of a most singular character has been advanced: that it is not the business of the national sovereignty to protect the interests of the individuals. The protection of private rights belongs to the States and not to the sovereign power, which is alone concerned with the general interests of the nation and with the relation of the States.

The object of the Federal Government is better set forth in the preamble to the Constitution than in any other part. Its framers undertook to express the purpose for which it was founded. They said their purpose was "to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and posterity." This was not between the States alone, but also among the people individually and personally.

They had tried already a Government of States, operating alone on States and dependent on their legislation, and it had most signally failed. They now formed a Government of their own, for the purposes set forth in the Constitution, which they gave it, to act on the citizens directly, and upon the States indirectly. The primary and fundamental element of the Federal Government is its direct interest in the personal welfare of the individual. It is the forum in which the whole people individually and collectively appear for the enforce-

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ment of their rights or the redress of their wrongs.

The General Government is no sovereignty in the sense of that term as used in the books. That idea has been derived from nations that vainly believed that their prince derived his authority from the Deity, whose representative he was. There the citizen is subordinate to the State, and derives all his privileges from it. In them are no rights but those of the sovereign. The citizen has privileges, not rights. This doctrine has been greatly modified until, through successive efforts of the more advanced peoples, it has vanished into a brighter hope and holier faith in humanity.

It is the glory of the American people that they had learned the nature, worth, and dignity of the individual, and embodied their faith in their political institutions. Here the individual is the prince and is endowed with rights from his Creator. In forming his institutions he created an agent and clothed it with certain specified and limited privileges. To that agent he gave a power of attorney which he called a Constitution. Beyond the clear and expressed meaning of its terms that agency has no power to go. Absolute compliance within the spirit and letter of the document is demanded. This agency was created to guard his rights and to execute his will.

The term sovereignty does not apply to our institutions in the sense of the writers on public law, and as derived from old and different institutions which typify a different order of thought and an antagonistic civilization. The authority of the Government is a divided one. The local State governments are more immediately charged with local and sectional interests, general and personal, so far as that limited territory is concerned. To it there is due full and ample allegiance within the sphere of its action and in the discharge of its admitted authorities and privileges, which are subordinate to and within the limits of the rightful authorities of the Federal Government. The citizen owes a double allegiance or obligation, not in conflict but in strict harmony with each other. This allegiance is based upon the unchangeable condition of protection and compliance with the delegated authority of the State and national Governments. The failure to fulfill the condition relieves the citizen from any culpability for yielding to a power he could not resist when deserted by his own admitted Government, and for yielding a certain allegiance to the usurper. Such conduct on the part of the citizen under such circumstances does not impair his allegiance to his own Government, and when it resumes again its authority it must respect the rights and conduct of its citizens. It could not fail to regard him as having acted within the line of duty, provided always that he acted in good faith to his own Government and complied only from force. Such conduct must entitle him to the full measure of his rights as a citizen.

As the people who formed the Government gave it no authority to divest a citizen of his personal rights and guarantees without a fair trial for an admitted and legal crime, it could by no means seize and appropriate his property unless upon the condition set forth in its power of attorney; and that is, no "private property shall be taken for public use without just compensation." The Government may seize the property and use it. It has that privilege conceded; but the condition to its taking is imperative—it must pay for it. Taking property by the Government is only relieved from highway robbery by a strict and generous compliance with the constitutional condition under which it may be taken.

Society has authorized the Government to seize and confiscate the property of a traitor or an enemy. Even this must be condemned according to law. It cannot be taken at the beck of a military chief under the wretched pretext that war sanctifies all villainy and crime;

much less can it tolerate outrages against loyal and unprotected citizens.

There never prowled over land a bandit gang or roamed over the ocean a pirate crew that had not a better pretext for their rapine than the miserable doctrine of "public enemy" that has been applied to the loyal men and women of the South, to defraud them of their rights and to stain their memories for coming ages. In every battle for the nation's honor, glory, and life they have shed their blood freely and grandly. In this the last great struggle for its independence and integrity, they have kept their faith and discharged their duties to the utmost limit of the letter and spirit. To deny them justice because some forgotten publicist under different ages and a different form of government was guided by different ideas and a different religion is the climax of stupidity and villainy.

Nor can I agree with those who maintain that the States committed treason, and are therefore punishable with death. States are but corporations, and have only an ideal being, and can do nothing that partakes of the character of crime. It is only a human being that can do right or perpetrate crime. Right and wrong are only predicable of the actual person, not the figurative. The Union will, I trust, be perpetual in all its elements. From it no one can fall for an instant without destruction of the whole. It is the citizen alone in his personal responsibility that must stand or fall by his conduct. The State is but the expression of the citizens' will in its action. To admit for a moment the power of the State to remove itself or its citizens from their rightful relations to the Union is to proclaim the dissolution of the Government. No more can a member of the Union be severed from its place and live, or be restored, than can a limb be severed from the body and not perish.

I deprecate a recurrence to the memories of this fearful struggle. The glowing description of the Senator from New Jersey of the ravages in the valley of Virginia reminded me of Mr. Burke's terrible description of Hyder Ali's march through the Carnatic. It was but little less thorough, and equally opposed to the more enlightened laws of modern warfare. Nothing but unrelenting savage war, maddened by the fury of battle and terrible provocation, can redeem them from the disapproval of a Christian conscience. It was the sad necessity of the time that induced that course.

From such scenes lessons of wisdom may be learned, but they tell us to avoid the causes that tend to inflame the passions and turn loose the furies. They alone are to be dreaded and shunned. They furnish no examples for our imitation. These divinities should be banished as they were by the Romans from the presence of men, and have their abode among the gods of the regions below.

Nor can I envy the sensibilities of the man who derives his rules of justice from the merciless scenes of flagrant, vindictive civil war. Rather learn to treat every section of our common country from the examples furnished by the triumphs of peace. Happily, passion is of short duration. No nation or individual can afford to indulge its rage. It is the benign reign of forgiveness and sympathy that lasts long and grows more beautiful and useful with its increasing years. The people will again learn to forgive and love each other as in the past, all proud of their country and their race.

From this great national drama that has covered the whole land with blood and heaped mountains of debt upon coming generations may we not hope for an adjustment that shall reconcile every section of this vast and bountiful land to the generous and peaceful rule of the Republic? With the overthrow of the only discordant element, human slavery, a reconciliation of all the people upon common principles of mutual love, equal justice, and a generous forbearance will more than compensate

for the sublime sacrifices made by both sections. Since peace has returned partisan and sectional prejudice, nurtured under the unhappy auspices of an institution based upon cupidity, pride, and violence, should give place to an enlarged statesmanship that will prove that universal personal liberty is the safeguard of the nation's perpetuity. Let justice and faith have their temples founded in every section and their worship cultivated by every citizen, irrespective of State lines or political associations. Under their benign rule the public faith will be strengthened as the prosperity of the nation is advanced.

State Passenger Taxes.

SPEECH OF HON. O. P. MORTON,
OF INDIANA,IN THE UNITED STATES SENATE,
January 21, 1869.

The Senate having under consideration the bill (S. No. 798) to punish the collection of illegal taxes upon passengers—

Mr. MORTON said:

Mr. PRESIDENT: In order that the character of this bill may be understood, I will begin by referring to the statutes of two States. I will first refer to the law of Maryland, passed in 1832, by which a tax is levied upon passengers between the cities of Baltimore and Washington.

By the eighth section of that act it is provided that "one fifth of the whole amount which may be received for the transportation of passengers on said railroad by said company during the six months last preceding shall be reserved and paid to the treasurer" of the State of Maryland. It is then provided—

"That the charge for conveying each person the whole distance between the cities of Baltimore and Washington shall not be reduced below the maximum of \$2 50 hereinbefore established, unless by the consent of the General Assembly."

It is then provided further:

"That in no case shall the amount received by the State from the Baltimore and Ohio Railroad Company, for the conveyance of each person the whole distance between the two cities, be less than twenty-five cents."

The substance of this statute is, first, fixing the rate of passage at \$2 50 between the two cities, and providing that one fifth of the passage money shall be paid to the State of Maryland. It then provides that the Legislature may reduce the fare, but that in no case shall there be paid to the State of Maryland less than twenty-five cents for each passenger carried. Afterward, in 1844, there was an amendatory act passed by which the company was authorized to reduce the rate of fare to \$1 50 to each passenger; "provided always," says the act in conclusion, "that one fifth of all such passage money so received be accounted for and paid into the State treasury, as now required by law."

The second section provides for a reduction of fare where there are a certain number of passengers to be carried from one city to the other, and to be returned within three days, in which event the rate of fare is to be reduced, which would be an anomaly now in railroad fares; but the section concludes:

Provided always, That one fifth of all such passage money so received be accounted for and paid into the State treasury as aforesaid."

The provision that I first read is in substance that fifty cents shall be paid to the State of Maryland by the Baltimore and Ohio Railroad Company for every passenger carried between these two cities. The amendatory act authorizes the fare to be reduced to \$1 50, and provides that one fifth of that amount, shall be paid to the State of Maryland, which is in effect a provision that the Baltimore and Ohio Railroad Company shall pay to the State of Maryland thirty cents for each passenger car-

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ried. So much for the legislation of the State of Maryland.

I will now refer to the legislation of New Jersey in regard to the Camden and Amboy railroad and the different branches and extensions of that road. By the twenty-third section of the act of 1830 it is provided—

"That from and after the completion of the said road or roads it shall be the duty of the treasurer of the said company, under oath or affirmation, to make quarterly returns of the number of passengers and the number of tons of goods, wares, and merchandise transported on said road or roads to the treasurer of this State for the time being, and thereupon to pay to the said treasurer of the State at the rate of ten cents for each and every passenger, and the sum of fifteen cents for each and every ton of merchandise so transported thereon, and that no other tax or impost shall be levied or assessed upon the said company."

The law of New Jersey provides that for every passenger carried on these roads the company shall pay to the State ten cents, and for every ton of merchandise carried fifteen cents.

Now, Mr. President, my first proposition is, that these several provisions in the statutes of Maryland and New Jersey are, in substance and effect, a tax upon passengers, or perhaps the phraseology might be better to say a tax upon travel; and upon this point I will refer to several authorities. But, first, as we all understand, a tax to be paid by a railroad company upon each passenger carried is, in substance, a tax upon the passenger; because, in the nature of things, it is added to the price of the passage. Duties collected upon imports we know are in fact levied upon the consumers. The importer cannot afford to pay the duty on the goods imported unless he adds it to the price of the article imported; so that, in point of fact, the consumer, the purchaser of the goods from the importer, pays the tax; and every tax required to be paid by a railroad company for each passenger carried, whether it is said to be thirty cents upon each passenger or whether it is said to be one fifth of the whole amount of money paid by the passenger, is in substance a tax levied upon the passenger.

This position is so fully sustained by the authorities that it is hardly worth while to elaborate it. The first case that I will refer to is the case in 7 Howard, the case of *Smith vs. Turner*, commonly known as one of the passenger cases. The syllabus of the case is as follows:

"A State law which requires the masters of vessels engaged in foreign commerce to pay a certain sum to a State officer on account of every passenger brought from a foreign country into the State, or before landing any alien passenger in the State, is inoperative, by reason of its conflict with the Constitution and laws of the United States."

In that case the State of Massachusetts and the State of New York had each of them passed statutes. In the case of New York, the one under consideration, the statute provided that the health commissioners should be entitled to demand and receive from the master of every vessel that should arrive in the port of New York from a foreign port one dollar and a half for every cabin passenger and one dollar for each steerage passenger; and from each coasting vessel twenty-five cents for every person on board. The statute of Massachusetts was the same in substance, perhaps almost in language. There the statute did not say it was a tax upon the passenger. The tax was not levied upon the passenger in terms; but the ship bringing the passenger had to pay so much on account of bringing the passenger; and in the case of these railroad companies they are required to pay so much for each passenger carried. In other words, the cases are precisely analogous. In the very able opinion delivered by Mr. Justice Miller, of the Supreme Court, in the case of *Crandall vs. The State of Nevada*, (6 Wallace, 40,) he uses the following language, after quoting the New York statute:

"That statute does not use language so strong as the Nevada statute, indicative of a personal tax on the passenger, but merely taxes the master of the vessel according to the number of passengers"—

Just as in New Jersey and in Maryland—

"but the court held it to be a tax upon the passenger, and that the master was the agent of the State for its collection. Chief Justice Taney, while he differed from the majority of the court and held the law to be valid, said of the tax levied by the analogous statute of Massachusetts, that 'its payment is the condition upon which the State permits the alien passenger to come on shore and mingle with its citizens, and to reside among them.' It is demanded of the captain, and not from every separate passenger, for convenience of collection. But the burden evidently falls upon the passenger, and he, in fact, pays it, either in the enhanced price of his passage or directly to the captain before he is allowed to embark for the voyage."

The laws of Massachusetts and of New York cannot be distinguished in principle from the laws of Maryland and New Jersey that I have read. Now, Mr. President, I will refer to a recent case in the Supreme Court, in which the opinion of the court was delivered by Mr. Justice Miller. It is a case which came up from Nevada. In 1865 the Legislature of that State passed an act enacting that "there shall be levied and collected a capitation tax of one dollar upon every person leaving the State by any railroad, stage-coach, or other vehicle engaged or employed in the business of transporting passengers for hire;" and that the proprietors, owners, and corporations so engaged should pay the said tax of one dollar for each and every person so conveyed or transported from the State. For the purpose of collecting the tax another section required from persons engaged in such business, or their agents, a report every month, under oath, of the number of passengers so transported, and the payment of the tax to the sheriff or other proper officer.

That was the statute of Nevada. It is true the statute first declares that there shall be a tax levied of a dollar on each passenger; but it is not collected off the passenger. The operative words of the statute are those which declare the stage company shall pay for each passenger carried from the State the sum of one dollar. And this was held by the Supreme Court—and I believe the court was unanimous—to be a tax upon the passenger. The court say:

"It is claimed by counsel for the State that the tax thus levied is not a tax upon the passenger, but upon the business of the carrier who transports him."

"If the act were much more skillfully drawn to sustain this hypothesis than it is, we should be very reluctant to admit that any form of words, which had the effect to compel every person traveling through the country by the common and usual modes of public conveyance to pay a specific sum to the State, was not a tax upon the right thus exercised. The statute before us is not, however, embarrassed by any nice difficulties of this character. The language which we have just quoted is, that there shall be levied and collected a capitation tax upon every person leaving the State by any railroad or stage coach; and the remaining provisions of the act, which refer to this tax, only provided a mode of collecting it."

And that is precisely the case with these statutes of Maryland and New Jersey. They did not say that there shall be a tax levied upon the passenger any more than the statutes of New York and Massachusetts said so, but that the company shall pay for each passenger so much money to the State, it being in substance a tax upon the passenger, and the railroad company being simply made the agents for the collection of it. The authorities on this point are so strong and so direct that it is hardly worth while to occupy the attention of the Senate by commenting further on it.

Assuming, then, that this is a tax upon passengers or upon travel, which amounts to the same thing, my next proposition is that it is in violation of the Constitution of the United States, and is therefore void. I do not mean to say that it is in violation of any particular provision of the Constitution of the United States, but I assume that the Constitution guarantees to every citizen of the United States the right of free travel throughout all the States and Territories, without taxation, interruption, or obstruction by State laws; that it is a right springing essentially from the character of our

Government, from the very nature of the Union. Our Constitution gives to us a common country, and every citizen of the United States has a right to travel into or out of or through any State or Territory without being subject to any tax or obstruction by State laws. This is my general proposition, and in support of it I will read from the opinion of the Supreme Court in the case to which I have just referred:

"The people of these United States constitute one nation. They have a Government in which all of them are deeply interested. This Government has necessarily a capital established by law, where its principal operations are conducted. Here sits its Legislature, composed of Senators and Representatives from the States and from the people of the States. Here resides the President, directing, through thousands of agents, the execution of the laws over all this vast country. Here is the seat of the supreme judicial power of the nation, to which all its citizens have a right to resort to claim justice at its hands. Here are the great Executive Departments, administering the offices of the mails, of the public lands, of the collection and distribution of the public revenues, and of our foreign relations. These are all established and conducted under the admitted powers of the Federal Government. That Government has a right to call to this point any or all of its citizens to aid in its service, as members of the Congress, of the courts, of the Executive Departments, and to fill all its other offices; and this right cannot be made to depend upon the pleasure of a State over whose territory they must pass to reach the point where these services must be rendered. The Government, also, has its offices of secondary importance in all other parts of the country. On the sea-coasts and on the rivers it has its ports of entry. In the interior it has its land offices, its revenue offices, and its sub-Treasuries. In all these it demands the services of its citizens, and is entitled to bring them to those points from all quarters of the nation, and no power can exist in a State to obstruct this right that would not enable it to defeat the purposes for which the Government was established."

"The Federal power has a right to declare and prosecute wars, and, as a necessary incident, to raise and transport troops through and over the territory of any State of the Union."

"If this right is dependent in any sense, however limited, upon the pleasure of a State, the Government itself may be overthrown by an obstruction to its exercise. Much the largest part of the transportation of troops during the late rebellion was by railroads, and largely through States whose people were hostile to the Union. If the tax levied by Nevada on railroad passengers had been the law of Tennessee, enlarged to meet the wishes of her people, the Treasury of the United States could not have paid the tax necessary to enable its armies to pass through her territory."

"But if the Government has these rights on her own account, the citizen also has correlative rights. He has the right to come to the seat of Government to assert any claim he may have upon that Government, or to transact any business he may have with it. To seek its protection, to share its offices, to engage in administering its functions. He has a right to free access to its sea-ports, through which all the operations of foreign trade and commerce are conducted, to the sub-Treasuries, the land offices, the revenue offices, and the courts of justice in the several States, and this right is in its nature independent of the will of any State over whose soil he must pass in the exercise of it."

If the State of New Jersey and the State of Maryland have a right to levy a tax upon passengers, they have a right to prevent travel, because they can make their tax so high as to make it prohibitory in its character. If they have a right to levy ten cents they have a right to make the tax \$100, or they have a right to make it \$1,000. This is very fully stated in this opinion. The court say:

"It is not possible to condense the conclusive argument of Chief Justice Marshall in *McCulloch vs. State of Maryland*, and it is too familiar to justify its reproduction here; but an extract or two, in which the results of his reasoning are stated, will serve to show its applicability to the case before us. 'That the power of taxing the bank by the States,' he says, 'may be exercised so as to destroy it is too obvious to be denied. But taxation is said to be an absolute power, which acknowledges no other limit than those prescribed by the Constitution, and like sovereign power of any description, is trusted to the discretion of those who use it. But the very terms of this argument admit that the sovereignty of the State in the article of taxation is subordinate to and may be controlled by the Constitution of the United States.' Again he says, 'We find, then, on just theory, a total failure of the original right to tax the means employed by the Government of the Union for the execution of its powers. The right never existed, and the question of its surrender cannot arise.'"

"That the power to tax involves the power to destroy; that the power to destroy may defeat and render useless the power to create; that there is a plain repugnance in conferring on one government a power to control the constitutional measures of another, which other, with respect to those very

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means, is declared to be supreme over that which exerts the control, are propositions not to be denied. If the States may tax one instrument employed by the Government in the execution of its powers it may tax any and every other instrument. They may tax the mail; they may tax the Mint; they may tax patent rights; they may tax the papers of the custom-house; they may tax judicial process; they may tax all the means employed by the Government to an excess which would defeat all the ends of government. This was not intended by the American people. They did not design to make their Government dependent on the States.

"It will be observed that it was not the extent of the tax in that case which was complained of, but the right to levy any tax of that character. So in the case before us it may be said that a tax of one dollar for passing through the State of Nevada, by stage-coach or by railroad, cannot sensibly affect any function of the Government or deprive a citizen of any valuable right. But if the State can tax a railroad passenger one dollar, it can tax him \$1,000. If one State can do this, so can every other State; and thus one or more States, covering the only practicable routes of travel from the East to the West, or from the North to the South, may totally prevent or seriously burden all transportation of passengers from one part of the country to the other."

This is a hoary abuse. It has not been the interest of the railroad companies to resist this, because the States might then take from those companies their special privileges. It has not been to the interest of any one passenger to resist, and therefore for a quarter of a century have these States almost supported their State governments by levying a tax upon the traveling public.

We have various other illustrations of this question. For example, the State of Maryland on another occasion passed a law levying a tax upon the notes of the Bank of the United States circulated within the limits of the State of Maryland. This bank was created by authority of the General Government. The State of Maryland assumed that she had a right to tax its notes within her limits. The Supreme Court decided that the law of Maryland taxing the notes of the bank was in violation of the Constitution of the United States. And why? Because, if Maryland could tax those notes at all, she might levy a tax sufficient to drive them out of the State of Maryland; and if Maryland could do it, every other State could do it, and thus the Bank of the United States be virtually destroyed by State legislation.

There is another illustration of this doctrine. The Supreme Court, in the case of *Weston vs. The City of Charleston*, some forty years ago, decided that the city of Charleston had no right to levy a tax upon the stocks and securities of the United States; and why? Because the Government of the United States had a right to borrow money; the Government could not borrow money without issuing stocks and securities, and if the city of Charleston or the State of South Carolina had a right to tax those securities they could make it unprofitable for any man to hold a Government bond in the State of South Carolina. They could, therefore, tax every Government bond out of that State; and if South Carolina could tax Government bonds out of that State, Maryland and every other State could do the same; and hence it was held that the States had no right to levy a tax upon the stocks or securities of the Government of the United States, and that decision has been since followed and is now recognized as the law of the land.

Again, Mr. President, on another occasion the State of Maryland provided that no person could sell in that State imported goods in the original packages without first procuring a license from the State. It was held by the Supreme Court of the United States that this was in violation of the right that every citizen had who had imported goods; that if the State of Maryland could require a license to sell goods by a man who had imported them Maryland could prohibit importations by making that license so high that no man could afford to pay it. Therefore, that law was held to be void.

Then, Mr. President, the general principle is, that wherever a right exists under the Constitution of the United States the exercise or

enjoyment of that right cannot be taxed by any State, directly or indirectly. It makes no difference in what way the tax is levied, if it is in fact and in substance a tax upon the enjoyment or exercise of any right secured by the Constitution of the United States it is in violation of that instrument. And now I will refer to the recent amendment, the fourteenth article, which is also directly in point, but was not in operation at the time these decisions were made, and which goes to strengthen and, in fact, directly establishes the point that I make. The fourteenth article provides—

"That no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

That is a part of the new amendment, which is now a portion of the Constitution, that no State shall make or enforce any law that shall abridge any privilege or immunity of a citizen of the United States. Now, sir, the right of free travel all over this country of ours is an immunity that belongs to every citizen of the United States, and any tax that is levied upon it, directly or indirectly, is an abridgment of that right.

I do not think it is necessary to read further. I will, however, read an extract from the opinion of Chief Justice Taney in the passenger cases already referred to. In those cases the court held the statutes void for the reason I have described; but Chief Justice Taney dissented from the opinion upon the ground that the tax there levied was upon aliens coming into the United States, and he said that each State had a right to protect itself against foreign paupers, against persons bringing contagious diseases, and the States might do it in the form of taxes; but lest he might be misunderstood, lest his dissenting opinion should be carried further than he intended, he made the following declaration, which I will read:

"In speaking of the taxing power in this case, I must, however, be understood as speaking of it as it is presented in the record: that is to say, as the case of passengers from a foreign port. The provisions contained in that law relating to alien citizens who are passengers from the ports of other States is a different question, and involves very different considerations. It is not now before us, yet, in order to avoid misunderstanding, it is proper to say that in my opinion it cannot be maintained. Living, as we do, under a common Government, charged with the great concerns of the whole Union, every citizen of the United States, from the most remote States or Territories, is entitled to free access, not only to the principal Departments established at Washington, but also to its judicial tribunals and public offices in every State and Territory of the Union. And the various provisions in the Constitution of the United States—such, for example, as the right to sue in a Federal court sitting in another State, the right to pursue and reclaim one who has escaped from service, the equal privileges and immunities secured to citizens of other States, and the provision that vessels bound to or from one State to another shall not be obliged to enter and clear or pay duties—all prove that it intended to secure the freest intercourse between the citizens of the different States. For all the great purposes for which the Federal Government was formed we are one people, with one common country. We are all citizens of the United States; and, as members of the same community, must have the right to pass and repass through every part of it without interruption as freely as in our own States. And a tax imposed by a State for entering its territories or harbors is inconsistent with the rights which belong to the citizens of other States as members of the Union, and with the objects which that Union was intended to attain. Such a power in the States could produce nothing but discord and mutual irritation, and they very clearly do not possess it."

"But upon the question which the record brings up the judgment in the New York case, as well as that from Massachusetts, ought, in my opinion, to be affirmed."

In this opinion Chief Justice Taney says, that while he believes a State has a right to impose a tax upon aliens coming into it from a foreign country as a police regulation, yet as between the several States and citizens of the United States a State has no such power. Sir, it is not an open question; it is fully covered by the decisions of the Supreme Court. And now the question is, what ought Congress to do? It has been submitted to for a quarter of a century. Millions have been drawn from the pockets of the traveling public to pay the State expenses of New Jersey and Maryland,

and unless there is some action taken by Congress this abuse will be continued. I propose to cut this abuse up squarely, by making it a misdemeanor for these corporations to pay any tax to any State on account of passengers carried, and to make it a forfeiture for any State officer or State agent to receive from any corporation or from anybody else any sum of money as a price, condition, or tax for the transportation of passengers across the State, into the State, or out of the State. Sir, this abuse has been borne long enough; but it will continue to exist unless it is met by legislation like this. Let us pass this bill, and the question must be settled at once. My bill gives to the Supreme Court appellate jurisdiction in all these cases. If the officer of a railroad company is fined for paying over this tax to the State, either party has the right to appeal to the Supreme Court and have the question settled at once. If the State officer is proceeded against by action of debt for receiving the tax he has his right of appeal, or the State has the right of appeal, and the question can be settled within one hundred days or within six months from this time. But unless we pass this bill, or something like it, we may for the next twenty-five years, as we have for the last, continue to support the State governments of Maryland and New Jersey by taxes levied upon the travelers from other States and countries.

The Tariff.

SPEECH OF HON. JAMES BROOKS,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

December 15, 1868.

The House being in the Committee of the Whole, and having under consideration the bill (H. R. No. 1349) to increase the revenue from duties on imports, and tending to equalize exports and imports—

Mr. BROOKS said:

Mr. CHAIRMAN: The bill before us is from the Ways and Means Committee, reported in the hot summer months of the last session of the Fortieth Congress, then referred to the Committee of the Whole, and now this winter, after the recess, suddenly reappearing before us and hot-pressed, as we see by the ayes and noes just taken, for immediate action. Unprepared as I am at this moment on this sudden and unexpected call for action, I cannot do justice to a bill in my judgment so unjust, so unequal, so iniquitous, and so destructive to some of the best interests of the country. But little preparation, however, is necessary to expose such a bill as this, if the House will give me a little attention to the analysis. Facts in everybody's hand or head supply all the logic necessary for its overthrow, and the amazement will be, as I exhibit these facts, that so high-standing a committee as that of the Ways and Means should ever have had—I will only say the politeness—the courtesy to give this bill here a standing; for their judgment could never have approved it, and its presentation must have been only in courtesy to Pennsylvania, or to the honorable gentleman from Pennsylvania [Mr. MOORHEAD] who, for his State, is fathering it.

THIS TARIFF BILL A PENNSYLVANIA BILL.

This bill, Mr. Chairman, is but a local bill, with no real nationality, not even the odor of nationality about it; and it is almost exclusively a Pennsylvania bill, with a few plums thrown in for the copper miners of Michigan or the copper capitalists of New York and Boston, or a few other plums to comparatively small special interests, in order to tempt enough votes in this House to carry the Pennsylvania burden in it. To New England the bill is a blow, a destructive blow, and to New York as fatal a blow as this House can well give, while to the great West it is nothing but blows, and

blows of the hardest kind. But this bill, Mr. Chairman, this short bill, is only the premonitory system of a long bill, a very long bill which the gentleman from Pennsylvania [Mr. MOOREHEAD] is concocting for you, [Mr. BROOKS here held up a big roll of paper, the bill in preparation,] and which you are expected to take as soon as you have swallowed this. That bill leaves nothing in iron, in steel, in wire "unprotected," as the wicked phrase is; that is, nothing unsecured to some existing monopoly by a bounty rising from forty to five hundred per cent. It would seem from the reading of this bill that there was scarcely a rich manufacturing Pennsylvania capitalist who had not come here and asked for "bounty," and who had not touched the heart of the gentleman from Pennsylvania enough to win it. Not only is iron, rolled, hammered, known as "T," "L," and "H," provided for, but rods, nail, slit, hoop, band, trip, scalp, tubes, scroll, and chains, trace-chains, halter-chains, and fence-chains, anvils, blacksmiths' hammers, bolts, rivets, tubes, and flues, hinges of all kinds, saws, frogs, fish-bar, side-bar, splice-bar, finger-bar, crow-bar—ay, everything and anything, the product in iron of Pennsylvania upon which a levy can be laid to extort taxes from the farmer of Missouri or Illinois or Minnesota or from the South and West generally. Not the plow nor the anvil of the man, nor even the crinoline of the woman, is respected, for on all, more or less, there is an increase of duty of from twenty to one hundred per cent.

HIGH WHIG TARIFF THIRTY PER CENT.—PRESENT AVERAGE TARIFF OVER FORTY-EIGHT.

Sir, I am admonished as a Whig of the school of Henry Clay and Daniel Webster, who went far beyond the five and ten per cent. protective school of Alexander Hamilton, to stand twenty, ay, even thirty per cent. of protection, which was the limit of the line we were expected to stand, but now, while living under a tariff which runs from thirty to five hundred per cent. of "protection," and averaging over forty-eight per cent., we are called upon for a further increase, and that is so arranged that no man can well understand the increase proposed, but which means from five to five hundred per cent. more of additional bounty.

CONGRESS PLEDGED IN 1864 TO REDUCE THE EXTERNAL TARIFF WHEN IT REDUCED THE INTERNAL TARIFF.

Mr. Chairman, you will recollect, this House will well recollect, that when during the war, June 30, 1864, we levied an internal revenue tax on manufactures to meet the expenses of that war, we also increased the external tariff act in a per cent. of like proportions. You reasoned, and we all admitted, that it would not be just to increase the burdens of the manufacturers at home to support the war unless at the same time we increased the burdens upon the foreign manufacturers. While this proposition of equality was met with general assent, it was then also the general assent, the concurrent agreement I may say, if not compact, that when we took the percentage of increase off from the American manufacturers, in like manner we should take off the percentage of increase from the foreign manufactured articles imported.

Thus, when we levied the internal revenue taxes by the act of June 30, 1864, we levied an additional tariff duty, varying from five to fifty per cent., at the same time, with the understanding, if not the actual compact, that if the internal tax came off the external tax should come off also. This compact has not been kept. By the act of March last we took off the internal tax upon manufacturers to the amount of \$60,000,000 without reducing the prices to the consumer upon their articles to any appreciable extent. Or, in other words, we relieved the manufacturers from \$60,000,000 taxes, leaving nearly all other impositions upon the people, while now some of those manu-

facturers have the impudence to call upon Congress not only to break the compact of June 30, 1864, but actually to increase their protection or bounty, some of them to an enormous percentage. And the gentleman from Pennsylvania is the organ of this breach of faith, though pig iron, an especial product of his State, is dearer now than it was before the tax was removed!

PROPOSED INCREASED TAX ON COPPER.

Now, let us analyze the bill before us. The first item proposed is a fresh copper tax which, estimating the ton at twenty-two hundred and forty pounds, actually proposes an additional duty of \$54 40 on imported copper in ores, a prohibitory duty, because the Lake Superior mines, with this enormous profit per ton guaranteed them by law, could always afford to undersell the smelters in this country, who are obliged, by the nature of this domestic ore, to admix foreign ore with domestic ores in the act of smelting. Under the existing tariff the duty on imported copper in ores is now computed at about three quarters of one per cent. per pound. The bill before us proposes to increase this tax to three cents per pound; that is, to increase it by two and a quarter cents per pound.

	Present tariff per pound.	Proposed tariff per pound.
Regulus of copper, black and coarse copper.....	2½ cents.	4 cents.
Old copper.....	1½ cents.	4 cents.
Copper, in plates, pigs, and other forms.....	2½ cents.	5 cents.
Copper in ores.....	¾ of 1 cent.	3 cents.

The owners and the workers of the Lake Superior mines tell us this bounty is indispensable for their prosperity, and they draw deplorable pictures of the copper villages in that region in order to influence the sympathies of this House. Sir, I do not believe that in any agricultural State of this Union the people can long suffer from starvation where farms may be had from the nation by the mere squatting upon them; but if this be so, I know of no right which copper men have to claim bounties from that nation to work copper mines more than farms. If copper cannot be successfully worked upon Lake Superior potatoes can be. The lakes abound in fish and the forests in wood and lumber, which command the highest prices. The Lake Superior mines, it is estimated, averaged from 1845 to the close of the year 1867 but about nine million pounds per year, while the consumption was twenty-four million pounds per year, and it is these fifteen millions per year, which it is proposed by a prohibitory duty to drive from market in order that it may be furnished at a higher price than it can now be bought for. Sir, if I am correctly informed as to copper mining and the copper trade, one cause of the depression of Lake Superior mining is the less demand for copper in the markets of the world, and the greater difficulty of mining copper than in Chili and elsewhere. The copper product of Great Britain has largely declined, namely, from fifteen thousand nine hundred and sixty-eight tons in 1860 to ten thousand eight hundred tons in 1867.

The East Indian no longer absorbs copper as once he did, but uses gold and silver instead. Iron steamships, which need no copper sheeting, have now superseded the wooden copper-sheeted ships. Copper mines in some countries are surface mines easily worked, or on the coast, whence freights are cheap therefrom, while the Lake Superior mines are far in the interior and not cheaply worked, not only because of their locality, but from the necessity of bringing labor and provisions to remote districts there. Sir, I know of no duty of the great American people, the consumers of copper, to pay tribute to a few unprofitable copper mines on Lake Superior any more than to pay tribute to hot-houses to raise sugar or grapes there. I know of no right one has to tax the

brass-founder, the brass-worker, or the boiler-maker, or any employment into which copper enters, for the benefit of a few copper-workers in northern Michigan, or for the benefit of a few capitalists in my own New York district, or Boston, that own the greater part of the stock of these mines, more especially when the smelters of copper are compelled by the laws of nature to mix a certain quantity of foreign carbonate ores into the local sulphuret ores of the United States.

This proposed act contemplates (estimating the ton at two thousand two hundred and forty pounds) the following duties:

On the estimated product of fine copper from ores imported, a duty per ton of.....	\$67 20
On the estimated product of fine copper from regulus of copper, and all black or coarse copper, a duty per ton of.....	\$89 60
On old copper, fit only for remanufacture, a duty per ton of.....	\$89 60
On all copper in plates, bars, ingots, pigs, or in other forms not above enumerated, a duty per ton of.....	\$112 00

SHIP-BUILDING INTEREST.

Sir, there is a greater interest in this country, a great national interest, that reaches far higher than the copper mining of Lake Superior, and that is the shipping interest of the United States. Congress, sir, has already, by the enormity of its taxation upon iron and cordage and copper, driven from the ocean every American steamer not supported by a subsidy from the Government. Our predecessors in Congress carefully fostered the American ship, the American sailor, and the American flag. The fisheries were struggled for and secured to train the American sailor. The treaties with Great Britain in 1783, and in 1816, carefully secured us equal rights on the sea. Our fathers, in the primitive days of our Republic, at the close of the last century, and in the beginning of this, by their wise legislation, spread our canvass and our flag from the Arctic to the Antarctic, and from the Indies of the West to the Indies of the East. "Free trade and sailors' rights" were emblems emblazoned on the pendants of our ships at the close of the war of 1816, under and over the stars and stripes; and it was under these emblems that the Constitution captured the Guerriere, and that our sailors illumined the sea in every quarter of the globe by the splendor of their valor and the glory of their arms.

DESTRUCTION OF COMMERCE—FOREIGN SHIPPING.

But, alas! what now is the picture? The British, the French, or the Bremen flag floats over every ocean steamer in the great port of New York, where a subsidy is not paid for carrying our mails. All our fathers have done for the sailors, we, their degenerate children, have undone. There are times in the city of New York when not a single American flag is seen on a vessel from a foreign port, while the harbor is full of foreign flags from Great Britain, France, Prussia, Bremen, Hamburg, the Hanse Towns, Italy, Sweden, and even Norway. Our countrymen travel to Europe, to and fro, under foreign flags. Our emigrants are first ushered into our ports under British or Bremen emblems. Our letters carried over the Atlantic seas are in foreign ships. We cannot even hold intercourse over the sea with our wives and children but under a foreign flag. Our fathers reasoned, and reasoned well, from historical lessons, that the nation whose flag can command the sea commands the world, and that the sailor was as essential an element for home protection as the soldier. The best outward bulwarks of a people against foreign invasion or coastwise raids are the bulwarks of ships of war, manned by heroic seamen:

"Britannia needs no bulwarks,
No towers along the steep;
Her march is o'er the mountain waves,
Her home is on the deep."

What fortresses are to the land the forts of the sea are as ships of war, and a nation with

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these floating bulwarks may dispense with many land-anchored forts at home. How can there be safe commerce where there are not national ships? We are respected abroad only as our flag makes itself respected while floating over our sailors and their guns. Now, all that we have left under our destructive congressional legislation is the nursery of our coastwise trade—a great nursery to be sure, stretching, as it does, thousands of miles from Maine to Texas on the Atlantic, and from southern California to Alaska on the Pacific—but no adequate nursery for the seamen necessary to protect and to honor a flag which has hitherto flown from the Arctic to the Antarctic, and which has made the heart of the American jubilant in every land, in every quarter of the globe he lived. Sir, a Congress insensible to these important facts, or not sensible to the importance of commerce, and its protection the world over, forgets one of its first duties, if it does not commit a great national crime. But what has Congress done, and what greater destruction does this bill propose? Let us see.

SHIPBUILDING HERE—THE COST.

One of the elements of ship building is copper, and this bill doubles or triples the duty on copper, while it is full, all over, of heavier and heavier taxation upon iron. The present taxation on American ships and American shipbuilders is enormous; but the honorable gentleman from Pennsylvania cries for "more," "more." Mr. D. McKay, about the largest ship-builder in the United States, February 15, 1868, stated, under his own signature, the following to be the tariff-taxation entering into the construction of a new ship of one thousand tons:

Tariff in Gold.

Iron, 120,906 pounds.....	\$1,208 06
Iron spikes, 9,966 pounds.....	249 15
Galvanized spikes, 2,409 pounds.....	60 23
Castings, 14,408 pounds.....	216 12
Chain cables and rigging chains, 58,300 pounds.....	1,547 50
Anchor, 10,700 pounds.....	240 75
Metal and nails for anchors, 20,338 pounds.....	711 83
Salt, 1,200 bushels.....	216 00
Manilla, 12,426 pounds.....	310 57
Hemp, 28,774 pounds.....	863 22
Duck for sails and house tops, including spare sails, 7,150 yards.....	714 90
Clinch rings, 1,800 pounds.....	36 00
Foreign white pine lumber and decking.....	825 00
Foreign hackmatack knees.....	330 00
Copper bolts, composition, castings, paints, oils, crockery, cabin trimmings, nails, and sundry outfits.....	1,225 00

Total dutiable articles for a one thousand ton ship (gold).....\$8,665 33

AN AMERICAN SHIP IS AN AMERICAN MANUFACTORY AS MUCH AS A ROLLING-MILL.

The moment an American ship leaves an American port it enters upon a free trade—a free competition with all the nations of the earth. It is not, like an iron rolling-mill in the interior of Pennsylvania, protected by the cost of freights at home and the cordon of custom-houses on the ocean, (seventy cents per one hundred pounds,) but it is an American manufactory launched upon the high seas, stripped of all protection, and in competition with all the industry on the earth. It is as much a manufactory as the rolling-mill of Pennsylvania and as much in competition with the cheap labor of the world; but Pennsylvania, herself covered all over with bounties at home, levies upon the New England or New York one thousand ton ship some ten thousand dollars or more in currency to depress, to burden it in competition with that outside world. The crying injustice of this is so far from being felt by the gentleman from Pennsylvania that, not content with this enormous levy, he cruelly proposes now to run up this ten thousand dollar currency tax on the one thousand ton ship to some twelve thousand dollars or more, by his increase upon the iron elements that enter into the composition of the American ship. Our ship-carpenters are idle,

or working for lower wages in paper than they hitherto had in gold. Glasgow, Nova Scotia, and New Brunswick are driving our ships out of the freighting markets of the world, though North and South we have the best ship lumber in the world. Our sympathies are appealed to for the sufferers of the copper miners of Michigan in order to pass this bill, but not one word is said by its advocates in behalf of the greater suffering ship-carpenters of Maine, New Hampshire, Massachusetts, and New York.

We begged, but begged in vain, the last session of this Congress to give shipbuilders in the United States a drawback upon their \$10,000 duties they paid on their one thousand ton ships; but the honorable gentleman from Pennsylvania successfully rallied his Pennsylvania cohorts against it, and the maritime States of this Union, staggering under that blow, have in despair, at least, given up all hope, except in their coastwise trade.

THE TARIFF DESTRUCTIVE OF AMERICAN SHIPS.

Sir, the rebel ship Alabama swept our commerce from the seas wherever or whenever it was touched by that fatal crew; but the Alabama was never so destructive upon American shipping, and American commerce therein, as the legislation of this Congress, which the bill now before us proposes to make worse. Peace has brought us no restoration of our ships; but, on the contrary, the decrease seems to go on during the peace as during the war, for the high tariff is as great a curse to commerce as was the Alabama. When the war began (in 1861) the tonnage of the globe was as follows:

	Tons.	Tonnage June 30, '68
Owned by the United States.....	5,530,813	4,318,369
Great Britain and dependencies.....	5,898,369	
All other nations.....	5,800,767	
		17,235,949

Of this total the United States owned nearly one third, Great Britain over one third, and all other maritime nations the remaining third. Nearly one third of the international ocean carrying trade of the civilized world has been in the hands of our young Republic; but as Alabamas killed us during the war tariffs have killed us since the peace. We had as long ago as 1855 115,045 tons of foreign steam tonnage. Now not an American-European steamer, not one.

FOREIGN STEAM TONNAGE, 1867.

Great Britain's estimate.....	775,000
United States.....	175,520
Difference.....	599,480

This difference of nearly six hundred thousand tons is more than the combined commercial steam tonnage of the United States and Great Britain five years ago. There are now eight lines of foreign-built steamers running from New York owned by foreign capitalists and protected by the flags of England, France, and North Germany. Ten steamers are in one of these lines, and more on the stocks. The following table tells a fatal tale:

	No. of ships and barks.	No. of schooners.
1855.....	375	528
1856.....	302	438
1857.....	248	398
1858.....	118	367
1859.....	88	276
1860.....	109	347
1861.....	105	327
1862.....	43	167
1863.....	83	153
1864.....	106	282
1865.....	105	350
1866.....	84	419
1867.....	81	476
1868.....	69	458

Showing that while with schooners our coastwise monopoly saves us from foreigners, we

perish when we enter into competition with them in ships and barks.

"The building of ocean steamers is also in an exceedingly depressed condition. During the year ending June 30, 1868, there were but six ocean steamers built in the United States, whose aggregate tonnage amounted to fourteen thousand eight hundred and fifty-five tons. Nearly all the steamers built in this country during the last five years have been intended to meet the demands of our coastwise trade.

"The depletion of our forests of ship timber renders it probable that within the next ten years we shall be compelled to resort to iron as a ship-building material. The iron ship-building enterprises which sprang up at several points in this country before the war enjoyed for a while a degree of prosperity which gave promise of great future success. That interest is now prostrated.

"During the year ending June 30, 1868, there were but six iron vessels—all steamers—built in the United States, whose aggregate tonnage amounted to two thousand eight hundred and one tons, all of which were built by Messrs. Harlan & Hollingsworth, of Wilmington, Delaware, and were designed for river navigation.

"In order to show our relative inferiority in this branch of ship-building it may be stated that during the year 1867 there were ninety-nine iron sailing vessels built in England, Scotland, and Ireland, whose aggregate tonnage amounted to fifty-nine thousand and thirty-three tons, and two hundred and twenty-four iron steamers, whose aggregate tonnage amounted to ninety thousand eight hundred and twenty-three tons; the iron sailing vessels amounting to thirty-four per cent. of the total sailing tonnage built, and the iron steamers to ninety-six per cent. of the total steam tonnage built."—Extract from the official report of Mr. Nimmo to the Secretary of the Treasury.

Sir, in view of these facts, how can, how dare the gentleman from Pennsylvania demand the doubling or trebling of the duty on copper and a great increase of the duty on iron? Has he no love for the flag? Has he no heart for the gallant sailor who carries that flag on every sea? Has he no pride in American commerce and American trade? Or is he ceasing to be an American, and becoming only one of the Chinese, with their old shut up, shut out policy, which even they have exploded at last? But if the honorable gentleman himself is deaf and dumb to all but his own supposed local interests; if he cannot look out upon the world beyond the shops of his own foundries and forges, I appeal to the people of his State to remember Decatur, Bainbridge, Hull, Lawrence, Perry, Farragut, and to remember that ships and sailors and commerce alone have raised and can raise such men, and that what he is doing is destroying them all while it is exposing our coasts to be a prey to the Norsemen of the world. A nation without ships is a nation without arms or legs or hands; a nation within a shell, with its head to be cracked whenever it thrusts it out. While I respect I do not mean to decry the industry and prosperity of Pennsylvania, yet I must say, when I see her Representatives waging war upon almost every other State in the Union, I would not give up the fame Decatur, Bainbridge, Hull, Lawrence, Perry, and Farragut have given this nation for all the forty rolling-mills of Pennsylvania.

SOAP, GLASS, PAPER.

Mr. Chairman, there is comedy as well as tragedy in this Pennsylvania bill. One cannot well help laughing when one sees how it has been gloved, and furred, and velvet-pawed to suit certain Pennsylvania interests. It is tragic to sweep out of existence a nation's flag upon the open seas; but it is comic to hide up and cover in a tariff bill such innocent looking items as these:

Line 76 (of the bill).—On sal soda and soda crystals, one cent per pound.

Line 77 (of the bill).—On caustic soda, two cents per pound.

Line 78 (of the bill).—On chromate and bichromate of potassa, four and a half cents per pound.

Now, this looks well enough on paper, for it is only the rise of a duty on—

	Present Tariff.	Proposed Tariff.
Sal soda and crystals per pound.....	1 cent	1 cent
Caustic soda per pound.....	1 cent	2 cents
Chromate and bichromate per pound.....	3 cents	4½ cents

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Salt Soda.—Present value in Europe per ton, £4 5s, is \$4 84, equal to \$20 57, first cost per ton. Proposed duty 1 cent per pound, per ton \$22 40, equal to about 109 per cent., equal to about 54½ per cent., present duty.

Soda ash.—Present value in Europe per ton, £7 10s, is \$36 30, equal to \$22 40, first cost per ton. Proposed duty per ton, \$22 40, equal to about 61.70 per cent., equal to about 30.85 per cent., present duty.

Something of a raise on materials that enter into the making of paper, soap, glass, &c., so necessary to the great body of the people, and yet not so alarming as the more glaring demands for bounties in the other parts of this bill; but look further on in the bill, section three, twelfth in the line, next to "eggs" and fashion plates, in the free list, is hid away "kryolite," duty free. *Salt soda*, caustic soda, and kryolite, or kryolite—innocent words; but what does all this mean? There is in the district of the gentleman from Pennsylvania a great company, known as the Pennsylvania Salt Manufacturing Company.

Mr. MOORHEAD. Not in mine.

Mr. BROOKS. Well, near him then; in a neighboring congressional district.

Mr. MOORHEAD. Not in mine.

Mr. BROOKS. In Mr. WILLIAMS's district, then.

Mr. MOORHEAD. That is so; but it is not in mine.

Mr. BROOKS. Well, the mere locality matters not; but there is in a Pennsylvania district near that of the honorable gentleman a great company, known with the innocent name of the Pennsylvania Salt Manufacturing Company, for the manufacture of this soda ash, of course, as soda is, by one process, a direct product from salt. This company has filled the whole West with its packages of soda for the making of soap, and where wood ashes cannot be had from the scarcity of wood, as on the prairies of the West, the monopoly of soap-making is altogether in the hands of this company in Pennsylvania. For this species of enterprise it deserves credit; but when it goes further and demands bounties from us and monopolizes the kryolite of the world, that kryolite which is the mineral from which soda in its various commercial forms and in the greatest purity can be obtained, and the only natural product from which it can be obtained to supply the demands of commerce, then we begin to suspect that profit is its patriotism and pelf its great object of pursuit. Kryolite (from the Greek words *kruos*, ice, and *lithos*, stone—ice-stone—thus named from its resemblance to ice) is a compound of three chemical equivalents of sodium, two of aluminum, and six of fluorine. The mineral was first discovered by the Esquimaux in Greenland, and the Danish Government has made a monopoly of it. The Pennsylvania Salt Company have, with the consent of the king of Denmark, concluded a contract with the *Kryolith Mine of Handels Selskabet*—as the Danish Kryolite Company is called—for the continents of North and South America.

"No pent up Utica contracts our powers,
The whole boundless continent is ours."

And they come to Washington, and demand the admission of kryolite "free,"—with a double duty on salt soda, prepared, no doubt, to sing the missionaries' hymn:

"From Greenland's icy mountains,
From India's coral strands,
Where Afric's sunny fountains
Roll down their golden sands."

Well, I shall not blame them for thus singing, if the soap-makers of the West, the paper-makers of the North, and the glass-blowers of the East are willing to give them these bounties, and secure them these monopolies.

But salt soda, caustic, and kryolite are not the only comic Pennsylvania actors. In this bill, page 2, items are as follows:

Line 20.—On nickel, nickel oxide, alloy of nickel with copper, 40 cents per pound, (now 15.)

Line 22.—On nickel matter or spieess, 30 cents per pound, (now 15.)

Line 23.—On manufacture of nickel 50 per cent. *ad valorem*, (now 35.)

Line 24.—On aluminum and all its alloys, 50 per cent *ad valorem*, (now 29 per cent.)

It is the aluminate of soda, the saponifier of the Pennsylvania Salt Company, which produces the thirty million pounds of soap used by our people, mainly in the West. Here in this item the Pennsylvania company seems to be in a conspiracy with the Michigan copper men, the iron-rolling men, and others to keep dirty the faces and hands and clothes of twenty million people in the West by increasing the price of soap. Alumina it is, too, which possesses the property; more than almost any other substance, of uniting and forming distinct chemical combinations with coloring matter. Scarlet, crimson, and the bases of water colors consist of alumina united with the coloring principle. The permanent calico color would be useless for the tints of red, crimson, scarlet, and chocolate but for the property alumina has of uniting with it and forming a compound which adheres so firmly to the tissues of the texture as to resist the ordinary action of soap and other chemicals in household use. The bill, then, is a combination not only to keep the people dirty but to increase the cost of coloring matter to prevent them showing their dirt.

BICHROMATE OF POTASH.

Before the war the bichromate of potash was twenty cents in gold; during the war the price advanced with the currency. A house in Baltimore, having the control or monopoly of the chrome ore, supplied the world—certainly the American part of the world—with chromate and bichromate of potash, and made an immense fortune thereby. Since the war some process has been discovered in Europe of cheapening the price, and which has brought it down here to twelve and a half cents per pound in gold. The house in Baltimore is selling for seventeen cents and is making money yet, but still wants the increased "protection" of four and a half cents per pound.

NICKEL.

There is a nickel mine in Pennsylvania, in the Lancaster district, the only one in the United States, I believe, the district lately represented by Thaddeus Stevens, who, when chairman of the Ways and Means, ever devoted himself to its "protection." I asked him there once what the mine could be bought for. He then thought for one hundred and fifty or two hundred thousand dollars. When urgent and ardent for the ten or fifteen per cent. protection it now has, I begged him to insert in his appropriation bill, which the Ways and Means then had the framing of, a \$200,000 item for the purchase of it, so that the United States could own it and make its nickel cents without paying a bounty to the owners for the privilege; for these per cents., ten, fifteen, (now proposed forty,) would make it far wiser for us to buy the mine outright than thus to be buying it with bounties. He laughingly and yet sarcastically replied, that would not read well; and the nickel mine owners had better sell it their (his) way. I think it would be better for the country to buy this nickel mine now for \$1,000,000 than, as proposed, nearly to triple the duty on nickel and double it on nickel matte, or *spieess*.

The bill before us, however, is not content with raising the tax from thirty-five to fifty per cent. *ad valorem* on manufactures of nickel, but—

Line 26.—On albata, or white metal, Argentine, German silver, and the like mixed metals, and the manufactures thereof, fifty per cent. *ad valorem*—

is proposed in lieu of the present thirty-five per cent. The German silver or argentine manufacturers have recently become of importance in this country, and the extraction of nickel has been undertaken on a large scale. It seems to have mortified the Pennsylvania conectors of this tariff that the common people should

be using German silver forks, spoons, table-silver, &c., in lieu of iron, and they have therefore demanded this bill to make us all pay for it.

WAR ON LIGHT, SALT, AND IRON.

Now, sir, I have graver charges to make against this bill, and the architects thereof, than the destruction of our shipping, or even the punishment of our people for being clean, or for not using iron forks and spoons; and that is, for the war they make upon the three great elements of human life, namely, light, salt, and iron. Bread, sir, is the staff of life; but light is as indispensable as bread; and salt, if not as indispensable, is certainly not dispensable, while without iron there is no progress in life; no civilization, ay, little but the barbarism of the savage. Upon all these three great elements of life this bill wickedly proposes additional taxation, when the tax already is enormous, and more than can well be borne.

ON LIGHT.

Line 52.—On all unpolished cylinder, crown, and common window glass, ten by fifteen inches square, two and a quarter cents, (now one and a half cent.) above that, and not exceeding sixteen by twenty-four inches square, two and three quarter cents per pound, (now two cents;) above that and not exceeding twenty-four by thirty-nine inches square, four cents per pound, (now two and a half cents;) all above that four and a half cents per pound, (now three cents.)

The tax on window glass is now almost, though not quite, prohibitory, and importers of glass are able to sell at only a little, if any, above the cost of importation; but to secure the monopoly the proposition here is to double the tax and then to shut off all competition to the householder or tenant, or to force us to live without the necessary light. Such a necessity of life, so indispensable to every house in the land, should be taxed as lightly as possible; but of light here is prohibition from abroad to install monopoly at home without a possible rival in the market. A box (fifty feet) of eight by ten German glass, which ten years ago could be sold for \$1 50 and pay an importer a good profit, now yields little or no profit to the importer at \$3 50 per box. The rate on the small sizes is enormous when compared with the foreign cost, and yet it is proposed to add fifty per cent. to it, to make it \$2 25 in gold for one hundred pounds, a burden which will fall mainly on the South and West, where the smaller sizes are most used. Whatever tariff movement there is on glass should be for its reduction, certainly not for its increase.

ON SALT.

Sir, there is less respect in this bill, if possible, for salt—which the Scriptures, old and new, above almost all things, teach us to respect—than there is for light. Ye who framed this bill are neither that "salt of the earth" nor "light of the world" recognized in the Sermon on the Mount. What in the East is the symbol of hospitality, (bread and salt,) what was enjoined on the Israelites in their offerings to God—the use of salt (Lev. 2, chapter 13; Numbers 18, chapter 19; 2 Chron. 2, 13, chapter 5)—the covenant of salt, ye have impiously disregarded and contemned. You will not hear man. You may hear God in his prohibition of salt as a monopoly, or for bounties, for the few against the many. Salt has a sacred character, a divine mission, and how dare you, then, make such propositions as these in your bill?

Line 89.—On salt in bulk, and on all rock salt, or mineral salt, twenty-four cents per one hundred pounds, (now eighteen cents.)

Line 91.—On salt in bags or sacks, thirty cents per one hundred pounds, but no return of duties shall be made on account of damage to sacks containing salt, (now twenty-four.)

Sir, the duty on salt at the present moment is unendurable. It is one of the most outrageous impositions of the existing outrageous tariff, and it requires an amount of audacity and impudence to come here and cry "More!" "More!" than I can comprehend.

Under the present tariff, without this in-

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crease now proposed, here are the actual duties paid on cargoes of salt at the port of New York, that have been carefully prepared:

Cost of a cargo in Cadiz, in gold.....	\$1,160
Duty, 170 per cent.....	1,897
Cost of a cargo in Turks' Island.....	3,080
Duty, 116½ per cent.....	3,591
Cost of a cargo in St. Martin's.....	504
Duty, 128½ per cent.....	648
Cost of a cargo in Bonaire.....	1,500
Duty, 144 per cent.....	2,160
Cost of a cargo in Liverpool.....	2,161
Duty, 115 per cent.....	2,913

The present tariff doubles the cost of salt to the consumer, but the bill here piles on more and more. And this, too, upon a necessary of life, without which our beef and our pork could not be preserved for market at home or export abroad, an article almost as indispensable to human life as bread. And this demand for this enormous duty comes from a few, a very few, salt monopolists, who now, as owners of the salines, rule over and reign in the market and almost dictate their prices to the farmers of the country. Free salt, free light, like free air, are worth more than any political or constitutional freedom, for they are elements of existence without which there is no freedom of life, but here is a bill which, while it bars out light, also seizes hold of and monopolizes what God Himself consecrates to

man as the savior of life. Tell me not, then, sir, of the freedom of the slave; talk not to me of emancipation, while upon thirty-odd millions of Americans you are imposing slavery for salt and light.

ON IRON.

Mr. Chairman, when I see how, and in what things, the ingenious monopolist exacts his bounties from his fellow-men, and lives and profits and luxuriates upon their earnings and toil, I have not the patience, perhaps, that a public man ought to have when analyzing wrongs. No one can doubt that the discovery of iron, with all its manifold uses, has done more than anything else to advance mankind in arts and arms. The same ore furnishes the plowshare, the sword, the pruning hook, the needle, the gavel, the spring of a watch or a carriage, the chisel, the chain, the anchor, the compass, the cannon, and the bomb. On three pages of the little bill before me are increased taxes upon steel and iron, and on fifteen or twenty pages of the long bill, yet threatened from the Ways and Means, further increased taxes are threatened upon every man using or working in iron or steel. The following table will exhibit the there proposed increase of the tariff from the already enormous tariff taxes of 1864, and subsequent acts, upon a few articles only:

Articles.	Present tariff.	Proposed increased rates.
Iron bars and rods.....	11c. $\frac{3}{4}$ lb.	12 $\frac{1}{2}$ to 21c.
Hoop or band, strip, tube, or scroll.....	11c.	21 to 23c.
Sheet or plate iron.....	11 $\frac{1}{2}$ to 11c.	20 to 24c.
Glazed or polished iron.....	3c.	4c.
T. L. & H iron.....	35 $\frac{3}{4}$ ct.	23c. $\frac{3}{4}$ lb.
Railway frogs, points, finger-bars.....	2c. and 35 $\frac{3}{4}$ ct. <i>ad valorem</i> .	3c. $\frac{3}{4}$ lb.
Iron wire.....	2c. and 15 $\frac{3}{4}$ ct. <i>ad valorem</i> .	3c. and 15 $\frac{3}{4}$ ct.
Other numbers.....	3c. and 15 $\frac{3}{4}$ ct.	5c. and 15 $\frac{3}{4}$ ct.
Iron wire cloth.....	35 $\frac{3}{4}$ ct.	40 $\frac{3}{4}$ ct.
Wire spiral spring.....	2c. $\frac{3}{4}$ lb.	5c. $\frac{3}{4}$ lb.
Chains, traces, (No. 9).....	3c.	5c. $\frac{3}{4}$ lb.
Less than No. 9.....	35 $\frac{3}{4}$ ct. <i>ad valorem</i> .	7c. $\frac{3}{4}$ lb.
Blacksmiths' hammers, &c.....	21c. $\frac{3}{4}$ lb.	4c. $\frac{3}{4}$ lb.
Washers, nuts, bolts.....	2c. $\frac{3}{4}$ lb.	3c. $\frac{3}{4}$ lb.
Hinges and bed-screws.....	21c. $\frac{3}{4}$ lb.	3c. $\frac{3}{4}$ lb.
Galvanized iron plates.....	21c.	41c.
Wrought iron boot nails.....	21c.	3c.
Horse and mule shoes.....	35 $\frac{3}{4}$ ct. <i>ad valorem</i> .	2c. $\frac{3}{4}$ lb.
Screws two inches in length.....	8c. $\frac{3}{4}$ lb.	9c. $\frac{3}{4}$ lb.
Less than two inches.....	11c. $\frac{3}{4}$ lb.	12c. $\frac{3}{4}$ lb.
Bolts less than four inches.....	2c. $\frac{3}{4}$ lb.	3c. $\frac{3}{4}$ lb.
Hollow-ware wrought iron.....	31c. $\frac{3}{4}$ lb.	61c. $\frac{3}{4}$ lb.
Hollow-ware cast-iron.....	31c. $\frac{3}{4}$ lb.	4c. $\frac{3}{4}$ lb.
Steel, puddled or blistered.....	21c.	31c.
In bars, sheets, coils, &c.....	21 to 3c.	41 to 5c.
Rods.....	21 to 3c.	41 to 10c. $\frac{3}{4}$ lb. <i>ad valorem</i> .
Wire.....	21 to 20 $\frac{3}{4}$ ct. <i>ad valorem</i> .	51 to 6c. $\frac{3}{4}$ lb.
Bessemer.....	45 $\frac{3}{4}$ ct. <i>ad valorem</i> .	31c. $\frac{3}{4}$ lb.
Bessemer rails.....	45 $\frac{3}{4}$ ct. <i>ad valorem</i> .	2c. $\frac{3}{4}$ lb.
Car wheels, cast steel.....	45 $\frac{3}{4}$ ct. <i>ad valorem</i> .	31c. $\frac{3}{4}$ lb.
Springs, locomotive or other.....	45 $\frac{3}{4}$ ct. <i>ad valorem</i> .	8c. $\frac{3}{4}$ lb.
Steel, in sheets, plates, circular.....	21 to 31c.	51 to 15c. $\frac{3}{4}$ lb. <i>ad valorem</i> .
Railway frogs, fish-bars.....	45 $\frac{3}{4}$ ct.	41 $\frac{3}{4}$ ct.
Crinoline.....	45 $\frac{3}{4}$ ct. <i>ad valorem</i> .	9c. $\frac{3}{4}$ lb. and 10 $\frac{3}{4}$ ct. <i>ad valorem</i> .
Saws, even-cut.....	10c. to 20c.	15 to 35.
Saws, hand.....	75c. $\frac{3}{4}$ dozen and 30 $\frac{3}{4}$ ct. <i>ad valorem</i> .	125 to 130 $\frac{3}{4}$ ct.
Needles of all kinds.....	25c. $\frac{3}{4}$ ct. <i>ad valorem</i> and \$1 $\frac{3}{4}$ thousand.	30 $\frac{3}{4}$ ct. <i>ad valorem</i> and \$1.
Table cutlery.....	35 $\frac{3}{4}$ ct.	71 to 675 $\frac{3}{4}$ ct.
Butcher-knives.....	35 $\frac{3}{4}$ ct.	45 to 675 $\frac{3}{4}$ ct.
Tools, vises, bits, braces, &c.....	35 $\frac{3}{4}$ ct.; if not steel, 45.	50 to 675 $\frac{3}{4}$ ct.
Harness and saddlery-ware.....	35 $\frac{3}{4}$ ct.	50 to 675 $\frac{3}{4}$ ct.

In this enumeration I have not touched upon a twentieth part of the fresh taxation threatened. Mechanics' tools, implements, fire-tongs, shovels, are increased from thirty-five per cent. to fifty. All machinery is more or less affected. There is scarcely a trade or class of trade upon which the Pennsylvania cormorants have not made a fresh levy to satiate, if possible, their insatiate maws. Human ingenuity, sir, is wonderful when prompted by self-interest. The device of *ad valorem* duties, mingled with specific duties, is one of these efforts of human ingenuity to extort great bounties, and to concentrate while extorting. This is well illustrated by the duty on files:

FILES.

Statement of combined, specific, and *ad valorem* duties actually paid on invoice of best quality files imported into New York in 1863.

Files over 10 in.....	\$1,025 4 11
Charges.....	2 0 0

Carried forward.....\$1,027 4 11

Brought forward, \$1,027 4 11

2½ per cent. commission added by custom-house..... 25 13 7

\$1,052 18 6—\$5,096 at 30

per cent.
ad val......\$1,528 80

1,232 16

Weight, 20,536 lbs., at 6c. $\frac{3}{4}$ lb., specific.....

\$1,027 4 11 is \$1,972, or over 55½ per cent. \$2,760 96

Files 10 in. and under..... \$660 2 5

Charges..... 1 0 0

2½ per cent. commission added by custom-house..... 16 10 7

\$677 14 0—\$3,230 at 30

per cent.
ad val......\$984 00

660 90

Weight, 6,609 lbs., at 10c. $\frac{3}{4}$ lb., specific.....

\$661 3 5 is \$3,200, or over 51½ per cent. duty.....\$1,644 90

"On the best files over ten inches, the specific duty of six cents per pound is equal to an additional *ad valorem* duty of over twenty-one per cent.

"On the best files, ten inches and under, the specific duty of ten cents per pound is equal to an additional *ad valorem* duty of over twenty-one per cent.

"On the medium quality of files (not the best) the specific duty is from eight to ten per cent. higher than on the best, making a duty of about sixty-five per cent.

"And on common files, which are largely imported, the specific duty, with the *ad valorem* duty, is equal to a duty of seventy per cent. *ad valorem*."

Now, enormous as is this duty on files, the proposition is to increase it from ten cents, the present tariff, to twelve cents, and six to eight cents per pound. And yet files are used more or less by every machine shop in the country, and by farmers and blacksmiths, too; every one who works in iron or metals uses them. Every lumber or saw-mill is a consumer.

TABLE CUTLERY.

The table cutlery companies are now dividing large profits from their manufactures of butcher knives, shoe knives, cooks' knives, spatulas, and palettes also. Table cutlery costing less than 20s. 6d. sterling, or five dollars, is that which is used by the poorer classes of people, and large quantities of this grade of goods were formerly sold when the duty (old duty) was at twenty-four per cent.; and it is now proposed to change the present thirty-five per cent. to forty per cent., upon this grade especially.

As to table cutlery with ivory, pearl, or metal handles, it is proposed to add one dollar per dozen, and increase from thirty to forty-five per cent. The table of calculations below shows that the increase of duties (varying, unsettled, and annoying to the merchant and to the custom-house officials) is much more than would at first appear. From thirty-five per cent. *ad valorem* the duty, as shown, is increased by this compound duty to from eighty to one hundred and twenty-five per cent. on these particular goods. It is also provided that ivory, unmanufactured, should be exempt from duty, which of course provides for additional profits, beside the additional duty, for the American manufacture of ivory handles for table cutlery and other cutlery.

As to the table cutlery with other than ivory, pearl, or metal handles, the compound duty of twelve cents per dozen, and forty per cent. *ad valorem*, increases the present duty from thirty-five to one hundred per cent., and even higher. This particular clause, the last referred to, seems to have been framed without reference to the provision previously made relative to "table cutlery valued at not over five dollars per gross," and if some alteration is not made in one or other of these clauses, and they should both become a part of the law, there will be confusion at the custom-house.

On "butcher knives, cooks' and shoe knives, and spatulas and palettes," the advanced duties proposed are enormous, as the values of these goods range from fifty cents to about two dollars per dozen, and of course those costing fifty cents by paying twelve cents per dozen and fifty per cent. *ad valorem* would be taxed equal to seventy-five per cent. *ad valorem*, and those costing higher than fifty cents per dozen would be taxed proportionately at less *ad valorem*. As to the duty on pocket-knives now proposed, the table annexed shows the differences in the *ad valorem* duties thus: those now taxed at fifty per cent. will be by proposed tariff taxed at from seventy-one per cent. to six hundred and seventy-five per cent. duty. These calculations cover nearly all the grades now or likely to be imported.

All cutlery, other than pocket, now paying thirty-five per cent. duty, with all expenses added, now costs to import about sixty-seven and a half per cent. advance, or at the rate of \$7 50 per pound sterling in gold, equal in gold to thirty-seven and a half cents to the English shilling.

Pocket-knives, paying fifty per cent. duty, as

now, cost to import (adding all other expenses) about eighty per cent. advance, or about eight dollars per pound sterling in gold, or forty cents in gold to the English shilling.

All these goods, (pocket and table cutlery,) when in former years they paid twenty-four per cent. duty, cost only about fifty per cent. advance, or say \$6 67 per pound sterling, and could be sold at a profit by importers for \$7 50 per pound sterling, or thirty-seven and a half cents to the shilling sterling.

Table knives and forks with ivory, pearl, or metal handles.

Sterling value.	Per dozen, \$4 84 or pound ster- ling.	\$1 per dozen.	45 per cent.	Compound duty per dozen.	Per dozen by compound du- ties		
							Per cent.
5s.....	\$1 21	\$1 00	54	\$1 54	125		
5s, 6d.....	1 33	1 00	60	1 60	120		
6s.....	1 45	1 00	65	1 65	112		
7s.....	1 60	1 00	76	1 76	105		
8s.....	1 94	1 00	87	1 87	96		
9s.....	2 18	1 00	98	2 08	90		
10s.....	2 42	1 00	\$1 08	2 08	85		
11s.....	2 66	1 00	1 19	2 19	82		
12s.....	2 90	1 00	1 31	2 31	80		

Table knives and forks with other handles than above named.

Sterling value per gross.	Per gross, \$4 84 or pound sterling.	Per gross, \$1 44.	Forty per cent.	Compound duty per gross.	Per gross by compound duties.
					<i>Per cent.</i>
15s.....	23 63	\$1 44	\$1 45	\$2 89	79
16s.....	25 87	1 44	1 54	2 98	78
18s.....	4 36	1 44	1 74	3 18	73
20s.....	4 84	1 44	1 94	3 38	70
22s.....	5 13	1 44	2 05	3 49	68
24s.....	5 81	1 44	2 32	3 76	65
26s.....	6 29	1 44	2 52	3 96	63
28s.....	6 77	1 44	2 71	4 15	61
30s.....	7 26	1 44	2 90	4 34	60
5s, 6d.....	2 30	1 44	1 92	2 36	103
12s.....	2 99	1 44	1 16	2 60	90

Present duty on all above-named goods is thirty-five per cent.

Pocket-knives, calculation.

Value sterling.	\$4 84. or pound ster- ling.	Per dozen.	Fifty per cent. pres- ent duty.	Duty.	Ad valorem by com- pound duties.
					Duty p. ct. in gold.
Dog knives, 6d....	12	75	06	81	675
Com. Barlows—					
1s.....	24	75	12	87	360
2s.....	28	75	24	99	206
3s.....	32	75	37	112	155
4s.....	36	75	49	124	128
4s, 1d.....	97	75	50	125	125
5s.....	1 00	75	50	125	113
6s.....	1 21	75	61	136	100
7s.....	1 45	75	73	148	95
8s.....	1 69	75	85	160	89
9s.....	1 94	75	97	172	85
10s.....	2 18	75	1 09	184	81
11s.....	2 42	75	1 21	196	79
12s, 5d.....	2 66	75	1 33	208	75
20s.....	3 00	75	1 50	2 25	75
20s, 7d.....	4 84	75	2 42	3 17	66
20s, 9d.....	4 98	75	2 49	3 24	65
25s.....	5 02	2 00	2 51	4 51	90
25s, 7d.....	6 05	2 00	3 03	5 03	83
30s.....	7 26	2 00	3 63	5 63	78
35s.....	8 47	2 00	4 24	6 24	74
40s.....	9 68	2 00	4 84	6 84	71

Present duty on all pocket-knives is fifty per cent.

STEEL, OR RATHER, STEAL.

The steelmen—and the reporter will report me rightly, *s-t-e-e-l*, not *s-t-e-a-l*—propose a

heavy levy upon us now. They demand an enormous bounty, though under existing bounties they have been doing wonderfully well. They began in 1859 with a protection of only twelve per cent. *ad valorem*, and have now reached a prosperous production of over thirty thousand tons per annum, and they are demanding a further increase of at least fifty per cent.

DUTIES ON STEEL.

Statement showing the cost of various kinds of steel, per pound, on shipboard, at Liverpool; the duty, per pound, on same before the war; the *ad valorem* percentage on such duty; the duty, per pound, by existing tariff; the increase of such duty, per pound, over rates existing before the war; the percentage of such increase of duty; the proposed duty, per pound, by the present bill; proposed increase of duty, per pound; the percentage of such increase of duty over existing rates; proposed increase, per pound, over rates existing before the war; percentage of such increase over rates existing before the war.

Description of steel.	Cost of different brands of steel on shipboard at Liverpool.		Duty, per pound, before the war.		Ad valorem percentage of such duty.		Duty, per pound, by present tariff.		Increase of duty, per pound, over rates existing before the war.		Percentage increase of duty over rates existing before the war.		Proposed duty, per pound, by the pending bill.		Proposed increase of duty, per pound, over existing rates.		Percentage of increase by proposed bill over present rates.		Proposed increase, per pound, over rates existing before the war.		Percentage of proposed increase of duty over rates before the war.	
	Cents.	Per ct.	Cents.	Per ct.	Cents.	Per ct.	Cents.	Per ct.	Cents.	Per ct.	Cents.	Per ct.	Cents.	Per ct.	Cents.	Per ct.	Cents.	Per ct.	Cents.	Per ct.	Cents.	Per ct.
Extra cast.....	11 17	1 34	1 27	12	12	4 61	8 27	250	6 01	30	4 67	350	3 50	30	1 50	100	4 78	4 78	4 78	4 78	350	350
Best cast and double shear.....	10 58	1 27	1 17	12	12	3 00	1 75	134	6 05	30	4 78	380	3 50	30	1 50	100	4 78	4 78	4 78	4 78	350	350
Second-best cast and single shear.....	9 22	1 10	1 10	12	12	2 25	1 30	110	5 22	97	4 82	440	3 50	30	1 50	100	4 78	4 78	4 78	4 78	350	350
Best blister.....	6 38	1 05	1 05	15	15	2 25	1 20	110	3 50	55	2 45	225	3 50	30	1 50	100	4 78	4 78	4 78	4 78	350	350
Second-best blister.....	5 75	1 05	1 05	15	15	2 25	1 20	110	3 50	55	2 45	225	3 50	30	1 50	100	4 78	4 78	4 78	4 78	350	350
Round machinery steel.....	6 70	1 05	1 05	15	15	2 25	1 20	110	3 50	55	2 45	225	3 50	30	1 50	100	4 78	4 78	4 78	4 78	350	350
Best German.....	6 20	1 05	1 05	15	15	2 25	1 20	110	3 50	55	2 45	225	3 50	30	1 50	100	4 78	4 78	4 78	4 78	350	350
Best quality spring steel.....	8 25	1 05	1 05	15	15	2 25	1 20	110	3 50	55	2 45	225	3 50	30	1 50	100	4 78	4 78	4 78	4 78	350	350

That the vast increase of duties proposed is not for protection but for monopoly, in its most odious form, is fully shown by the domestic manufacturers themselves in a memorial addressed to the Thirty-Ninth Congress, a copy of which I have in hand. In that memorial, signed by all the domestic manufacturers in the country, they say:

"The duties on steel in 1861 were agreed upon by the representatives of the foreign and American manufacturers before the Committee of Ways and Means of the House and the Finance Committee of the Senate, as being well adapted to the existing state of the steel manufacture in this country. A small increase was allowed in 1862 to compensate in part for the domestic tax then first levied. Always before 1861 steel was admitted at about half the revenue rate, there being no American cast-steel of the better quality made until 1859, when its manufacture in the country became an assured success. The American manufacture of steel had attained, from 1859 to the commencement of the rebellion, very considerable proficiency, and during the succeeding four years made rapid progress, competing successfully for the market with the best English brands,

which had previously enjoyed the monopoly of the trade.

"The defeat of this monopoly during the war conferred advantages on our Government in the purchase of this indispensable material which should, of itself, entitle the home manufacturer to the fostering care of Congress." A few years of such support will place the manufacture of American steel beyond the reach of foreign competition, and enable us to dispute, on equal terms, with our English antagonists for the markets of the world."

If the manufacture of steel in this country became an assured success in 1859, with a protection of only twelve per cent. *ad valorem*, and if, with the increase of duties by the tariff of 1861-62, the domestic manufacturer was enabled to compete for the market with the best English brands, and defeat a monopoly previously enjoyed by the foreign maker, with the certainty that the continuance for a few years longer of such duty would enable the American manufacturer to dispute with the English "on equal terms for the markets of the world," with what face can these same parties now come before Congress and demand an increase of sixty per cent. upon the present extravagant rates? Was there ever such effrontery as this? What must be the opinion of the steel-makers of the Congress to which such an impudent appeal is made?

RAILROAD IRON—STEEL RAILS.

A nation's highways are the veins and arteries of a nation—what the circulation of blood is to human life, and as indispensably necessary for the common wealth of a nation. They convey the pulsations of the great heart of the nation to its every limb and branch, and as that heart beats, the head, the hand, the eye, the finger, and the brain all respond. Fulton did wonders for the American people upon its rivers and highways, and hastened its progress westward and southward years and years; but it was the locomotive that first threaded the passes of the Alleghanies, stretched itself out to the great lakes, then shot across the prairies, and now heaves and pants and thunders on the Rocky mountains, and opens for us rapidly the highway to the Pacific sea. There are, at the present time, about forty-two thousand miles of railroad in the United States. Their cost in round numbers is estimated at \$1,600,000,000. They transport one hundred million tons of merchandise annually, having a value of \$10,000,000,000. Upon this immense interest, which conveys the farmer's produce from the distant West to the eastern market, and which in return takes back to that farmer the manufactures and tools he must use, what folly it is to increase the cost of transfer by heavy taxes upon railroad iron, the basis of all this traffic and highways! The economy of railway transportation depends, in a good degree, upon the cheapness of the rails, and yet this bill and other bills before us propose enormously to increase the tariff on steel rails, only to benefit some forty-odd rolling-mills in Pennsylvania—of the sixty now in the whole United States—when these rolling-mills now are so prosperous that they can hardly supply the demand upon them for rails.

The cost and duty on iron rails now in New York is as follows:

	Gold.
Cost of iron in Wales, £6 10s. at \$4 84.....	\$31 46
Freight averages twenty shillings sterling per ton, or.....	6 00
Insurance, in gold.....	1 50
Duty to United States, seventy cents per one hundred pounds, say 2,240 pounds to the ton.....	15 68

Actual cost to the importer.....\$54 64

Lighterage, storage, &c., on arrival, to be added.

This is "protection," which would seem to be enough when we remember the tax is \$15 68 in gold, or about \$21 25 in currency, per ton of iron, without the incidentals alluded to. The dissatisfaction of the rolling-mills of Pennsylvania, however, is not now so much with this "protection," though they are asking for more, as it is with the new Bessemer process of making steel rails.

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Experience has long since proved the utter inadequacy of the iron rails, now in use, to resist the enormous weight and speed of the trains passing over them. The need of another improvement in locomotion, as valuable as was the substitution of the T for the flat bar laid upon wooden sleepers has become imperative. Upon it depend the lives and safety of travelers as well as immense reduction in the cost of transportation. To meet such needs the skill of the inventor and mechanic is always adequate and timely. By the Bessemer process steel rails are now manufactured in England at a cost of a little over three cents per pound; thus bringing the price of an article, indispensable to safety and a proper economy, within reach of all our roads. A steel rail, it is now ascertained, will outlast ten iron rails, and the economy is as five to one. Iron, consequently, is no longer a suitable material for railways. Iron has a fibrous structure; steel, granulous. Iron soon laminates under heavy pressure; steel wears uniformly. The iron-mongers of Pennsylvania are therefore alarmed by the importation of Bessemer or pneumatic rails, the patent on which in this country as well as in Europe secures a complete monopoly to the manufacturer. The present duty is forty-five per cent. *ad valorem*, which, with one and a half cents per pound additional, makes three cents per pound in gold—a prohibitory duty which will stop the importation of steel rails and secure the monopoly, if such rails are used at all, to the Bessemer patent men in this country. The present duty equals \$27 50 per ton, which it is proposed to raise to \$65 10, so that the cost shall be here, in gold:

Cost in England.....	\$60 00 per ton.
Freight.....	6 25
Duties.....	65 10

\$131 35

Interest, insurance, lighterage, and storage to be added.

The proposed duty exceeding the cost of the article is a prohibitory duty, and therefore an irresistible victory for the steel-rail monopolists.

Sir, there is great and just complaint in this country of the bad quality of the rails used, and of the loss of life and limb therefrom. The British send here their refuse rails and we re-roll them and sell them as American iron. We tempt the roads in every way to use poor rails. We use in this country every year seven hundred thousand tons of such rails, owing to the enormous duties we impose upon foreign railroad iron, while we are proposing to have no steel rails at all, unless the patent Bessemer process men here will in mercy make them for us to use at any price they name. By act of Congress the Pacific roads, are compelled to use American, that is, Pennsylvania iron, not steel railroad iron, for that is not yet made in the United States; and the Central Pacific road is actually compelled to take its iron from the interior of Pennsylvania, and to transport it the whole length of the South American continent twice, via Cape Horn, to land it in San Francisco, where it costs \$100 per ton, when Welsh iron could be delivered there for about half the price the Pennsylvania iron costs. All the railroad materials that enter into these roads must be of American, that is, of Pennsylvania iron. The whole thing is cruel to commerce and trade and transportation, and it is cruel to part a continent in this way when a nation is giving subsidies to cement it, too. Pennsylvania ought to be content with her duty on coal, which shuts off from New England about all the Nova Scotia coal, for it costs more in New York to get coal from western Pennsylvania and western Virginia than it would to bring Pictou coal to New York, for Pictou coal could be delivered there at five dollars per ton, while we have been paying eleven or twelve dollars for anthracite and nine dollars for Cumberland. The whole thing is

wrong, wrong, wrong; and no words are strong enough adequately to condemn it.

THE WEALTH OF THE IRON-MONGERS.

But, sir, I am told the iron men and coal men of Pennsylvania are making no money. I know better. The iron and coal mines of Pennsylvania are owned largely in the city I represent, and I know no better property. The capital to work them comes from my constituents, and I know their wealth, their prosperity. I represent iron men and steel men and coal men. I know hundreds of them, and I see daily the wives and children and equipages of these men when at home. I meet them in social life here, there, and everywhere, and I know the immense profits which these men are realizing from the existing enormous bounty. Look at their wives and daughters in the parlors of New York, with thousands and tens of thousands of dollars' worth of diamonds or jewels encircling their fair arms and necks, and garishing and adorning their persons. These iron and coal men are reveling in wealth from the bountiful protection of this Government, and yet they come here crying poverty and asking for more and more protection from the laborers and the hard-fisted mechanics and farmers of this great country. It is shocking, it is barbarous. It is vain, utterly vain, to tell me, or those that are seeing the sights that I am seeing daily in the great metropolis of New York, that the iron men or the coal men in any part of the country are suffering for the want of protection; and yet they come here asking for a doubling and tripling of those duties on some sorts of iron, for more and more protection, as it is called, on almost everything, and they expect, by combination and log-rolling, to carry all they demand. Shame! Shame! Shame upon the cupidity of all concerned.

FELT CARPETS, FELT DRUGGETS—COST, ETC.

The iron-mongers of Pennsylvania know human nature well enough to know they cannot get anything without giving something, and hence we have several little sops in this bill—among them one as follows:

On felt druggets, felt carpets, and carpeting, printed and colored, or otherwise, twenty-five cents per square yard; and in addition thereto, thirty-five per cent. *ad valorem*.

The carpet men have been to Congress five times since the civil war began to increase their bounties: first, in 1861; second, in 1862; third, in 1863; fourth, in 1864-65; and fifth, March 2, 1867. The duties are now as follows, in gold:

	Previous to 1861.	Now.
Aubusson and Axminster.....	24 per cent.	50 per cent.
Wilton carpets.....	24 per cent.	77 per cent.
Velvet carpets.....	24 per cent.	62½ per cent.
Brussels carpets.....	24 per cent.	74 per cent.
Tapestry carpets.....	24 per cent.	75 per cent.
Ingrain carpets.....	24 per cent.	58½ per cent.
Druggets carpets.....	19 per cent.	97 per cent.
Average.....	33 per cent.	70 per cent.

Well, they got enough in 1867; but keen and acute as they were they forgot felt druggets, as they call felt carpeting; and so, in 1868—*lo presto*, here they are again! The carpet manufacturing in this country is now mainly in the manufacturing hands of five or six great capitalists, or houses, that own the Bigelow patent; and rolling in wealth, as they are, inflicting upon every one of us who own or tread upon a carpet from forty to fifty cents clear bounty to them per yard, they naturally enough waxed fat and rich on profits, save in this single but slight forgetfulness of the "felt." To purchase five hundred yards of assorted carpets and druggets (the average supply for an ordinary house) formerly cost about \$1,000. It now costs \$2,500, or two and a half times as much. Of this increase the Government gets say \$500, and the manufacturers \$1,000. And now will they not let the poor, in peace, buy a little felt, whether it is colored or printed, or not?

Felt carpeting is now admitted at forty per cent.,

but in this bill the desire is to classify it as a drugget, to pay a duty of twenty-five cents per square yard, and in addition thirty-five per cent. *ad valorem*. A quality costing in England—

One shilling and nine pence (forty-two cents), at twenty-five cents per square yard and thirty-five per cent. duty, is forty-seven cents a yard—equal to one hundred and twelve per cent. *ad valorem*.

Two shillings and two pence (fifty-two cents), at twenty-five cents per square yard, duty as above, is fifty-one cents a yard—equal to ninety-eight per cent. *ad valorem*.

TAX ON CHEAP BOOKS, BIBLES, ETC.

Once more, Mr. Chairman, I shall trouble you with statistics, and then I am done with them, and though I might go on with them for hours, yet I will select but one more, to show the spirit of this bill, and that is in the tax on books and knowledge:

Lines from 175 to 186.—On all books printed and manufactured prior to the year 1850, five cents per pound; provided that no more than five copies of any book shall be imported in any one invoice.

On all bibles and testaments, the value of which is less than fifty cents each, ten cents per pound. On all books in the English language, bound, stitched, or in sheets, printed since the year 1849, of which editions are printed in the United States, and all printed matter not otherwise provided for, twenty-five cents per pound.

To show how the workings of such a tariff would not only be entirely prohibitory as to any revenue therefrom, but would also deprive the people of cheap reading, I have herewith appended some calculations exhibiting the difference between the present duty and the proposed duty of about one hundred and twenty-five per cent. on cheap reading, and only about five per cent. difference on the reading for the rich. The books upon which these calculations are based have been weighed and found as noted for the purpose by Mr. William W. Swaney, of Brooklyn, New York, the importer:

Books for the People.	Cost.	Dutiable.	In gold. Present rate of duty 25 per cent. <i>ad valorem</i> .	Weight each.	In gold. Proposed duty at 25c. per lb.	Proposed duty, specified, equal to an <i>ad valorem</i> duty of
Wayside Posies.....	12s. sterling.	\$2 88 gold.	72 cents.	3 lb. 8 oz.	87½ cents.....	equal to 33½ per cent.
Pearl 24 mo. Bible, Books for the rich.....	8s. sterling.	16c. gold.	— cents.	8½ oz.	On Bible, 10c. lb. is 5½ cents.....	equal to 33½ per cent.
"Dick's" Shakespeares.....	8s. sterling.	16c. gold.	4 cents.	16 oz.	34 cents.....	equal to 112½ per cent.
"Dick's" Byron.....	5s. sterling.	10c. gold.	2½ cents.	10 oz.	15½ cents.....	equal to 165 per cent.
"Dick's" 25-cent Poets.....	4s. sterling.	8c. gold.	2 cents.	7½ oz.	12 cents.....	equal to 160 per cent.
Waverley Novels.....	4s. sterling.	8c. gold.	2 cents.	6 oz.	10 cents.....	equal to 150 per cent.
Tales of a Grandfather.....	4s. sterling.	8c. gold.	2 cents.	5 oz.	7½ cents.....	equal to 100 per cent.
Moore's Works.....	8s. sterling.	16c. gold.	4 cents.	12½ oz.	19 cents.....	equal to 125 per cent.
Scottish Chiefs, and Children of the Abbey.....	4s. sterling.	8c. gold.	2 cents.	6½ oz.	10 cents.....	equal to 125 per cent.

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THE CONCLUSION.

And now, Mr. Chairman! though conscious that I have done but feeble justice in the analysis of some few of the items in the tariff bills to be acted upon this session, I must stop. There is a limit to human endurance of such dry topics as I have dwelt upon, and though surprised by the earnest attention you have given me, when on a subject so dry, I will not exhaust that patience by a longer draft upon it. Read the bills yourselves, members of the House. Take nothing on trust. Every item or almost every item in this bill is full of money, and full of bounties, and full of reflection, too. Listen not to the rich lobbies that envelop you, but to your own studies, and to the interests of your constituents at home. The British tariff, the greatest manufacturing and now the greatest commercial nation in the world, has but fifty-five items in it for all the various branches of business. The English Custom-House Manual for 1867 is a little pamphlet for the vest pocket, not quite four inches long by two and a half in width. Our American tariff contains some nine hundred and fifty dutiable articles of drugs and druggists' goods alone, and the whole is a profound study, a vast puzzle. Smuggling and fraud and corruption have increased under it to an enormous and frightful extent, and are daily increasing. Reduction, abolition, is what ought to be done with the most of it; but here is increase, increase, and nothing but increase, proposed. What is bad we are called upon to make worse, and in nothing to do better. Will the House, then, assent to all this? I see some men of my own party, on the Democratic side, voting with those on the other, the Radical side, men from Pennsylvania, who think they must respond to the passion or prejudice of their own associates. But, thank God! I see at last, some on the other side who, emancipating themselves from the thralldom of the past, now vote for the people as a whole, and for the interests of the consumers of the country.

Let not this matter, then, be mingled with party politics. Let it be looked at as a question of great public interest. Let the farmer be heard; let the mechanic be heard; let the laborer be heard; let the man who lives on a paltry salary be heard; let all other interests be heard except these tremendous monopolies now thronging the Halls of this Capitol and overwhelming us with their cries for protection, protection, everlasting and eternal protection, more and more, louder and louder, the more we give.

Funding the National Debt.

SPEECH OF HON. W. H. KELSEY,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1869,

On the bill (H. R. No. 1287) to provide for funding and paying the national debt and for taxing the interest-bearing bonds hereafter issued by the United States, and for other purposes.

MR. KELSEY. Mr. Speaker, one of the most important duties that this Congress is called upon to perform is to establish and settle a financial policy for the Government that shall be just to the public creditors and satisfactory to the people. To do this there must be no taint of repudiation in any form mingled with the policy to be established, and it must provide for the payment of our debt within a reasonable time, just as the public creditors had a right to understand and believe that it would be paid when they lent their money to the Government.

There is no subject upon which men have differed more widely than upon this, and there is none that requires a more careful examination, to the end that the best possible system may be established. The bill passed at our last session,

and which failed to become a law because it did not receive the sanction of the Executive, contains some wise provisions, but I doubt very much whether it is entirely satisfactory to half a dozen members of this House. Almost every member doubtless has a plan of his own that he deems better than the bill that was passed within half an hour of the adjournment of our last session. A careful examination of the various plans that have been submitted and that will be submitted may enable us to adopt the one that is best, or out of these various plans we may extract the material for a system of finance that will be acceptable to the country. It is in this spirit and in this hope that I ask attention to the bill I have introduced upon this subject.

On the 22d of June last I had the honor to introduce a bill (H. R. No. 1287) to provide for funding the national debt and for taxing the interest-bearing bonds hereafter issued by the United States, and for other purposes. Since that time I have revised and amended it in some particulars, and I now ask the attention of the House to its provisions, because I have reason to believe that while it would, if adopted, establish a financial policy entirely just toward the public creditors, it would at the same time give as general satisfaction to the people who are not public creditors as any plan that has as yet been submitted to this House. A careful analysis of the bill will determine whether I am right or not on these points.

The first section of the bill provides that the Secretary of the Treasury is authorized and required to issue registered or coupon bonds of the United States in such form as he may prescribe, and of denominations of \$100 or any multiple of that sum, payable, principal and interest, in coin, at such places in Europe or the United States as he shall designate, and bearing interest at the rate of five per cent. per annum, payable semi-annually, and bearing date so as to require the payment of an equal amount of the interest quarter yearly; such bonds to be payable in fifty years from date, and to be redeemable in coin at the pleasure of the United States after twenty-five years from date; to be issued to an amount sufficient to cover all outstanding or existing interest-bearing obligations of the United States, and to be exchanged for such obligations or disposed of in such manner and on such terms, not less than par, as the Secretary of the Treasury may deem most conducive to the interests of the Government; and the said bonds and the proceeds thereof shall be exclusively used for the redemption of or in exchange for the existing interest-bearing securities of the United States.

The second section provides that the bonds issued under the first section of this act shall be known as the "consolidated debt of the United States," and the same shall be exempt from taxation in any form by or under State, municipal, or local authority, and the same and the interest thereon and the income therefrom shall be exempt from the payment of all taxes or duties to the United States, except that there shall be deducted and retained in the Treasury from the interest or coupons of said bonds at the time of paying such interest or coupons one half of one per cent. on said bonds semi-annually as taxes, which taxes shall be semi-annually, and immediately after they are so deducted and retained, invested in the bonds hereby authorized to be issued, and shall, together with the interest that shall accrue upon the bonds in which such taxes are invested, form a sinking fund for the payment of the national debt, and the sinking fund hereby created shall be in lieu of the sinking fund provided by the fifth section of the act entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States," approved February 25, 1862.

The third section provides that whenever any bond shall be purchased for and on account of the sinking fund created by this act it shall be the duty of the Secretary of the Treasury to cause the same to be legibly stamped, as follows: "this bond belongs to the sinking fund of the United States," and the said bond shall be immediately entered by its date, number, and amount in a book to be provided by said Secretary and kept for that purpose; and all bonds so purchased shall be safely kept by the Secretary of the Treasury, and all the interest accruing thereon shall be semi-annually invested in the bonds authorized to be issued by this act, and added to the sinking fund created by this act.

The fourth section provides that the several interest-bearing bonds of the United States already issued that are redeemable at the pleasure of the United States, after a certain number of years from their date, shall at the option of the holder thereof be exchanged for the bonds authorized by this act; provided that such bonds as are now redeemable at the pleasure of the Government shall be presented for exchange within six months after this act takes effect; and such bonds as hereafter become so redeemable shall be presented for exchange within six months after the same become redeemable, and such exchange shall be made at such places and under such regulations as the Secretary of the Treasury may prescribe.

Section five provides that the bonds issued pursuant to the provisions of this act may be deposited with the Treasurer of the United States, as security for the redemption of national bank notes, pursuant to the provisions of an act entitled "An act to provide a national currency secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," approved February 25, 1863; and after six months from the passage of this act no other bonds than those authorized to be issued by this act shall be received or held by the Treasurer of the United States as security for the redemption of national bank notes; and in all cases the amount of bonds deposited with said Treasurer as security for the redemption of national bank notes shall be fifteen per cent. greater than the amount of national bank notes that shall be delivered to any national bank for issue and circulation.

Section six provides that it shall be lawful for any number of persons, not less than five, to establish a bank having a capital of not less than \$100,000, pursuant to the provisions of an act entitled "An act to provide a national currency secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," approved February 25, 1863, by depositing with the Treasurer of the United States bonds of the United States authorized by this act to be issued, to an amount exceeding by fifteen per cent. the amount of national bank notes to be delivered to such bank by the Treasurer of the United States for issue and circulation, and complying with the other provisions of said act, approved February 25, 1863, except as to the security to be deposited with the Treasurer of the United States for the redemption of the circulating notes of such bank, which security shall be given as required in this act.

The seventh section repeals all provisions of law inconsistent with this act.

The objects of this bill are so apparent that it may be entirely unnecessary to attempt to explain or enforce them. But having the opportunity to do so, I will say a few words to prevent any misapprehension or misconception of my object in submitting this bill for your consideration.

First. I desire to reduce the amount of interest we are paying on the national debt. It is conceded on all hands that we are paying too much interest. We can certainly borrow money now upon more favorable terms than we could when we were engaged in a deadly

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struggle with a powerful enemy to maintain the existence of our Government; and we ought to do so. In making a new loan for this purpose we ought to fix the terms and time of its payment and provide the means for its payment, so that there shall be no misunderstanding as to the terms of the contract and no failure on the part of the Government to perform it.

It is proposed by this bill to issue new bonds, payable, both principal and interest, in coin, at five per cent. interest, payable semi-annually, the principal to be payable in fifty years from date and to be redeemable in coin at the pleasure of the United States, after twenty-five years from date, to an amount sufficient to cover all the outstanding interest-bearing obligations of the United States. And these bonds are to be used solely for the purpose of redeeming the interest-bearing obligations of the United States, either by exchanging the new bonds for old ones or selling them for money and using the money to redeem the present outstanding bonds. Great complaint has been made because the present outstanding bonds of the Government are not taxable by State, municipal, or local authority, nor by the General Government, except upon their interest or income.

I shall not stop to show that the United States Government can never permit the securities it issues, when compelled to borrow money, to be taxed by any authority save its own, and that it cannot tax them itself without committing a breach of faith, unless the provision is made for such taxation in the law that authorizes the borrowing the money, or at all events before the lender has parted with his money to the Government. All this has been demonstrated so often that it is only necessary to allude to it here. This bill provides that the bonds we propose to issue shall be taxed for one purpose, and for one purpose only, and that is to form a sinking fund to pay the principal of the national debt. This tax is to be retained out of the interest as it becomes due, and invested in the same kind of bonds, so that the interest on the sinking fund will be compounded every six months, and this sinking fund—according to a computation made by a competent and careful mathematician, which I have before me—will absorb and redeem the entire national debt in forty years and nine months if the Government shall always be able to purchase the bonds for the sinking fund without paying more than their par value for them. But it is believed that these bonds will within a few years command a premium in market, so that it will require nearly or quite the entire fifty years that the bonds have to run to redeem the whole debt.

It may be said that there is no necessity for taxing the bonds at all; that we might just as well issue the bonds at four per cent. and exempt them from taxation entirely, and appropriate from the Treasury a sum equal to one per cent. on the amount of the bonds to the sinking fund. This is merely another way to accomplish the same object, and not so good a one as that proposed in the bill. If the bill as it stands is adopted, whenever the appropriations are made to pay interest the appropriations for the sinking fund are included in them; so that the sinking fund will not be neglected or forgotten, as is very likely to be the case if any other course is adopted. There is a law on your statute-books now creating a sinking fund, but I cannot learn that any money has been invested pursuant to that law or that the sinking fund has tangible existence. It seems to me that the provisions of the bill will render it more certain that the law will be executed in all its parts than to separate the appropriations for interest on the debt from the appropriations for the sinking fund.

The three leading points in the bill are: first, to reduce the amount of interest the Government must pay; second, to tax the bonds

proposed to be issued; and third, to create a sinking fund that will absorb the bonds and pay off the entire debt within the time the bonds have to run.

The question naturally arises, will the holders of the present securities issued by the Government bearing six per cent. interest be willing to exchange them for the new bonds bearing five per cent. interest, and subject to a tax that leaves the holder only four per cent. of net income? There are several considerations that will have a material influence in deciding this question. The length of time the new bonds have to run will add to their value. The fact that no question can arise as to how or in what kind of currency both the principal and the interest are to be paid will aid in giving them value in the markets of the world; and the further fact that they will be the only bonds that can be deposited with the Treasurer of the United States as security for the redemption of national bank notes will give them additional value in our own country, and, it is believed, will induce the holders of our present bonds in this country to exchange them for the new issue. If they should not be willing to make the exchange the Secretary of the Treasury can sell the new bonds and redeem the old ones. The removal of the restriction upon the establishment of national banks, as provided in the bill, will create a demand for a large amount of these new bonds to furnish security for the redemption of their circulating notes; and the circulating notes will furnish to the people a sound currency sufficient in amount to transact the business of the country and prevent anything like panic or even pressure in the money market when we return to specie payments; which ought to be done at the earliest practicable moment. But it seems to me that the most formidable obstacle to the resumption of specie payments is the fact that we have no settled financial policy.

I have purposely avoided making any provisions in relation to the funding of the legal-tender notes, because I think we can resume specie payments as soon as the present interest-bearing bonds are provided for by a proper funding policy and the expenses of the Government are reduced to the lowest practicable point. We shall then have only the legal-tender notes to redeem in specie, and the people will not be anxious for their immediate redemption, because they will be much more convenient for use than the specie itself. Of course, there must be a general resumption of specie payments by the banks and the people at the same time the Government resumes such payments. But I do not now propose to discuss this branch of the financial policy that should be adopted, and have alluded to it mainly for the purpose of stating my views as to what ought to be done with the legal-tender notes, and to show that the bill proposed leaves them to be provided for as Congress shall hereafter direct.

Some policy must be adopted to pay our national debt. And it would seem that the wisest and best policy is that which sets apart from the taxes collected from the people and securely invests a specific sum every year or every half year for that purpose.

Denver Pacific Railway.

REMARKS OF HON. G. W. JULIAN,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1869,

On the bill (S. No. 570) granting land and the right of way over the public lands to the Denver Pacific Railway and Telegraph Company.

Mr. JULIAN. Mr. Speaker, so much has been said already on the proposition before the House that I do not think it worth while to consume much time in its further discussion.

It comes here from the Senate in a very questionable shape, and, however honestly drawn, is certainly open to very diverse interpretations. The right of the road to the subsidy asked is, to say the least, very debatable, and the importance of the bill in other respects demands for it the most careful consideration; and yet the bill has never been sent to any committee of this House. It is taken from the Speaker's table for action without the customary reference and report, and in disregard of the well-settled and wholesome usages of this body; and I propose, therefore, if the opportunity shall offer, to move the reference of the bill and its various amendments to the Committee on the Public Lands.

But the measure is now before us for action, and I desire, in the first place, to say a word on the general subject of land grants in aid of railroads. I do not agree with my colleague [Mr. HOLMAN] and the gentleman from Illinois [Mr. WASHBURN] in their hostility to all such grants. I think they forget the wholesome duty of discrimination. Neither common sense nor a regard for the true interests of the country will warrant their wholesale opposition to such legislation. I have recently been much interested in the facts and figures of Commissioner Wells on the subject of railway extension, and the able speech of the gentleman from Minnesota [Mr. WINDOM] on the same subject, showing that our foreign immigration increases in the ratio of our railway extension; that our exports and imports increase in the same proportion, as does also our domestic trade; that the settlement and population of our western States and Territories obey the same general law, thereby increasing production and supplying the means of paying our national debt; and that railway extension, as shown by our military commanders, is the true and only solution of our Indian problem, which is costing us so many millions.

These are very pregnant facts, and they call for a liberal policy on the part of Congress toward railroad enterprises. Under proper restrictions I would grant them public lands, and this House has already decided that these restrictions shall be such as I have proposed in the amendment I offered to this bill the other day, namely, that the lands shall be granted on the express condition that they shall be sold to actual settlers only, in quantities not greater than one quarter section to one purchaser, and for a price not exceeding \$2 50 per acre. This will avoid the complete monopoly of the lands, as sanctioned by the old system of land grants, and at the same time devote to settlement and tillage the odd-numbered sections granted, while creating in this way established communities and a local business along the line of the road. This, sir, is the true policy; and the whole land grant system of our country will be repudiated by the people, and ought to be repudiated, unless it shall be made to conform to the conditions I have stated.

A word only, Mr. Speaker, on the question of subsidies. I do not think our financial condition justifies these expenditures in addition to subsidies in lands. I believe, also, that the most important of these enterprises will be carried on without such aid. They will construct themselves; and the gentleman from Minnesota admits this, as to the Northern Pacific railway, in concluding his argument in favor of aiding it by the Government. During the railway period of thirty years, ending with the year 1865, we have built in the United States annually an average of eleven hundred and fifty-six miles, and since that year, and including it, the average of miles annually has more than doubled. Last year we built twenty-five hundred miles, and the work does not promise to slacken. Commissioner Wells estimates that the gross earnings of our roads pay for building them in a little more than four years. Who believes, in view of the energy and spirit of adventure of

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our people and the manifest fact that these enterprises pay, that large subsidies in money are necessary to keep them alive? Who does not see, in the enormous profits of the Union Pacific road and the frightful monopoly which is sure to follow, reasons for withholding like aid to kindred enterprises? We need, to be sure, competing lines, and we shall have them, subsidies or no subsidies. No legislation or failure to legislate can prevent it. I heartily wish we were now able to aid this and other projected lines to the Pacific, and thus quicken and hurry forward the energy and progress which are the sure attendants of railway extension, as I have already said. I wish we were financially able to be as liberal and as lavish to all our great roads as we have been to some. The misfortune is that we are not, and I think our duty is to confess it, and to trust to the spirit and enterprise of our people and the evident tendency of railway development to go forward of itself rather than to continued subsidies in the present greatly burdened condition of our Treasury.

Denver Pacific Railway.

SPEECH OF HON. A. F. STEVENS,

OF NEW HAMPSHIRE,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1869,

On the bill (S. No. 570) for a grant of land and granting the right of way over the public lands to the Denver Pacific railway, and for other purposes.

Mr. STEVENS. Mr. Speaker, in the investigation of this subject, which involves the question of granting additional aid to the Union Pacific railway, eastern division, I have sought to derive the information which is to guide my action from sources at once disinterested and responsible. I have listened with great interest to the debate on this floor. I have heard the fierce and violent denunciation against the measure uttered by the gentleman from Illinois [Mr. WASHBURN] and the gentleman from Ohio, [Mr. VAN TRUMP.] I have heard the measure opposed on the ground of unconstitutionality and on the ground of extravagance.

Having been reared in a school which recognizes the power of the General Government to aid the great work of internal improvements, and belonging to a party which illustrated its devotion to that policy by inaugurating and maintaining a system of Pacific railroads, even in the midst of war, which are to unite the interests and the civilization of the continent in bonds of iron, if not of steel, I have nothing to offer in response to the former objection except my general dissent to a doctrine which may be considered as antiquated and out of date, useful only to some ancient politician seeking a sensational or short-lived notoriety in the revival of an old political heresy contemporaneous with State rights, nullification, and the "resolutions of '98." To the latter, as a practical question of the highest moment, of the greatest importance in our present condition, and never to be lost sight of, even in the midst of prosperity, I accord the highest regard and consideration. If this is a measure of extravagance it cannot have my support. I will go further, sir, and bring it to the test of a severer criticism. If it is not a measure of economy it shall not receive my support. And it is in the light of this protestation, earnestly and sincerely made, that I propose very briefly and succinctly, I trust, to discuss this bill.

It is very evident that much of the heated and declamatory denunciation indulged in by gentlemen in opposition to this bill has no bearing, even in its terms, upon the corporation which seeks aid at our hands. There is another corporation, known as the Union Pacific railroad, on which gentlemen have expended a vast amount of vituperation, and which, if it was

capable of being annihilated by words, high-sounding and defiant, would not have survived the early stages of this debate. I was greatly stirred by the earnestness of the gentleman from Ohio [Mr. VAN TRUMP] in this particular. I had listened with the most considerate attention to the charges so ardently enunciated by the gentleman from Illinois, and was, I confess, somewhat disappointed to find his philippics directed principally against a corporation not benefited by this bill, and whose road is a hundred and fifty miles further north.

Then came the gentleman from Ohio, to whom I listened with attention; and when I heard him pouring the hot-shot of his fiery indignation into some imaginary and soulless monster I drew nearer in order to get a glimpse of the victim, and found it, not the party provided for in this bill, but the same terrific and monstrous production of our former legislation, the Union Pacific railroad. Now, sir, I have little to say in this connection about the Union Pacific railroad. If it has any interest in this bill it has an interest to defeat it, for that defeat would give it a practical and permanent monopoly in the transit of our commerce and travel across the continent. If the gentlemen from Illinois and Ohio had been the special advocates of a railroad monopoly across this continent, I know of no way they could have discharged their office more efficiently than by the identical opposition they have made to the passage of this bill. Whatever else their remarks tend to promote, whether it be the true interpretation of the Constitution or the interest of economy, one thing is most apparent, that they are particularly the ardent advocates of a gigantic railroad monopoly. It needs no enlargement of statement or argument to prove this. If this bill does not pass, and the Kansas branch of the Pacific railroad is suspended in its extension, the commerce of the continent is at the mercy of the corporation which these gentlemen so earnestly denounce. That is the result. If they were the feed advocates of this mammoth serpent that winds its inevitable coil along the valleys of our western rivers and through the gates of the Rocky mountains they could not have struck a better lead or more effectually urged the establishment of a gigantic monopoly over the widespread region which separates the two great oceans.

Mr. Speaker, I have said that the railroad which had drawn down the lightning of these invectives is not the beneficiary of this bill. Let us take a look at the map of our western domain, and see what is in fact the subject of controversy. If we spread out before us the map of our western possessions we shall find a line of railroad reaching from Chicago, on and near the parallels of forty-one and forty-two degrees, westwardly through Omaha, in Nebraska, to Salt Lake City, the land of Brigham Young and the Mormon, thence to unite with the Central Pacific railroad coming east from Sacramento, and when united forming a continuous line from the Missouri to the Pacific ocean. That is the Union Pacific railroad about which all this noise has been made, and which stands as the common target of the gentlemen from Illinois and Ohio.

Cast your eye down the map till it reaches the parallel of St. Louis, in Missouri, and you will see a line of railroad stretching westerly from that city to the western border of Kansas. That portion within the State of Kansas is the Union Pacific railway, eastern division. That is the corporation which to-day asks the aid of your legislation. These roads at the nearest point are some one hundred and fifty miles distant from each other. The lower road is completed nearly to the western border of Kansas, and its construction has been suspended for want of funds.

That want of funds arises not from any fault of the corporation, but from the policy which

allowed a change of location without fixing the limits to which the loans of the Government should extend. This railroad stands *rectus in curia*. It has violated no law. It rests, in all its operations, under the sanction of your own law, and its actions have been confined within the terms of the statute passed by Congress. It asks you now to lend the aid of the Government to extend it fifty-four miles further, and to a point known as Cheyenne Wells, from which it is to deflect to Denver, in Colorado, where it unites with the Denver Pacific railway, thus making a line which will tap the Union Pacific railroad at or near Cheyenne, near the one hundred and fifth meridian. It asks, however, no grant of land. We are not by this bill to tear from the public domain the valuable slopes of the Rocky mountains or their fertile summits, which my friend from Illinois rates at three dollars per acre. I hope, sir, he will never be obliged to inhabit them long at any price. The bill asks and proposes no additional grant of land; but it does ask of the Government a loan of \$16,000 per mile to enable the corporation to make this connection, amounting in all to \$860,000.

Now, Mr. Speaker, this is a large sum, not so much indeed as the Government agreed to pay for the transportation of the mails across the continent for one short year, but still a very considerable sum; a sum I do not propose to grant or vote unless demanded by the best interests of the Government and the strictest economy. Now, sir, I want to look at it in the light of the public welfare and economy. It seems to be admitted on all hands that without this loan of the credit of the Government this road must stop where it is. If we do not assist it it can go no further. What has been the experience of the past in relation to the opening of this avenue of transit? I want to call in here the authority whose testimony I invoked at the outset of my remarks, the disinterested and responsible witnesses whose observation, character, and experience give weight to their words. If I antagonize the statements of my friend from Illinois with that of any of his distinguished friends I must appeal to the records as my justification. But I will venture to call a gentleman whose word is soon to become law, and who, if he has no policy of his own, has at least a mind of his own, and pretty clearly expounds this question of aid to the Pacific railroads. Let us hear General Grant:

"During the last summer and summer before, I caused inspection to be made of the various routes of travel and supply through the territory between the Missouri river and the Pacific coast. The cost of maintaining troops in that section was so enormous that I desired, if possible, to reduce it. This I have been enabled to do to some extent from the information obtained from these inspections, but for the present the military establishment between the lines designated must be maintained at a great cost per man. The completion of the railroads to the Pacific will materially reduce this cost, as well as the number of men to be kept there. The completion of those roads will also go far toward a permanent settlement of our Indian difficulties."

The gentleman from Illinois says the railroads have set the Indians to fighting. General Grant says their extension will give us peace. Well, sir, I will ask the House to listen to the opinion of another gentleman who has never disagreed with his distinguished chief since the latter started from Vicksburg in 1863. Says General Sherman on this subject:

"The completion of this road during the present year to Fort Lyon would be a most important event to the military interests of that frontier, and the completion of the other branch (Denver branch) to coal and wood would also be most important to all the interests along the valley of the Smoky Hill, chiefly so to us who have to guard that line and provide for the wants of the necessary garrisons. It seems to me that we can, with great propriety, recommend to Congress at its present session to extend their subsidy to this company at the present rate for two hundred and fifty miles more, the aggregate amount being \$4,000,000 in bonds. This road is a military necessity."

And by a singular coincidence another general, who is having some such experience with

the hostile tribes of the plains and mountains as General Jackson had with the Creeks before railroads were in operation in Tennessee, gives us his opinion in about as distinct and terse language as we heard from New Orleans before he was relieved from that command. General Phil. Sheridan tells us:

"I know that peculiarly it would be to the advantage of the Government to help this road; certainly as far as Fort Wallace, and also to Fort Lyon. But, in addition, it almost substantially ends our Indian troubles by the moral effect which it exercises over the Indians, and the facility which it gives to the military in controlling them. No one, unless he has personally visited this country, can well appreciate the great assistance which this railroad gives to economy, security, and effectiveness in the administration of military affairs in this department."

And a communication from General Schofield, Secretary of War, in a letter to Senator DRAKE, in July last, enters more largely into the reasons for this aid to the lower road. He says:

"In reply to your communication of July 2, respecting the Union Pacific railway, eastern division, in which you desire to know the wishes of the War Department as to the proposed extension of Government aid to that road as far as Cheyenne Wells, I have no hesitation in recommending the proposed extension."

"By reference to a letter from General Sherman to General Grant, dated March 4, 1868, now before Congress, it will be seen that a much greater aid is recommended than that now proposed, and that the road is spoken of as a military necessity."

"No man could be better able to judge of this matter than General Sherman, and I have no hesitation in indorsing his opinion."

"I believe near Cheyenne Wells is the most easterly point where a temporary depot for the supplies destined for Fort Lyon and the posts beyond can be made so as to conveniently subserve the military interests."

"Abundant water and forage at that point make it more suitable than any other point further east for such depot, while the distance (about forty miles) from Fort Wallace to Cheyenne Wells will be saved in wagon transportation of supplies."

"The proposed extension appears to be a measure of economy to the Government."

I add also the letter of General Hancock, written to the Secretary of War in July last, in which he says:

"I have the honor to state that from my knowledge of the facts concerning this road—which is probably as intimate and extensive, and, as regards actual experience, in some respects more minute as to details than that of those who have spoken favorably of the enterprise—I feel at liberty to offer the weight of my testimony in a few words, believing that the interests of the Government may be benefited thereby. I commanded the department of the Missouri last year, during an Indian war, and from my personal experience, obtained while I was on the plains, with respect to the transportation of troops and supplies by the railroad in question, as well as its great importance in connection with the settlement of that country, I feel that I can speak in strong language of the necessity of this road being extended as rapidly as possible."

"I consider any assistance given by the Government to this enterprise as most wisely and advantageously applied."

No person can fail to see in the light of this evidence that the most potent and imperative reasons are here adduced for the relief asked for in this bill. Public welfare, the industry of these newly-settled regions, the cessation of Indian hostilities, and public economy, all demand the prompt passage of this measure.

This testimony is general, though to my mind conclusive. Still there are no figures such as all political economists demand as the basis of their action. Let us, therefore, see if we can gather any light from a comparison of expense between the old system of travel in these western wilds and the new one inaugurated by this extension of railroad facilities.

Fortunately we have official evidence on this branch of the subject also. On the 25th of May, 1868, the honorable gentleman from Ohio, [Mr. GARFIELD,] chairman of the Committee on Military Affairs, to whom was referred a letter from the Secretary of War, inclosing a letter of Lieutenant General Sherman, dated March 4, 1868, recommending Government aid to extend the Union Pacific railway, eastern division, as a military necessity and a measure of public economy, submitted a report unanimously con-

curring in by the committee, a portion of which I read:

"That they have carefully considered the statements therein made, and have found them confirmed by the following facts, drawn from official record.

The cost to the Government for transportation on the Union Pacific railway, eastern division, in 1867, was.....\$511,998 24

If the military supplies had been wagoned and the mails carried by stage and the troops marched, (taking the average rates at which the Government made its transportation contracts for that year, as shown by certificates of the department of the Quartermaster General and Postmaster General,) the cost would have been.....1,358,291 06

Saving to the Government in 1867.....\$846,382 82

"At this rate of saving all the United States bonds issued in aid of this road, principal and interest, would be extinguished in less than four years."

"These are the results of the use by the Government of the finished portion of the road in Kansas in the last year."

"In regard to the extension of the road beyond the point in Kansas at which its subsidy ends, the committee find that there are three regiments of troops in New Mexico, (two of infantry and one of cavalry,) nearly all of the supplies for which are wagoned from the end of the Kansas Pacific railway at a cost of \$1 28 per hundred pounds per hundred miles. At the present freight rates of the railway, as shown by their printed schedule, the saving in transportation on these supplies to Albuquerque, on the Rio Grande, a central distributing point in New Mexico, would be per annum \$581,880. We have ascertained that the additional saving to the Government in the transportation to Albuquerque of the mails, troops, and Indian supplies would be \$231,992. Total annual saving, \$1,083,872."

"But there is another consideration of economy in the public expenditure as the result of constructing the road. Lieutenant General Sherman has testified that one half of the military force in New Mexico could be dispensed with if the road was constructed, owing to the great mobility of the remainder and the growth of self-protecting settlements on the line of the road. As his estimate of the cost of maintaining the two regiments of infantry and one of cavalry was about four million dollars a year, the committee find that an additional saving to the Government of \$2,000,000 annually would thus be effected by the road. This saving, added to the saving in the transportation of the diminished military force that would be left in New Mexico and of the supplies to maintain them, including the carriage of the mails and Indian goods and supplies, would, in less than six years, reimburse the entire loan necessary to extend the road from its present terminus to the Rio Grande."

Now, a calculation of the difference per annum in the expense on the fifty-four miles to which this loan would apply, made on the basis of the foregoing facts and figures, shows the following result. I quote from the remarks of the honorable gentleman from Kansas, [Mr. CLARKE,] made in this House during the discussion of this bill. He says:

"If this bill does not pass there will be more taken from the Treasury next year, and every year thereafter, by \$94,000 than heretofore, and I challenge a contradiction of the fact. Last year the Government transportation on route No. 2, beyond the present end of the track to New Mexico, as stated by General Easton, of the quartermaster general's department, was over 20,000,000 pounds, or 10,000 tons. The above 10,000 tons carried over the 54 miles for which this bill grants aid would cost, at the railroad tariff, 10-8-10 cents per ton per mile, which would amount to \$58,300. The United States mails carried over the same distance at contract rates by railroad, \$150 per mile per annum, amounts to \$8,100."

"The United States troops carried last year numbered 6,225 over an average of 173 miles of road, equivalent to 2,692 taken to the end of track, which is 400 miles. The cost of transportation of these troops on the 54 miles to be constructed would amount to \$12,123. Total amount of Government transportation on the 54 miles, \$78,523, of which the Government would pay the railroad company under the present law but one half, or \$39,262."

"Now, if these supplies should continue to be transported by wagons over the 54 miles, the mails carried by stage, and the troops marched, I estimate the cost as follows: Government freights, 10,000 tons, at 28-4-10 cents per ton per mile, \$153,360; United States mails, at \$243, per mile per annum, \$13,122. The saving by transportation of 2,692 troops by railroad is estimated at one third the cost of marching the said troops; so that this saving would be one half of \$12,123, or \$6,062. From this statement the following facts are shown: the total cost under the present system would be \$184,667. If the railroad were constructed the actual outlay of the Government would be \$39,262. The yearly retrenchment on existing Government business over this 54 miles would be \$145,405. Total aid in Government bonds, \$864,000. Interest at six per cent., \$51,840. Yearly saving to the Government over the interest, \$93,565;

which would wipe out the entire principal of the Government loan in less than eight years, leaving for the twenty-two years thereafter, until the bonds mature, \$93,565 yearly to the Government of the United States. This sum placed at interest by the Government would yield over five million dollars by the time the bonds will become due. It is with such facts as these with which I oppose the inaccurate statements of the gentleman from Illinois."

Mr. Speaker, upon those facts I am so confident of the merits of this proposition that I am amazed, after a full examination, to find it opposed, not by facts and arguments, but by accusation and declamation. I am persuaded that the demands of the public and military necessity of this measure have been overwhelmed by the general clamor against the policy of subsidies. But this is an independent and well-recommended measure, and as such shall receive my conscientious support under the demands of that public policy which is so well established by the evidence I have read in the hearing of the House.

Mr. Speaker, I have been accustomed to bring to the consideration of questions arising here and on which I am called to act a fearless and independent judgment. While I am against the policy of granting large subsidies in the present condition of our finances I am not to be drawn from the support of an isolated, meritorious measure like this by any general clamor. The interests of the Government must be sustained, and there is in this case an array of proof conclusive upon this measure as one of economy alone. I feel, sir, that if I were to vote against this bill in the light of the evidence which I have read I should be derelict and false to the just demands of the public welfare. This is not an original question. The extension of this road is called for by the necessities of the Government, by military necessity, by the dictates of economy. I know there may be an honest difference of opinion among members on the merits of this measure, but it is one upon which every gentleman must vote under his own convictions of duty; and, guided by the investigation which I have been enabled to make, I give my support to the provisions of this bill in the full and conscientious belief that the public welfare imperatively demands that we should make the pending measure an exception to that policy which denies any further aid to our Pacific railroads.

Denver Pacific Railway.

REMARKS OF HON. W. LOUGHRIDGE, OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1869.

On the bill (S. No. 570) for a grant of land granting the right of way over the public lands to the Denver Pacific railway, and for other purposes.

Mr. LOUGHRIDGE. Mr. Speaker, I should really almost despair of anything like economy in the expenditures of the Government by this Congress if I thought there could be any probability of the passage of this bill in the form its passage is asked for by its friends upon the floor. I regard this as one of the most bare, bald, and inexcusable attempts to deplete the Treasury for private gain that I have ever known; and I say this without any personal feeling in the matter, and after having carefully listened to the speeches—I cannot say arguments—made by its friends in its advocacy.

Sir, what is the case made out? We have sat here, the Representatives of the people, and heard the claim of this railroad company to this \$864,000 of additional subsidy, and now it is for us to say, representing the interests of the people and as the guardians of the Treasury, whether the claimants have made out such a case as will justify us in adding that amount to the already crushing national debt. Gentlemen of experience and of talent have advocated the claim, and if there were any

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sound claims or good reasons I have no doubt they would have been brought to our notice. But I must say, with all due deference to its advocates, that I have heard no one good, sound, sensible reason in support of this subsidy.

What is this case? The Government, with a great stretch of liberality, in 1862 granted to this company subsidy amounting to \$16,000 a mile, and every alternate section of land for ten miles on each side of the road, to build their road from the Missouri river at the mouth of the Kansas, and to unite with the Union Pacific at the one hundredth meridian of longitude. In 1864 Congress, with a still further stretch of liberality, authorized the company to place a first mortgage upon the road for \$16,000 a mile, to take precedence of the Government lien, which act they, of course, took advantage of to the last dollar. In 1866 this company applied to the Government for permission to change the route of their road, for some reason best known to themselves, and this was also granted. But the law especially provided that the company should be entitled to only the same amount of subsidy that they would have been entitled to had they connected their road with the Union Pacific at the one hundredth meridian, the distance being ascertained to be three hundred and ninety-four miles; and it further provided that the company should connect with the Union Pacific at some point not more than fifty miles west of the meridian of Denver.

Now, after having received all the subsidy they were granted, they come and ask in this bill for an additional subsidy for fifty-four miles. Why grant a subsidy for fifty-four miles to Cheyenne Wells and no further? The same reason that would justify it to Cheyenne Wells would require it clear through to the point of intersection with the Union Pacific railroad, and the reason would seem to be stronger; for the further out they get the nearer they are to the "poor Indian," who at this time seems to be a god-send to these railroad lobbyists.

Sir, what kind of a showing does this company make to us and to the country of its disposition of what it has already received with such lavish hand? It has received already—

In subsidy	\$6,303,000
By first mortgage, in cash	6,303,000
Two million five hundred thousand acres of fine land as lies in America, unless they themselves are trying to deceive the people, worth.....	\$6,250,000
	<hr/> \$18,856,000

This is what they have received and have either expended or have in their possession. Their right under the law to subsidy terminated at three hundred and ninety-four miles, and they have built the road five miles beyond the point where their subsidy ceases by the present law. The company has made no showing here of the cost of that four hundred and five miles of road, as they could have done, as they ought to have done—ay, sir, as they would have done had they presented here a just and equitable claim for this fifty-four miles additional subsidy. They have the figures, the actual outlay and expense; and yet, although it has been charged upon this floor that the company has received vastly more than the road actually cost them, and have pocketed the surplus, yet not one word do we hear from them on this point. We can tell nothing of it from the contracts, for the contractors are the owners and controllers of the road, and they could gauge their contracts to suit the interests of the company.

It is computed by the Government engineer, Jesse L. Williams, that eleven hundred and ten miles of the Union Pacific road cost an average of \$34,824 the whole route. This includes the portions of the road where the company received \$32,000 and \$48,000 per mile, the grades being heavy. It is therefore rea-

sonable to conclude that the four hundred and five miles of this road through Kansas has not actually cost more than \$25,000 per mile, which, I doubt not, is a liberal calculation. How, then, does the account stand?

Amount of cash received by the company.....	\$12,606,000
Value of lands at \$1 25 per acre.....	3,125,000

Cost of four hundred and five miles of road, at \$25,000 per mile.....	10,025,000
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Leaving in company's hands..... \$5,706,000

But putting the cost as high even as \$28,000 per mile, and the account stands thus:

Received by company cash.....	\$12,606,000
Lands.....	3,125,000

Cost of road, at \$28,000 per mile.....	\$15,731,000
	11,240,000

Leaving in hands of company..... \$4,494,000 of which \$1,360,000 is in cash, and \$3,125,000 in what they call the finest lands in America, and rated at the very low price of \$1 25 per acre, many of them actually worth twenty-five to fifty dollars per acre, and I have no doubt the entire lands for the first four hundred miles average a value of three dollars per acre.

Now, sir, with this surplus in their hands, this company by their spokesman upon this floor, the gentleman from Pennsylvania, tells us with apparent candor, to use his own language, that this "great highway of nations," this "great thoroughfare between eight hundred million people in Asia and two hundred millions in Europe, has been constructed by the company and ends nowhere, and now it wants fifty-four miles of subsidy to enable it to finish the road up to Cheyenne Wells;" that if this is given the road will be carried to Cheyenne Wells, and that by so doing we will secure to the Government three hundred miles from Cheyenne Wells to Denver without subsidy, and the reasonable conclusion is that if this fifty-four miles of subsidy is not granted this great world's highway will fail to connect at Cheyenne Wells.

Now, sir, almost any American citizen of reasonable sense would naturally inquire why cannot the company take this surplus they have in their hands, over and above what the four hundred and five miles cost them, and build the fifty-four miles with that, and then have enough surplus left to give every director in the road a reasonable competence? At least they will have plenty of good lands left, where they can go to work like the mass of our constituents and earn an honest living, if they cannot make a living off a road already built and given to them by the Government.

And again, sir, the inquiry naturally suggests itself: supposing that this company had got no surplus of assets, if they can build a road from Cheyenne Wells to Denver, three hundred miles, without subsidy, why can they not build this fifty-four miles in the same way? Why must the failure to get this fifty-four miles of subsidy stop this mighty enterprise?

Sir, they can build it. They have the money to build it, and they intend to build it. But it would, of course, be very agreeable on their part to have a gift from the Government of \$860,000. It is worth struggling for.

But, sir, I cannot permit myself to fear that the demands of this company will be complied with in this respect. Of one thing I am certain: the toiling millions of the people, the common people of the nation, they who have saved it by their sacrifices of treasure and of blood, and who by their toil are supporting it, have their eyes upon this Congress. They demand economy; they demand that the voting of their money to rich railroad corporations shall cease; and, sir, a political death that knows no resurrection will be the destiny of those of us who shall not heed their demands; and so it ought to be.

Gentlemen may, when they get into position, boast that they care not for "popular clamor;"

but if what is meant by "popular clamor" is the voice of the people, then he who is not influenced by it or who disregards it is, in my opinion, unfit for a legislator in a free country, where the voice of the people should be the law of the land.

Denver Pacific Railroad.

SPEECH OF HON. JOHN A. LOGAN,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1869.

The House having under consideration the bill (S. No. 576) for a grant of lands granting the right of way over the public lands to the Denver Pacific Railway and Telegraph Company, and for other purposes—

Mr. LOGAN said:

Mr. SPEAKER: I do not know that I will be able to throw any additional light upon the proposition now before the House, but will be very glad if I can obtain the attention of members while I refer briefly to the law heretofore passed in reference to this railroad, as well as reply to some of the remarks of gentlemen who again advocate a further subsidy for the same.

I must confess, sir, that I was surprised at some of the remarks submitted to the House the other day by the two gentlemen from Pennsylvania, [Mr. COVODE and Mr. KELLEY.] It seems to me that all that has been said by these gentlemen and others on that side of the question was an attack on the opponents of the bill designed to draw attention away from the main points in discussion; not that we have or do now oppose the extension of railroads, but that we were clogging the advance of civilization and the development of the great resources of this country. To them let me say that I allow none to be in advance of myself in a desire that the civilization of this age should extend everywhere, and that the great hidden wealth and resources of this country should be rapidly developed; and in all proper legislation for that purpose, not onerous or oppressive to the masses of the people, that will not create certainly greater liabilities on the General Government, I am, and will be at all times, ready to join them. Viewing this measure, however, in a different light, I hope they will pardon me if I cannot go with them to the extent that they claim we should. For, sir, in all the arguments which gentlemen have made in favor of this subsidy they have failed to give one solitary reason addressed to the intelligence of this House why the subsidy asked for by this bill should be granted. It is not a question of the advance of civilization—it is not a question of the development of the great resources of this country; but the question before this House and before the country is this: can this road of fifty-four miles, covered by this bill, be built at all by this company without the aid of the Government of the United States in the manner in which it is asked to be applied? They ask us to increase the public indebtedness to the extent of \$16,000 per mile as subsidy to this railroad.

The question, then, is this: is it necessary to the advancement of the interests of the country that the aid asked by this bill should be granted, or can the object sought be accomplished without this aid? I contend that it can; that the company is amply able to complete this road to the point mentioned (Cheyenne Wells, fifty-four miles) without such additional aid as is now asked.

This Government has already given a subsidy to this road of land and money, and without intending any attack upon individuals or upon any person connected with this road or any other road allow me to say here to the House, from the reading of the laws passed by the Congress of the United States, taken in connection with the action of the company,

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that there has been a deception practiced upon the country and upon Congress in the subsidizing of this road. I will state the facts which justify me in making this assertion. In the original charter that gave a subsidy to the Union Pacific railroad and its branches it was provided that the Union Pacific railroad, eastern division, starting at Kansas City, might tap the Union Pacific railroad at the one hundredth meridian; further, that the central branch, that part from St. Joseph to Atchison and from Atchison out, might tap this eastern division of the Union Pacific railroad at or near Republican fork. This was the proposition; but afterward a law was passed allowing this Union Pacific railroad, eastern division, to swing out south or west, like the swinging round of part of an army; and when it swung round to the west it left this Atchison or central railroad standing out in the air. Why was this done? It seems to me that there must have been not only design in the whole matter, but some very sharp railroad practice, in which both companies must have engaged. A law was then passed allowing the Atchison road to extend itself at or near the one hundredth meridian, where the eastern division was to tap the Union Pacific railroad originally, thereby providing, by a little chicanery in the management of legislation, a subsidy for two roads instead of one. By this strategic maneuver the Atchison road was subsidized for one hundred miles, and this eastern division to the same extent and the same distance, as though it had been built under the former charter to the one hundredth meridian.

Allow me to repeat that by the act of July 3, 1866, it is provided that the Union Pacific railroad, eastern division, shall receive no more bonds than they would have been entitled to provided they had tapped the Union Pacific railroad at the one hundredth meridian. That is the law, showing clearly that the original intention was that this division should tap the Union Pacific at the one hundredth meridian, and that this little Atchison road—and if you look at the map you will agree with me in concluding that, standing out in the air as it does, no better name can be given to it than the “stump-tail road”—was to tap at or near Republican fork, this road being about one hundred miles in length to that point, and having already received \$1,600,000 subsidy from the Government. But the eastern division swung round, and both roads are subsidized. And to-day it is attempted to make you believe that by passing this act you will grant no more subsidy than it was the intention of Congress to grant when the original act was passed.

But, sir, what do we see other than the game of the old cat and her kitten? The old cat comes along and flays the game, and the kitten comes along and helps to devour it. This bill comes here from the Senate, and you are asked to give \$16,000 per mile subsidy to the eastern division, or old cat. Then the little kitten, or “stump-tail road” running from Atchison, follows along, the project being under discussion in the Senate at this very time; and by the time we shall have passed this bill through the House this little kitten will come from the Senate, and we shall be asked to give additional subsidy to the amount of \$2,000,000 for it. This is the way these projects are connected together.

That is the condition of these two roads. The eastern division is swung round from its original base so as to allow this Atchison road to slip in on their line and get the subsidy that the eastern division was to have; and then the eastern division is at the same time to be subsidized all the way to the town of Denver. An examination of the law and the maps will show that my statements are correct. By the act approved July 3, 1866, this eastern division of the Union Pacific railroad was to receive subsidy for only the same length of route that it would have had if it had tapped the Union Pacific at the one hundredth meridian.

What are the facts? I assert here to-day, in the face of those who advocate this subsidy, that the eastern division has received a subsidy of \$16,000 per mile for seventy miles more of said road than the law authorizes them to take. I ask the gentleman from Pennsylvania [Mr. COVODE] or any of the friends of the bill to answer me this question: how is it that they have continued the eastern division of the Union Pacific road to Fort Wallace and received \$16,000 per mile subsidy to that point, amounting in all to \$6,000,000 paid to this eastern division, which is seventy miles more than the distance which Congress authorized, measuring from Kansas City to the one hundredth meridian at the Union Pacific, being \$1,120,000 more than they are entitled to? Now I will give way to any one who will answer that question. I want it explained.

Mr. CLARKE, of Kansas. I will undertake to answer the inquiry of the gentleman from Illinois. He asks how it is that the Union Pacific railroad, eastern division, has received a subsidy of \$16,000 per mile to the present terminus of the track at Fort Wallace. Am I correct?

Mr. LOGAN. No, sir. I do not want the gentleman to take up my time. I just want the information.

Mr. CLARKE, of Kansas. I propose to give it. The law approved July 1, 1862, provided—and I call the particular attention of the House to this clause—as follows:

“The route in Kansas west of Fort Riley to the aforesaid point on the one hundredth meridian of longitude to be subject to the approval of the President of the United States, and to be determined by him on actual survey.”

It has been stated often on this floor, under a misapprehension of this law, that the route was to follow the valley of the Republican river, and I suppose it is by that valley the gentleman has made his measurement. But I say, without fear of successful contradiction, that the route, under the direction of the President, might have followed, as I said the other day, any other route, any other one of the streams running into Kansas from the northwest, provided upon actual survey it was proved to be the most practicable route and it had united with the main line of the Union Pacific railroad, as provided by the original law, on the one hundredth meridian, between the north margin of the Platte and the south margin of the Republican river. I call attention to the fact that the President of the United States never did locate this route from Fort Riley to the one hundredth meridian, but in the mean time the Congress of the United States, under an act approved July 3, 1866, changed the route, not to the east, as the gentleman has several times incorrectly stated, but to the west, up the valley of the Smoky Hill; and it is provided in the law that no greater amount of bonds should be drawn for that route than if it had been constructed up the valley of the Republican river to the one hundredth meridian.

Now, sir, if this route had been located by the President to follow the valley of the Republican river to the one hundredth meridian, in consequence of the meandering of that river it might have reached along the present line on the Smoky Hill river to the point where the present terminus of the road is, or, following any other practicable route where it might have been located by the President, it might have extended to a point far beyond the distance for which bonds have been received by the company. As a matter of actual fact, the President of the United States has recently caused a survey to be made from Fort Riley to the one hundredth meridian, and the company have received bonds on the basis of this official survey.

Mr. LOGAN. Now, sir, the condition of the case is exactly where it was when I left it. I admit that I used the word east instead of west. It was a mere slip of the tongue. But

now let me demonstrate from the gentleman's own statement that my proposition is correct. The best way to get an understanding of the law is to read it. The law of July 3, 1866, contains this proviso:

“Provided, That said company shall be entitled to only the same amount of bonds of the United States to aid in the construction of their line of railroad and telegraph as they would have been entitled to if they had constructed their said line on the one hundredth meridian to the Union Pacific.”

Now, sir, there is nothing said in this act about running up the Republican fork, but the inference clearly is that it was in a direct line to the one hundredth meridian at the Union Pacific. Why have they not come before a committee of the House and showed that the route by the one hundredth meridian was the same number of miles as their survey is now to Fort Wallace? What is the fact? I have taken their own map, the map which the gentleman from Kansas used in making his speech, and I have measured it with dividers, and according to the scale of the map it is just as I state it, seventy miles over the distance for which they were to be subsidized; and I find they have no survey of the route here to show the distance. But they tell us that it would subject them to a new survey to ascertain the distance; hence they have to be paid to Fort Wallace, inasmuch as that is, in their judgment, about the distance they would have gone on a route on which they have made no survey. But, sir, you can take both routes. The route from Kansas City to the one hundredth meridian at the Union Pacific in a straight line on the map, and the route from Kansas City to Fort Wallace in a straight line, giving no advantage to either route or survey, and there is seventy miles difference; and on the latter route they have been paid to the extent of seventy miles' subsidy at \$16,000 per mile more than they would have received by law on the other route. That is by the measurement on the map.

Mr. COVODE. Will the gentleman yield for a question?

Mr. LOGAN. Certainly.

Mr. COVODE. I simply want to ask the gentleman from Illinois whether he charges the Secretary of the Interior with issuing bonds to subsidize that route to an extent of seventy miles in violation of law?

Mr. LOGAN. Mr. Speaker, I charge nobody with anything; I state facts. I state the fact here, and I defy contradiction, that by the measurement on the map of the two straight routes you have received seventy miles of subsidy more than the law allowed you to receive. That is my statement. Here is the law and here is the map. Measure it yourselves. Now, let us look a little further into this matter and see what this road proposes. Besides a subsidy of \$16,000 per mile there is more history connected with this matter than what I have stated. Let us go a little further and see what the law authorized this road to do. They were authorized to pass from Fort Wallace and to enter Antelope Pass on the Pacific railroad, passing at a distance not over fifty miles west of Denver. I have measured the line; and instead of doing that, they have made the line straight to Denver, and then made an acute angle to Cheyenne City, on the Pacific railroad, which makes a distance of sixty-four miles for which they have advantage of the subsidy of lands over and above the line laid down in the law.

Mr. PRICE. Will the gentleman yield to me for two minutes?

Mr. LOGAN. I do not like to yield so much of my time, but I will yield for a moment to the gentleman.

Mr. PRICE. The statement having been made twice, on two different days by two different gentlemen, that by the terms of the original charter, passed in July, 1862, the eastern division could make their connection and yet have gone up the Smoky Hill route, all I desire to

say is that they were required by the original act to make the connection at a point between the south bank of the Republican and the north bank of the Platte, and that it should be in Nebraska, and they cannot make the connection by the Smoky Hill route, because the Smoky Hill is not in Nebraska.

Mr. LOGAN. That is exactly the point I had in my own mind. That is the fact about it. But there is another point to which I wish to call the attention of the House. I do not pretend to be an expert in railroad matters, nor do I pretend to know as much about railroads as some men, but I say to the gentlemen from Pennsylvania that I have examined this map and the law and understand them fully as well as they do, unless they have examined them since they made their speeches the other day and learned much that they did not know then. I want some gentleman to tell me where this road intends to go? You cannot tell from this bill. Can the gentleman from Pennsylvania [Mr. COVODE] tell me where this road intends to go, where it intends to stop, or what it means? Here it has the route surveyed to Denver, then comes in the Denver and Cheyenne road, and then there is another route on their own map running round from Fort Wallace, swinging around the circle and coming out at San Francisco. Now, I want to put the House upon their guard a little about this bill. I think there is very great doubt about the construction of this law. See how singularly it reads:

"The eastern division are hereby authorized to designate the general route of their road, and file a map thereof as now required by law at any time before the 1st day of December, 1868, and upon filing said map, showing the general route of said road, the lands along the entire line thereof, so far as the same may be designated, shall be reserved from sale by the Secretary of the Interior."

Now, sir, you file your maps and designate your route and have given to you all the lands along that whole route. And now I want you to tell me what is your route? Is it from Fort Wallace to Cheyenne Wells, or to Antelope Pass, or Denver, or Cheyenne City, or the Union Pacific, or is it to stop at Denver? I want to know. Have you filed a map with a route to Anton Chico, Santa Fé, Albuquerque, El Paso, and then to San Francisco? There is such a route on the map. I do not know whether you filed a map of that kind with the Secretary of the Interior, but if you have you are entitled to all the land along the route.

Mr. COVODE. The gentleman asks a question, and I will try to answer it if he will yield to me.

Mr. LOGAN. Very well.

Mr. COVODE. I will try to answer his question to the satisfaction of the House, if not to his satisfaction. I said the other day that Cheyenne Wells was the proper point from which a road should diverge to go to Denver. I also said that west of there was a favorable point for a connection to be made with the road from Memphis. I also said that at or near Albuquerque would be a favorable point to connection with a road from Shreveport; and that at a point near there was a favorable point to connect with a road to New Mexico.

Mr. LOGAN. This is certainly a lost road. None of its friends can tell where it is going. If they can, they can do more than any one has been able to do as yet. But it is going somewhere, and will be a good connection for all your roads from everywhere; it is either going to Denver, or it will diverge at Cheyenne Wells and go to New Mexico, or old Mexico, or to California, or to almost any place to suit all you gentlemen that have roads so you may connect with it. Yes, sir; this road is evidently going somewhere, or somewhere else, God only knows where. The route on the map and the speeches of gentlemen in favor of this bill remind me a great deal of a story I heard once of a man who was traveling and had lost his way.

The traveler met a boy and asked him to

direct him to a certain village which he named. The boy said: "You go down back of the hill and turn to the left; then go up the hill and turn off to the right; then you go down a lane and turn to the left, and then go down the branch and turn to the right; and then if you are not lost, may I be hanged." [Laughter.] And if this is not a lost road I do not know what to term it.

Now, I want to tell the gentleman from Pennsylvania [Mr. COVODE] something else which he, perhaps, does not know. You talk about Cheyenne Wells. I have put a clause in my substitute allowing you to go there. Yet your road does not go within thirty miles of Cheyenne Wells as surveyed. It is thirty miles south of your road.

The whole proposition is this—I think I can explain it. Here is the Cheyenne, Denver, and Colorado Railroad Company. That company wants the lands of the eastern division railroad company. The eastern division railway company does not want to go any further than to Cheyenne Wells. They want at that point to turn to the left and go down to New Mexico, unless they can induce Congress to give them a little more subsidy. But they do not want to lose the lands given them by Congress along the route from Fort Wallace to Antelope Pass or Cheyenne City. They must unite with the Denver and Colorado railroad, and give the lands to them, under some arrangement that they have, and then turn off to the left to New Mexico. That is the explanation of the whole thing.

These gentlemen say that because I am opposed to granting this subsidy of \$16,000 a mile I am opposed to building the road. No such thing. I want the road built, if these gentlemen will build it properly and right without asking the Government to do it. But I want them to let the country know where they are going, and to let us understand what they mean. I want them to come before this House and say, "We want to go to Denver City, (or where ever they are going;) we want you to give us permission to go there; we want you to give us a subsidy." That would be a plain proposition, and we could understand it. But if you take this bill and read it you will find that no man, in this House or out of it, can understand it unless it be the man who wrote it, and I have not been able to find him yet.

Now, to the next proposition. Is it right for us to give this subsidy to aid these gentlemen in building this road? I am not discussing the question whether it is proper for them to build the road. I will say it is proper they should build the road. All persons wanting to build roads ought to be permitted to do so, provided they do so without asking the Government to pay the entire bill. The question is, is it right for us to give this subsidy? I say it is not. Why, sir, we have given to that "stump-tail road" from Atchison \$1,600,000. We have already paid a subsidy of \$16,000 a mile from Kansas City to Fort Wallace on this road, amounting to \$6,000,000. And now you are asked to give subsidy for the same road again, when they have already received subsidy for seventy miles more than they are entitled to by law; and adding these fifty-four miles now asked, you will have given a subsidy of \$16,000 per mile for one hundred and twenty-four miles, never contemplated by the original law, and not asked by the company when that law was passed.

"But," say these gentlemen, "what do you want to do? Do you want to destroy railroads?" No, sir; I want to do no such thing. I want to stop this system of building railroads entirely out of the public Treasury. I will state my reason for it. You have already granted valuable franchises to this company. You have granted them first the right of way over the Government lands. What next? You give them \$16,000 per mile in bonds. What next? You provide that all the land necessary for depots

and everything of that kind shall be given them by the Government. What next? A year or two after the granting of the charter the Government waives its right to a first mortgage upon the road, rolling stock, &c., and takes a second mortgage. The company, going to work to build the road, mortgages it to its own men, and for the full amount of the value of the road and for the subsidy of \$16,000 a mile gives the Government a second mortgage. The whole of the road, rolling stock, furniture, and everything of the kind is covered by a first mortgage to their own men. I ask any lawyer of the House to say whether it is not true that when that first mortgage becomes due it takes the road, &c.? What becomes, then, of the second mortgage, which is the only security held by the Government? Does anybody suppose that this second mortgage will be paid? The men concerned in this road may be very honest men indeed; but I do say that I never in my life knew a railroad or any other private corporation (for these corporations are soulless, without blood and without conscience) to pay one dollar that the law did not require them to pay. Then, if the first mortgage by law takes the road, I ask who will pay the second mortgage when the law does not require the company to pay it?

Mr. O'NEILL. Mr. Speaker—

Mr. LOGAN. I will yield to the gentleman for a question.

Mr. O'NEILL. I ask the gentleman from Illinois [Mr. LOGAN] whether he means to insinuate that any branch of the Pacific railroad which has been built, or which is now in course of construction, and to which the Government has given subsidies, has failed to carry out the letter of the law or has used the money which it has received from the Government for any other purpose than the building of its road?

Mr. LOGAN. I say no such thing. I stated a plain, simple proposition, that no private corporation was ever known to pay a dollar that the law did not require it to pay. Did the gentleman ever know such a case?

Mr. O'NEILL. Yes, sir; corporations and individuals, too.

Mr. LOGAN. I am not talking about individuals. When and where has the gentleman known the case of a corporation that paid anything it was not required by law to pay?

Mr. O'NEILL. The gentleman has insinuated in broad terms that these subsidies have not been used in good faith for building railroads, but that the corporations to which subsidies have been granted have used them for other purposes than those contemplated by law. Now, I want him to state—

Mr. LOGAN. I cannot yield to the gentleman any further.

Mr. O'NEILL. Mr. Speaker, I think—

The SPEAKER. The gentleman from Illinois cannot be interrupted except with his own consent.

Mr. LOGAN. The gentleman will excuse me.

Mr. KELLEY. Will the gentleman yield for a question?

Mr. LOGAN. For a question.

Mr. KELLEY. Has not the Government practically a first lien on this road in its right to reserve from the earnings by Government transportation one half of the entire amount, be they more or less?

Mr. LOGAN. Mr. Speaker, I am very much astonished that learned and eloquent men, judges and lawyers, men of historical renown, should get up here and ask questions which the law itself settles. Here is the law. The Government has a right to reserve that which it owes for transportation. Nobody denies that. But my proposition is this—and every lawyer here knows it to be true—that you cannot find an instance where a corporation ever voluntarily paid a debt or obligation that the law did not compel them to pay. I do not mean that they had to be sued for it, but they never paid

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anything that the law would not require or ask them to pay.

Mr. KELLEY. Did the gentleman ever know of individuals who were in the habit of paying what the law did not require them to pay?

Mr. LOGAN. I do not yield any further. That is a very good dodge. The gentleman possibly could make a better speech to-day than he did the other day. I presume he is now better posted; if not, I feel for him. I repeat my proposition that no corporation ever pays a debt that the law does not obligate it to pay. Then, I say, if a railroad gives a first mortgage to an individual or company, and that mortgage is foreclosed, and takes the road, fixtures, &c., that the company has never been known to pay a second mortgage that in law was no further lien on the property. Hence, I say, if this first mortgage on the Union Pacific railroad, eastern division, is foreclosed, including the machinery, rolling-stock, and furniture, and a new company takes it, leaving no balance over the amount of first mortgage, there is no obligation in law on them to pay the second mortgage. I defy any gentleman who claims to be a lawyer to dispute that proposition.

Mr. O'NEILL. Will the gentleman yield one minute?

Mr. LOGAN. No, sir. I do not know why it is, but some how or other I never take the floor but there is a hornet's nest stirred. Now, sir, I do not mean to stir it if I can help it, but I mean to talk common-sense, presuming that it will be understood by the gentleman.

Mr. O'NEILL. The gentleman ought to allow a common-sense illustration.

Mr. LOGAN. I always have a very common sense illustration when the gentleman stands before me.

Mr. O'NEILL. I want to tell the gentleman—

The SPEAKER. The gentleman from Pennsylvania will suspend. The gentleman from Illinois will state whether he desires to be protected against interruption.

Mr. LOGAN. I have said that I did not yield.

Mr. O'NEILL. I want to answer a question.

Mr. LOGAN. You can answer them when I put them.

The SPEAKER. Does the gentleman yield?

Mr. LOGAN. I do not.

The SPEAKER. Does the gentleman desire to be protected from interruption?

Mr. LOGAN. If the gentleman from Pennsylvania will ask me to yield for a question, I have no objection, but I do object to his interrupting a speech against the rules of the House.

Mr. O'NEILL. I desire to say—

Mr. LOGAN. Never mind. I am extremely sorry that the gentleman becomes so nettled on this question. Everybody can understand it. Are you the Pacific railroad that you become so excited on the subject? [Laughter.]

Mr. O'NEILL. Now certainly the gentleman will let me answer that question. [Laughter.]

Mr. LOGAN. No, sir; I can answer it myself. [Laughter.] If you are any part of it, it is but a small part. Why do gentlemen get excited when I state these facts? I am not arraigning the Pacific railroad for murder nor for a penitentiary offense. I am only giving the law as it is written in the books and stating the facts.

I have been interrupted so much during my remarks that I have not had time to comment upon my substitute. I hope the House will be as patient with me as I have been with other gentlemen who have interrupted me, until I can give my views in reference to the proposition I have introduced as a substitute for this bill.

What do I propose? I propose this policy to be applied to this road: I propose that the Government shall guaranty the interest for \$16,000 per mile of the bonds of the road to

Cheyenne Wells. I propose that that guaranty, when written by the Secretary of the Treasury on the bonds, shall become *ipso facto* a first mortgage on the railroad and all its fixtures and furniture. That is my proposition. What else? In order to guaranty the Government against loss, to guaranty the Government against expenditure, to guaranty the Government against increase of the public debt, I propose that all transportation of supplies of every kind, telegraphing or any other indebtedness to this road by the Government of the United States shall be reserved by the Secretary of the Treasury from payment to the road and applied to the payment of the interest on the bonds as far as it will go, and that the company shall, ten days before said interest is due, deposit the money with the Treasurer of the United States for the payment of said interest. I propose, in addition to that, that the lands heretofore granted to this company and the lands granted to the Denver company, joining them together, shall be put into the market as every twenty miles of the road is built at \$2 50 per acre, and sold to actual settlers, the money received from such sales to be deposited in the Treasury of the United States as a sinking fund, and that the Secretary of the Treasury shall apply that sinking fund to the purchase or redemption of the bonds of this road upon which the interest is guarantied by the Government, and as redeemed, purchased, or canceled, they shall be turned over to the company. I propose that the Government, as well as the holders of said bonds, shall be protected, so that it shall not by indebtedness or in any other way lose one cent.

I go further than that. I propose that if this company shall fail to pay the interest or any part of the interest every six months, then the Government shall have power to take possession of the road and its fixtures and furniture and apply its earnings, &c., to the payment of the interest or the liquidation of the debt. That is my proposition. I propose to protect the Government, and at the same time I propose to put it in such a position that the road itself can be built. These gentlemen say, "Oh, we cannot build the road." I say you can build the road. Why? Because when you get the interest on the bonds guarantied they will go on the market, and the Government will be protected and the tax-payers will be protected and not oppressed, which, I think, is a very important item in all matters of legislation, especially at this time.

Now, let us go a little further and apply this principle. These gentlemen say, "If you undertake to carry out a proposition of this kind it will not develop the country; for nobody will buy the lands." Well, if no one wants to live in that country I would like you to tell me what you want a railroad for? If no one will go there, certainly a railroad cannot exist there. Now, sir, the entire length of the State in which I live is traversed by a railroad that was subsidized with lands, not with bonds or money, when portions of the State was almost a howling wilderness. The Government got \$2 50 per acre for the alternate sections when land was at \$1 25 an acre, and to-day you cannot enter an inch of public lands in the whole State. It has all been taken. The Government has received its money, and the State has been developed into a great and productive country; and it was developed just in accordance with the very plan that I propose here to-day to Congress, except that I go further than that went. It does develop the country. Why, your railroads through the State of Iowa have been built on this same theory, except that I have changed it so far as applies to the interest on the bonds and the machinery for the protection of the Government. That is the way in which your country has been developed and in which it will be developed in this instance. I tell you railroads will go where trade is or will be; railroads will go where good

lands are; railroads will go where people either live now or can live hereafter.

But gentlemen say that capital will not invest. How is it with capital? Why, capital is like the dews that descend from heaven; they seek their own channels and their own outlets. Capital seeks investment where it can be profitable. The dews of heaven fall and assist in the growth of nature, and then seek the channel God has prepared for their march to the ocean. So it is with capital: God has pointed out on nature's map the place for intelligent investment. You tell me it will not seek or find investment in this direction. Perhaps it will not on a sandy plain, where nothing is heard but the howl of the coyote or the war cry of the savage. Capital will not go there, nor will people want to live there. If not, then you do not have any use for a railroad there.

I look upon these great improvements of the age as a great thing. I look upon the work of stretching iron bands across the country from the Atlantic to the Pacific as one of the great marks of the intelligence of this great age. I look upon fastening together the East and the West, as a barrel is strapped and bound by hoops of iron, as one of the great events of the age. You have almost completed what may be termed a bridge from the Atlantic to the Pacific. This has been done at great cost to the Government, and, in my judgment, has expended enough without any sufficient security against liability. You have now opened the communication and shown what the country is. If it is inviting to capital it will go; if not, it shrinks from the task of struggling against the decrees of nature. The Government has given aid to the extent of millions and millions of dollars. Now let the Government stop giving in this manner, for it is recklessness. We have done more than our duty toward the country in this matter of money subsidy, and now let us stop. I say let us stop, and stop now.

We hear much said in favor of economy. Many gentlemen make speeches in favor of economy. One member says, "I am in favor of economy—as soon as I get this little bill through." Another man says, "I am for economy—as soon as I get my little bill through." It reminds me of Rip Van Winkle, when he became a temperance man. After he had waked up from his twenty years' sleep he said he was going to quit drinking, yet he did drink—"Here's to the health of your family; may they live long and prosper"—always saying, in reference to his promise to quit drinking, "This time doesn't count." And I suppose that is the way with gentlemen here. They are all in favor of economy, but one says, "I want this little stump-tail railroad bill passed; this time doesn't count." And so another says about another road. As Van said, "Here's to the health of your family; may they live long and prosper. This time doesn't count." [Laughter.]

Sir, I say it is time to stop now. If you are going to apply the principle at all you should apply it now. But gentlemen say this is only fifty-four miles. That is true; this bill is only for fifty-four miles. When the last bill was up, you, by strategy, made it seventy miles. If we put this fifty-four miles on it will be one hundred and twenty-four miles. And then the next Congress will ask you to give them subsidies from Cheyenne Wells to another place.

Perhaps these gentlemen will say to me, "Why, LOGAN, you do not understand that great country we are going into, New Mexico." Perhaps I do not know anything about it. But I tell these railroad men that in 1847 and 1848 I traveled over the very route laid down on this map as their survey. I know all about the country through which their road will run, if ever built. I have been over nearly every mountain path in that country.

The lands in those valleys of Mexico are as beautiful as the eye of man ever beheld, and

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The Treaty-making Power, &c.—Mr. Lawrence,

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the climate is one of the finest that God has given to man. Fresh meat will cure there while hanging in the open air without the application of salt. It will cure out in the hot sun, as I know from my own observation. The country abounds with birds, goats, sheep, antelopes, and a great variety of animals, both domestic and wild. It is a country that will develop itself as fast as a railroad goes through it, and become rich and prosperous without any Government subsidy of \$16,000 or \$32,000 a mile, and these railroad men know it well.

Now, sir, I say that I am in favor of the great march of improvement, of civilization, and a general development of all the wealth and resources of this country. But, sir, that is no reason why, as a Representative of my constituents, I should stand by and see the Treasury every day growing leaner and leaner by the inroads made upon it by these railroad and other corporations. I am not willing to do it. I say to my friends in this House; I say to my Republican friends—although I do not regard this as a political measure by any means—that we pledged ourselves to our constituents in the convention that nominated our President-elect that economy should be our watchword. If we are true to the men that elected us we shall stand by that pledge to-day. What are we now asked by this corporation to do? We are asked to vote \$16,000 a mile against reason and against the will of our constituents and against the declaration—not express, but clearly implied—of the convention that nominated your candidate for President. We are asked to support this bill, which is in opposition to the policy regarded as proper, expressed, as I understand, by the President-elect, his declaration having been made—not with reference to this particular bill, but generally with reference to subsidies of the character heretofore given to railroads—as unwise, at least in the present embarrassed condition of the Treasury. But this company comes modestly forward and says: "Subsidize for us these fifty-four miles of road; slap your constituents in the face; violate your party platform; violate your pledges made upon the stump; and on the eve of the new administration coming into power make a direct issue with it on the question of involving us in further liability. Let him understand that you are all-powerful, that you ask no odds from him. Give the people of the country to understand that you defy their will *in toto*." This, and nothing less, is what we are modestly asked by this company to do.

The Treaty-making Power—The Cherokee Neutral Lands in Kansas.

SPEECH OF HON. W. LAWRENCE,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

January 26, 1869,

On the treaties concluded between the United States and Indian tribes:

Mr. LAWRENCE, of Ohio. I have on several occasions called the attention of the House to treaties concluded between the United States and Indian tribes, under which the power has been asserted and exercised to dispose of the public lands to private individuals and to corporations. This House has denied that such power can be constitutionally exercised, and in some form and at some time the question must be settled. The "settlers" on what are called the Cherokee neutral lands in Kansas have claimed relief at the hands of Congress, and I propose briefly to present some considerations to the House, not so much in support of the justice of their demands as in vindication of the power of Congress over the public lands and of the wisdom of our land policy, which cannot be maintained if the assumptions of the treaty-making power are tolerated. The land policy of the United States has been so long settled

by the legislation of Congress that the "homestead" and "preemption" laws may be justly regarded as founded in wisdom, and as having the general sanction of the people. The provisions of these laws are so well understood that I need not now state them in detail.

Under certain limitations the "preemption" laws give to every "head of a family, or widow, or single man over the age of twenty-one years," being a citizen or having filed his declaration of intention to become such, who has made or shall make "a settlement in person on the public lands" after the Indian title is extinguished and after survey, the right to enter and procure a patent for one hundred and sixty acres of land on payment of the minimum Government price, generally \$1 25 an acre. (Act September 4, 1841, 5 United States Statutes-at-Large, 456.)

The "homestead" law gives the right to enter upon the same classes of lands and procure a patent after five years' occupancy without paying any money consideration for a homestead. (Act 20th May, 1862, 12 United States Statutes, 392.)

The purpose of the Government to maintain the policy of these laws has been so well understood and so implicitly relied on that settlers have frequently entered upon public lands before they were surveyed, and even before the Indian title was extinguished, in anticipation of surveys and the extinction of the Indian title, and their rights thus acquired have been respected, and titles perfected under these laws. Now, unless some reason exists for excepting the Cherokee neutral lands from the general land policy of Congress, it is manifest that settlers on them should have the benefit of the "homestead" and "preemption" laws. This leads us to an inquiry as to the title of these lands, and the position of the settlers in relation to them.

By the treaty with France of April 30, 1803, the region of country west of the Mississippi river was ceded to the United States "forever and in full sovereignty." (8 United States Statutes-at-Large, 202.)

The act of Congress approved May 28, 1830, authorized the President to extinguish certain Indian titles to lands and to give in exchange other lands, and then provides—

"That in the making of any such exchange or exchanges it shall and may be lawful for the President solemnly to assure the tribe or nation with which the exchange is made that the United States will forever secure and guaranty to them and their heirs and successors the country so exchanged with; and if they prefer it that the United States will cause a patent or grant to be made and executed to them for the same, provided always that such lands shall revert to the United States if the Indians become extinct or abandon the same."—4 United States Statutes-at-Large, 412.

On the 29th December, 1835, a treaty was concluded between the United States and the Cherokee tribe of Indians by which they ceded to the United States all their lands east of the Mississippi river, and the United States ceded to the Cherokees seven million acres of land west of that river, bordering on the State of Arkansas. The second article of the treaty then provides as follows:

"And whereas it is apprehended by the Cherokees that in the above cession there is not contained a sufficient quantity of land for the accommodation of the whole nation on their removal west of the Mississippi, the United States, in consideration of the sum of \$500,000 therefor, hereby covenant and agree to convey to the said Indians and their descendants by patent in fee-simple the following additional tracts of land, situated between the west line of the State of Missouri and the Osage reservation, beginning at the southeast corner of the same, and run north along the east line of the Osage lands fifty miles to the northeast corner thereof, and thence east to the west line of the State of Missouri; thence with said line south fifty miles; thence west to the place of beginning, estimated to contain eight hundred thousand acres of land."—7 United States Statutes-at-Large, 480.

In pursuance of this treaty and the act of Congress referred to a patent was issued to the Cherokee nation for these lands December 31, 1838. This tract is what is called the Cherokee neutral lands.

The treaty undertakes to enlarge the character of the grant into a fee-simple, but it is limited in its operation and effect by the act of Congress.

By the treaty between the United States and the Cherokee nation of Indians of July 19, proclaimed August 11, 1866, it is provided as follows:

"ART. XVII. The Cherokee nation hereby cedes, in trust to the United States, the tract of land in the State of Kansas which was sold to the Cherokees by the United States, under the provisions of the second article of the treaty of 1835; and also that strip of the land ceded to the nation by the fourth article of said treaty which is included in the State of Kansas, and the Cherokees consent that said lands may be included in the limits and jurisdiction of the said State.

"The lands herein ceded shall be surveyed as the public lands of the United States are surveyed, under the direction of the Commissioner of the General Land Office, and shall be appraised by two disinterested persons, one to be designated by the Cherokee national council and one by the Secretary of the Interior, and, in case of disagreement, by a third person, to be mutually selected by the aforesaid appraisers; the appraisement to be not less than an average of \$1 25 per acre, exclusive of improvements.

"And the Secretary of the Interior shall, from time to time, as such surveys and appraisements are approved by him, after due advertisements for sealed bids, sell such lands to the highest bidders for cash in parcels not exceeding one hundred and sixty acres and at not less than the appraised value: *Provided*, That whenever there are improvements of the value of fifty dollars made on the lands not being mineral, and owned and personally occupied by any person for agricultural purposes at the date of the signing hereof, such person so owning, and in person residing on such improvements, shall, after due proof, made under such regulations as the Secretary of the Interior may prescribe, be entitled to buy, at the appraised value, the smallest quantity of land in legal subdivisions which will include his improvements, not exceeding in the aggregate one hundred and sixty acres, the expenses of survey and appraisement to be paid by the Secretary out of the proceeds of sale of said land: *Provided*, That nothing in this article shall prevent the Secretary of the Interior from selling the whole of said lands not occupied by actual settlers at the date of the ratification of this treaty, not exceeding one hundred and sixty acres to each person entitled to preemption under the preemption laws of the United States in a body, to any responsible party, for cash, for a sum not less than one dollar per acre."—14 United States Statutes-at-Large, 804-807.

Before this treaty was made, the Cherokee Indians had practically abandoned the neutral lands, and about one thousand and three families of American citizens had settled on them and made valuable improvements with a view to secure homesteads or acquire titles under the preemption laws. This was done with the knowledge of the Indians, and without objection, if not with their direct sanction and approval.

The preamble to a resolution adopted in the House of Representatives July 13, 1868, states that—

"Between August 11, 1866, and June 6, 1868, about two thousand additional families have settled on said Cherokee neutral lands, each family occupying one hundred and sixty acres, on which improvements have been made at an average cost of about five hundred and ten dollars, beside expenditures for living of \$450 for each family, said settlement and improvements being made without objection from any source and on the faith that the settlers would be protected in the right to acquire title to said lands as other settlers on the public lands. On the 30th day of August, 1866, a contract was made by and between JAMES HARLAN, Secretary of the Interior, and the American Emigrant Company for the sale of certain portions of said lands, which contract has been assigned by said company to James F. Joy, said contract and assignment being on file in the Department of the Interior. A supplemental treaty between the United States and said Cherokee nation was made April 27, 1868, ratified June 6, and proclaimed June 10, 1868, all without any knowledge thereof by any of the persons occupying said lands, and which ratifies said contract with the American Emigrant Company and the assignment thereof to said Joy with certain modifications provided in said supplemental treaty, but which makes no provision for the protection of the persons or families who have settled upon and improved said lands, but purports to ratify a sale of said lands, including the improvements thereon."

The contract with the American Emigrant Company purported to sell these lands at one dollar an acre, payable in installments, running nine years, with interest. By the two treaties "actual settlers" prior to August 11, 1866, are so far protected that they are entitled to buy the lands they settled, "not being mineral," at an appraisement made in the mode

prescribed by the Secretary of the Interior, and which averages about two dollars an acre. This exclusion of settlers from mineral (coal) lands leaves only about four hundred claimants protected in the right to purchase under the treaty. All the residue of the lands purport to be sold to James F. Joy at one dollar an acre, payable in installments, running nine years. If these proceedings and the sale to Joy are valid then the great body of the actual settlers are left unprotected by law, and are defeated in their just expectations.

If the sale to Joy is illegal he has no right to complain if Congress shall give protection to the settlers, nor can he object if they are already entitled to the benefit of the homestead and preemption acts.

If Congress has power to cancel the sale to Joy, even if it was made under color of law, then the moral question may arise whether it is the duty of Congress, and if the power exists, to defeat his expectations of profit, or permit him to defeat the expectations of nearly three thousand families, many of whose members were soldiers who fought to save the Republic whose protection they ask, and still more of whom are women and children who imploringly pray that they may not be driven from the homes they have helped to make and on which they rely for support.

Some persons, conceding that the treaty-making power, unaided by act of Congress, is not competent to authorize a sale of the public lands of the United States to citizens or others in fee-simple, yet maintain that the Cherokee nation of Indians were the absolute owners in fee-simple of these neutral lands, and that the treaty-making power is competent to sell such lands, or that the Indians could authorize the Secretary of the Interior to sell. I cannot agree to either of these positions, but they do not really arise in this inquiry.

I maintain that the Cherokee nation never had any title beyond a right of occupancy.

In Blackstone's Commentaries, volume 1, book 2, page 104, it is said:

"I. Tenant in fee-simple is he that hath lands, tenements, or hereditaments to hold to him and his heirs forever, generally, absolutely, and simply, without mentioning what heirs, but referring that to his own pleasure or to the disposition of the law." * * * "This is property in its highest degree." * * *

A fee, therefore, in general signifies an estate of inheritance, being the highest and most extensive interest that a man can have in a feud; and when the term is used simply, without any other adjunct, or has the adjunct of simple annexed to it (as a fee or a fee-simple), it is used in contradistinction to a fee-conditional at the common law or a fee-tail by the statute, importing an absolute inheritance clear of any condition, limitation, or restrictions to particular heirs, but descendable to the heirs general, whether male or female, lineal or collateral."

In Kent's Commentaries, volume 4, part 4, page 4, it is said:

"Fee-simple is a pure inheritance, clear of any qualification or condition, and it gives a right of succession to all the heirs generally, under the restriction that they must be of the blood of the first purchaser and of the blood of the person last seized. It is an estate of perpetuity, and confers an unlimited power of alienation, and no person is capable of having a greater estate or interest in land. Every restraint upon alienation is inconsistent with the nature of a fee-simple."

A fee-simple is an absolute title—a title to a person, his heirs or successors forever. The act of May 28, 1830, authorized the President—

"Solemnly to assure the tribe that the United States will forever secure and guaranty to them and their successors the country so exchanged with them; and if they prefer it, that the United States will cause a patent or grant to be made and executed to them for the same."

Not the fee-simple, not the title absolute, but the occupancy of the "country"—this was to be secured and guarantied, and the grant or patent conveyed this security and guarantee, no more. The act does not once name the title to the land. In providing for a reversion it was the land that should revert; Congress did not even by implication concede a title to the Indians in any form. The Cherokee tribe had always occupied lands in common and held no

titles in severalty. The act itself contemplated an occupancy in common, and then—

"Provided always, That such lands shall revert to the United States if the Indians become extinct or abandon the same."

This looks to an occupancy in common—denies the power of sale in the Indians essential to a fee-simple, and looks to an ultimate extinction of their right of occupancy.

The act shows that the patent could not enlarge the character of the "assurance" and "guarantee of country" contained in it. It does not authorize a grant to inure to "assigns" or vendees of the Indians.

The law itself was enacted to carry out the known and recognized policy of the United States in relation to the Indian tribes.

The Cherokee nation exchanged their Georgia lands or money claims, for the Kansas neutral lands.

The Supreme Court of the United States had determined the character of the Indian right to lands and their relation to the Government.

In 5 Peters, 48, Justice Baldwin said:

"Indians have rights of occupancy to their lands as sacred as the fee-simple absolute title of the whites; but they are only rights of occupancy, incapable of alienation or being held by any other than common right without permission from the Government. (8 Wheaton, 592.) In *Wheeler vs. Peck* this court decided that the Indian occupancy was not absolutely repugnant to a seizing in fee in Georgia; that she had good right to grant land so occupied; that it was within the State and could be held by purchasers under a law subject only to extinguishment of the Indian title." (6 Cranch, 88-142; 9 Cranch, 11.)

In the case of *Johnson vs. McIntosh*, 8 Wheaton, 547, 571, the nature of the Indian title to lands was considered leading to the conclusion that their tenure was the same occupancy; their rights occupancy, and nothing more; that the ultimate, absolute fee jurisdiction, and sovereignty was in the Government, subject only to such rights; that grants vested soil and dominion and the powers of Government, whether the land granted was vacant or occupied."

Chief Justice Marshall said:

"They (the Cherokee Indians) occupy a territory to which we assert a title independent of their will, which must take effect in point of possession when their right of possession ceases. Meanwhile they are in a state of pupillage. Their relation to the United States resembles that of a ward to his guardian." * * *

"They and their country are considered by foreign nations as well as by ourselves as being so completely under the sovereignty and dominion of the United States that any attempt to acquire their lands or to form a political connection with them would be considered by all as an invasion of our territory and an act of hostility."

Justice Johnson said:

"They never have been recognized as holding sovereignty over the territory they occupy."

But if they had a fee, a perfect title, the law of Congress under which they held it declared that—

"The lands shall revert to the United States if the Indians" * * * "abandon the same."

No matter how they "abandon" it, whether by voluntary removal, by a surrender of their rights, by treaty, or otherwise, the lands revert.

The lands do not revert "in trust," but absolutely to the United States.

The Indians did in fact abandon these lands. They relinquished their rights by the treaty proclaimed August 11, 1866. This they could lawfully do and did do. The effect of this surrender and abandonment is not impaired by the fact that this treaty attempted to cede the lands "in trust," and to provide for a sale.

If, then, as I have shown, the Cherokee nation had no absolute fee-simple, no right themselves to sell these lands, they could not cede any to the United States, and could not stipulate that the Secretary of the Interior should sell a title which they did not have, or do what they could not do. Yet no one ever claimed or supposed that the Indians could sell these lands either to a foreign nation or to individual citizens. How, then, could they stipulate for a right to be exercised in their favor which they did not have? The power to authorize a sale under a treaty in the form attempted all rests on the assumption that the Indians had a fee-simple title, and when this assumption fails there can be no treaty power of sale.

The pretense that the Cherokees could clothe the Secretary of the Interior, as agent, with a power of sale, or that he could execute a trust without the authority of an act of Congress, does not deserve to be dignified with a discussion. He is an officer of the Government, with only such powers as the statutes give him, and none of these authorize him to act as agent for or trustee of the Indian tribes in the manner attempted. He could not be clothed with a trust without the sanction of an act of Congress.

But if the Cherokees had a fee-simple title the treaties could not confer upon the Secretary of the Interior the "power to dispose of and make needful rules and regulations respecting the territory" of the Indians so as to effect a sale of them in the manner proposed.

The Cherokees could, and by the treaties did, cede to the United States the Indian right of occupancy—all the right they had, whatever it was.

The treaty-making power, so far as it relates to the Indian tribes, at most can only create municipal, not public law.

In *Cherokee Nation vs. Georgia*, (5 Peters,) it was held that the Indian tribes are not foreign nations.

They are not independent nations, exempt from congressional legislation. All that relates to the lands over which they hold any rights may be regulated by congressional law.

In *Taylor vs. Morton* (2 Curtis's Circuit Court Reports, 454) the court held that—

"Though a treaty is a law of the land under the Constitution of the United States, Congress may repeal it so far as it is a municipal law, provided its subject-matter is within the legislative power of Congress."

"A promise in a treaty that the products of one country shall not be subjected to a higher rate of duty than like products imported into the United States from other countries, addresses itself to the political and not to the judicial department of the Government, and the courts cannot try the question whether it has been observed or not."

"Though the treaty with Russia, of December 18, 1832, (Statutes-at-Large, 444,) stipulated that no higher rate of duties should be imposed on goods imported from Russia than on like articles imported from other places, this court cannot try the question whether a certain species of hemp on which a duty of twenty-five dollars per ton is imposed by an act of Congress is 'like' Russian hemp within the meaning of the treaty. This is a question for Congress, not for the courts."

And Mr. Justice Curtis says:

"The truth is that this clause in the treaty is merely a contract, addressing itself to the legislative power. The distinction between such treaties and those which operate as laws in courts of justice is settled in our jurisprudence. It was clearly pointed out in *Foster vs. Neilson*, 2 Peters, 314. By the treaty between the United States and Spain, of the 22d of February, 1819, (8 Statutes-at-Large, 252,) it was stipulated by the former 'that all grants of land made, &c., by his Catholic majesty, &c., shall be ratified and confirmed to the persons in possession of the lands,' &c. The question arose whether this clause operated on the titles to the lands. Mr. Chief Justice Marshall, delivering the opinion of the court, said: 'Our Constitution declares a treaty to be a law of the land. It is, consequently, to be regarded in courts of justice as equivalent to an act of the Legislature whenever it operates of itself without the aid of any legislative provision. But when the terms of the stipulation import a contract, when either of the parties engage to perform a particular act, the treaty addresses itself to the political not to the judicial department, and the Legislature must execute the contract before it can become a rule for the court.' After commenting on the language of the article, he proceeds: 'This seems to be the language of contracts; and if it is, the ratification and confirmation which are promised must be the act of the Legislature. Until such act shall be passed the court is not at liberty to disregard the existing laws on the subject.'"

This is the established doctrine under this treaty as well as under that by which Louisiana was acquired, (8 Statutes-at-Large, 200.) See *Garcia vs. Lee*, 12 Peters, 519; *Talbot vs. Seaman*, 1 Cranch, 1; *Ware vs. Hylton*, 3 Dallas, 361; Story on the Constitution, section 1838; Paschal's Annotated Constitution, 249.

And again, in *Cherokee Nation vs. Georgia*, (5 Peters, 46,) it is said:

"However individual judges may construe them (treaties,) it is the province of the court to conform its decisions to the will of the Legislature, if that will has been clearly expressed."—*Foster vs. Elam*, 2 Peters, 307.

In 2 Story on the Constitution, section 1838, it is said:

"It will not be disputed that they (treaties) are subject to the legislative power, and may be repealed, like other laws, at its pleasure."

In the Convention that framed the Constitution, August 15, 1787, Mr. Mercer said:

"Treaties would not be final, so as to alter the laws of the land, till ratified by legislative authority. This was the case of treaties in Great Britain, particularly the late treaty of commerce with France."

August 23, Mr. Wilson said:

"The king of Great Britain was obliged to resort to Parliament for the execution of the most important treaties."

Congress has not only regulated the exercise of the treaty-making power as to these neutral lands, but has by law specifically provided, by the act of May 28, 1830, that when they are abandoned by the Indians they "shall revert to the United States."

The "homestead" and "preemption" laws give the right to enter public lands after the Indian title is extinguished and after survey. These treaties with the Cherokees attempt to say, in violation of the act of May 28, 1830, that the lands shall not revert, and, in violation of the homestead and preemption laws, that they shall not be subject to homestead and preemption entry and settlement.

As the Cherokees have abandoned the lands, and their title has been extinguished and the lands have been surveyed, it is to my mind clear that all said lands have reverted to and are owned absolutely by the United States, and are now subject to homestead and preemption entry and settlement, and the sale in form to Joy cannot impair or interfere with these rights.

If there could be any doubt about this, Congress has ample power, as already shown, to repeal the municipal provisions of the treaty purporting to authorize a sale of those lands, and thus give relief to the settlers. By the Constitution "no State shall pass any law impairing the obligation of contracts," (article 1, section 10.) But there is no such prohibition on Congress, except as vested rights are protected.

In my judgment, Congress has the EXCLUSIVE POWER to provide for the sale of the public lands, whether in Indian occupancy or not. The exercise of the power is only a question of policy and good faith. This grows out of the power conferred on Congress—

"To dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States"—

and of the power—

"to admit new States"—

into the Union; "and it arises from the sovereignty of Congress as to the lands." (Constitution, article 4, section 3.)

The congressional power to dispose of the public lands is necessarily exclusive. It certainly is not exclusively a treaty-making power. It is not necessarily any part of that power. As to unoccupied lands it could not be a treaty power. It is necessarily a congressional legislative power. To hold that it is concurrent with any other power is to reverse all rules of construction and introduce inextricable confusion. It is unsafe to permit the land policy of Congress to be overturned by the treaty-making power.

Justice Baldwin, in *Cherokee Nation vs. Georgia*, said:

"The second clause of the third section of the fourth article of the Constitution is equally convincing: 'The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory of the United States.' What that territory was the rights of soil, jurisdiction, and sovereignty, claimed and exercised by the States and the old Congress, has been already seen. It extended to the formation of a Government whose laws and process were in force within its whole extent *without a saving of Indian jurisdiction*. It is the same power which was delegated to the old Congress, and, according to the judicial interpretation given by this court in *Gibbons vs. Ogden*, 9 Wheaton, 909, the words 'to regulate,' implied in its nature full power over the thing to be regulated. It excludes necessarily the action of all others that would perform the same operation on the same thing."

Judge Story, in discussing the treaty-making power, limits it thus:

"A power [to make treaties] given by the Constitution cannot be construed to authorize a destruction of other powers [to dispose of lands] given in the same instrument. It must be construed, therefore, in subordination to it, and cannot supersede or interfere with any other of its fundamental provisions. Each is equally obligatory and of paramount authority within its scope, and no one embraces a right to annihilate any other."

In the *United States vs. Gratiot*, 14 Peters, 525, 538, the court, in commenting on the words of the Constitution "dispose of," say:

"The disposal must be left to the discretion of Congress. The power over the public lands is vested in Congress by the Constitution without limitation."

In *Scott vs. Sanford*, 19 Howard, 436, it was said:

"This clause of the Constitution authorizing Congress to 'dispose of the territory,' applied only to the property which the States held in common at that time, and has no reference whatever to any territory which the new sovereignty might afterward itself acquire."

But the power to govern territories, and as a consequence to dispose of the public lands, was declared to be:

"The inevitable consequence of the right to acquire territory."—Page 443.

And the court said—

"We do not mean, however, to question the power of Congress in this respect. The power to expand the territory of the United States by the admission of new States is plainly given."—Page 447.

And referring to this same territory acquired from France, including the Cherokee neutral lands, the court say:

"It was acquired by the General Government as the representative and trustee of the people of the United States, and it must therefore be held in that character for their common and equal benefit."

"It is undoubtedly necessary that some Government should be established in order to organize society and to protect the inhabitants in their persons and property; and as the people of the United States could act in this matter only through the Government which represented them, and through which they spoke and acted when the territory was obtained, it was not only within the scope of its powers, but it was its duty to give such laws and establish such a government as would enable those by whose authority they acted to reap the advantages anticipated from its acquisition, and to gather there a population which would enable it to assume the position to which it was destined among the States of the Union. The power to acquire necessarily carries with it the power to preserve and apply to the purposes for which it was acquired. The form of government to be established necessarily rested in the discretion of Congress."—Page 448.

It will be seen the power to dispose of the public lands and to institute territorial governments are declared to exist, and it is immaterial whether they rest on the clause authorizing Congress to "dispose of the public lands" or the "power to admit new States."

In either view the powers are exclusively in Congress.

In 19 Howard, 447, the court say:

"As the propriety of admitting a new State is committed to the sound discretion of Congress, the power to acquire territory for that purpose, to be held by the United States until it is in a suitable condition to become a State upon an equal footing with the other States, must rest upon the same discretion. It is a question for the political department of the Government, and not the judicial; and whatever the political department of the Government shall recognize as within the limits of the United States the judicial department is also bound to recognize."

By the political department is here meant Congress especially. (7 Howard, 1.)

The President and Senate, under cover of the treaty-making power, cannot establish a territorial or State government. That, by the universal opinion of all lawyers and courts,

"Is a question for the political department."

The power to dispose of the public lands is exclusively in Congress for various reasons:

First, If the treaty-making power can dispose of the public lands they may make a sale in one gross quantity which would forever prohibit the possibility of establishing or maintaining a territorial or State government.

Second, A power conferred on Congress without limitation is necessarily exclusive, and powers granted to the President and Senate must be so construed as to limit each depart-

ment to its appropriate functions. (*United States vs. Nicholl*, 1 Paine R., 646.)

The House of Representatives has repeatedly affirmed that the treaty-making power could not dispose of the public lands.

On the 13th July, 1868, the House passed the following resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where any person, prior to June 10, 1868, shall have settled on any tract of land of one hundred and sixty acres or less, in the body of lands known as the Cherokee neutral lands, and shall have made improvements thereon of the value of fifty dollars, and occupied such tract for agricultural purposes, such person, his heirs or assigns, so occupying any such tract of land shall, after due proof made in such manner as may be prescribed by the Secretary of the Interior, be entitled to enter and receive a patent for the lands so occupied on paying \$1.25 an acre within one year, in such manner as the Secretary of the Interior may prescribe. And the money so to be paid for said lands shall be paid over to said Cherokee Indians."

This remains undisposed of in the Senate.

On the 27th May, 1868, a treaty was concluded with the Osage Indians by which eight million three thousand two hundred and three acres of land were to be sold to the Leavenworth, Lawrence, and Galveston Railroad Company for nineteen cents an acre.

On the 18th of June the House passed a resolution, as follows:

"Resolved, (as the sense of this House.) That the objects, terms, conditions, and stipulations of the aforesaid pretended treaty are not within the treaty-making power, nor are they authorized either by the Constitution or laws of the United States; and therefore this House does hereby solemnly condemn the same, and does also earnestly but respectfully express the hope and expectation that the Senate will not ratify the said pretended treaty."

The Senate has not yet acted on the treaty. Some limit must be affixed to the treaty-making power. It has been well said that—

"If such an innovation of the rights of the House or of the rights of Congress be allowed to go unchallenged there is little else in the way of legislation that may not be done by treaty. Why may not the right of suffrage be regulated by reciprocal treaties? Why not so fix the price of our public lands? Why may not internal improvements, canals, and railroads be secured on the international reciprocity plan? Why not leave reciprocity in fortification treaties? Why not thus regulate the rates of postage? Why not reestablish slavery by a reciprocal treaty with Brazil or the king of Dahomey? Why not have reciprocal naturalization treaties? Why may not New England be thus put out in the cold, or the State of Michigan be alienated by treaty with the Canadian Dominion? Why not borrow money or resume specie payment by virtue of a reciprocity treaty?"

"These interrogatories give some indication of the possible scope of the powers claimed and the easy manner in which power may slide into the hands of the few, and, without changing the form of our Government, wholly subvert its popular character."—*Morrill's Speech*, Senate, January 14, 1869.

Congress has power to declare war as well as to dispose of the public lands. The treaty-making power can no more dispose of the lands than it can bind the nation to engage in a foreign war.

Mr. Speaker, I cannot predict, but I cannot doubt what will be the final decision of the Supreme Court of the United States on the questions I have discussed. I do not believe that three thousand families will or ought to be driven from homes acquired under the circumstances I have stated.

The Legislature of Kansas can enact an occupying claimant law and a five years' statute of limitations, which will give some protection to these settlers and bring their rights to a speedy decision. I believe they now are entitled to the benefit of the homestead and preemption laws.

I believe it is the duty of Congress to assert its rightful power over the public lands, by enacting a law to rescind the sale to Joy, and thereby to that extent annul the treaty. Good faith and justice to the Cherokee nation require that these lands should be opened to preemption entries, and the money for which the lands shall thus be sold be paid over to that nation.

If the treaty-making power is tolerated or sustained in the assumption of a right to dispose of the public domain, these Kansas settlers will not alone be the sufferers; but the

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whole people, the Constitution itself, will be involved in the calamity.

Congress, in whose popular branch the people's voice is heard and felt, will no longer determine the land policy of the nation in the interests of the people; but speculators and monopolists will flourish on robberies perpetrated under cover of treaties privately made, secretly ratified, and carried into effect by agencies uncontrolled by the millions whose rights and interests they will sacrifice. I will, when it will be in order to do so, introduce a bill to carry these views into effect, as follows:

Be it enacted, &c. That so much of the treaties between the United States and the Cherokee nation of Indians, proclaimed August 11, 1866, and June 10, 1868, as profess to authorize sale of the lands described in the seventeenth article of said first-mentioned treaty, and all contracts and grants purporting to be made thereunder, be and are annulled and declared void; and said lands shall be and are subject to settlement, entry, and sale at \$1 25 an acre under the laws of the United States regulating preemptions, which laws are extended to and made applicable to said lands; and the proceeds of the sales of said lands shall be from time to time paid over to said nation of Indians until the total sum paid them shall equal one dollar per acre for all said lands; and the Secretary of the Treasury shall refund all moneys paid to the United States under any sale made by virtue of said treaties.

President's Message and Repudiation.

SPEECH OF HON. W. MUNGEN,
OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

January 27, 1869,

On the President's message and repudiation.

MR. MUNGEN. Mr. Speaker, it is but seldom I trespass upon the time of this House in the way of speech-making. I do not think that I am so anxious to "appear in public on the stage" as several gentlemen within the sound of my voice. But if I were, mortification and vexation would surely overtake me. If a member of this House who belongs to the same political party I do wishes to be heard, either by way of explaining a measure, against a measure, or in any other manner, the tyranny of the inexorable two-thirds rule, forced and backed by the courtesy and more than Chesterfield politeness of the dominant party upon this floor, will, as a general rule, choke him down, and he must remain silent.

I had occasion to remark on this floor, more than a year since, as follows:

"Ever since the close of the war, and for some time before, the course of policy adopted by my friends on the other side of the House has clearly indicated that party success is their paramount object."

"Cabal and caucus settle questions of the gravest moment and deepest import to the Government. By a secret decree, agreed upon in a party caucus, and made, not as in former times, in the happy days of the Republic, any measure may be brought forward, and, under the lash of the previous question and the spur of passion and fanaticism, is passed and becomes a law; no discussion, no amendment being allowed."

The following preamble and resolution offered by the honorable gentleman from Pennsylvania, [Mr. BROOMALL,] and the action had thereupon, will fully demonstrate the truth of my assertion:

"Whereas the President of the United States, in his annual message to the Fortieth Congress at its third session, says: 'It may be assumed that the holders of our securities have already received upon their bonds a larger amount than their original investment, measured by a gold standard. Upon this statement of facts it would seem but just and equitable that the six per cent. interest now paid by the Government should be applied to the reduction of the principal in semi-annual installments, which in sixteen years and eight months would liquidate the entire national debt. Six per cent. in gold would at present rates be equal to nine per cent. in currency, and equivalent to the payment of the debt one and a half time in a fraction less than seventeen years. This, in connection with all the other advantages derived from their investment, would afford to the public creditors a fair and liberal compensation for the use of their capital, and with this they should be satisfied. The lessons of the past admonish the lender that it is not well to be overanxious in exacting from the borrower rigid compliance with the letter of the bond;' and whereas such sentiments, if permitted to go to the world without immediate pro-

test, may be understood to be the sentiments of the people of the United States and their Representatives in Congress: Therefore,

Resolved, That all forms and degrees of repudiation of national indebtedness are odious to the American people. And that under no circumstances will their Representatives consent to offer the public creditor, as full compensation, a less amount of money than that which the Government contracted to pay him."

This supposed to be very important preamble and resolution may be found in the Daily Congressional Globe of the 15th of December, 1868.

Here is a pretty bolus for a political doctor—to no personal disrespect to the gentleman—to attempt to force down my throat. Does the honorable gentleman from Pennsylvania suppose that he has either the authority, the right, or the power to mix up a set of words in such a form as to be palatable to him, and then, while refusing to allow any modification, any qualification, any amendment, any explanation on the part of gentlemen on this side of the House, to whom those words are obnoxious, force them to vote his resolution through or be stigmatized as repudiators and as not being willing to pay the just debts of the Government? Does the overwhelming majority on the other side of the House and on the side of the bankers and bondholders of the Government, as is shown by their votes and actions on this floor, suppose that by any preamble or resolution, or by any attempt to avoid discussion and debate on the momentous questions touching the financial condition of this country, they can intimidate any one? I beg leave very respectfully to inform those gentlemen, if any there be holding such opinions, that they are mistaken in their estimate of at least a few over here.

The self-congratulating chuckle in which the gentlemen on the bondholding side of the question involved in the resolution indulged when they got the matter through on the 14th day of last December, was evidence, to my mind at least, that they thought the country was safe and had been saved alone by words. Well, no matter; words have often passed for patriotism, gravity for wisdom, moneyed speculations at the expense of the Government for loyalty. Sending all our wives, relations, and every one else than our sons and brothers, &c., to the Army and staying at home ourselves have drawn columns of applause from a subsidized press.

But what is this resolution, this great panacea, this antidote for all the presidential poison? The President told a great many truths and showed up a great many of the sins of omission and commission on the part of this extremely loyal Republican party. Not being able to avoid the force of the argument he used, nor to contradict the statements he made, it is perhaps thought by selecting part of his remarks relative to the amount of interest which has already been paid to the shylocks and bankers and shavers and bondholders to stigmatize him and every one who voted against the preamble and resolution in question as repudiators. With a view to make us all repudiators who would not vote with him we have the words of the honorable gentleman from Illinois, [Mr. E. B. WASHBURN,] as follows:

"As I understand, Mr. Speaker, a negative vote on this question will indorse the extract from the President's message and favor repudiation."

This was upon the question of agreeing to the preamble and the first clause of the resolution.

A few minutes before this the gentleman from Wisconsin [Mr. ELDRIDGE] had demanded a division, so as to have a separate vote on the preamble and resolution. The Speaker decided thus:

"The Chair stated that the previous question would operate on the preamble and resolution unless some gentlemen demanded a separate vote. It was not demanded. The preamble simply recites an extract from the President's message."

Now, there are words and deductions in the preamble which are not to be found in the

President's message, and it so shows on its face; but we must vote for words interpolated, or rather claimed to be "a mere recital of the message," where our senses contradict the statement and the language contradicts it; and there is no chance to have a separate vote, because some gentleman had not demanded a separate vote at a moment previous. With the ruling I find no fault; in one point of view it is according to the rules. But it is very unfortunate, when we do not have the means of knowing beforehand what the gentleman from Pennsylvania or Illinois or somewhere else is going to force upon us, and therefore are not prepared to call for a division instantaneously—I say it is hard to be told that we cannot have a separate vote; and because we will not indorse all he says we have to be denounced as repudiators, and the Republican newspapers abuse us for our votes. The clue was very cleverly given by the gentleman from Illinois, and was not contradicted by the Speaker.

With all due respect to the Speaker, I may be allowed to say, that there was a very important part of the President's message which was not recited touching the point at issue, and immediately preceding the extract quoted by the gentleman from Pennsylvania, [Mr. BROOMALL,] and which would make the sentence taken all together bear a very different meaning. The gentleman from Pennsylvania who penned the preamble and resolution in question knows very well, or at least ought to know, that great injustice was done the President by the recital of only a part of the message in the preamble. He knows that the President distinctly, in the same paragraph from which he quoted, disclaims anything like repudiation. Here is the first part of the same paragraph and immediately preceding the extract. It will be found on page 11 of the message as printed and furnished to members of both branches of Congress:

"Various plans have been proposed for the payment of the public debt. However they may have varied as to the time and mode in which it should be redeemed, there seems to be a general concurrence as to the propriety and justness of a reduction in the present rate of interest. The Secretary of the Treasury in his report recommends five per cent.; Congress, in a bill passed prior to adjournment on the 27th of July last, agreed upon four and four and a half per cent.; while by many three per cent. has been held to be an amply sufficient return for the investment. The general impression as to the exorbitancy of the existing rate of interest has led to an inquiry in the public mind respecting the consideration which the Government has actually received for its bonds, and the conclusion is becoming prevalent that the amount which it obtained was in real money three or four hundred per cent. less than the obligations which it issued in return."

"It cannot be denied that we are paying an extravagant percentage for the use of the money borrowed, which was paper currency, greatly depreciated below the value of coin. This fact is made apparent when we consider that bondholders receive from the Treasury, upon each dollar they own in Government securities, six per cent. in gold, which is nearly or quite equal to nine per cent. in currency; that the bonds are then converted into capital for the national banks, upon which those institutions issue their circulation, bearing six per cent. interest; and that they are exempt from taxation by the Government and the States, and thereby enhanced two per cent. in the hands of the holders. We thus have an aggregate of seventeen per cent. which may be received upon each dollar by the owners of Government securities. A system that produces such results is justly regarded as favoring a few at the expense of the many, and has led to the further inquiry whether our bondholders, in view of the large profits which they have enjoyed, would themselves be averse to a settlement of our indebtedness upon a plan which would yield them a fair remuneration, and at the same time be just to the tax-payers of the nation. Our national credit should be sacredly observed; but in making provision for our creditors we should not forget what is due to the masses of the people."

Then immediately follows the words quoted in the preamble, "It may be assumed," &c. Now, Mr. Speaker, no fair-minded man can assert that there is anything whatever favoring repudiation in the paragraph quoted from page 11. The trouble is this with the banking and bondholding gentlemen, or their friends on this floor: they did not wish the people to know that they received seventeen per cent. per annum on their bonds; nor did they like

to hear mentioned the enormous profits they have derived from this bond and national bank scheme, so artfully devised and shrewdly managed. Nor do they wish the attention of the people called to their own rights—to "what is due the masses of the people."

Allow me further to say, with a view of correcting what was evidently a mistake of the Speaker, that the following words contained in the last few lines of the preamble already referred to are not mere recital of the President's message, nor are they contained in the message:

"And whereas such sentiments, if permitted to go to the world without immediate protest, may be understood to be the sentiments of the people of the United States and their Representatives in Congress."

The modesty of the resolution in question is only equaled by the ability and patriotism of those who supported it. They speak fully and freely for "the American people," which under republican rule, I presume, means whites, blacks, mulattoes, Indians, Chinese, and all. Now let me say that in my opinion, if the resolution had been made so as to read and utter an expression of the sense of this House, it would have been at least as forcible, and certainly more becoming. And then, "that all forms and degrees of repudiation," &c. I presume we are to understand by this that to offer to pay the bondholders in the legal-tender notes of the Government instead of in gold is some "form or degree of repudiation." It is not understood by those gentlemen to be repudiation in any "form or degree" to compel the crippled pensioner to take rags and green paint for his pittance; or to force the farmer, the mechanic, the sewing woman, the business man to receive rags for their work, labor, and productions. But ask a bondholder to give up his bond and take greenbacks, and thus stop the accumulating interest, that is repudiation "in some form or degree." If to do this and thereby lighten the burden of taxation on a down-trodden, oppressed, and overtaxed people is "some form or degree of repudiation," then am I guilty. "Equal taxation and no privileged classes" is my motto.

The hypocritical howl and whine raised by the moneyed interests of the country when you talk about taxing the bonds, or about the injustice in not having them pay their just proportion of tax, is truly amusing. They are all loyal; they loaned their money to the Government when it needed the money; they must have the terms of their bond; and when Congressmen undertake to say, and do say, anything like that contained in the resolution referred to, you hear from Wall street, and from all those interested in fleecing the people in this way, the compliments paid by Shylock to Portia:

"A Daniel come to judgment! yea, a Daniel! O noble judge! O wise and upright judge! How much more elder art thou than thy looks!"

Away with such stuff, such nonsense! The fact is that the capitalists and dominant politicians of this country were the means of prolonging the war at least two years, and were largely instrumental in saddling the Government with a debt which, unless a different policy shall be adopted, never will be paid. In fact, judging by the funding bill now pending, which will tax the people three or four times the whole amount of our debt, enormous as it is, during the proposed forty years, and then not have a single cent of the principal paid, looks more like repudiation than anything I have seen or heard of lately.

I charge the capitalists and the dominant politicians with prolonging this war at least two years; and while they were doing so a subsidized press and subsidized stump orators were charging that it was the Democratic party that was doing this, and giving aid and comfort and sympathy to the enemy. The capitalists, with the keen scent of the vulture when a carcass is at hand, stood aloof, gathering their

money together, their safes locked and double-barred, their purse-strings tightly tied, their fingers eagerly clutching their treasure. They were anxiously counting the days and weeks when the Government would be compelled to give them their own terms for their gold. Mr. Chase, then Secretary of the Treasury, a banker and capitalist himself, got up the greenbacks; and gold went up as high as two hundred and eight-five per cent. in June, 1863. This would not do! Capitalists wanted a better thing. The greenbacks were almost worthless, and made so by the capitalists themselves. The nation, bleeding at every pore, must stand the money-leeches still further, and they forced the Government to issuing bonds, which sharpers bought up at forty to fifty cents on the dollar; and to add to all this their course of policy, financially, caused the Government to pay two or three prices for everything required to carry on the war.

Let me suppose a case: suppose the honorable gentleman from Pennsylvania were in the Potomac river and struggling for his life to get out, and suppose that with the aid of forty dollars he would be enabled to succeed; Jay Cooke comes along, and, comprehending the situation, with an eye to business, looks at the struggle of my Pennsylvania friend and calculates how long it will be until he can barely sign his name to a piece of paper, from sheer exhaustion. He finds my friend getting weaker, and when he is about to sink Mr. Cooke says, "I will furnish the forty dollars on one or two trifling conditions;" almost dying, Mr. BROOMALL gasps out, "What are the conditions?" He is informed that for the forty dollars he must give Mr. Cooke his note for \$100; he must pay interest semi-annually in gold on the \$100, and in addition must keep Mr. Cooke clear of the payment of all local and municipal taxes on that amount. He also says that the note can be paid any time between five years and twenty years thereafter. My Pennsylvania friend must have the money or sink and die, and to preserve his existence he accedes to Mr. Cooke's proposition, and gets out of the river. He gives his note for the \$100, and as time rolls on he punctually pays his six per cent. interest in gold, which costs him nine per cent. in the currency he is compelled to take for his labor, &c., until he has paid Mr. Cooke the full amount of the forty dollars in gold, or its equivalent, which we will presume he received, and also legal interest thereon. By paying the interest in gold semi-annually on \$100, and the exemption from taxation counted in, Mr. Cooke very soon gets his forty dollars with legal interest. After thinking the matter over the gentleman from Pennsylvania concludes he would do well to lift that note and stop the interest. Accordingly, having the legal right so to do, he demands the note of Mr. Cooke and tenders the currency of the country, legal-tenders, for its face. Cooke indignantly refuses. He then offers forty dollars in gold, the amount he received, and demands the note. Whereupon Mr. Cooke flies into a passion, calls such propositions "some form or degree of repudiation;" calls to mind the helpless condition of my Pennsylvania friend when he was struggling in the river, and gets all Wall street and all the presses he can control to denounce him as a repudiator. Mr. BROOMALL remonstrates, and says: "I have fulfilled my contract; if I keep paying this usurious interest it will break me up, so that I can neither pay interest nor principal; and you, Mr. Cooke, will thus force me to repudiate this debt." Who would call the gentleman from Pennsylvania a repudiator? Where is the member that would rise in his place and denounce any one but the one who held the note? Who would say, by resolution or otherwise, that this was any "form or degree of repudiation?" Who would say that the gentleman from Pennsylvania, by every rule of right and justice, would not be entitled to his note?

Who will say that such a manner of extorting the note in the first place was not swindling, bare-faced swindling?

Webster defines the word swindling as follows: "To cheat or defraud grossly, or with deliberate artifice; as to swindle a man out of his property." The word swindle, as a noun, he says is "the act or process of defrauding by systematic imposition." Who will say that money so obtained is not obtained by fraud and systematic imposition? He defines the word repudiation to mean "the act of repudiating or disclaiming, as the repudiation of a doctrine, a debt," &c. Repudiation, therefore, would seem to be less obnoxious than swindling. The American people, by a large majority, will indorse such a course as proposed by Mr. BROOMALL to Mr. Cooke in this supposed instance whenever the question of such mis-called repudiation is fairly submitted to them. If this be repudiation, then I am a repudiator; and whenever I shall be forced to choose between swindling and repudiation I will certainly favor the latter, as being, if anything, the lesser evil.

Now, Mr. Speaker, we have a parallel case in our national history. The abolitionists of the North and the fire-eaters of the South had been quarreling and wrangling for years—the North complaining about the undue advantage the South had in representation, and the South complaining about the great advantages the North had in tariffs, &c., until finally the North and South each got up a sectional party, headed respectively by Lincoln and Breckinridge, and ran their candidates upon sectional grounds, neither party expecting an electoral vote from the opposing section, nor did they get one. Treason reared its horrid front, Sumter was fired on, and grim-visaged war commenced in earnest. The Government, in place of having a little breakfast job, as President Lincoln said, on hand, an outbreak which could easily be put down with seventy-five thousand men in three months, soon found itself struggling for its very life. The country rushed to arms without regard to party, determined to uphold the old flag and the Constitution. Assurances were given by the President and by Congress that it would not be a war to interfere with the domestic institutions of the South or for any other purpose than to restore peace, and proclamations were issued by the President calling upon the rebels to lay down their arms and accept the terms of peace offered them upon that single condition. But no, the South did not accept the proposition, and the devil was let loose for a season, apparently, and the nation was almost in death's agony.

Now here is the parallel: Government struggling for its life; Wall street brokers looking calmly on as it is getting weaker from loss of blood and the enormous drain upon its energies; Wall street broker says to Uncle Sam, "I will let you have \$400,000 on one or two trifling conditions;" Uncle Sam wishes to find out the conditions, when he is coolly informed that Mr. Broker must have Government bonds to the amount of \$1,000,000 for his \$400,000, the same proportion Jay Cooke demanded; must have six per cent. interest in gold payable semi-annually on \$1,000,000, and must be exempt from the payment of all local and municipal taxes thereon, and then the notes may be payable in from five to twenty years. Government must have money or die, and is forced to accept the swindling proposition. Jeff Davis & Co. looking on say, "A Government forced to that condition—forced to accept such terms—cannot stand long. Let us hope. Her capitalists are doing more to break their Government down than the confederate forces can do by fighting." They were thus encouraged, and I feel safe in saying that if the capitalists had come manfully up and advanced their funds to aid the Government to put down the rebellion, as freely as the soldiers in the field and the sailors in the Navy bared their breasts to the red

flame of battle, the war would not have lasted half the time it did. The capitalists had the money to give, and as much as was necessary, but would not give it until they got two or three hundred per cent. profit. Out upon the hypocritical cry of loyalty now raised by such men to extort more money from the toiling and laboring masses of the country! The capitalists, with one or two honorable exceptions, are fairly chargeable with half the lives lost in the war.

Gentlemen on this floor can and do talk very flippantly about the faith of the Government, the credit of the Government being maintained inviolate, the obligations under which we rest to pay off the national debt, and they indulge in a great deal of fanfaronade upon the subject. Allow me to call the attention of gentlemen to the fact that the Republican party and a Republican Congress were the first to introduce anything like repudiation into the national legislation. Gentlemen may smile and look incredulous, but those smiles and looks do not and cannot controvert the facts of history. There are gentlemen now on the floor of this House who voted in favor of making greenbacks a legal tender for the payment of all debts excepting import duties. By their votes they authorized and countenanced the violation of private contracts between individuals. A contract or a note which by its express terms was payable in gold could by their repudiation scheme be paid in greenbacks worth thirty to fifty cents on the dollar. States in which the Republican party had the ascendancy in their legislation were not slow in following in the footsteps of a repudiating Republican Congress. California, Kentucky, and Massachusetts, however, were honorable exceptions to this infamous swindle and repudiation. Banks paid those who had gold deposits in greenbacks.

Among many instances which came under my own observation I will allude to only one. A soldier who volunteered in one of the Ohio regiments, the eighty-second, had a few hundred dollars—I think \$500—of his hard earnings saved for the purpose of buying a home for himself and his young wife and babe. Having volunteered, he was waited on by a very loyal Republican living near Roundhead, in my district, who wished to borrow the money. The soldier loaned him the money and took his note payable in gold, the same kind of currency he loaned. Not long after the soldier went to the field; I think at the battle of Antietam—not certain as to the battle-field, nor is it material—a bullet struck him, and he fell to rise no more, “with his back to the field and his feet to the foe.” His widow and child left helpless, she called on the “loyal” gentleman for the money he had borrowed. He tendered her the amount in greenbacks, which cost him forty cents on the dollar. She refused the infamous proposition and brought suit in the common pleas court to recover the gold. But the court pointed to the repudiation act of a Republican Congress, decided against the widow, and she was compelled to take the greenbacks; or, in other words, to take forty cents on the dollar for the claim. But be careful! That was good enough for the poor widow and orphan according to Republican legislation. When Mr. Banker, Bondholder, or shoddy nabob, however, has to receive anything, it must be in gold, or else the man who opposes him and offers him greenbacks is a repudiator. Is not such a case as I have put “some form or degree of repudiation?” I call it repudiation of the vilest and foulest kind; swindling would be a more appropriate name.

But how is it about the claims of loyal men against this Government? Millions of dollars are justly due to honest men from the Government. One case will serve to illustrate the character of these claims, and I feel constrained to view the subject briefly, to ascertain whether the majority of this House may not justly be called repudiators. Mr. Ander-

son, of Nashville—and this is not a fictitious case—at the time our troops took possession of that place, was the proprietor of two lumber-yards therein. Lieutenant A. A. Monroe and forty men of the twenty-first Ohio were put in charge of the yards, with instructions to let nothing go out except on written orders from military authorities. The orders were, of course, strictly obeyed, and every stick and board and sash and door were taken by our Government authorities there, and used by our troops in the construction of Fort Negley, the barracks, the hospital, the pontoons and railroad bridges. The stock invoiced by the books, at cost price in 1862, was nearly twenty-seven thousand dollars. It was all or nearly all the old gentleman possessed on earth. He let it go freely, relying on the certificates from our officers; and here it is nearly seven years and no payment yet. He has worked and begged, tried the courts, and is now asking this Congress to pay him. There is no question asked about his loyalty—that is granted on all hands. There is no question about the justness of his claim. He has Colonel Morton's orders and vouchers. But members say if we commence paying this class of claims there is no telling where we will stop—that the Government cannot pay these claims. Not only this; the course of legislation and the policy of the last few Congresses, all Republican, in regard to the just claims of all loyal citizens for property taken, used, and appropriated by our Government, tends directly to cut off at least three fourths of these claims.

What is the reason that the statute of limitations runs against their claims but does not run against the Government as between it and our citizens in any case? The different courts and commissions and congressional committees, &c., through which these claims generally have to run the gauntlet, is much more intricate and labyrinthine than Dickens's circumlocution office. Claimants get into the mazes of all these things, and after begging, praying, and entreating for their just dues are likely to be referred to the Court of Claims. Going there, with their hat in hand, they learn to their utter astonishment that they are barred by the statute of limitations, six years having elapsed since the Government appropriated their property, and, in many instances, left them penniless and destitute. Wronged and robbed by the Government they loved, they are sent home to eke out their old days as best they can in poverty and destitution. Do gentlemen here who voted for these acts—this splendid mix of circumlocution and repudiation—see any “form or degree of repudiation” made manifest in these things? Gentlemen do not seem to take any especial notice of gross violations of the nation's faith, unless it be something affecting banker's or bondholder's interests, or touching the “financial rings,” now so completely fettering the industry and prosperity of the land and people. Are not the claims of a farmer, a mechanic, a soldier, a widow, and orphan, or a crippled pensioner, as sacred as the claims of the aristocratic bondholder? The American people will answer in the affirmative.

Now, the non-payment of these claims is repudiation. This neglect is inexcusable in the Congress, and especially so when we see the eagerness manifested to assure the bondholder that he will get his pay promptly, and in gold at that. What a contrast between the estimation placed upon the bondholder and the man who gave all he had to the Government, and now seeks some return to enable him to live! One is comforted with high-sounding assurances that Congress is his most devoted, obedient, and humble servant, or words to that effect, and the great name of the American people is called in to give a kind of spread-eagle gloss to the whole affair. How different is the treatment of the Government's honest creditors! I have often thought that I would like to know how many members of this Congress are bondholders and

interested in banking, and to what amount. It would be advantageous to future generations to know this as well as to know how many just claims, such as Mr. Anderson's, are virtually if not actually repudiated by us, if this kind of neglect be properly called repudiation. If this knowledge would not be advantageous it would serve to gratify a very laudable curiosity, and might be a key to some of the doings in this our day and generation. Men's farms, loyal men—the name is now threadbare, but loyal is the phrase—have been dug up and scarred and corrugated all over with trenches, rifle-pits, parapet lines, redoubts, and all manner of field-works; their homes destroyed, their lands laid waste, their timber cut down to give range to our artillery, and these men fairly beggared. Their claims are suffered to pass unnoticed; their petitions are passed by

“As the idle wind, which we respect not.”

Every obstacle, no matter how trifling, seems to be presented, and all this without the shadow of an excuse in many instances. Why is this? When the bondholder comes forward there is no trouble. His gold is ready, his interest promptly paid, and men high in position are only pleased to salute him with the utmost cordiality. No repudiation for him; but the poor claimant, how different his treatment! In the case of Sue Murphey no questions are raised against the justness of her claim or touching her loyalty. All this is admitted, but she is told that she cannot be paid, for it would open the door to so many other similar claims that the Government could not pay them. Here is fair repudiation. Why not say the Government has too many bonds out, and therefore cannot pay them? Why not repudiate in this line, too? But no; the Government must pay them off in gold, forsooth. They belong to bondholders.

Then look at the case of the firm of Childs, Pratt & Fox, of St. Louis. Under the authority of General Frémont they furnished large amounts of military supplies to the Federal troops, and received therefor vouchers from General Frémont's chief quartermaster, General McKinstry. Mark one feature to which I will allude in a moment, that of blankets furnished by this firm. A large portion of the blankets were purchased by them from one Hugh Campbell, of St. Louis. This firm was, I believe, the only one in the city which responded to the call of the Government for supplies for our suffering troops. The balance of the merchants stood back while this firm threw into the scale all they could, and taxed their credit to its utmost to meet General Frémont's demands. A Mr. Haskell, I believe, also came forward and advanced some army supplies, taking therefor similar vouchers.

But President Lincoln, who was then “the Government,” or some one else, removed General Frémont, chiefly, I believe, because he was too fast in exposing the radical scheme of making men and brothers out of negroes. A great flurry pervaded the Republican camp about extravagance, too, and in consequence thereof and to smooth matters over a kind of a committee was appointed, composed of Hon. Judge Davis, of Illinois, now of the Supreme Court; the immortal Joe Holt, of judge-advocate notoriety; and one Hugh Campbell, of St. Louis, the gentleman who, unwilling to sell his blankets to the Government, preferred to and did sell them to Messrs. Childs, Pratt & Fox at eight dollars per pair, and they were furnished, if I mistake not, to the Government at that rate. This celebrated committee proceeded to St. Louis to look after General Frémont's operations, and those of his quartermaster, General McKinstry. Among the first of the official duties they deemed it necessary to perform was to visit the establishment of the said Childs, Pratt & Fox, seize their books, examine their vouchers given by the quartermaster, reduce their claim largely, and among other things were the vouchers for blankets. They cut down

the charge for the blankets from eight dollars per pair to \$3 50 per pair, although Campbell, one of the members of the committee, had sold the same blankets to the firm at eight dollars per pair. This committee compelled Childs, Pratt & Fox to give up those vouchers—the evidence that they had furnished supplies to our troops—given them by a Government officer. There never has been, never can be, any question raised as to the loyalty—I am disgusted with the word—of this firm. They were compelled to take just what they could get at the hands of this immortal committee—immortal as the name of Jeffries in English jurisprudence. I have been told that these merchants very narrowly escaped imprisonment in some loyal bastille. They were compelled to go into the Court of Claims, where their case is yet, asking for their just demands.

This is some form or degree of repudiation, according to my judgment. Did not Lincoln or a Republican Congress indorse the action of this committee? Did not Mr. Lincoln shortly afterward appoint Mr. Davis to the Supreme bench? A few claims of private citizens have been adjusted, but the time, trouble, anxiety, and expense incurred in getting them through none but the claimants know. The number so paid are as nothing compared to the large amount awaiting adjustment in the different departments of the circumlocution office. If we have not money to pay these claims with at present let us adjust matters and give certificates of indebtedness to our honest creditors, and then pay them as soon as we can. Let the books be posted and balances struck. This delay and neglect on the part of the Government is unpardonable. It is clearly, broadly, distinctly, essentially, and emphatically repudiation, and this House has declared every form or degree of repudiation obnoxious. Perhaps they only had reference to the bondholders and not to any other Government creditor. If so, they should say as much plainly.

More than this: we all know the great love which was manifested in words for the soldiers; yet a Republican Congress repudiated the contract between the soldiers and the Government in the most direct and positive manner. Be it remembered that when the soldier volunteered it was no more nor less than a contract by which he agreed to serve his country faithfully, and the Government agreed to give him a pittance in return for services. Commissioned officers were guaranteed a certain sum of money per month, no rations being issued to them, as was the case with privates and non-commissioned officers. But in violation of this contract their wages were reduced while they were in the field fighting, and the wages of Congressmen were raised by a Republican Congress about two thousand dollars a year. As an instance, the pay of a colonel was reduced about forty dollars per month, and that of other officers in the same proportion, and they were taxed three per cent. on what they got. This injustice—this violation of the terms of the contract of their enlistment—was borne without a murmur. The gentleman from Pennsylvania [Mr. BROOMALL] did not have a resolution rushed through this House in the name of the American people, or in any other name, protesting against this "form or degree of repudiation." Oh, no! His sympathies are reserved, doubtless, for more noble objects—the bondholders.

Let not gentlemen flatter themselves that the "American people" can be hoodwinked by wordy preambles and high-sounding resolutions. They know what all such things mean. They know, too, who have to bear the burden of taxation, as well as who are exempted from all local and municipal taxes. They know who has to earn the gold and who gets the gold, while they are compelled to take a depreciated currency—rags and ink—and are glad to get it. The men who with picks and shovels and strong arms and brave hearts burst open the banks of the Sierra Nevadas' quarry for black diamonds

in our coal mines, hew down the forest, break up the prairies, build our railroads, canals, bridges, and cities; who sweat in our forges and factories, cultivate the soil, and earn their daily bread by the sweat of their brow according to the word of the Almighty, are the men who should receive the gold. But under Republican rule they do not get it. Gold is for the rich man, rags for the poor. The rich are getting richer and the poor poorer every day; and this will continue to be the case until we change our financial system, so that we shall have one kind of currency for all, rich and poor, high and low. They know the trick which leading Republicans are about playing upon them in the matter of the so-called funding bill, which came so nearly being a law last summer. They know that in the course of the forty years which must elapse before their bonds will become due under this scheme they and their children will have paid, if they shall be base enough to submit to such consummate villany, three or four times the amount—the enormous amount—of our interest-bearing debt; and that then not one cent of that great debt will have been paid. They know that our debt is increasing every month instead of decreasing. They know that there is being built up an aristocracy of wealth, founded in a great measure upon stealings, in one form and another, from the Government.

The "American people" have read history, and are intelligent enough to apply the lessons it teaches. They have read and fully understand the strongly-drawn character of Shylock, in the Merchant of Venice. To those gentlemen, if any such there be, who wish to exact the pound of flesh ("if so says the bond," which I deny) from the toil-worn and oppressed people of our land, I would say:

"Prepare thee to cut off the flesh;
Shed thou no blood; nor cut thou less, nor more;
But just a pound of flesh: if thou tak'st more,
Or less, than just a pound—be it but so much
As makes it light, or heavy, in the substance,
Or the division of the twentieth part
Of one poor scruple; nay, if the scale do turn
But in the estimation of a hair—
Thou diest, and all thy goods are confiscate."

Then comes repudiation, and "the American people" will indorse it, having learned the lesson from the examples set by Republican Congresses.

The American people are well aware that by just such legislation and similar proceedings to those enacted and being enacted by the Republican party it required about two hundred years to place all the real estate, the landed property, of Great Britain, in the hands of about three thousand persons. The people know and feel the wickedness of the attempt to fasten a national debt upon them and their posterity for all time to come, and they will and do repudiate the Hamiltonian heresy, lately revived by the bondholding and banking interests, that "a national debt is a national blessing." The Government of Great Britain never expects to pay the national debt of that country—never. Their consols, or certificates of indebtedness, as well as their real estate, have gotten chiefly into the hands of the wealthy. The landholders, who nearly all belong to what is styled the nobility, wring enormous rents and tithes and taxes and all manner of contributions from their tenants. All the tax to pay the interest on the public indebtedness is extorted from the labor of that country. Capitalists have so managed and shaped matters that many of them derive their living off of their Government certificates; and it has been the constant aim of the aristocracy to have the people believe that a national debt is a national blessing. The shoddies and bondholders in this country are playing the same game; but thank Heaven they find their strong advocates on the side of the Republican party, and on that side only.

But if it be right and just and legal to pay the national debt in gold, that is, to redeem the bonds in gold, why the hurry to fund the debt, and that at a lower rate of interest, say

from three to four and a half per cent. instead of six per cent. semi-annually, as it now is? There is certainly something rotten in Denmark. These shrewd money-lenders have no more conscience than the person who would sell his soul for money to perdition. I speak of them as a class. They are Shylocks, sir; Shylocks! Yes, they are, if anything, worse than Shylocks; for he only claimed at most "what was written in the bond." But these men ask more; they ask gold where it is not so written. Fearing that the people will refuse their unjust demand they are in haste to change the terms of the bonds so as to make the bonds as well as the interest all payable in gold, and then as a kind of off-set and to quiet the apprehensions of their victims, the taxpayers, they propose to take a lower rate of interest. They can well afford to do this, and they doubtless expect the people to thank them for the act and to look upon them as public benefactors.

The most clear-sighted and observing of what we may call the moneyed aristocracy of our country discover an uneasiness in the popular mind, a restiveness among the people, a low murmuring, like the sound of distant thunder; in short, the premonitory symptoms of a great uprising among the masses. The battle between labor and capital is about commencing in this country in earnest, as it did in France in the reign of Louis XVI; and the capitalists are busy fortifying themselves against the day of wrath and retribution by legislation. The finely sounding words of the gentleman from Maine, [Mr. BLAINE,] in a speech, which I suppose was a bid for the next Speakership of the House, delivered not long since, seemed to me very much like the story of the boy while traveling through a graveyard whistling to keep up his courage, who says, "Who's afraid o' ghosts." The real questions of this age and people—those questions of finance and taxation, of the rights and wrongs of the masses—were not settled by the last presidential election. In the canvass they were not even discussed, except by some of the Democratic statesmen of the country. Everything was done by the Republican party to divert the minds of the people from those serious and momentous issues; and the election was determined merely upon the status of the candidate, upon the personal standing and popularity of General Grant.

The real issues are yet unsettled, and now that the political battle is over and the smoke cleared away the people begin to look anxiously around and inquire what they shall do to be saved from general bankruptcy and ruin. The schemes of honorable Senators for funding the debt brought forward by one, and for the resumption of specie payment brought up by another, show plainly that capital is intrenching itself behind cunning legislative enactments. The stringency of the money market also shows the apprehensions of capitalists. Banks in New York have been recently refusing to discount to their customers; but these loan freely to brokers, who let out the money at one half of one per cent. per day, about one hundred and eighty-two and one half per cent. per annum. Every indication points toward that fearful struggle which is approaching with the certainty of death itself when labor must and will defend itself against money. Money is said to be power, but labor is a greater power, and capital is utterly useless without labor. Capital, intrenched behind a breastwork, a masked battery, of legislative enactments, may be said to be immovable; but gentlemen will learn ere long that labor, the base of wealth, armed with truth and justice on its side, and advocated by an outraged and oppressed people, is irresistible. Let us draw a short lesson from history.

It will be enough to say, in passing, that the five officers named Ephori, who were annually elected in Lacedæmon under the code of Lycurgus, and who were invested with authority to bring to trial all who offended against the laws,

whatever might be their rank, and with power to punish by fine or flogging even the kings and senators themselves—if these five officers had been officers of this Government they would have had their hands full of business about the capital of this nation for the past few years. What a nice time they would have had flogging the gentlemen who, as the late Mr. Stevens truthfully and honestly said, have been working outside of the Constitution. There are some gentleman under my eye who, I suspect, would have bellowed lustily. When Lycurgus returned to Sparta from Crete and the Ionian Isles he found his country in a deplorable condition, with all or nearly all of the wealth in the hands of a few, and they as corrupt as possible. He remedied this by striking down those aristocratic gentlemen, and by "some form or degree of repudiation" equalizing matters. He made their money worthless by prohibiting the use of any money except an iron coin, and by some process rendered the iron from which the coin was made worthless for mechanical purposes. On account of the hostility which he found to exist between the rich and poor—a feeling which is daily increasing here—he conceived the plan of reducing the pretensions of the rich by dividing their lands and bringing them to a level with their poorer neighbors. This was done peaceably and without bloodshed, so far as I remember, excepting that one fiery, spirited, and rich young Spartan, named Alcander, knocked an eye out of Lycurgus for meddling with his estates; but Lycurgus afterward made him his friend, as we are informed. I do not think that I would be in favor of such stringent measures in our case, for I wish to let justice take place in all these matters.

I am utterly opposed to confiscation and Radical reconstruction, which I believe are synonymous with destruction, and are convertible terms. In the history of the French Revolution we find that the horrors of that revolution stand out so bold, so terrible, and so appalling, that the mind is misled, as it were, and can see nothing of the causes which led to such awful results. The king, the aristocracy, and the clergy appear to be mute sufferers overpowered by a whirlwind of passion and frenzy. We picture to ourselves the Tuilleries deluged with blood; armed mobs dealing death and destruction wherever they went; human heads carried on pikes and lances, or rolled by hundreds into the gutters. We see the storm which, once aroused, was irresistible, and which in its mad career and by its wild and terrific fury swept into one bloody grave the nobility, the clergy, and the king, and buried deep the throne, the Crown, the titles and privileges of rank and station which had existed for centuries.

There is a fearful lesson to be learned in this; and the legislators and statesmen of our day would do well to study Thiers's history of the French Revolution, if they have not already done so. But all this fierce and bloody work had its origin in a disordered condition of society growing out of bad and unjust legislation. The reasons may be briefly summed up thus: the feudal system had gone on improving on its oppressions until it had reached a point where human endurance ceases. The exchequer was embarrassed, the coffers empty, while the people could not be more heavily taxed. The nobility, instead of submitting to a tax like that laid by Sir Robert Peel upon the aristocracy of England in a similar emergency, steadily refused to relieve the disordered state of the finances. There was a weight on the nation. The people had sunk under it till their faces were ground into the earth and no more could be expected of them. The powerful and graphic pen of Thiers tells the story thus:

"The state of France, political and economical, was in truth intolerable; there was nothing but privileges belonging to individual classes, towns, provinces, and to trades themselves—nothing but

shackles upon the industry and genius of man. Civil, ecclesiastical, and military dignities were exclusively reserved for certain classes, and in those classes for certain individuals. A man could not embrace a profession unless upon certain titles and certain pecuniary conditions. All was monopolized by a few hands, and the burdens bore upon a certain class. The nobility and clergy possessed nearly two thirds of the landed property. The other third, belonging to the people, paid taxes to the king, a multitude of feudal dues to the nobility, a tithe to the clergy, and was moreover liable to the devastations of noble sportsmen and their game. The taxes on articles consumed weighed heavily on the great mass, and consequently on the people. The mode in which it was levied was vexatious; the gentry might be in arrears with impunity; the people, on the other hand, ill-treated and imprisoned, were doomed to suffer in body in default of goods. The masses, subject therefore by the sweat of the brow, defended with their blood the upper classes of society without being able to subsist themselves. Justice administered in some of the provinces by the gentry, in the royal jurisdiction by the magistrates, who purchased their offices, was slow, partial, always ruinous, and particularly atrocious in criminal cases. Individual liberty was violated by *lettres de cachet*, and the liberty of the press by royal censors."

Added to all this there came a hail storm, cutting off the crops, so that the winter of 1788-89 brought with it universal and intolerable suffering. Men and women, half naked and starving, roamed over the country crying for bread. Famine stared the people in the face, while those who had been enriched by their toil and sweat and privations looked on with a disdainful eye and a stony heart upon their sufferings. The voice of despair rung through the kingdom, and still the infatuated nobility rioted in luxury. Slowly and darkly heaved the storm-cloud above the horizon, yet no one regarded its threatening aspect till the sharp flashes of the lightning began to appear and successive thunder peals which followed aroused the poor and imbecile Louis XVI, and waked the clergy and nobility from their happy dreams.

Here is a picture we may study with profit if not with satisfaction, and the same goal will always be reached by tyranny. Headley says:

"England reached it; and but for the spectacle of France, just rising from her sea of blood, would have plunged into the same vortex. She chose reform rather than revolution, and it is still to be her choice till her feudal system disappears entirely. There is no help for this, and there can be none under the economy of nature and the providence of God. If a few will appropriate and spend the substance of the land the mass must suffer till despair hurls them upon their oppressors."

In the conflict between the Parliament, the clergy, and the throne each called on the French nation for aid, and thus enlightened the masses on the great principles of human government, and, worse than all, respecting their own debaucheries and villainies. Mistresses of nobles decided great political questions, and bribes bought every man, from the king down to these masses. Trampled on, starving, and dying, a haughty aristocracy added insult to oppression and treated with contempt the men they defrauded. Suffering makes a people think, and a starving man learns his rights very quickly. I will only add, to finish this sketch, that the lower orders had been taxed to their utmost and the money raised all squandered by the court and aristocracy. Money must be raised, and the only chance was to attack the property and incomes of the clergy and the privileges of the nobility; and the representatives of the people, after they had assembled, were not slow in making the onslaught.

What our moneyed men fear is the "form or degree of repudiation," which oppression and wrong always engender in the human heart. The clergy and the nobility, in connection with the king, had been ruling France for a long time, and legislating for their own party and class interests and to keep themselves in power, regardless of the rights of the people. They paid little or no taxes, just as our bondholders are exempt, and if any one spoke of taxing them these privileged gentlemen would fly into a passion and become as much excited as my friend, the honorable gentleman from Maine, whose lance is always in rest to run a muck or tilt with any one who ventures to advocate the

taxation of bonds or their payment in greenbacks.

Our Treasury is as much embarrassed now as was the exchequer of France in 1789. Our people are more heavily taxed than any people on the face of the earth. We have a privileged class exempted from taxation who are reveling in luxury and idleness as much as France had. We have the starving, oppressed, downtrodden, freezing, and dying poor, also. Our nabobs look upon those poor with as much indifference as the nobility of France looked upon the poor there. The foreigner, the emigrant, who, reading and hearing of "happy, free America," and crushed under the tyranny of his own land, hoping for leave to breathe the air of heaven without being taxed thereon, leaves the home of his childhood, the graves of his fathers, the loved ones at home, and comes here only to find himself more heavily taxed under republican rule than he was in Europe.

The oppressed and downtrodden of Europe in quest partly of fortune, partly of freedom, or of both at once, and eager to escape from penury or ecclesiastical and political violence, have sought what they considered a happier home on this continent. But how are they disappointed! Fort Warren and Fort La Fayette rival the Bastille of Paris. Political persecution rages with as much fury and more this day than in any European country. Men's hands may be "crimsoned with the blood of our brothers and sons," to use a loyal quotation; all is forgiven; their political disabilities are all removed if they will only acknowledge negro equality and vote the Republican ticket. The ecclesiastical bodies of this country, with but one or two honorable exceptions, are preaching and launching anathemas at those who dare vote against a Republican candidate. Chivalrous confederate generals are given a seat on this floor which they could not obtain did they vote the Democratic ticket. Democrats who fought throughout the war on the Federal side are denounced as traitors because they will not indorse the reconstruction policy of the Republican party. Like causes produce like effects, and if the same or a parallel state of affairs exist here that did in France before the reign of terror, may we not reasonably expect similar results? Where then will be your bonds? Where will your wealth go? What will become of our aristocrats? By being prudent and dealing out evenhanded justice we may avoid the danger. Let us have one kind of currency for all. If the poor man has to take greenbacks let the rich also take the same; no class legislation. We have this additional trouble which France did not have, a depreciated currency; and the capitalists have contributed largely to depreciate it. France had but one kind of money, and the difference was only in the amount held or owned by each person, and not in the quality or value thereof.

Thiers tells us that the manner of collecting the taxes in France at the time referred to was very vexatious. Is it not especially so here under Republican legislation? A swarm of supervisors of the internal revenue, collectors and their deputies, assessors and their assistants, gaugers, storehouse-keepers, special agents and detectives, whose prerogatives seem to be rather to corrupt than to correct, to say nothing of the innumerable host of employés in the customs department; officers swarming like the locusts, frogs, flies, and lice of Egypt; everything complicated and dragged as far as possible from the original simplicity and economy established by our forefathers. And to add to this, the matter of taxation as well as the manner of collection, is most unjust and obnoxious to a large portion of our people, to the laboring and producing interests of the whole community, and especially to the West. What is the reason that a ton of railroad iron now costs us in Ohio about ninety dollars when in 1859 we could purchase the same article for thirty or thirty-two dollars at the outside limit? Why is it that although England can and will fur-

nish railroad iron, and a better article than the Pennsylvania iron men furnish, at forty dollars per ton, that we must pay ninety? At forty dollars the Englishman can afford to pay a duty of two dollars per ton, but he cannot afford to pay fifty or sixty dollars, and hence England sends but little or no railroad iron here; and Pennsylvania iron-mongers, with hearts of steel, (steal?) pocket the great difference.

Our Government scarcely gets a cent of duty or tariff from them, or upon railroad iron. Why that clause in the Pacific railroad act requiring no other but American iron made from American ore to be used in its construction? No matter how cheaply England or any other country would furnish iron, if at one third the amount the Pennsylvania iron-monger charges, still it must be American iron and no other. This is another swindle in favor of Pennsylvania and other iron-mongers. And further than this, American railroad iron—perhaps other iron for all I know—just like the bonds in this respect, pays no taxes. Why all this kind of legislation? It is the old Hamiltonian theory, "Let the Government take care of the rich and the rich will take of the poor," in contradistinction to the Jeffersonian policy, "Let the Government take care of the poor and the rich will take care of themselves." More than this, it is Republican policy and loyal Republican legislation, lacking every ingredient of good and just and wholesome legislation. The employes in the iron works are as poorly paid and fed as when iron was cheap; but the capitalists are rich; they are nearly all bondholders, and their immense gains go free from taxes. It will not do for gentlemen to tell me that labor is higher now than before the war as an excuse for their tremendous advantages in this one article. The apology might answer to account for a difference of eight or ten dollars a ton, a very liberal advance, but never will do to explain away a clear bonus from this Government of fifty or sixty dollars given to them by Republican legislation.

Look again at the exemption last summer of the manufacturers from paying their taxes on their business. New England is a manufacturing region; so are some districts in Pennsylvania—the one represented by the gentleman from that State [Mr. KELLEY] as much as any. By this one measure alone the New England States were relieved of the payment of more than sixty million dollars per annum, and Pennsylvania was largely aided. A penny saved is as good as a penny earned, and the manufacturing gentlemen are always ready and crying for more favors and exemptions. Money must be had; and if the East does not pay taxes the farmers of the West must make up their delinquencies. Why this legislation for one part of the country and one class of people at the expense of the other? New England has about one eleventh part of the population of our country, and with the city of New York holds about three fourths of the bonds which bear interest and are exempt from taxation. This beautiful, barren, and puritanically blessed portion of our land seems neither to be taxed on its capital nor its industry, while the West is taxed on both. As to the tax paid upon their lands in New England it is nothing, can be nothing comparatively, for they are worth nothing in the way of raising crops. Massachusetts and other New England States do not pretend to raise grain enough for their own home consumption. They are dependent upon the West and Southwest for supplies of breadstuffs and other eatables, such as pork, beef, &c., as well as for a market for their manufactured articles. The West could get along if the New England States were not in existence. The people in some of the New England States might eke out a meager existence upon white beans and herring; but without the West they would be strangers to the more substantial matters pertaining to the kitchen. Why, then, again I ask, this class legislation, so advantageous to the

East and so injurious to the West? How long will the West submit to such legislation? Was the manufacturers tax stricken off to "bridge over" the last presidential election? At some other time gentlemen who are posted can answer. Since the legislation of last summer it has cost the Government as much or more to collect the internal revenue as it amounted to when collected. Gentlemen need not and will not contradict this when they remember that as soon as the tax on distilled spirits was reduced to fifty cents, capitalists perhaps whiskeys, bought up nearly if not quite all the high wines in bond; and the taxes paid thereon when so taken out of bond make it appear as though the act of July last was working more advantageously and yielding more revenue to the Government than the system in operation previously. This is not the case, as any sensible man will admit when he takes into consideration the revenue raised off of whisky in bond when the tax was reduced from two dollars to fifty cents per gallon.

If our capitalists, our bondholders, would do as the clear-headed and far-seeing Viscount de Noailles and the Duke d'Anguillon did when they ascended the tribune, in the French Assembly, on the evening of the 9th of August, 1789, and declared that it was foolish to attempt to force the people into tranquillity; that the best method was to remove the cause of the disturbances. In order to do this they proposed to abolish at once all those feudal rights which irritated and oppressed the country people, and also to do away with special privileges and class legislation. If the rest of the nobility had followed in these great measures of justice and reform France might have been saved the terrible scenes which followed. Let our privileged classes—our bondholders, our aristocrats—come nobly forward and say to the toiling millions of our countrymen, say to Congress, if you please, something like this: "We do not wish to escape the burden of taxation; we are willing to bear our just proportion of taxes. We admit that we have a great advantage in the way of exemption from local and municipal taxes, but we are ready to relinquish these privileges, and to have all our property, whether stocks, bonds, railroad iron, or whatever else we own and possess, taxed as other property is taxed."

Let them admit the truth and say: "Our fellow-countrymen have to receive greenbacks for everything they earn, for their labor, their manufactures, their productions, their skill, and energy. They never see a gold dollar nor a gold eagle, that most beautiful coin on earth. Let the Government issue greenbacks, legal-tender notes, and give us them for our interest-bearing bonds. This will take the heavy load of gold interest from the shoulders of honest toil. It will stop the payment of the semi-annual gold interest. We capitalists will take these greenbacks which bear no interest and invest them in the development of the material resources of our country; the completion of unfinished railroads; the building of new ones; the improvement of the magnificent water-power of the country for the purposes of milling and manufacturing; clearing up the western forests; the development of our mineral resources, and the other varied and multifarious channels of commerce and industry. We are willing with our capital to aid industry, and thus with capital and labor going together hand in hand the wilderness will soon be made to blossom as the rose; and the country will rise in its might and its glory eclipsing all the nations of the earth."

This would be magnanimity; but at the same time it would be simply justice. More than this, it would forever bar and stop any mention of repudiation, that skeleton in every rich man's house; that specter which haunts the pillow of the bondholder; that Nemesis which will surely overtake the Shylocks if they will persist in draining the life-blood out of the

people in the shape of taxes to pay gold interest, and which drain must culminate in repudiation when the tax-payers have no longer anything with which to meet and satisfy the demands of the tax gatherer. The Government is now paying more for money than private individuals following any legitimate business can afford to pay. The investment in Government bonds is better than any other offered to capital. Capitalists framed the law, voted for it, and are getting rich at the expense of the people. Their scheme has diverted capital from its legitimate channels and has hoarded it in the safes and vaults of the United States Treasury, in the vaults and safes of the bankers and bondholders. There it lies a dead letter, not adding one iota to the material interests of the country.

By taking up the bonds as I have already suggested and issuing greenbacks for them it will do away with the national banks which are based upon these Government bonds and which are only another swindle upon the community. It will force these banks to withdraw their notes from circulation and greenbacks will take the place of the graybacks as a circulating medium. The faith of the Government will be as strictly pledged for the redemption of these greenbacks as it is now for the payment of the bonds. The volume of the currency will only be increased ten per cent. by this operation; the interest on the bonds will cease, and money will be invested in proper and legitimate business instead of lying in safes and banks idle as it now does.

In conclusion, I am not in favor of repudiation; but if any class of creditors have to wait for their pay, have to be put off, have to stand aside for any other class, I am in favor of placing Mr. Shoddy behind the honest claimant. I am in favor of justice, of equal taxation, of no privileged classes nor class legislation; and I am in favor of one kind of money for all.

Finance.

SPEECH OF HON. E. C. INGERSOLL,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

January 27, 1869.

The House being in session for general debate—

Mr. INGERSOLL said:

Mr. SPEAKER: During many centuries there existed a set of crazy enthusiasts who were called alchemists, who spent their lives in the endeavor to find a universal solvent whereby the baser metals could be transmuted into gold. After centuries of effort they failed, and as a class they have become extinct. In our days there is another set of alchemists equally as crazy in my judgment as the former, who are attempting to discover a universal solvent by means of which they may be able to transmute paper into gold. In my judgment they will fail as their predecessors failed. And, Mr. Speaker, they ought to fail, for it is idle, ay, worse than idle to attempt to put the finances of this country on a specie basis in the present condition of affairs. I say it is impossible to accomplish such a result at the present time or at any future time while the present status of our finances continues unchanged; and if it could be done it would be but temporary, for a specie basis could not be maintained thirty days. I mean by a specie basis the excluding of any other kind of money than gold and silver as a lawful or legal tender in the payment of debts. If the Government was out of debt, if the laboring classes, the masses of the people, were out of debt, then, with the gold coin in the country, what is popularly known as a specie basis might be attained and specie payments resumed. But specie payments, at best, in the past were but a delusion. They never existed in reality; they were at all times and under all circumstances a delusion and a cheat.

HO. OF REPS.

Finance—Mr. Ingersoll.

40TH CONG....3D SESS.

In those days characterized as the days of specie payments it is well known that the paper money of the country was supposed to be based on specie in the proportion of three dollars in paper to one in coin; and so long as public confidence was maintained, so long as commerce flowed on in its wonted channels, so long as there was anything like general prosperity, and so long as no one needed coin the specie basis maintained itself. But when a crisis came which shook public confidence, when the business of the country halted and became deranged to any considerable extent, and the holders of bank bills wanted to convert them into gold and silver coin, and the want of coin became anything like general, then your specie basis proved itself a monstrous swindling fraud. If only one dollar in three of the paper money was presented to the banks they might possibly have redeemed them, but if two dollars out of three were presented the banks closed their doors, and universal panic, bankruptcy, and ruin followed.

There has been no proposition, so far as I have been advised, introduced at the present session in either branch of Congress in connection with the financial condition of the country that did not have for its object the resumption of specie payments. The plans have been as various as the propositions have been numerous, but they all have the ultimate object in view of a resumption of specie payments. As I said at the outset, such a resumption is an impossibility; a specie basis could not be maintained for thirty days. A second suspension of coin payments would suddenly follow, and bankruptcy and widespread ruin and universal distress would be the result. Talk about putting this country on a specie basis now, and the only thing you will demonstrate is that you are a modern alchemist, or else one of the favored classes who have fixed and certain incomes and who reap golden harvests from the bonds of the United States, which this Government issued under the dire necessities of the war. Who is it that is asking for a resumption of specie payments? Is there a Representative on this floor from any one of the western or southern States that has had a petition sent to him asking him to vote for a return to specie payments? Not one. Have we heard of a mechanic throughout the length and breadth of this land, or of an artisan or farmer, or any one of the laboring masses of the country upon whose shoulders rest the great burden of the \$2,500,000,000 of national debt, who has asked for the passage of a bill looking to the resumption of specie payments? We have not. Who is it, then, that is clamoring for the resumption of specie payments? Is it the debtor class? No, sir; it would be absolute ruin and beggary to the laboring and debtor class of the country if we should force a return to specie payments.

Is it the producing classes, the artisan that sweats over the anvil, the men who manage the forge, the rolling-mill, or the cotton factory? It is not the producing classes in this country or those who eat their bread in the sweat of their brow. It is the man who rolls in splendor with his coat-of-arms emblazoned on the panels of his carriage and drives his four and six in hand; it is the rich bondholder, the man who is out of debt and holds the mortgages and obligations of the people and the Government bonds who is clamoring for specie payments. The universal voice which comes from the masses of the people that support and sustain this Government is against it; all the laboring classes all over this land enter their solemn and united protest against being mortgaged body and soul to the capital of this country, as they would be upon the resumption of specie payments. Specie payments mean less wages for the laboring man, less bread for the hungry man, less comfort, less happiness, less peace, and less of everything which is good. It means oppression by the rich of the

destitute and suffering; it means splendor for the rich and degradation for the poor. Why, the Government itself is in debt \$2,500,000,000, and you talk about the Government resuming specie payments! Are the national banks, with a circulation of almost three hundred million dollars, prepared for a resumption of specie payments? They could not redeem one dollar in ten if you should put the country on a specie basis this year or next. I have not yet spoken of the State indebtedness, which amounts to hundreds and hundreds of millions of dollars more. I have not adverted to the individual indebtedness of the people, which is estimated by some at \$4,000,000,000, and by others as high as \$8,000,000,000, which is due this day. And the day that you resume specie payments you say to all these creditors that they can have their gold in payment of these debts, and they will demand the gold, and the property of the laboring classes will be sacrificed to the Shylocks so that they may have their shining coin. They would soon exhaust the supply of coin, and then universal bankruptcy and ruin would envelop as a cloud the whole of this broad land. If we here, as the Representatives of the people, instead of turning our attention to devising some scheme for the resumption of specie payments, will devote our attention to promoting industry, developing the exhaustless resources of the Republic, and keep the labor of the country profitably employed—keep money abundant and at a low rate of interest—we will infuse new life into and energize all the industrial and producing powers of the whole country, and thereby develop its resources, promote its material prosperity, and increase its power to maintain and ultimately to pay its debts, we will be doing that which unborn generations will in future years bless us for. But if we return to what is known as specie payment now we will bring such ruin upon the country that generations will come and go before good and prosperous times return again.

I have heard gentlemen upon this floor say that with an accumulation of \$200,000,000 of gold in the Treasury, and with a declaration on the part of Congress that the Government is ready to resume specie payments, it would restore public confidence in the ability to maintain a specie basis, and that with the \$200,000,000 in coin specie payments could be resumed. Sir, this is impossible, for the reason that whenever the Government says it is ready to resume specie payments ten days would not roll over this country until the vaults of the Treasury would be as empty as the head of a modern alchemist. Gentlemen who advocate this specie basis tell us that the creditors of the Government would not realize on the bonds or the obligations of the Government. This is a fallacy and a delusion. Do not tell me that the holders of our Government bonds in Europe, who hold them to an amount equal to six or eight hundred million dollars, will fail to collect the golden harvest the moment the Government says it is ready to pay. So also would the holders of Government obligations in our own country make haste to exchange them for the gold.

But, say these resumption theorists, the Government has an option upon these bonds, some of them for fifteen years and upon others for a longer time. Suppose it has. The Government has \$356,000,000 of legal-tender notes payable in coin the very minute it resumes specie payments. Suppose the bonds are not yet due; who that holds any bonds will not exchange or sell them for legal-tender notes that are due and payable in coin, and demand the gold for them? You will find that the bonds of the Government held abroad to the extent of about eight hundred million dollars will soon come back here for conversion into legal-tender notes, which are then payable in coin. Do you think they would not do that? I tell you that we have money gamblers and gold gamblers enough in

this country to take out of your Treasury every dollar in gold inside of ten days after you shall have resumed specie payments, though you may have \$300,000,000 of gold in your vaults. The more coin you may have in your vaults the greater the rush will be to get it out.

These theorists say that when the people find that they can get gold for their notes or bonds they will not want it. Sir, that is an error; they will want it, and I will give you my reason for it, a reason which to my mind is potential. The men who hold the legal-tender notes or any other obligations of the Government which would be payable in coin upon the resumption of specie payments well know that you could not maintain a specie basis. If you open your vaults to the creditors of the Government they will take your gold, knowing that in thirty days Congress would be compelled to legalize a suspension of specie payments. And then what would follow? Another premium on gold of twenty, thirty, forty, or fifty per cent. according to the necessities of the Government and the demands of the Shylocks. And then these creditors will not only have realized upon the bonds which they bought at about fifty cents on the dollar a magnificent fortune, but they will then be ready to sell you coin again at a premium of fifty or one hundred per cent. with which to pay the gold interest on the outstanding bonds of the Government. They will take every possible advantage of your necessities, for they would be absolute masters of the situation under the second suspension of specie payments which would follow, and then with our Treasury exhausted we would be at the mercy of the gold gamblers. May heaven protect us from such a fate!

And, Mr. Speaker, we are not without instruction to be gathered from the history of other nations in conditions similar to our own. The history of Great Britain, commencing with the year 1797, furnishes us an impressive lesson from which we ought to gather that wisdom which will enable us to avoid the disasters consequent upon the fatal policy which was adopted and pursued in England, such as the resumption theorists of our day desire to see adopted and pursued in this country. The continental wars of Europe which followed the French revolution, which commenced in 1789, and in which Great Britain was involved for twenty years, and which only terminated with the overthrow of Napoleon at the battle of Waterloo in 1815, left England with a debt of £848,000,000, which is equivalent to about forty-two hundred and fifty million dollars in our money. The British debt at this time is about eight hundred million pounds, showing a reduction of only £48,000,000 in the past fifty years. It will be seen that the British debt is almost double our own debt, but it is no greater burden upon the English people than our debt is upon us, for the reason that most of the English debt is at three per cent. interest, while the most of our debt is at six per cent. interest. In both cases it was the prosecution of great wars that created the debt.

In 1797 the British Government found its treasury exhausted of gold, and by the law of necessity it was compelled to issue paper money, a suspension of specie payments was authorized, and specie payments were suspended, and the paper currency passed current as money in the realm. This was the British legal tender, amounting to hundreds of millions of dollars, and by means of which the British Government was enabled to prosecute the war against Napoleon, and by means of which the British people were enabled not only to maintain but to advance the national wealth and prosperity during that twenty years' conflict.

In 1815 peace was declared; and in 1816 the British bondholders, the wealthy classes, and the great capitalists of the English people clamored for a resumption of specie payments

just as our bondholders and wealthy classes are clamoring for the resumption of specie payments at this time. They insisted that specie payments could be resumed within six months after the termination of the war; and so great was this pressure that the Government yielded, and fixed the month of July, 1816, as the time when specie payments should be resumed. The premium on gold very soon rose to forty per cent., and it became apparent that specie resumption could not take place at the time named. At the same time the Bank of England began to contract its circulation.

As to what was the effect upon the English people and English industry let the eminent historian Alison answer. I read from his history of Europe:

"These evils arose from the confirmed ascendency in the Parliament of a class which had gained and was gaining immensely by the general suffering with which it was surrounded. It was hard to say whether the manufacturing aristocracy engaged in the export trade gained most by the general reduction in the price of commodities, and, as a necessary consequence, in the wages of labor, or the moneyed from the commercial catastrophes which brought interest up to an usurious rate and enabled them to accumulate colossal fortunes in a few years. Everything turned to the profit of capital and the depression of industry; and so strongly were the interests magnified by these changes intrenched in the Legislature that the cause of humanity seemed hopeless. Every effort of industry, every triumph of art, every increase of population tended only to augment the general distress, because it enhanced the disproportion between the decreasing circulation and increasing numbers and transactions of mankind; and prophetic wisdom, resting on the past and musing on the future, could anticipate nothing but a decline and fall precisely similar to that of ancient Rome for modern Europe."

Let the people of the United States remember this and see to it when the next election shall come that they do not send to the Congress of the United States, as the British people did to their Parliament, a class of men who are interested in the maintenance of monopolies or in the resumption of specie payments, for if they do they may expect the same disasters as a consequence resulting from the legislation of such men as followed from the legislation of the same class who were in the British Parliament in 1816.

In 1805 wheat in the British markets was eighty-five shillings sterling per quarter. In 1820, in consequence of the fatal endeavor to restore specie payments, it fell to fifty-five shillings sterling per quarter.

Such was the universal distress in England resulting from a contraction of the currency and the effort to resume specie payments. Petitions were sent to Parliament, setting forth these distresses, from all parts of the realm, but they were simply referred to committees, and were followed by no alleviating measures. What else could the people of England have expected while the aristocratic bullionists and bondholders were their legislators? At last, however, the Government brought in a bill to postpone the resumption of specie payment for two years, until July, 1818. This was to some extent a relief. The consequence was that industry revived, and the people felt that their burdens were becoming lighter. The bankruptcies in 1816 were more than two thousand. In 1817 trade and commerce, feeling the beneficial influence of the postponement of specie payments, quickened, and the bankruptcies fell off fifty per cent. This was because contraction had ceased and specie payments had been postponed. It again became apparent that specie payment could not be resumed in 1818, and a bill subsequently passed Parliament extending the time to July, 1819. There was, however, a constant struggle going forward between capital on the one hand and labor on the other; capital for resumption of specie payment, and labor against it. Capital at last triumphed, and in 1819 Mr. Peel brought forward a bill providing for a partial resumption in 1820 and for a total resumption in 1821. I will now let Mr. Alison state what the effect of such legislation was. He says:

"The industry of the nation was speedily congoaled,

as a flowing stream is by the severity of an Arctic winter. But notwithstanding the law for the complete resumption of specie payment in 1821, specie payments were not fully resumed until 1824."

Did prosperous times follow resumption of specie payment in England? No, sir; universal distress followed; the industrial energies of the people were struck as with paralysis, and there followed a reduction in the price of every kind of produce, whether of agriculture or manufactures.

Such, sir, is but a faint picture of the distresses and sufferings imposed upon the British people in consequence of a forced resumption of specie payments, and in my judgment a like result would follow in this country from similar legislation. It is said that "like causes produce like effects." Then, how can it be reasonable to expect that the policy and legislation adopted and pursued in Great Britain, which resulted in such universal distress, could prove otherwise than disastrous in our own country? We can be no more exempt than other people from the evil effects of unwise legislation.

Now, sir, if the Representatives in Congress are willing to study and promote the interests of the people they will vote down any attempt to force specie payments in this country at the present time and in the present condition of affairs. We have prospered, individually and collectively, during the past five years, and we have made more progress and greater development than in any preceding ten years. Some say that the war has produced this prosperity, this wonderful activity in every branch of trade. Sir, I deny that the war was the cause of that prosperity. War is a devastator, a destroyer, a spoiler. The war took from the industrial pursuits a million of men who would have been producers instead of consumers and destroyers of wealth.

What did give us this universal prosperity, which I acknowledge and maintain has been the condition of the people for the last five years? Not so great for the last two years as it was from 1863 to 1867, I admit. This prosperity was in spite of the war, notwithstanding the war. It was because Congress was compelled to authorize the issue altogether of \$450,000,000 of legal-tender notes, which were put into circulation and which infused new life into all the industrial powers of this country such as it never before felt. The \$450,000,000 of legal-tender notes gave us plenty of money; hence our great prosperity and our wonderful progress. Money is power; money is the most potential instrument for the creation of wealth ever invented by the genius of man. That greatest of American philosophers, Benjamin Franklin, not only well understood the uses of money, but its power in the production of wealth and in its efficiency in the promotion of the prosperity and happiness of the people. In 1729 he issued a pamphlet on the nature and necessity of a paper currency. It was intended to induce the Legislature of the colony of Pennsylvania to authorize the issuing of paper currency for the relief of the people of that colony. His plan was opposed by those who had money to loan because they did not want the rate of money interest to be cheapened. I never knew a money lender who thought or would acknowledge that the rate of interest on money was too high. The pamphlet had the desired effect; for soon after its publication the Legislature of that colony authorized the issuing upon the credit of the colony of \$400,000 in paper money, which was to be loaned to the people of that colony on real estate security for a term of sixteen years, and the amount to be loaned to any one person was limited to \$500. The \$400,000 authorized to be issued was issued and loaned to the poor and new settlers of that colony, which enabled them to carry on their settlements, to improve their farms, and to enhance the production of their lands. This measure resulted in stimulating the energies of the people, and laid the foundation of the present prosperity of that great and growing State.

And, sir, our condition would have been much better to-day if we had had during the last two years the same abundance of money that we had from 1863 to 1866. During the period of the war, while a million of our men were in the Army, those at home, stimulated by the abundance of money, built railroads, extended commerce, opened trade between our country and Japan and China. Congress also subsidized a line of mail steamers to stimulate trade and commerce with the oriental world. We surveyed and commenced the construction of the Pacific railroads, which within the course of the next eight months will be completed—an incontestable evidence of what genius, energy, and plenty of money can accomplish; truly, a wonderful triumph of a sound paper currency. But this is not all. Since the commencement of the war we have built eight thousand miles of railroad, costing the enormous sum of \$250,000,000. But if the country had been on a specie basis do you suppose we should have the Pacific railroad to-day almost completed? Should we have built this eight thousand miles of railroad? Should we have subsidized this line of steamers that now plies between San Francisco, Shanghai, and Yokohama? No, sir; we should have been traveling the narrow and hard-pan road of specie payments, doing business with a gimlet instead of an auger, and with constant danger of panic, financial ruin, and general distress, as was the case in the earlier days of the Republic.

My colleagues whom I see here remember well the trials that we have gone through on the specie basis in Illinois. They remember how we have suffered from low prices, which always go hand in hand with a scarcity of money and when money is at a high rate of interest. Why, sir, before the war, in the year 1857, when we had the State free-banking system, as it was called, based upon a deposit of State bonds, the notes of those banks passed current among us because we had nothing better; but when we traveled east of the Alleghany mountains we could not pass those notes at all except in a shaving broker's shop at fifty, sixty, or seventy cents on the dollar. In 1857-58 if you went into a bank in the city of Peoria for the purpose of buying a bill of exchange with which to settle an account in New York, you were obliged to pay about ten per cent. premium for the draft.

Those were specie-paying times, as they were called, and that continued till those State banks, following the suspension of the Ohio Trust Company, closed their doors, inflicting a loss of \$6,000,000 upon the people of our State alone. Those were the specie-paying times to which certain gentlemen would again invite us. I am not going with them. The people will not go with them. "A burnt child dreads the fire." Give us the legal-tender notes bearing the impress of the Government of the United States and which are indorsed by the whole people of the whole country. They are the best money we have ever had, and they pass current in all parts of the entire country.

I repeat, sir, that notwithstanding the immense drain of the war, we did, during that period, make material progress, such as never was witnessed before. Labor during that period was well remunerated. I insist that the contraction policy inaugurated by the Secretary of the Treasury has had a damaging effect upon the prosperity and business interests of the country; and had it been pursued till this hour I doubt not but that general distrust and universal bankruptcy would have been the consequences. But Congress wisely put a stop to that policy. On the first day of the first session, after that policy had been inaugurated, I had the honor to introduce in this House a bill to repeal that provision of law which authorized the Secretary of the Treasury to contract the currency which he was burning at the rate of \$4,000,000 a month. Is there here any

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gentleman who regrets the action taken by Congress at that time? We put a stop to the contraction of the currency. In other words, we said, "Dr. Sangrado, you have bled us enough, and too much, already. Put up your lancet. We need to have the warm blood coursing through our veins, energizing all our powers." We said "Let the greenbacks and the national bank currency circulate throughout the country, so that the people may not be compelled to pay ten, fifteen, or twenty per cent. interest per annum for the use of money to carry on legitimate business."

What we need is an abundance of currency well secured. There is no parallel, Mr. Speaker, between the money of the present day and the money of the past. Gentlemen talk about "redundant currency." It is redundant nonsense to talk about a redundancy of the currency when interest for the use of money is from ten to twenty per cent. per annum anywhere outside of New York city. I admit that it is possible to have a redundancy of such currency as we used to have in the days of the old banking system, a currency based upon individual capital, individual or corporate good faith, a currency only theoretically secured to the extent of thirty-three cents on the dollar by coin, said to be in the vaults of the banks. Such a currency was always redundant, because it was not based on any reliable security. How many of the old banks were ever in condition to pay even thirty-three cents in coin on the whole of their circulation? But few. I do not believe one bank in ten in the olden time, under the specie-paying régime, had thirty-three cents in actual gold and silver coin in its vaults for the paper that it had issued.

Mr. Speaker, the money we had in former times was a paper currency, as I have already said, issued upon individual credit, individual faith, and corporate securities. It was not a good currency, and a very slight panic would so disturb public confidence in regard to the whole system that a universal panic was the usual result, followed by an immediate suspension of specie payments and a whole train of deplorable evils as the consequence. We have no such currency now. We have legal-tender notes, as I have said, indorsed by all the people of the country, and for the ultimate payment of which all the wealth and all the resources of the country and of the people are pledged. The other currency is known as a national bank currency, and is as well secured to the bill-holders as the legal-tender notes themselves. In the olden time when a bank broke the holders of its bills generally considered them worthless. If the bills were not entirely worthless those interested as owners in the bank suspending payment would buy up its bills through a secret agent at five, ten, or twenty cents on the dollar, and thereby fleece the people in accordance with the original design. But how is it now? Let a national bank go into liquidation and the notes of that bank will command a premium, and the holders of its notes can get five per cent. premium for them. That is a good kind of currency. Let the bank break by speculation, let its stockholders become bankrupt, if you please, yet the bill holder is in no danger of loss, for the bill is secured by a pledge of the bonds of the United States. The notes of a national bank are really better money after it has broken than before. For before a bank breaks its notes are at par, but after it breaks its notes command a premium. How is this? It is because more circulation is needed. You can get authority from the Comptroller of the Currency to organize a bank, but you cannot get him to give you any circulation for it, because of the unwise legislation prohibiting circulation to be issued in excess of \$300,000,000. Those who wish to organize a national bank can, however, buy up the notes of a bank which is in liquidation, but in order to do that they have to pay a premium

on them of, I believe, about five per cent., and sometimes more. Whoever bids the most for the circulation of that bank will get it, and then the Comptroller of the Currency will transfer its circulation to the new organization. But in all this the bill-holders are secure. When we have a national bank note we do not stop to inquire whether the bank is still in existence or not; it does not matter. In the olden times every man who handled ten dollars a day of the old bank money had to carry a detector in his pocket in order to ascertain at what rate of discount the money went in New York or anywhere else outside of the immediate locality of the bank. These were good times for the detector publishers, but hard times for the people.

The gentleman from Maine undertook to draw a parallel between the monetary system of the country to-day and ten years ago, when no sort of parallel can be established. The two systems antagonize each other, as I shall show. Suppose the "Swampoodle Mutual Aid Society" should issue paper promises to pay to the amount of \$1,000,000, they would not be worth par and would not pass current as money. They would not probably pass as money for five cents on the dollar, and then your specie-paying theorists and modern alchemists would say "there is a redundancy of currency." I admit there might be a redundancy of such currency, not, however, because there would be too much of it, but because it was not issued on any good security. But that would be no fact or argument tending to prove that there was a redundancy of well-secured currency. It would only establish the fact that there was too much of that kind. We have seen no redundancy of the currency in the last few years. We have seen at no time in the past six years when money was a drug in the market outside of the single city of New York. In the grain producing States of the West it has commanded a high rate of interest during all that period.

Mr. BOYDEN. Thirty per cent. in North Carolina.

Mr. INGERSOLL. Thirty per cent. in North Carolina! What a protest against forcing specie payments! A State which has almost infinite resources, and if money could be borrowed there at six per cent. it would be developed and placed alongside of the great States of the Union—

Mr. BOYDEN. The regular rate of interest is from fifteen to thirty per cent.

Mr. COBURN. In Boston in the past year \$16,000,000 have been spent in erecting buildings.

Mr. INGERSOLL. And as an evidence of the wonderful stimulus that money gives to production, in the city of Boston, where money is plenty and cheap, \$16,000,000, as my friend says, have been spent in erecting buildings in the last year. There is evidence of prosperity for you; while in North Carolina, where money is scarce and dear, all the energies of the people are paralyzed. But what would be the condition of things if you were to put the country on a specie basis? Why, sir, a paralytic shock would be felt extending from one end of it to the other. But its severest effect would be in the West. And why? Because you in the East by the accumulation of money and wealth for two centuries have monopolized the money of the country. You have ten dollars where the West has one. You are our creditors; the West is your debtor. According to the best calculations the debtor class are to the creditor class as nine to one, and for the sake of restoring a specie basis you would oppress the nine to enrich the one, who is already rich, acting upon the old principle of making the rich richer and the poor poorer. Legislation ought to oppose that tendency, because wealth unrestrained produces that result.

Mr. Speaker, I will ask the indulgence of the House at this point to read another quotation from Alison. He says:

"Whoever has studied with attention the structure

or tendencies of society, either as they are portrayed in the annals of ancient story or exist in the complicated relations of men around us, must have become aware that the greatest evils which in the later stages of national progress come to afflict mankind arose from the undue influence and paramount importance of realized riches. That the rich in the later stages of national progress are constantly getting richer, and the poor poorer, is a common observation, which has been repeated in every age."

"and many of the greatest changes which have occurred in the world—in particular the fall of the Roman empire—may be distinctly traced to the long-continued operation of this pernicious tendency. The greatest benefactors of their species have always been regarded as those who devised and carried into execution some remedy for this great and growing evil; but none of them have proved lasting in their operation, and the frequent renewal of fresh enactments sufficiently proves that those which had preceded them had proved nugatory. It is no wonder that it was so, for the evils complained of arose from the unavoidable result of a stationary currency, coexisting with a rapid increase in the numbers and transactions of mankind; and these were only aggravated by every addition made to the energies and productive powers of society."

Such, I fear, is the deplorable tendency in this country at this time. The evils so vividly portrayed by this great author are, I fear, becoming apparent in our own country; the rich are growing richer and the poor poorer. We have now a stationary currency, while our population and the powers of production are constantly expanding. We should have a flexible currency that can expand in the same ratio as our population, and as our powers of production expand.

Go with me, Mr. Speaker, into the great city of New York; let us place ourselves at the upper end of Fifth Avenue, at the point where it enters into Central Park, on some beautiful afternoon of Wednesday, and we will observe the magnificent equipages of the rich pass into the park. How they dazzle and glitter! Notice the harnesses covered with gold; notice the liveried lackeys before and behind, with footman and out-rider; we count them by hundreds and by thousands. Hour after hour these ostentatious pageants of wealth and gorgeous display will pass us; then you will agree with me that the rich are growing richer. Then go with me into another quarter of the city where the uncared-for poor stay, and wear out their wretched lives without ambition and without hope, and you will agree with me again that the poor are getting poorer. It should be our first duty and our highest pleasure to so legislate that the condition of the poor will be improved. We need not legislate for the rich; the rich are able to take good care of themselves, legislate as we may.

As a people we are in a passably good condition now, but not so good that it cannot be improved; and if the alchemists of modern times with their wild and impracticable theories can be kept in the background we shall continue to make progress. Let us have no more contraction, no attempts at resumption of specie payments. Let us rather have more money, and we shall go forward in that career of prosperity which has marked our course in the past few years.

Gentlemen insist upon holding up the "scarecrow" of a redundant currency, and these gentlemen appear to me to be ignorant of the facts in our own financial history. Let us see what the facts are.

During the late war, in the years 1863–64 and a portion of the year 1865, while eleven of the States, containing at least ten millions of population, were in rebellion, our currency in circulation reached the enormous sum of at least one thousand million dollars, and some place it as high as \$1,200,000,000; and but a very trifling amount of this currency found its way into the confederacy; nearly every dollar of it was in circulation in the northern States, which contained a population probably not exceeding twenty-five millions. Yet this twenty-five million people during that period actively and profitably employed this vast sum of currency, and were not only able to carry the Government through the great conflict, but were able, in addition to that, to make the most

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wonderful and unexampled progress in material and physical prosperity that the country ever witnessed.

Gentlemen will look in vain for any evidence of a redundant currency during those years. The rise or decline of the premium on gold was not a correct indication of the monetary condition of the country. Before contraction was inaugurated by the Secretary of the Treasury, and after the close of the war, gold suddenly fell from 185 to 125. The Secretary of the Treasury thought the time had now come for a speedy resumption of specie payments, so he commenced to rapidly contract the currency, and immediately the premium on gold went up, and continued to advance until Congress put a stop to further contraction. If there was no redundancy during the war there is certainly an insufficient supply at the present time. We have at this time probably not exceeding \$500,000,000 in circulation; hence the universal stringency and the high rate of interest on money outside the city of New York. At this time we have probably thirty-nine millions of population in the United States, and several hundred million dollars less in currency than we had when there were but twenty-five millions of people to employ it. The ten millions of people in the late rebel States have got to be supplied with currency; they have no currency except the legal-tender notes of the United States and the currency of the few national banks which they have organized since the war, and we have got to share our own insufficient supply with them. And notwithstanding all these facts gentlemen still persist in talking about a redundancy of currency. I challenge them to show at what time there has been a redundancy of currency in the country since 1861.

Who are the men that assert that there is a redundancy of currency? They are the Shylocks, the money-loaners, whose interest it is to make the supply of money scarce so that their rate of interest may be high. They are the holders of our gold interest-bearing bonds; it is to their interest to reduce the volume of currency and inaugurate hard times, so that the purchasing power of their gold may be augmented; so that they can buy two barrels of flour with the money which they now pay for one; so that they shall be enabled to pay two laborers for a day's work where they now can employ but one. All the advantages of a stringent money market are on their side, and all the disadvantages on the side of the laboring and producing masses of the people. The men who prate about the redundancy of the currency are not the friends of the laboring people; they are really advocating their own interests under the pretense of a desire to advance the public welfare. But let it never be forgotten by the people that a scarcity of money depresses trade and commerce, and in fact every industry of the nation. It makes men idle and dishonest and makes us as a people more dependent on foreign nations.

Mr. Speaker, I remember when the gentleman from Ohio [Mr. GARFIELD] made his speech in support of a measure for the resumption of specie payments he attempted to draw a parallel between this country as we behold it to-day and as it was in the days of the Revolution, with the view of showing that we have an irredeemable and inconvertible paper currency which we ought speedily to get rid of. Now, let me inquire if any fair-minded man with a clear head can draw any correct parallel or inference from the credit of the United States as it was in 1789 and in 1869? It is well known that after the revolutionary struggle we were without resources. We exported no cotton; we exported no wheat or corn; we had no commerce worthy of the name; we had opened no mines of gold or of silver, and but few of coal or iron. The resources of this Government were unknown, and the experiment of free government or the establishment

of a republic here was regarded as an untried problem. Is it, then, to be wondered at that continental money under the then existing circumstances became worthless? But what is the condition of our country to-day? The gentleman should have drawn a contrast, not a parallel.

We have now a population of thirty-nine millions, we had then less than three millions; now we have thirty-seven States, then we had but thirteen. Our gold mines have yielded about twelve hundred million dollars in treasure; then they were unknown. We now have forty thousand miles of railroad in operation; then we had none. Now we have an external commerce employing over sixteen thousand sailing vessels and nearly two thousand steam vessels, and amounting in the aggregate to nearly three million tons capacity; then it was next to nothing. Now we have an internal commerce employing about two thousand sailing vessels and eighteen hundred steam vessels, and amounting in the aggregate to nearly two million tons capacity; then it was so trifling as to be unworthy of mention. Now the aggregate wealth of the nation probably amounts to thirty thousand million dollars; then it did not probably amount to one thirtieth of that sum. Now we may calculate with certainty on the durability and stability of our Government and its continued growth and increase of wealth and power; then scarcely any calculation could be made concerning the future whatever, as there was no data to base a calculation upon. It may be safely estimated that in the beginning of the next century the population of the United States will be one hundred millions, and the aggregate wealth of the nation not less than \$80,000,000,000; and it is estimated that at this time the gross earnings of our people amount to \$7,500,000,000 annually.

But we are not so strong that we can sustain the paralytic shock which would be the result of a forced resumption of specie payments without suffering the most appalling disasters. I do not object to gold and silver entering into the circulation of the country. I should be glad if it would; but I do not want it to become the only lawful tender in payment of debts. Let legal-tender notes remain in circulation, too, and then gold cannot become our master. I am inclined to agree with the man in Maine who said, "I want no gold; a gold dollar does not measure the value of what I have to sell; it is the greenback dollar; the gold dollar is rising and falling in the market every day, and nobody can keep track of it, while the greenback dollar is a dollar all the time."

And so it is a dollar all the time. So far as concerns the interchange of commodities and as a medium to facilitate exchanges between ourselves it is a dollar all the time. And we measure values by it. Nobody sells a bushel of corn or wheat, or works by the day or month, except on the standard of the greenback dollar and not on the gold dollar. The only standard of value which gold has is its own value, put upon it by speculators in gold in Wall street. Had we no speculators or operators in gold the premium upon it would be but trifling.

Sir, I warn gentlemen not to rush this country back to specie payments. Wait until our great national debt has been paid. And I admonish the people of this country not to allow this debt to remain unpaid and make no effort to pay it off, and after awhile permit it to assume the form of the English consols, which probably never will be paid. If you do, you may expect a lordly aristocracy to govern you. I have already said that in 1815, at the close of the great European war, England found herself in debt to the amount of £848,000,000 sterling, or \$4,240,000,000. Since that time more than fifty years have elapsed, and England has paid off but \$240,000,000 of her debt. She is still in debt to the extent of \$4,000,000,000. And notwithstanding her debt bears a low rate

of interest, three per cent., it is sufficient to maintain an aristocracy which is inimical to the interests of the laboring masses of that country. And so it will be in this country unless we go to work and apply our surplus revenue to the payment of our debt. All the slaves in the country before the war were not valued above \$2,000,000,000, yet that amount of capital in the hands of a favored class created a powerful aristocracy which the war fortunately destroyed. Let us then pay off our Government debt as rapidly as we well can, so that the rich who hold it may not become a powerful aristocracy. In order to be able to pay our debt we must keep money plentiful, so that the entire energies of the people may be kept in full play for the development of our resources and the production of wealth, and thus we will be enabled to raise a surplus amount of revenue each year, with which we should pay off our debt. Our people do not object to paying taxes provided that you will keep them profitably employed, so that they may be able to make money with which to pay taxes. But if you withdraw the legal-tender money and put the people in the power of the skinflints they will not have any surplus with which to pay their taxes or any portion of the national debt. Then will come hard times, discontent, mutterings, and complaints, which will grow and gather force until they become a storm which will shake this Government to its foundations. And you, as Representatives of the people, have it in your power to maintain a condition of peaceful prosperity or raise that storm.

I now desire to call the attention of members to two bills which I introduced at the opening of the present session, and which have for their object the improvement of the national banking system and the appreciation of the purchasing power of the greenback currency.

Mr. Speaker, the gentleman from Maine states that in this country we have but about thirteen dollars of circulation *per capita*, while in France the circulation is between eighteen and nineteen dollars *per capita*, and in England it is between fifteen and sixteen dollars *per capita*. In my judgment, according to the best data which I have been able to collect, the gentleman is below the mark in his estimate of the amount of circulation *per capita* in either of those countries. I believe that France has a circulating medium of thirty dollars *per capita*, while Great Britain has twenty-five dollars *per capita*. And I insist that if twenty-five dollars *per capita* can be profitably employed in France and England at least twenty-five dollars *per capita* can be profitably employed in this country. Those countries are old; all their resources have been developed, while this is still a new country, with our resources yet undeveloped to a great extent. We need money to open and improve farms, to build towns and cities, to improve our inland navigable waters, to open and work mines, to settle new territories, and to build railroads. In my judgment we need in this country more money *per capita* than either France or England does, and we can actually and profitably employ more than they.

Now, Mr. Speaker, without further digression I desire to call the attention of the House to one of the bills before mentioned. I will first take up the bill entitled "A bill to prohibit the sale of coin on behalf of the United States, and to provide for the redemption of the United States legal-tender notes in coin at par." The object of this bill is not the resumption of specie payments or to withdraw the legal-tender currency of the country from circulation. Its purpose is to appreciate the purchasing power of the greenback currency to a par with gold. The first step, as I conceive, to be taken in order to accomplish this result is to prohibit the sale of any more gold or silver coin on behalf of the United States. The first section of the bill prohibits the selling of any gold or

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silver coin. The next step to be taken, in my judgment, is the redemption at par of the legal-tender notes in coin with the surplus gold in the Treasury which is not needed to pay the interest on the public debt. I believe that the Secretary of the Treasury would be able thus to redeem \$10,000,000 every sixty days. The effect of selling gold by the United States is to depreciate its own paper; and the effect of the redemption of its own paper at par in coin would be to appreciate the value of its own paper. Gold is now at a premium of about thirty-five cents on the dollar; and I predict that, if the policy of this bill can be adopted and carried into effect, upon the first redemption of \$10,000,000 of legal-tender notes in coin at par by the Secretary of the Treasury gold will not be worth more than twenty-five cents premium on the dollar. If such should be the result the purchasing power of the \$356,000,000 of greenback currency now outstanding would be appreciated to the extent of about thirty-five million dollars. In my judgment, after a few successive redemptions of this character gold would not command a premium of ten cents on the dollar, and thus the purchasing power of the greenback currency of the people would be increased to an extent equal to about eighty million dollars. And I cannot see why under this process our legal-tender money cannot be brought to a par with gold. I propose by this bill, Mr. Speaker, that the Secretary of the Treasury shall issue \$356,021,073 of new legal-tender notes, to be substituted for the legal-tender notes now outstanding, the new notes provided by this bill to be issued in series, commencing with number one and progressing to number thirty-six, containing in each series \$10,000,000, with the exception of the last, which shall contain but \$6,021,073; so that by this bill I neither contract nor expand the currency, but simply substitute the new issue for the old. And this is made necessary in order that it may be issued in such series that it can be redeemed in gold at par without favor to any particular class of our citizens. The bill further provides for the reissue of all the notes so redeemed, thus preventing any contraction of the currency. The rest of the bill cannot be better explained than by reading sections five, six, and seven. They are as follows:

SEC. 5. *And be it further enacted*, That the Secretary of the Treasury shall cause the legal-tender notes hereby authorized to be issued in series, commencing with series No. 1 and ending with series No. 36. Each of the first thirty-five series shall contain \$10,000,000, and the thirty-sixth shall contain \$6,021,073; and each of said series shall be numbered consecutively, commencing with No. 1 and ending with No. 36, and upon the face of each note shall appear in plain characters the number of the series to which it belongs.

SEC. 6. *And be it further enacted*, That whenever there shall have accumulated in the Treasury of the United States a sum in coin exceeding by \$10,000,000 the amount which will be required for the payment of the interest on the public debt for the next ensuing six months, it shall be the duty of the Secretary, and he is hereby directed, to redeem at par in coin at the Treasury of the United States or any sub-treasury thereof as may be designated by the said Secretary, the whole of any one of said series; and the said Secretary shall cause each note so redeemed to be stamped with the word "redeemed," and shall add thereto the day of the month and year of such redemption; and the said Secretary shall reissue such redeemed notes in such manner as he is now authorized by law to reissue legal-tender notes now outstanding: *Provided*, That every note reissued shall have stamped upon its face the word "reissued," and in addition shall show the day of the month and year of its reissue.

SEC. 7. *And be it further enacted*, That the Secretary of the Treasury shall give at least ten days' notice by publication in one or more of the newspapers in each of the cities wherein a sub-treasury of the United States is or may be established, which notice shall state the series which it is the intention of the Secretary to redeem, and at what time and place the redemption shall take place.

Thus it will be seen, Mr. Speaker, that I have provided against the hoarding of any particular series; for no one will know what series is to be redeemed, as they are not to be redeemed *seriatim*, commencing with No. 1 and going on through the series; but the Sec-

retary may call for any series he sees proper, and if he is an honest Secretary there can be no special advantages bestowed upon any particular or favored class. This bill was referred to the Committee of Ways and Means, and I hope to be able to get the favorable action of the House upon it before the close of this session. But that will depend in a great measure upon the fact as to who has the most friends on that committee, the laboring masses of the people or the rich, non-producing class. For, as I understand it, the provisions of this bill are in the interests of labor.

I will now call the attention of the House to the other bill, which is entitled "A bill supplementary to an act entitled 'An act to provide a national currency secured by pledge of United States bonds, and to provide for the circulation and redemption thereof, approved June 3, 1864, and for other purposes.'" I referred this bill to the Committee on Banking and Currency, and I have no right to expect a favorable report from that committee; for I fear that the members of that committee are too largely interested in banking to voluntarily report a bill which interferes with the banking system as it is now established. I intend, therefore, as soon as I can get the floor for that purpose, to refer a like bill to the Committee of Ways and Means, with the hope that it may be reported to the House at an early day and that we may have action upon it.

Our national banking system is a close corporation. The \$300,000,000 of circulation which was authorized to be issued has all been taken long since. How has that circulation been distributed? The table which I hold in my hand will best answer that question:

States.	Population.	Bank circulation.
Maine.....	628,279	\$7,511,286
New Hampshire.....	326,073	4,214,155
Vermont.....	335,098	5,710,480
Massachusetts.....	1,281,066	55,961,665
Rhode Island.....	174,620	12,470,230
Connecticut.....	460,147	17,432,823
Total of New England.....	3,135,283	103,300,639
New York.....	3,880,735	69,209,277
New Jersey.....	672,035	9,131,965
Pennsylvania.....	2,906,216	38,350,030
Total of eastern States.....	10,593,268	\$220,483,911
Ohio.....	2,339,511	\$18,405,920
Indiana.....	1,350,428	11,015,040
Illinois.....	1,711,951	9,521,810
Michigan.....	749,115	3,822,425
Wisconsin.....	775,381	2,559,050
Iowa.....	674,915	3,280,090
Missouri.....	1,182,012	3,497,620
Kentucky.....	1,155,682	2,342,020
Tennessee.....	1,109,801	1,232,040
Total of western States.....	11,049,296	\$54,566,015

Thus it will be seen that but \$24,000,000 of circulation is awarded to all the other States not set out in the table, having in the aggregate a population of ten millions. The State of Massachusetts has fifty dollars *per capita* of this circulation, Rhode Island sixty dollars, while New York has but twenty-three dollars, and Pennsylvania nineteen dollars. Illinois has less than five dollars *per capita*. Massachusetts, with a population of less than one million three hundred thousand, has about fifty-six million dollars of circulation, while Illinois, with a population exceeding two million five hundred thousand, has less than ten million dollars of this circulation. The inequities of this unjust distribution I propose to remedy by this bill, which repeals that clause of the old law which limits the circulation of the national banks to \$300,000,000; thus making it free banking system, as it should have been from the beginning. The western States require more circulation than the eastern; for the eastern States are comparatively well developed, while the western States require development. We are opening and cultivating new farms, building factories, towns, cities, and railroads. We of the West demand that this outrageous inequality shall not be longer

continued, and that the distribution of this circulation shall be equalized and that the West and the South shall have their proper proportions; and that if this national banking system is to be continued the distribution of this circulation shall be equalized.

Now, let us look at this matter a little further. Does it come with a good grace from gentlemen from Massachusetts to talk to the Representatives from the West about a "redundancy" of the currency, when their State has monopolized fifty dollars per head of the entire bank circulation, including every man, woman, and child in the State, while in the State of Illinois we have less than five dollars per head? I answer it does not. Why, Mr. Speaker, we may before long be called upon to inquire "whether Massachusetts has a republican form of government." Is it republican, I inquire, that one State of this Union with less than thirteen hundred thousand population shall monopolize one fifth of the entire bank circulation of the country? The Representatives from Massachusetts will do well to consider this matter.

How shall we remedy this? I answer by the adoption of this bill. This bill, as I have said, proposes to make the banking system a free one, whereby the West and the South will be enabled to secure such an amount of circulation as may be required for legitimate business purposes. And they will ask for nothing more, and I trust they will be satisfied with nothing less.

How further would I reform this national banking system? I am not making war upon it, but I propose to improve it; and if those gentlemen who are interested in this banking system wish to continue it they had better accept this bill, or they may perhaps wake up some morning to find that their national banking system is numbered with the things that were. The national banking system is now based upon the Government bonds drawing five and six per cent. interest, much the larger portion of these bonds bearing six per cent. interest payable in coin. The banks receive in circulating notes in amount equal to ninety per cent. of the bonds they deposit. This circulation these banks loan out at a high rate of interest, and now that any further issue of circulation to the national banks is prohibited under the present law they, in their supposed security, oppress the people and enrich themselves at the expense of the masses and to the injury of the great industrial interests of the country.

Let me call the attention of the House to some figures bearing upon this branch of the subject. Do gentlemen of this House know that none of these national banks make a return of their profits to the Comptroller of the Currency? You cannot find in the report of any national bank any statement as to the profit which the bank realizes on the amount of its capital invested. But I have taken such data as I have been able to obtain, and have made some calculations upon them which I think are reliable. I will refer to these calculations, and after gentlemen have heard them let us see whether they will tell me that there is a "redundancy of the currency," and that the present banking system is all right.

The amount of the paid in capital of these banks is \$426,000,000 in currency. The amount of the bonds on deposit for the security of their circulation is \$342,000,000. The amount of bonds deposited as security for Government deposits is between thirty and forty million dollars more—making altogether a deposit of bonds to the amount of \$380,000,000. The number of these banks is sixteen hundred and forty-two, and their circulation about three hundred million dollars. Now, let us see whether their capital was actively employed. The aggregate amount of their loans and discounts for the year 1867 was \$3,351,000,000 upon a paid in capital of but \$426,000,000! and the average time of each loan and dis-

count was seventy-one days. Now calculate the interest at six per cent. on \$3,351,000,000 for seventy-one days. I will make the calculation in round figures. The interest on that sum at six per cent. for one year amounts to over two hundred and one million dollars; for seventy-one days it amounts to over forty million dollars; put this \$40,000,000 down as one item of the earnings of these national banks for one year; then add to that the gold interest on their Government bonds: it amounts to \$22,000,000 in gold, which reduced to currency amounts to about thirty million dollars; add this \$30,000,000 to the \$40,000,000 realized on loans and discounts, and you have \$70,000,000. And this is not all; there is still another immense sum to be added. The last report of the Comptroller of the Currency shows that the national banks had on hand of "undivided profits," in the month of October last, the enormous sum of \$36,000,000. These \$36,000,000 of undivided profits have accumulated within the past five years, making an average accumulation of over seven million dollars per annum; add then the \$7,000,000 to the \$70,000,000, and you have for the gross earning of the banks from these three sources alone \$77,000,000 for the year 1867. From this sum you may deduct \$18,000,000 amount paid in taxes to the United States and State governments during the same year. This leaves as the profits of the banks for that year the sum of \$59,000,000, a sum equal to about twenty per cent. on the amount of their circulation.

Is it any wonder, then, Mr. Speaker, that we find such strong opposition against any movement which proposes to destroy this monopoly? I expect to be assailed for the position which I have taken, but I shall not be deterred in consequence of it from the discharge of my duty in this regard. I further propose by this bill to authorize the Secretary of the Treasury to issue new bonds to the amount of \$600,000,000, drawing interest at the rate of four per cent. per annum; but I am now disposed to believe that the interest on the new bonds proposed by this bill should not exceed three per cent. And when the House takes action on the bill, I propose to move an amendment reducing the interest from four to three per cent. The bill proposes further that the national banks shall substitute the bonds authorized by this act for the bonds now on deposit with the Treasurer of the United States as security for their banking circulation and as security for the Government deposits. And if the banks now organized do not see proper to organize anew under this bill, with the new three or four per cent. bonds, then it provides that they shall be wound up by the Comptroller of the Currency. But few of them, in my judgment, would choose to go into liquidation if this bill shall become a law; and if any of them should, I guarantee that there are plenty of men who stand ready to organize new banks on a three or four per cent. bond.

If this bill, Mr. Speaker, shall become a law we shall have, first a free banking system based upon the credit of the United States, thus making it easy to increase or diminish the circulation of the currency in accordance with the requirements of the business of the country; for at any time a bank may go into voluntary liquidation. Further, it will save by the substitution of the new bonds for the old to the tax-payers of the country between seven and eight million dollars per annum. This bill further provides that the Secretary of the Treasury shall, with the legal-tender notes received in exchange for the bonds authorized to be issued under this act, buy at the lowest market price the United States gold interest-bearing bonds now outstanding and destroy them, thus lightening the burden of the public debt, lessening public taxes, and affording increased facilities to the industrial pursuits of the country.

Mr. Speaker, if the provisions of these two bills, which I have in a summary manner discussed, shall become the law of the land, then, sir, I have confidence in the future of the Republic. Then we shall be enabled, in my judgment, to pay off the public debt at an early day without overburdening the people with taxation. We must, moreover, reduce the expenses to the lowest possible point and apply the surplus revenue to the payment of the debt. We have already reduced the Navy appropriation from about forty-seven millions to about seventeen million dollars, and the Army appropriation from \$80,000,000 to \$33,000,000, and the civil service in like proportion. Next year the Navy appropriations ought not to exceed \$10,000,000, and the Army appropriations ought not to exceed \$25,000,000. By pursuing this course we will maintain the honor and glory of the nation, render the people prosperous, contented, and happy. The future of this great Republic I shall not attempt to portray. The imagination itself hesitates before even venturing to contemplate its future greatness and grandeur.

Suffrage.

SPEECH OF HON. G. F. MILLER, OF PENNSYLVANIA, IN THE HOUSE OF REPRESENTATIVES, January 28, 1869.

The House having under consideration House bill No. 1667, to secure equal privileges and immunities to citizens of the United States, and to enforce the provisions of article fourteen of the amendments to the Constitution, and the resolution (H. R. No. 402) proposing an amendment of the Constitution of the United States—

Mr. MILLER said:

Mr. SPEAKER: The subject-matter now under consideration is of vast importance, and requires the serious consideration of Congress. I shall first speak in regard to House bill No. 1667, the first section of which reads thus:

That no State shall abridge or deny the right of any citizen of the United States to vote for electors of President and Vice President of the United States, or for Representatives in Congress, or for members of the Legislature of the State in which he may reside, by reason of race, color, or previous condition of slavery; and any provision in the laws or constitution of any State inconsistent with this section are hereby declared to be null and void.

The other four sections of the bill being intended to enforce compliance with the provisions of the first section, render it unnecessary for me to notice them in this discussion. I will, therefore, confine my remarks first to that section. The object of this bill is clear, and that is that Congress shall force upon the respective States negro suffrage, regardless of the existing constitutions and laws therein, and the question is, has Congress this power under the Constitution of the United States of 1787, which was adopted in 1789, section two of article one of which provides that—

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in such States shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

Thus it will be seen that the people of each State are to choose the Representatives; and does not this provision give them full power to determine who shall vote for such Representatives? That power has never been denied to the States by the General Government except as to the late rebel States, of which I will speak hereafter. This right of regulating suffrage no one will deny existed in the States at the formation of the Constitution; and did they, by the Confederation, surrender that right or any part of it? The preamble to that instrument reads thus:

"We, the people of the United States, in order to form a more perfect union, establish justice, insure

domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

It shows that the object of the Union was in the main to provide for the common defense and secure the blessings of liberty, but not to take from the States the rights possessed by them in the regulation of suffrage. The States had certain rights which they did not surrender to the General Government, and among them was the right of determining who should exercise the elective franchise. It was determined, in the case of *McIlvaine vs. Coxe*, 4 Cranch, 209, that—

"The several States of the Union became entitled on the 4th of July, 1776, to all the rights and powers of sovereign States as respects their internal regulations."

I do not wish, Mr. Speaker, to be understood as favoring State rights doctrine as advocated by those of the Calhoun school, for I hold that no State after the Confederation could secede or withdraw without the consent of the entire States; that the United States possess power to use all the force necessary to prevent such attempt. And this is the only legitimate construction that could be fairly placed upon that instrument. In *6 Wheaton*, 414, *Cohens vs. Virginia*, (Marshall, Chief Justice,) it is laid down:

"The States are constituent parts of the United States; they are members of one great empire; for some purposes sovereign, for some purposes subordinate."

It is said by the honorable gentleman from Massachusetts, [Mr. BOUTWELL,] who has charge of this bill:

"If the doctrine of those who maintain that the whole question of suffrage is vested in the States be true, then the States may refuse to choose electors. They may refuse to send members to this House; they may refuse to choose Senators by their Legislatures; and thus the Government would come to an end."

I would ask the honorable gentleman, even if Congress had the power to regulate suffrage in the States, how would that remedy the difficulty he suggests? If the citizens of any State neglect electing Representatives to Congress, or if the Legislatures decline electing Senators or could not find any person willing to accept the position, could Congress or any other power compel electors to vote or accept the office of Senator or Representative in Congress? So that if the power of regulating the elective franchise was vested in the General Government it would not remedy the imaginary difficulty suggested by the gentleman. If the people refuse or neglect to take part in the Government organizations I know of no power to compel them; but it is hardly possible, Mr. Speaker, for such a contingency ever to arise, as persons can always be found willing to serve their country by accepting office. The fourth section of article one of the Constitution provides that—

"The time, place, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof, but the Congress may at any time by law make or alter such regulations, except as to the place of choosing Senators."

This clause does not take from the States the power vested in them by the first part of the section. It is evident that all that was intended to be reserved to Congress was to regulate the time of election of members of Congress in case any State should neglect to do so, but not to withhold from the States the right to regulate suffrage. In article two, section one, of the Constitution it is provided that—

"Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in Congress."

The right to regulate the elective franchise has been conceded to the States for eighty years under the Constitution framed by our illustrious ancestors, and now at this late day an attempt is made to take from the States by a mere act of Congress a right which they always

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exercised; and it is too late now, after such a long acquiescence, to overturn a settled construction. The gentleman, however, does not rely for his theory solely upon the Constitution of 1789, but calls to his aid the amendment to the Constitution known as article fourteen, and relies specially on the first section, which is in these words:

"All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny any person within its jurisdiction the equal protection of the laws."

This section, it is true, makes all persons born or naturalized in the United States and subject to the jurisdiction thereof citizens, and prohibits any State from making or enforcing any law which shall abridge the privileges or immunities of citizens of the United States, &c.; and this is contended by the gentleman [Mr. BOUTWELL] to carry with it the undoubted right to exercise the elective franchise. In this the gentleman is mistaken; for the right of citizenship carries with it no such privilege, for if that construction was tenable then, it would confer the right not only upon all male citizens twenty-one years of age, but upon women and children who are also citizens; and as to the inhibition clause, it was intended to protect life, liberty, and property, and especially that class of colored people who had been in slavery; but when that amendment was proposed by Congress and ratified by three fourths of the States it was not contemplated to extend power now contended for, which is fully explained by the second section which reads thus:

"Representatives shall all be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or a member of the Legislature thereof, is denied to any of the male inhabitants of such State being twenty-one years of age and citizens of the United States, or in any way abridged except for participation in rebellion or other crimes, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

Now, I would ask if the States had no power to regulate as to who should exercise the elective franchise, what was the necessity of this section? For if the States could not deny the right of voting to any of its male citizens twenty-one years of age, except for participation in the rebellion or other crime, there would have been no occasion for this section. It was, however, understood at the adoption of this amendment that the several States had power to regulate that which this bill proposes to deprive them. Again, all the reconstruction bills we passed were so framed as to concede that right to the States.

The gentleman says we "cannot escape this issue as a Congress and as a party." As a Congress, I for one would say we do not desire to escape the issue if we had the power under the Constitution; but from a careful examination I cannot see that we have, and after an acquiescence for eighty years it will not do to abrogate the rule of "*stare decisis*," even if such a forced construction as contended for by those in favor of the bill could be made. I hold that neither by the Constitution of 1789 or the fourteenth amendment can the rights exercised by the States as regard suffrage be taken away and exercised by Congress. Then, as to the policy of such a procedure as a party. The Republicans having a large majority in both branches of Congress must, of course, take the responsibility of legislation, and as a party measure this bill if passed would, in my opinion, be disastrous to the Republican party, as we have always conceded to the loyal

States the right of regulating the suffrage therein. At the great Republican convention held at Chicago in May, 1868, for the nomination of President and Vice President, a platform was laid down containing declaration of principles, the second paragraph of which is in these words:

"The guarantee by Congress of equal suffrage to all loyal men at the South was demanded by every consideration of public safety, of gratitude, and of justice, and must be maintained; while the question of suffrage in all the loyal States properly belongs to the people of those States."

And on this platform General U. S. Grant was placed in nomination for President and SCHUYLER COLFAX for Vice President. The campaign opened, and we went before the people, telling them that as regards suffrage it was for the loyal States themselves to decide, and not for Congress. Under this platform the Republican party were successful in electing their candidates for President and Vice President; and I would say to the Republican members of this House, can we now afford to repudiate what we have said, and go back upon the people? If we do, though we are at present strong, it may be our downfall; and besides, it behooves us to act in good faith, and by so doing we must reject this bill. The gentleman says we must not be "timid." Sir, we are not "timid," but disposed to act in good faith and adhere to the settled principles of the Constitution. It may be said if the right to regulate suffrage belongs to the loyal State, why not extend it to those lately in rebellion? My answer is, Mr. Speaker, that by the rebellion they have overturned their State governments and failed to give proper protection to its citizens, and especially to those who remained loyal; and it will be seen under the fourth section of article four of the Constitution, that—

"The United States shall guaranty to every State in this Union a republican form of government."

That can only be done by proper reconstruction of those States, and it was found that could be only accomplished by allowing negro suffrage in their organization on account of the disloyal element among the white population; and thus, Congress deemed it to be indispensable, before admitting these States to representation, that their constitutions and laws should be so changed so as to allow suffrage regardless of race or color or previous condition of slavery, the preservation of the Union demanded this course.

I cannot see, Mr. Speaker, any objection to negro suffrage, and would prefer it being allowed in all the States; but, under the present Constitution, that belongs to the people of the States, and they are to regulate it, and not Congress, unless, as I have already said, so far as relates to the reconstructed States.

Having, Mr. Speaker, said so much in regard to the power of Congress to legislate in relation to suffrage in loyal States, I will say a few words in regard to the proposition to amend the Constitution of the United States. The joint resolution (H. R. No. 402) reported from the Judiciary Committee by one of its members, [Mr. BOUTWELL,] is in words following:

SEC. 1. The right of any citizen of the United States to vote shall not be denied or abridged by the United States or any State by reason of race, color, or previous condition of slavery of any citizen or class of citizens of the United States.

SEC. 2. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

If this proposed amendment should pass each branch of Congress by a two-thirds vote, and then be ratified by the Legislatures of three fourths of the States of the Union, it will become a part of the Constitution of the United States and settle forever this vexed question of suffrage, for it is not likely that it would ever be changed. I would be glad if the several States would take this matter in hand and ratify an amendment which would place all the States on the same footing, so that it cannot be said by the southern States that greater restrictions

were placed upon them than upon those of the North, East, and West. I am satisfied, Mr. Speaker, if suffrage was extended to the colored men in all the States it would be found to work well, and the prejudice that now exists to such a measure in certain sections of our country would soon wear away, and all would join in aiding the elevation of that heretofore downtrodden race. But it is said that if the right of suffrage is extended to the colored man it would be one step toward mixing of races. This is a mistaken idea. It does not follow that by giving colored men the right of voting they are to hold office and commingle in our social circles, nor do I believe they desire it. The great test hereafter will be loyalty to the Government. In some of the loyal States suffrage has already been extended to the colored man, and no inconvenience seems to be experienced and no effort to take it from them.

I am, therefore, Mr. Speaker, in favor of the passage of this joint resolution and submitting it to the respective States for ratification, and I will therefore vote for it, but will cast my vote against the bill, which undertakes to force suffrage on the loyal States without giving them a voice in it, as I do not think, without an amendment to the Constitution, we have any right so to do. As I have already said, if the measure proposed by the joint resolution should be approved bitter party strife will soon be ended, and that race which stood firm and battled for the Union in the nation's struggle will have a voice in the selection of our rulers and have greater attachment for the Republic; and if ever a rebellion should again be attempted we will find the black man among the first to rally in defense of our country.

Our ancestors came over to this country of choice, while, on the other hand, those of the colored race were by force torn from their native land and placed here to aid by their labor in building up this country. This being the birthplace of the present generation of the colored people among us, they can well claim it as their home and demand adequate protection, which by the adoption of wholesome laws we have afforded them, if properly enforced. Let us, Mr. Speaker, reject the bill which proposes to force on loyal States suffrage without giving them any voice therein, and pass the proposed constitutional amendment and submit it to the States for their ratification. This we can do consistently both as a Congress and members of the great Republican party. It is said by the historian that the attachment of Romans to their standards was imposed by the united influence of religion and honor—that the golden eagle which glittered in the front of the legions was the object of their fondest devotion. So let us forget all former strife, and as one people and true patriots, with our eyes upon the Constitution, rally around the stars and stripes, the emblem of our beloved country, and this nation will be one of the strongest and grandest of the world.

Suffrage.

SPEECH OF HON. B. F. WHITTEMORE,

OF SOUTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

January 28, 1869,

On the joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States.

MR. WHITTEMORE. Mr. Speaker, the heresy of State rights should no longer warp our conclusions or be dragged into our future legislation. We have no longer the slaveholder to appease or slavery to conserve. An Almighty arm has settled that question and severed the chains that bound us. Sectional as it was in its inception, local in its organization, it has been met and overcome. But its devotees still remind us of its power and prejudice which so

long exercised its cruel sway and oppressive influences. We cannot shirk our responsibility; the present is the auspicious moment to declare the legal and political equality of all persons, and to proclaim national protection wherever the flag of our country is unfurled, over all who demand at our hands security to their persons and their God-given immunities. We cannot stop our ears to this appeal; it must not be disregarded. The sacrifices upon the altars of our country, the blood of the heroic slain, the untold treasures expended, the sighs, groans, and sufferings of the bereaved who mourn for their beloved, martyred fathers, sons, husbands, friends, call upon us to do our duty.

"There is a spirit stirring in the land
That on the nation's palpitating heart
Takes firmest hold: from thence will not depart
Till from Atlantic to Pacific's strand
It permeates the soil, the air, the breast
Of every freeman and of all oppressed.
It is a spirit that through centuries gone
The world's long past, its earliest morning dawn,
Has moved to noblest deeds the noblest men,
And broken galling chains of slavery.
Whose voice on mountain, valley, hill, and glen,
Proclaimed, 'Let all mankind be free.'
This spirit, that bids oppression flee,
Is the unconquered soul of liberty."

Mr. Speaker, the work is before us; the past instructs us; the present admonishes, and the future awaits the result of our action—the performance of duty: to know whether we have learned wisdom by experience, and can deal justly; whether we have determined "to treat our neighbors as ourselves;" to acknowledge certain great truths self-evident, and give to others the immunities we claim—franchise and protection. The war abolished slavery with its sum of villainies; let Congress abolish political heresies and piratical invasions upon human rights; then will equal justice be established, and a peace that can alone be prosperous and permanent throughout the Republic; then will security be guaranteed the humblest citizen, and a unity of States that can never be severed by dissensions from within or invasions from without. Centuries are to look at our work effectually done or shamefully neglected. Let us be found equal to our task, prompt in our action, united in the cause of universal emancipation from wrong, and the acceptance of the right. The nation must award equal political privileges to all men everywhere, all over the wide extent of our common country.

Such a course will, as the honorable gentleman from Massachusetts [Mr. BOUTWELL] so truly declared, become the means of a speedy settlement of all the vexatious questions that have divided us in the past. Whatever may be said in opposition to the measure now before us, or its unconstitutionality; however much lawyers may differ in their interpretation of statutory provisions, though we may exhaust research, compile the assertions of men that agree or disagree on the rights of a citizen or what constitutes a citizen, enter into the most elaborate analysis of the law and strive to create a holy reverence for ourselves and a grave indifference for others; though we may quote Patrick Henry, Jefferson, Madison, Chief Justice Marshall, Story, Parsons, Taney, the oldest or the youngest of the learned in the jurisprudence of our country to prop up the old systems and errors which have created greater regard for the State than for the nation, still we are forced by the circumstances around us to acknowledge that the bone of contention will never be removed while we prate the law and withhold justice.

Do you wish to end the controversy—settle the difficulty in the minds of those who have steadily opposed congressional reconstruction in the South? Do you propose to encourage and protect loyalty there? Then, as this bill provides, give the benefits of the franchise to every citizen in every State, without regard to race, color, or previous condition. Such a course will close the mouths of the sternest opponents of "the forced franchise," where

the largest number of the colored men in our country are found. You cannot blame men of the South when they come with their accusations of inconsistency, laying them at your doors, if you still adhere to partial legislation and do not accept for yourselves what you have imposed upon them.

Shall a new sectional difficulty be created now that we have been delivered from one great curse which so nearly ruined our national existence; while the North by its prowess and championship for the right in one great issue dared to do or die that the wrong should be overcome, slavery abolished, the Union saved? Shall it falter in its action now? Shall we fail to recognize our duty to those who rallied to our standards that they might prove by their valor, devotion, suffering, death, their right to all the immunities of an American citizen? Shall we trust the pardoned rebel and not the patriot black man, whose severed limb lies moldering at Fort Pillow, Port Hudson, Olustee, Battery Wagner, or Petersburg mine? Shall we refuse, because the remnants of degenerate philosophies or theories hang upon the verge of our Government, to declare the infamous codes of the past, false to the grand and glorious enunciations of universal justice, or to act the part of statesmen worthy of the hour—the nation's glorious opportunity?

Give to the colored man his vote. He has a national equality with you; he is an American citizen, a veteran of the field on which through bloody contests triumph alone has come, that enables us this day to legislate for an undivided country. On staff and crutch he stands demanding his rights; with scars and empty sleeves he pleads an equal franchise; with uplifted hands, which have borne the musket in the defense of your altars and your homes, of that flag, emblem of freedom, of the future greatness of our Republic, he asks, not social, but political equality. Give the colored man his vote; then and not till then will disloyalty be crushed; then and not till then will tranquillity become the boon of our people; then and not till then will the material which feeds the flame of partisan and sectional strife be removed forever. This is no longer a white man's Government; it is a Government for all the people; black men have rights that white men are now enjoined to respect. They have the largest number of them given their ballots in the last election for the hero and chieftain, General Grant. With true loyalty in their hearts and Grant ballots in their hands they have exercised a freeman's will and united with yourselves in securing the era of peace.

It is said there are only one hundred and sixty thousand colored men yet to be enfranchised; about the number that were enrolled of their race in the Union armies. Surely if we could intrust them with the bullet why should we longer withhold from them the ballot? Why need we falter? Is there not in the constitution of our nature something that speaks louder and more earnest than the voice of prejudice or caste or false legislation, which tells us that now is the most favorable time for the settlement of a question so momentous?

"Then let us act wisely, we've nothing to fear.
The voice of the people is heard far and near
That manhood, not color, must be the sole test
Of a right to the franchise, North, South, East, and West."

I concur in all that my learned and honored friend from Massachusetts [Mr. BOUTWELL] has said. I believe, with him, we cannot afford to do wrong. The Constitution, which we regard as the fundamental basis of national law and equity, makes it our imperative duty to guaranty to every man who claims himself an American citizen the benefits of a republican form of government. Is that Government republican which creates and maintains distinctions in franchise; that gives the vote to one and withholds it from another? The Government was founded on the principle

that man was endowed by his Creator with certain inalienable rights; that all men were created equal; not a portion to rule by a divine right and others to be ruled by the usurpations of might *molens volens*; that the Government derived its just powers from the consent of the governed. Our fathers, out of their own experience in framing the Magna Charta, intended to denounce the dogmas of kings and tyrants and to establish as the cardinal, central idea of their declarations that the people were the sovereigns, deriving from God himself the right to say who should rule over them and what form of government they would have. They start out with the bold language, "We, the people"—not the white nor the black—"do ordain and establish this Constitution for the United States of America"—not for Massachusetts, not for Pennsylvania, not for Maryland or Virginia, but "for the United States;" and among the reasons given why they have thus ordained are these: "to form a more perfect union, establish justice, promote the general welfare, and secure the blessings of liberty to ourselves and posterity."

Now, then, can our liberty be secure in the hands of those who question our rights? Who is secure in his freedom when debarred from saying what kind of men shall represent him? Can we believe that the one hundred and sixty thousand colored men would give, if they are invested with the franchise, their ballots for those who cast their voice, influence, argument, and vote against this measure? They are, whether acknowledged or not, the constituencies of such as will seal their destinies by their action on the grand proposition before us. As for myself, I am ready to make our fathers' words no empty boast. By all that is just, by the remembrance of past antagonisms, by the rights we enjoy, hold sacred and inviolate; by the measurements of a golden rule, that principle which should govern us in our actions and control us in our legislation, having found that there is that in our statutes destructive of the essential features of a republican form of government, let us accept "the right to alter or to abolish" all unrepresentative features of such statutes and adhere to such principles as shall seem most likely to effect the safety and happiness of all the people.

As corroborative of my own views, I close, Mr. Speaker, with the reading of a passage of the inaugural address of the Governor of Massachusetts. He says:

"A final measure to secure the tranquillity of our nation is now demanded by every consideration of gratitude to the brave heroes who have fallen and of justice to those so long enslaved and as yet only partially enfranchised who aided to achieve the triumph. The American idea of liberty is based on the principle that is expressed in those immortal words of the Declaration of Independence, 'all men are created equal.' The events of the war have made free all over whom the flag of the nation waves; but as yet all are not equal at the polls, either as voters or as candidates for office. A citizen of the Union should have the same privileges whether his home is in Maryland or Massachusetts. Deny one man in Maryland his rights as to the suffrage or any other national matter, and the citizen of Massachusetts suffers as well as the disfranchised in Maryland. Let it, then, be made a part of the Constitution that suffrage on national questions shall be the same in every part of the Union; establish it in the organic law, and no change of parties can abridge the right; embrace the present opportunity and the nation will reap the full fruit of the victory. Failure now will bring doubt and uncertainty as to the future, and the friends of the ballot in other lands while they are struggling for the right will feel the loss and lament our want of courage, persistence, and fidelity to the great idea which inspired our contest."

Mr. Speaker, I trust that we shall pass this or a similar amendment, and that my State, South Carolina, may have the earliest if not the first opportunity to give her sanction to a legislation so wise and just. South Carolina having by experience learned the penalty of the advocacy of the wrong or the errors of the past, now stands ready, through her Representatives assembled, to change front and grant as well as advocate rights to others she enjoys herself.

HO. OF REPS.

Suffrage—Mr. Corley.

40TH CONG....3D SESS.

Suffrage.

REMARKS OF HON. S. CORLEY,
OF SOUTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

January 28, 1869,

Pending the discussion of the suffrage bill and constitutional amendment.

Mr. CORLEY. Mr. Speaker, the discussion of this question of suffrage to every citizen of the United States, by congressional enactment and a constitutional amendment, is not only interesting to the student of nature, but to every lover of his country and the rights of man. It is natural that one whose humble avocation had placed him beneath the social plane of the aristocratic oligarchy of the South, and whose aspirations and natural bent raised him above the narrow circle to which that aristocracy had assigned him, whose stand-point was reached by the furious lashings of the storm which rocked the ship of state on the surging sea of rebellion, whose waves have borne him thus far out on the turbulent ocean of politics, should feel like trying his depth before he is drifted to the shore again. Here we find strange whirling eddies of thought and action, bearing tiny bubbles of froth and foam soon to be dissolved in air as the lashings of the wave subside. Here we find men of noble mien, similar in natural characteristics and impulses, arrayed in active hostility as partisans who under different circumstances and educational habits might go hand in hand in the great work of freedom and progress. Let us concede, at least, that each may be honest while all may be wrong. Perfection is unattainable in this life, and "to err is human, to forgive divine."

Sir, we are to-day but closing the last great scene in the bloody drama of our national life. Slavery has at last been wiped out, along with the gigantic rebellion it engendered to sustain and perpetuate. But though the spirit of both hovers around us now we are nevertheless here to confirm that righteous decision of the sword. If the friends of the Union and the cause of human rights did not exhaust their manhood when they slew the rebellion they are still here to secure, by legal enactment, that freedom which was so nobly won on the ensanguined fields of the Republic. Under the folds of that starry banner which still floats as an ensign of hope to the down-trodden of every clime they dare not falter nor prove recreant to duty.

The proposition is clear to my mind that all legitimate and just Governments derive their authority from the consent of the governed, and equally clear that such consent cannot be obtained without an impartial appeal to the ballot. Suffrage is therefore a natural and inherent right which cannot be safely denied to any citizen of sound mind having attained his or her majority, except for rebellion or crime. It is a matter of regret that the proposed bill and amendment do not go far enough to fully secure the great ends of freedom, justice, and humanity.

The Constitution guarantees a republican form of government to the States, but while there remains a single friend of the Government and freedom, male or female, disfranchised in a single one of those States, we are unfaithful to the Constitution and best interests of our common country. There must be spirit in the Constitution as well as form. If we preserve only the form the spirit has departed, and soon will flee with it forever the liberties of the people. I would that one or the other had included women without the shadow of a doubt, for surely the mothers and educators of our race are as competent to vote as the proud sons they have reared. I know it is said that we have her influence indirectly bearing on our legislation, and therefore we need no more. Her influence is great, and we

should by no means underrate it, but it is powerless to reach the evils under which we groan without the ballot. We ungenerously withhold the one, while we are compelled to beg for the other. We want her influence by all means, and in addition must have her vote. There is now no legal responsibility resting upon her political influence and power. We wish to increase the one and secure for the nation the full benefit of the other. We wish to make her legally responsible for treason, as she is for other crimes. Then we shall have fewer transfers of property from traitor hands to lovely daughters for the purpose of smiling their "loyal" claims through Congress. The much-feared antagonism between the sexes will not be likely to drive the vanquished lords to the wall, and if the predicted war of races has been postponed by the recent national election, which the colored men of the South voted to avert, we may safely conclude that woman can in like manner indefinitely postpone any serious dissension or war of the sexes. We need more of the moral element in politics, which may be had by the enfranchisement of woman. Without her support we are in danger of being wrecked.

The whisky and tobacco from which we draw the great bulk of our internal revenue are but systematic frauds upon the people in production, sale, use, and revenue, and to-day cost the people of this country enough annually to pay off our immense national debt. This is an outrage upon humanity, a crime against God, and a disgrace to the nation. No country can long survive such a system of wholesale poisoning and the waste and extravagance attending it. These and concomitant evils can be corrected by the moral power of woman with the ballot in her hand. Of course the whisky rings, demagogues, and keepers of gambling bells are against it. They know that woman will dry up the fountains of their iniquity and send them to honest labor for a support.

It is important, too, that the national Government should permit no State to disfranchise any of its citizens on account of ignorance or poverty. I do not hesitate to say that no favored class in any State should be permitted to disfranchise any one on account of the enforced or neglected ignorance of its masses. This would be only a premium on past oppression and degradation, which I am not willing to allow; and those who made chattels of men in order to raise themselves to a higher plane should be compelled to contribute their quota toward educating those whom they had so deeply wronged. If State legislation, after the incorporation of this ignorant element into the body-politic, should prove to be worse than that of the intelligent traitors of those States during the rebellion, it will be quite time enough to disfranchise it. No State should be allowed to disfranchise any citizen on account of its own enforced or neglected ignorance. A question was asked the author of this bill [Mr. BOWWELL] on yesterday whether or not it denied to the State governments the right to impose an educational or property qualification. Being answered in the negative, the questioner seemed to be perfectly satisfied that the poor, ignorant colored man could be easily excluded in Kentucky and other States by such legislation as would give general satisfaction to all who look upon equal political laws as crimes against God and man.

Majorities in the States have heretofore applied educational and property qualifications to suffrage; but if the right to regulate ever implied the right to deny suffrage the constitution no longer permits it. The poor and ignorant are compelled to sacrifice their lifeblood to defend the nation equally with the wealthy and educated—the first to draw the sword as well as the last to sheathe it, and should ever be equally entitled to the ballot. It is urged by aristocrats and oppressors gen-

erally that the poor have too little at stake to say how and by whom the government under which they live shall be administered. If the bloated wreck of humanity who urges this plea can demonstrate that his piles of brick and mortar which line the avenues of our great cities, his gold and legal tenders, his bonds and stocks, are of more value than his own life, then we may be ready to submit that the poor man with himself may be disfranchised at pleasure; that money and not the man should be enfranchised, and that wealth is of more value than patriotic devotion to the nation.

This aristocracy of wealth, as well as the aristocracy of letters, tells us that the ignorant are incompetent to exercise the franchise properly. But it must be admitted that ignorance is in one sense comparative, and those who are themselves ignorant in that sense have no right to exclude those who are a degree below them in intelligence in one direction, and perhaps a degree above them in the other. These political pharisees will do well not to make the path too straight, lest they exclude themselves. The ballot is itself the best educator. By its use all citizens may readily learn how to guard against its abuse. The enfranchisement of the spelling-book and the "almighty dollar" will soon prove to be but poor substitutes for that of manhood and womanhood. If we are to have any qualification beyond that of simple manhood and womanhood, let it be that of virtue. This nation is in no serious danger from the ignorance of its loyal masses. If its voters were as honest as they are intelligent, the Republic would last as long as time itself. We have been and still are in more danger from the machinations of intelligent traitors than we ever can be from the accumulated ignorance of our own and other shores.

It needs no elaborate argument to demonstrate what the Constitution, in the light of its later amendments, so plainly teaches—that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." A citizen of the United States is the political equal of every other citizen, and cannot be constitutionally denied the right to the ballot in any State except for rebellion or crime. I thank God that the United States is at last understood to be a Government, and is no longer considered the tail, instead of the head of the Union. It must maintain its integrity and power. Having subdued its enemies it must protect its loyal defenders. Those who were honest opponents or unwilling assailants, who have since proved their devotion to the grand old banner of the free, must feel as safe in Carolina as in Maine. If, as admitted by a representative of the Democratic party on this floor, the election of General Grant has decided the question that the rebellion shall not be renewed, then it has also decided that southern Republicans shall be protected in the freedom of opinion and speech, and woe to that party or people who decide otherwise. But while his party inscribes upon its banner the glaring falsehood that the reconstruction laws are "unconstitutional, revolutionary, and void," it but fires the rebel heart with hate to the Government, and murder to all who support and defend it.

With the teachings of the great Calhoun and the surroundings which environ the southern mind it is easily impressed in the wrong direction. Some allowance is due to education and habit; but what allowance can we make for those who, without this excuse, swear that they have never aided and abetted the rebellion and yet band themselves together and bear unpatriotic and treasonable mottoes to stir the hearts of better men to deeds of violence and death? Every citizen must have the ballot, and yet the ballot in the hands of a homeless, starving man is not a sure weapon of defense. If the wealth and intelligence of the South shall be permitted to continue in antagonism

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to the Government and its policy, and their tools are still to threaten, overawe, and assassinate loyal men for no crime but their loyalty, then the war for the Union is a failure, Grant has surrendered to Lee, and the South will not hesitate in the future to declare its success and its power.

The grand reason why the loyal people of the South were powerless before the rebellion was because they were not protected by the Government. When protection is not afforded loyalty cannot be expected or demanded. Those who were snugly ensconced behind the bayonets of a million of brave soldiers may look upon us poor southern men as little better than traitors at heart, because we could not prevent or avoid conscription, and were powerless before the leaden hail of our nation's defenders. Notwithstanding their contempt for our love, their want of sympathy for our misfortunes and perils, we nevertheless hope to prove our devotion by our works. To do this we must be protected by the Government which claims our allegiance, and with that protection we shall do and dare all that truth and right demand for all classes and conditions composing the people of our country. We must show the enemies of republicanism in the North, as well as in the South, that the right to regulate suffrage in the States is subject to the decision of the people's representatives in the Congress of the nation, and cannot longer be denied to any citizen under the plea of regulating it. He who perils his life to defend his country must be allowed to say in Ohio, as well as in South Carolina, why that sacrifice shall be offered.

The people of the South have been compelled to accept the results of the late terrible contest, but have yielded most reluctantly to the decision of that potent and overwhelming argument, the sword; and having done so feel justly aggrieved that the people of the North should demand for themselves an exclusion from the minor evils of that condition they have so justly imposed on their fellow-citizens of that section. I frankly and freely admit that the people of the South lost every constitutional right by their rebellion, and that it is their duty to accept cheerfully and in good faith the magnanimous terms of the Government as determined by Congress for their restoration to citizenship; but while it must be admitted that the people of the North have not been incapable of determining as to the vital and essential condition of suffrage to the colored man in the reconstruction of the South, they have nevertheless shown a want of either mental or moral perception in their discrimination against color among themselves. But whether the people of the loyal States have been able to comprehend the changes that have been wrought in the organic law of the land through their policy of reconstruction or not, which policy I fully indorse, they have now to learn that they must quietly submit to those changes for themselves and the nation as the only hope for peace and security in the future. Neither the preponderance nor the ignorance of the colored race among them can be urged as an excuse for withholding the ballot. The people of the South could and did wield this argument with some effect, but the people of the North have no excuse for their delinquency, and their cheeks should mantle with shame in view of their dastardly inconsistency. Those who demand these rights are citizens of the United States, and the Government must enforce its authority for the protection of their rights and its own security by their immediate and unconditional enfranchisement. It cannot longer refuse. If the colored men of this nation who periled their lives and poured out their blood freely that the land which gave them birth might remain united and free, a refuge for the oppressed of all nations, are to be longer refused the rights which their heroic efforts have aided in securing to alien

outcasts, and even to the sturdy misguided hosts of treason, who fought as desperately against the Government as these dusky sons fought for it, then I assert that this Congress is recreant to justice and humanity, to God and the country, and deserves the just execrations of free-men throughout the world.

Suffrage.

SPEECH OF HON. C. C. BOWEN,

OF SOUTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

January 29, 1869,

On the joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States.

Mr. BOWEN. Mr. Speaker, it is with no little embarrassment that I feel myself called upon to enter into a discussion of this great question, not that it lacks anything of importance, for I believe it to be one of the most important questions concerning the inalienable rights of the people that has ever been brought before Congress. Sir, the embarrassment which I feel arises from the provoking fullness of illustration with which my colleagues have dealt with this great cause. So masterly have they presented this question that there is scarcely left a single spot for their unlucky colleague to set his foot upon without trespassing on some one of those arguments which, with an admirable profusion, I had almost said prodigality, of learning, they have spread all over the whole subject. But I shall be content to travel after my learned friends over a part of the track which they have at once smoothed and illuminated—more happy still if I shall be able, as I pass along, to relieve the fatigue of the benevolent companions of my journey.

In our great national declaration of rights, a State paper embodying the sentiments and judgments of the fathers, with regard to the theory, the political philosophy underlying American republicanism, the equality of man, the inalienability of his right to "life, liberty, and the pursuit of happiness" is declared; and the method of securing and maintaining these announced in the affirmative, that—

"Governments are instituted to secure these ends, and derive their just powers from the consent of the governed."

This declaration of equality, this announcement of the inalienability of the rights indicated, and this assertion that "Governments derive their just power from the consent of the governed," teach, in my estimation, the doctrine that self-government is natural and inherent; that no man confers it upon his fellow; that no constitutional convention speaks it into life; that its title is sustained by the authority of no parchment, and that no human power can *de jure* deprive man of its possession and exercise. It is absurd to speak of self-government as belonging to one who is denied the ballot, for without the ballot no man governs himself; he is governed by that class who, holding the ballot, wield political powers; and he holds the *modicum* of rights, privileges, and immunities accorded to him according to the will and the caprices of those who may fitly be termed his political masters.

It is true that the use of the ballot may be regulated by national enactment—indeed it may be by State enactment; but the use of the ballot can only be regulated in the sense in which the traffic in merchandise may be regulated; the regulation is in no sense to amount to deprivation of the right. In the light of what has been said, I regard the proposition made by the honorable gentleman from Massachusetts [Mr. BOWWELL] as one looking simply to the removal of an obstruction to the exercise of a right, God-given and inherent.

And here I pause to ask the question, whence

comes the law, the constitutional authority, according to which either the national or the State governments can deprive any portion of the people, men native to the soil, of requisite age and legal settlement, of political powers inherent and inalienable? Forgetting the color of the men in whose behalf this legislation is proposed, their former condition of slaves, their present condition of *quasi* free inhabitants, laying aside every prejudice and hatred springing out of our early education with regard to them, let us, intent upon so discharging our duties as law-makers in the work of reconstructing both the national and State governments of this country as to establish the rights of all the people, of whatever name and color, according to the immutable principles of justice and right, discover, if possible, the law in accordance with which our actions should be governed in this case, and in accordance with which that action is to be justified before our constituents.

And at this point, let us inquire who, according to the letter and spirit of our national organic law, were in the early days of the Republic recognized and treated as citizens thereof? And before speaking of the language of any special article in either of the great State papers which, taken as a whole, form our national organic law, I beg to invite your attention to a single fact illustrative in some sense of the doctrine which I here maintain. The fact to which I refer is this: that in the early days of the Republic in all sections of the country North and South the colored American was recognized and treated as a citizen, not only in this sense, that he possessed and wielded civil rights simply, but he possessed and wielded political powers. That I may not weary your patience at too great length I offer you in confirmation of this view the opinion of Hon. Judge Gaston, of the supreme court of North Carolina, in the case of the State vs. William Manuel, found in Devereux and Battle's North Carolina Reports, volume four, page 20. The learned judge in delivering this opinion, said:

"According to the laws of this State, all human beings within it who are not slaves fall within one of two classes. Whatever distinctions may have existed in the Roman law between citizens and free inhabitants, they are unknown to our institutions. Before our Revolution all free persons born within the dominions of the King of Great Britain, whatever their color or complexion, were native born British subjects; those born out of his allegiance were aliens. Slavery did not exist in England, but it did exist in the British colonies. Slaves were not in legal parlance persons, but property. The moment the incapacity or disqualification of slavery was removed they became persons, and were then either British subjects, or not British subjects, accordingly as they were or were not born within the allegiance of the British king. Upon the Revolution no other change took place in the law of North Carolina than was consequent upon the transition from a colony dependent on a European king to a free and sovereign State; slaves remained slaves, British subjects in North Carolina became North Carolina freemen, foreigners until made members of the State continued aliens, slaves manumitted here became freemen, and therefore if born within North Carolina are citizens of North Carolina, and all free persons born within the State are born citizens of this State.

"It has been said that before our Revolution free persons of color did not exercise the right of voting for members of the Colonial Legislature. How this may have been it would be difficult at this time to ascertain. It is certain, however, that very few, if any, could have claimed the right of suffrage, for a reason of a very different character than the one supposed. The principle of freehold suffrage seems to have been brought over from England with the first colonists, and to have been preserved almost invariably in the colony ever afterwards. In the act of 1743, chapter 1, Swan's revision, 171, it will be seen that a freehold of fifty acres was necessary to entitle the inhabitant of a county to vote."

But, sir, it is a fact that will not be denied on this floor by any intelligent man, that for long years after the adoption of the Constitution of the United States free colored Americans in both the States and Territories claimed and exercised, without hindrance, the ballot. Now, Mr. Speaker, we come directly upon the question of citizenship. What is citizenship? What implied therein, and what the duty of civil society as to defense and protection of rights therein implied? This subject has often been one of serious inquiry, and previous to

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the adoption and ratification of the fourteenth amendment those who examined it must have been pained by the fruitless search in the law books and the records of our courts for a clear and satisfactory definition of the phrase "citizen of the United States." No such definition, no authoritative establishment of the meaning of the phrase, either by course of judicial decisions in our courts or by the continued and contemporaneous action of the different branches of our political Government, could be found, and for aught I know to the contrary the subject was as little understood in its details and elements, and the question was as much open to argument and speculative criticism, as it was at the beginning of the Government. But as a general answer to those who make such inquiries, I have this to say: every citizen of the United States is a component member of the nation, with rights and duties under the Constitution and laws of the United States which cannot be destroyed or abridged by the laws of any particular State. The laws of the State, if they conflict with the laws of the nation, are of no force. The Constitution is plain, beyond cavil, upon this point. Article six says:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties, &c., shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

And from this I assume that every person who is a citizen of the United States, whether by birth or naturalization, holds his great franchise by the laws of the United States and above the control of any particular State. Citizenship of the United States is an integral thing, incapable of legal existence in fractional parts. Whoever, then, has that franchise is a whole citizen and a citizen of the whole nation, and cannot be such citizen in one State and not in another. Some ingenious persons have tried to draw a distinction between Federal and what they are pleased to call State citizenship. It was the opinion of Mr. Marcy, when Secretary of State, that all persons born in the United States were citizens of the United States, not referring, of course, to slaves—slavery at that time existing in this country.

We all know that no State has the authority to make a citizen of the United States. The Constitution vests in Congress the sole power of naturalization, and it may make a citizen of a foreigner; but it is true that when a person becomes a citizen of the United States he is not also a citizen of every State wherein he may happen to reside? Sir, I am aware that there are men who question the soundness of this proposition, and for their benefit I would refer them to a decision of the Supreme Court of the United States delivered by Chief Justice Marshall, the most eminent jurist who ever sat upon an American bench. In this case, *Gasus vs. Ballou*, reported in 6 Peters, page 762, the Chief Justice, in delivering the opinion of the court, says:

"The defendant in error is alleged in the proceedings to be a citizen of the United States naturalized in Louisiana and residing there. This is equivalent to an averment that he is a citizen of that State."

"A citizen of the United States residing in any State of the Union is a citizen of that State."

In a speech delivered by Hon. Reverdy Johnson, published in the *Daily Globe* of January 31, 1866, the honorable gentleman said:

"It is very desirable that we should cease to consider for a moment that in relation to citizenship and rights there is, as far as the Constitution of the United States is concerned, any difference on account of color."

"There are all sorts of notions, having no foundation in fact or in law, broached from time to time by individuals or classes of individuals, but I suppose that if the Constitution declared that all persons born in the United States should be citizens, nobody would be able to raise a reasonable doubt that it included the black man."

"I conclude, therefore, with what I said in the beginning, that it seems to me very desirable that we should, upon the very first occasion that arises, and upon every occasion, if any future occasion should arise, say at once virtually, by ceas-

ing to use the term 'distinction of color,' that in the judgment of the American Senate and of the people of the United States there is no such distinction."

And to this already overwhelming testimony let us add the first section of the fourteenth amendment to the Constitution of the United States.

As to the objection, not in law but in sentiment only, that if a colored man can be a citizen of the United States he might possibly become the President, the legal inference is true; there would be such a legal possibility. But those who make that objection are not arguing upon the Constitution as it is, but upon what in their own minds and feelings they think it ought to be.

The second article of the Constitution, section one, speaks of "natural-born citizens," and if asked for our evidence of citizenship what would be the answer? Sir, in my opinion we have no better title to the citizenship which we enjoy than the accident of birth, the mere fact that we happen to be born in the United States. The Constitution in speaking of natural-born citizens, uses no affirmative language to make them such, but only recognizes and reaffirms the universal principle, common to all nations and as old as political societies themselves, that the people born in the country constitute the nation, and as individuals are natural members of the body-politic. If this be a true principle, and I hardly think it will be denied, it follows that every person born in the country is at the time of birth *prima facie* a citizen; and he who would deny it must take upon himself the burden of proving some great disfranchisement strong enough to override the "natural-born" right as recognized by the Constitution in terms the most simple and comprehensive, and without any reference to race or color or any other accidental circumstance. That nativity furnishes the rule both of duty and of right as between the individual and the Government is a historical and political truth so old and so universally accepted that it is useless to prove it by authority.

In every civilized country the individual is born to duties and rights—the duty of allegiance and the right to protection. These are correlative obligations, the one the price of the other, and they constitute the all-sufficient bond of union between the individual and his country. I have said that, *prima facie*, every person in this country is born a citizen, and that he who denies it in individual cases assumes the burden of stating the exception to the general rule and proving the fact which works the disfranchisement. This is the law of birth, the common law of England, clear and unqualified, and now, both in England and America, modified only by statutes made from time to time to meet emergencies as they arise.

It has been strenuously insisted by some of the honorable members upon this floor that persons of color though born in this country are not capable of being citizens of the United States. As far as the Constitution is concerned this is a naked assumption, for that instrument contains not one word upon the subject. The exclusion, if it exists, must then rest upon some fundamental fact which in the reason and nature of things is so inconsistent with citizenship that the two cannot coexist in the same person. Is mere color such a fact? Let those who assert it prove that to be so. It has never been so understood nor put in practice in the nation from which we derive our language, laws, and institutions, and our very morals and modes of thought; and, as far as I know, there is not a single nation in Christendom which does not regard the new-found idea with incredulity if not disgust. What can there be in the mere color of a man to disqualify him from bearing true and faithful allegiance to his native country and for demanding the protection of that country? And these two, allegiance and protection, constitute the sum of the duties and rights of a natural-born citizen of the United States. The term "citizen,"

as understood in our law, is precisely analogous to the term "subject" in common law, and the change of phrase has entirely resulted from the change of government. The sovereignty has been transferred from one man to the collective body of the people, and he who before was a "subject of the king" is now a citizen of the State.

Now, Mr. Speaker, the fact of citizenship having been established, the next question is, what are the requirements of civil society as regards the guarantee therein implied? Do we not find society divided off into different grades and ranks, and the one not associating with the other—still are they not all entitled to the same political rights and privileges? You do not take a man's vote from him because he labors in the streets, or is a drunkard, or is a man of immoral character, and why then seek to deprive these people of the right to vote when many of them may be persons of great intelligence and many virtues. By this assumption of power you claim a moral superiority over these people? You claim the right to rule them, and you impose upon them the duty of obedience, and it is thus that you create differences which never can be reconciled. Sir, it is a false idea, and one which ought not to be cherished by the intelligent citizens of this great Republic. Give the black man his rights and you make him a contented and useful citizen; but take away from him those rights which belong to him and his bosom will rankle with hate and discontent will prevail among his class. Do him but that justice which he has a right to claim and he will be satisfied. The black man does not and will not claim to associate with you, but he does think that he is entitled to certain political rights, such as the right of voting at an election, and especially when he has paid a heavy tax to the support of your Government, and if you refuse him this he will look upon you with jealousy and hatred, and upon this Government as a Government of injustice and oppression.

Sir, in my opinion, in this age of progress, the time has now come that the Constitution of these United States should be so amended as to give to every citizen, whether in poverty or affluence, whether white or black, that right sacred and dear to every American citizen—the right of suffrage. Sir, is poverty or color a crime, that it should deprive an American citizen of this boon? Should he who by our laws may be called upon to take up arms in defense of your families, your firesides, your property, and your liberty be deprived by law from exercising this inestimable privilege? Should those patriotic colored men and their posterity, who when their country called flocked to the Army and the Navy in defense of that country, and bravely shed their blood in the struggle to perpetuate this Union, have fewer rights than the demagogue or base worshiper of the golden god?

How is it that every person born in these United States owes allegiance to the Government? Everything he has, his property and his life, may be taken by the Government of the United States in its defense or to maintain the honor of the nation; and can it be that our forefathers struggled through the revolutionary war and set up this Government, and that the people of our day have struggled through another war with all its sacrifices to maintain it—sacrifices including half a million new-made graves, filled without regard to race, color, or previous condition, which to-day rear their grassy mounds toward heaven marking the last resting-place of the gallant dead—and at last that we have got a Government which is all-powerful to command the obedience of the citizen but has no power to protect him in his natural, inalienable, and inherent rights? Is this all your boasted American citizenship amounts to? If so, go tell it to the father whose son was starved to death at Andersonville, or the widow whose husband was slain at

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Fort Pillow, or the little boy who leads his sightless father through the streets, made blind by the winds and sands of a southern coast, or the thousand other mangled heroes to be seen on every side, that this Government, in defense of which the son and the husband fell, the father lost his eyes, and the others were crippled, had the right to call these persons to its defense, but has no constitutional right or power to bestow the right of suffrage to the survivors or their friends who are now citizens of the United States. Sir, it cannot be. Such is not the meaning of our Constitution, neither is such the meaning of American citizenship.

But, Mr. Speaker, much has been said by the gentleman from Wisconsin [Mr. Eldridge] about the intention of the framers of the Constitution. Sir, I think their intention cannot be misunderstood when it is remembered who enjoyed the right of suffrage at the adoption of the Constitution, and that nowhere in that instrument or the Declaration of Independence can the word "white" be found; and when the Articles of Confederation were discussed in the Continental Congress the word "white," which was then sought to be thrust in as an amendment to article four, between the words "free inhabitants," was defeated by a vote of 8½ to 2½ yeas. The amendment referred to was offered by the delegation from South Carolina, and upon which eleven States voted. Again, the gentleman says that nowhere in the Constitution is the grant of power given to Congress for regulation of suffrage. Sir, such may be the correct interpretation of that document, but I contend that the right of suffrage, as I have already said, is "natural, inalienable, and inherent;" and if the gentleman will refer to the Journals of Congress of 1778, volume four, page 379, he will there learn that it was so regarded when the question arose to insert the word "white" in the Articles of Confederation.

Again, Mr. Speaker, the gentleman from Wisconsin [Mr. Eldridge] has caught up the word "party" and rung the changes upon that. He says that "party" has kept the dissevered fragments of the Union asunder since the war ended. Sir, let me ask the gentleman what "party" it was that dissevered or tried to break the Union into "fragments." And here, Mr. Speaker, in support of the doctrine that the right of suffrage was enjoyed by every free inhabitant, and that suffrage was considered as "natural and inherent," let me call your attention to what was then called the Northwestern Territory, now the State of Ohio. Previous to the first constitutional convention, held in 1802, free colored persons voted in that Territory under the ordinance of 1787, which made no distinction on account of color or previous condition, and when the proposition was submitted to the convention to insert the word "white" in their constitution it was only carried by the ballot of the president, who happened to have the casting vote.

Since this is the law as touching citizenship and the obligation of the Government to protect each citizen in the enjoyment of the rights implied therein, it must be conceded that it is either the duty of the State government or the national Government in the exercise of a power and authority expressed or implied in the law to guaranty, by appropriate legislation, the possession and exercise of these rights to every citizen. It is declared in the Constitution of the United States that the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States. This rule of the Constitution cannot be properly enforced, and the privileges implied enjoyed in the full and free sense indicated without a rule with regard to the qualification of electors in the several States which shall be universal and uniform.

This rule, Mr. Speaker, in my judgment, should be established by constitutional amendment, and as proposed by the honorable Rep-

resentative from Massachusetts; otherwise it will be subject to change, and thus of uncertain duration and use.

And this rule, universal and uniform, should be distinguished for its reasonableness and justice, its impartiality and accordance with the American idea of democratic republicanism. This rule adopted, and the vexed question, what is the status of the negro in American politics? will be forever settled, and that, too, without injustice to him or outrage to the sentiment either of Christianity, democracy or law. With slavery abolished, and the last relics of the barbarism which it has entailed upon us removed, our Government, State and national, will have entered upon that career of usefulness and glory in which we shall realize the fond anticipations of the fathers, when, declaring the independence of our country, and establishing for themselves and their posterity what they regarded as a genuine democracy, they pledged to its support and maintenance "their lives, their property, and their sacred honor."

Suffrage.

SPEECH OF HON. S. SHELLABARGER,
OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

January 29, 1869.

The House, having under consideration the motion to reconsider the vote by which the bill (H. R. No. 1667) to secure equal privileges and immunities to citizens of the United States, and to enforce the provisions of article fourteen of the amendments to the Constitution, and the joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States, were recommitted to the Committee on the Judiciary—

Mr. SHELLABARGER said:

Mr. SPEAKER: In the brief time allotted to me I cannot undertake to discuss a question of such magnitude as that before the House. I will occupy my time in the first place by briefly referring to the points of difference between the proposition now pending, submitted on behalf of the Judiciary Committee by the gentleman from Massachusetts, [Mr. Boutwell], and the one which I had the honor to propose the other day as an amendment.

The proposition of the Committee on the Judiciary is, that we shall so amend the Constitution as to provide that—

The right of any citizen of the United States to vote shall not be denied or abridged by the United States or any State by reason of the race, color, or previous condition of slavery of any citizen or class of citizens of the United States.

My proposition is to provide that—

No State shall make or enforce any law which shall deny or abridge to any male citizen of the United States of the age of twenty-one years or over, and who is of sound mind, an equal vote at all elections in the State in which he shall have such actual residence as shall be prescribed by law, except to such as have engaged or may hereafter engage in insurrection or rebellion against the United States, and to such as shall be duly convicted of treason, felony, or other infamous crime.

These two propositions agree in assuming a negative form, as it is commonly denominated, the form of a prohibition as against the exercise of certain powers by the States. They differ, however, in this essential respect. The committee propose simply to prohibit the States from making discriminations among the various classes of citizens, based upon any of these three grounds, namely, race, color, or previous condition of slavery. The objection that I have to that is one that is almost insuperable to my own mind, though I say here that if no other proposition shall be presented and brought to a final vote, I shall vote for his in the form in which it is submitted.

But I wish now to express the hope in the hearing of the gentleman from Massachusetts and of the House that he may find it best, for the reason I will now state, to modify his own proposition, if the one I have submitted,

or something embodying its principles, shall not be adopted as an amendment. The consideration which I say seems to me almost fatal to his plan is, that it leaves still, substantially, the great mischief unremedied which the exigencies upon us demand that we shall correct; and that is, that it leaves to the States the power to make discriminations as to who shall vote. These discriminations may be on the score of either intelligence or want of property, or any other thing than the three things enumerated in his proposition.

Mr. Speaker, the event which has impelled, by a common instinct, the loyal mind of the country to demand of us any amendment at this time relating to suffrage is mainly that one by which four million of our people have been suddenly admitted to the rank of free citizens, and the overwhelming necessity that their loyal votes should be made available as the basis of loyal State governments, and as indispensable to the organization of any reliable State governments in the late rebel States. It is this wonderful event, one of those which come along once in a while in the providence of God, that has brought upon our country the great controlling reason for the amendment we consider. The time told of by the murdered Lincoln had come when that blood which we during two centuries drew by the lash from the veins of the slave had been compensated by an equal sea of blood drawn from our veins by the sword. And when that time had come, these four million men who were made ignorant and destitute by those centuries of wrong were made free. It is this stupendous fact especially which calls upon us for this amendment. But, sir, the body of this race, made ignorant and destitute by our wrong, may substantially all be now excluded from the elective franchise under a qualification of intelligence or property, or any other than the three named in the pending amendment, which qualification may be prescribed in the State laws, and is not prohibited by the gentleman's amendment. I submit to my distinguished friend that we fail to come up to the imperative demands which these momentous events impose upon us if we fail to meet that exigency to which I have alluded, and which, in the main, creates the necessity for this amendment.

Sir, I plead for these people who have been suddenly thrown by this strange providence upon the justice of their Government and the charities of God and their country when I implore that we shall make no mistakes here. Sir, a mistake here is absolutely fatal. Let it remain possible, under our amendment, to still disfranchise the body of the colored race in the late rebel States and I tell you it will be done. It is both impossible and useless to argue here. The overwhelming and ocean-like volume of facts which comes to us every single day of our lives in undissenting voice proves that the master white race will submit to negro enfranchisement not an hour longer than compelled to by Federal coercion, or as a necessity to reacquire admission to national power. And even now the very delegates here from Virginia and other States, on the mission of making their States seem lovely, loyal, and submissive, have the manliness to say—all of them—that their people are unanimously and violently opposed to negro suffrage, and only yield to it as Lee did to Grant at Appomattox, as "accepting the situation."

I wish here to-day to put upon record my solemn warning to my fellow-members against an act which shall legalize the disfranchisement of the vast body of the loyal race of the South. I wish to make here the prediction and the warning that, should we make our amendment so that this can be done, then it will be done; and being done, a loyal State government in the late confederate States is instantly made to be impossible. Sir, we may sing and coo as dulcet as the dove, peace, peace; but the ugly fact will remain as stern, relentless, and terri-

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ble as ever that the rebel and master race at the South are not the lovers of this Union, but are lovers of the "lost cause." While they may now even mean submission because they see no hope in aught else, yet, sir, he is unutterably mad who will so frame and amend the Constitution now as that we shall put these States and their only truly loyal people under the mastery of these mourners for "the lost cause." What a cause! The most infamous and godless which ever arose or perished in human annals, because it was a cause which aimed at building the fabric of human government upon the enslavement and chattelization of the soul's of God's poor, and to do this by the perpetual overthrow of the only free Republic in the world. Make it possible, sir, for men whose moral sense is such to-day that all over that beautiful and treason-blighted South they boast that they are still mourners for such a lost cause to disfranchise the race as to which they to-day avow their poignant and undying grief that they could not chattelize forever, and will they not disfranchise them? Sir, once more here in my place and in the audience of the people's Representatives and of the people I say, be warned! Sir, they will—it being left only possible—they will. Here, truly, it is true that blunder is worse than crime.

And, sir, can I be mistaken when I say that under the amendment of the gentleman from Massachusetts these "mourners for the lost cause" can disfranchise the vast, overwhelming mass of the colored people of the entire South? Sir, it is impossible that I should be mistaken. The gentleman urges upon me as a reason why he prefers his amendment to the one I offer and prefer that mine would render the constitution of his own State unconstitutional, because Massachusetts requires that a voter shall be able to read; while his plan would leave it in the power of the States to continue and enforce an exclusion from the ballot because the man could not read. This position confesses the almost fatal defect of his plan. This colored race cannot now read because we have for these centuries shut them from the light; they are poor, because we have during these centuries stolen their property. And now we are about to make an amendment to our organic law—and which is to be as eternal as the Government itself—by which we say to the oppressing race, "You may forever in the future, as you have in the past, keep away from these people both knowledge and property, by keeping away from them the ballot," that highest defense of the rights of a freeman, and the surest (and to the late slaves indispensable) means of elevating his condition as to intelligence and property. If the gentleman's amendment is to become a part of the Constitution, Mr. Speaker, I profoundly hope I may be mistaken in these views.

I shall, as I have said, vote for it if we can get no better; but only because he removes three grounds which now exist for disfranchising whole classes and races of virtuous and loyal citizens of the Republic. Sir, the pity is, "and pity 'tis, 'tis true," that it removes only three, and leaves whole races and classes and masses of the citizens of the Republic to be robbed of the very highest right of every free citizen for every other reason which the master race may conceive or contrive except only these three. Should it so pass this House I trust it may take a better form in the Senate, where they have opportunities for debate and comprehending it which the previous question and press of business prohibit here.

One single other suggestion in regard to the proposition which I have submitted in connection with the one submitted by the gentleman from Massachusetts. I respectfully call his attention to the fact that his amendment is one which, if his position, taken the other day in his able and elaborate argument, be right, and if there be in Congress now the power to secure the elective franchise to all

the people without this proposed amendment, then this amendment will add to the mischiefs it aims at remedying instead of relieving them. That happens in this way: he simply prohibits the States from exercising the power of disfranchising for either one of the three grounds, namely, race, color, or former condition of slavery; thus by plain inference authorizing the States to disfranchise upon any other grounds than these three. This is upon the well known and universally recognized principle of law, *expressio unius exclusio alterius*. That which we have not prohibited to the States will be, by his form of amendment, added to the powers of the States, if, as he argues, they have it not now, and we will enable them to disfranchise for every conceivable cause except only his three. To say in the Constitution that the States shall not disfranchise for certain three specified causes is to say that the States may disfranchise for any or every other cause. We thus, as seems to me, make the Constitution worse, and hand over to the States powers of disfranchisement over which the United States will thus have parted with all control, and we will surrender to them complete and paramount sovereignty in a matter essential to the very being of the Government of the United States, resting as it does on the suffrages of the people.

Now, Mr. Speaker, I will not proceed further to discuss this proposed substitute submitted by myself, but will beg such attention to it as members may be inclined to give it before we come to the vote. I did want to call attention to the reasons why we should now submit some amendment securing to all the citizens of the Republic a just participation in the election of its rulers. I regret that my time will not at all permit me to do this in any adequate way. One of these reasons is to be found in the fact that the proposition in itself is so eminently right that it cannot fail to commend itself to the approval, it seems to me, of all right-minded men. Right, I mean—in regard to its relations to the Constitution. The framers of the Constitution thought that they had so made that instrument that they deemed the provisions in regard to who should elect the Federal rulers were substantially unalterable by the States. They also deemed this regulation of the franchise, by which the rulers and the laws of the Republic were to be made, one absolutely fundamental and going into the very essence of the Government, and one which could not be left to the States. This is not only one of those self-evident things about which there can be no debate, but it is so expressed, over and over, by those who made the Constitution. Mr. Hamilton says, (see *Federalist*, 403:)

"The definition of the right of suffrage is very justly regarded as a fundamental article of republican government. To have submitted this to the legislative discretion of the States would have been improper, because it is fundamental, and for the additional reason that it would have rendered too dependent on the State governments that branch of the Federal Government which ought to be dependent on the people alone."

He also says, speaking of the clause making electors the same as for the most numerous branch of the State Legislatures, that—

"It will be safe for the United States, because being fixed by the State constitutions it is not alterable by the State governments."

But in speaking of the declaration by Mr. Hamilton that the Constitution's definition of the qualifications of Federal electors was "not alterable by the State governments," Mr. Story says (1 Story on Constitution, section 586) "the provision has not in fact, and may not have, all the security against alteration so confidently affirmed." Thus it is seen, first, that the makers of the Constitution did regard this power of defining the qualifications of Federal electors fundamental, and one which the Convention could not properly leave to the States; second, that they thought that as they had arranged it in the Constitution it was substantially "unal-

terable by the States;" and third, that their expectations as to this last have not been historically realized. This vital power of Government has turned out, in practice, to be one not only "alterable by the States," but one which the States have so used as that in many of them the masses of the people who are loyal to their country and who have not gone into a stupendous rebellion for the overthrow of the Government, could and would to-day be wholly deprived of all powers of government by the assumption of the elective franchise, by those alone who did engage in such rebellion. So startling a fact must impel us, by its irresistible forces, to go at once to the remedying of so grave a defect in the Constitution as that one is which leaves to the States, only and supremely, the matter of making both the rulers, and through these, the laws of the Republic.

Now, I appeal to the gentlemen upon the other side of the House, and on all sides, if I am not arguing the merest truism when I say that that Government is not a Government at all that has not in itself power to control the question as to who shall make the rulers of that Government, and which, for that very reason, has not in itself the power of either making or executing its own laws. It is fundamental, essential, as Mr. Hamilton said it was. Therefore I appeal to the other side of the House when I say that the thing is, in the philosophy of government and in logic, right. And it is therefore an amendment, in so far as it makes a Federal definition of Federal electorship, required by the plainest and most elementary principles of every free Government.

But, sir, it is feared that this time for the submission of this amendment is inopportune, as there are Legislatures now in existence unfriendly to it, and which will defeat it. To that point I want to direct some remarks.

Sir, this proposition once submitted to the States by a two-thirds vote of the Congress is irrevocable except by a like two-thirds vote withdrawing it. If we now do our duty and submit it, it will remain submitted and pending as the proposal of the United States before the States until the States shall have acted upon and accepted it, or until it shall have been withdrawn by such two thirds vote of the Congress which could alone submit it. So that it will be competent for a State, after it has been once rejected by the State, to elect a new Legislature that shall adopt it. It tends continuously as proposed until it is so withdrawn or ratified. It seems plain that it must be so that a bare majority of the Congress cannot repeal what could be submitted by two thirds only. These submissions of amendments by resolution of two thirds of Congress are not in the nature of laws. They do not require or properly admit of being approved or disapproved by the President. So it is decided by the Supreme Court. (See *Hollingsworth vs. Virginia*, 3 Dal.) So it was held by Mr. Lincoln in a special message, and so is the now established doctrine of this Government. The fact is that this is an anomalous and peculiar exercise of their sovereignty by the people through their Representatives by which is submitted to themselves the question whether they desire to amend their Constitution in a prescribed respect and manner. When the people have thus once acquired jurisdiction of this great question regarding their own Government, that jurisdiction cannot be wrested from them by any mere law or joint resolution of Congress.

A law or joint resolution and the President's approval could not give the jurisdiction to them, and surely it cannot take it away. If the President could not be consulted as to the propriety of its being submitted, as we have seen he could not be, then is it possible that he can or must be consulted as to the propriety of taking it away? If he may not judge of the question of its being fit to be submitted, shall he be permitted to decide whether it was

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fit to be continued before them or ought to be repealed? But if it can be repealed in the ordinary way by law or joint resolution, then every such measure must be submitted to the President and approved by him, or else passed over his veto, and you have the absurdity of the President being so endowed with power touching the question of the amendment being fit to be continued with the States for their ratification as to be equal to one sixth of the entire Congress of the United States, and yet as to the question whether it should be submitted to them the day before, he has no power at all! This is plainly impossible. The truth is this provision of our Constitution is wholly unknown in other Governments—is to enable the sovereignty (the people) to get before it by a prescribed and peaceful method the question of altering the fundamental law of the Government, and to retain it and decide it, and thus to do under the peaceful forms of law what in other Governments are usually attained only through convulsions, revolutions, and wars. In its nature, therefore, it is the exercise by the supreme sovereignty of its great reserved powers; and from this supreme power no less a part of that national sovereignty can take away their right to consider, to deliberate, and to change their government than that one which alone could submit it.

And, again, Mr. Speaker, this view is enforced by the history of the Constitution's and its amendments' adoption, as is also the further proposition, that a rejection by a State is not conclusive, but such State may afterwards ratify. The Constitution itself provided in its last clause that it should be established between the States ratifying it when ratified by nine States.

It was submitted for ratification 17th September, 1787, and not ratified by Rhode Island until 29th May, 1790. Several of the State Legislatures who had either omitted or refused to ratify did ratify in subsequent years.

The first ten amendments were submitted 21st September, 1789, and not ratified until 15th December, 1791. The eleventh amendment was proposed on 5th March, 1794, and not ratified until 8th January, 1798, nearly four years after its submission. I have alluded to these facts both to prove and to impress the fact upon Congress, first, that now is the only time which can happen for years when Congress will have the two thirds (favorable to equal suffrage) which is required to submit this amendment; and second, that if we now do our duty and submit it to the people, then the people cannot be deprived of their right to consider and adopt the amendment until two thirds of the Congress shall wrest it from them, which cannot be at all.

There is another reason for submitting this amendment now which, though perhaps not precisely vital, is of exceeding force. It is that by our reconstruction laws—now accepted by the country as permanent—we have required the reconstructed States to submit to equal suffrage. We have done this mainly, I admit, because it was absolutely impossible to organize or guaranty republican governments down there at all unless we enabled the only loyal race there was there to vote. This fact, distinguishing the northern from the southern States, might, perhaps, justify us in requiring temporarily of them what we did not accept for ourselves. But if this be so, it can only be temporarily so; if, indeed, as we all devoutly hope, general loyalty is ultimately to come back to the South. We must, therefore, speedily either let the South disfranchise its colored races if they will, or else enfranchise our own, or else compel a submission by sister States to a rule of elective franchise pronounced by ourselves, dangerous and ruinous to us. To so compel them permanently to submit to what we refuse ourselves to accept is dishonor—a dishonor which will soon become revolting to the sense of fair play for

which the American people are not undistinguished, and will shock the moral sense of mankind. This consideration has exceeding force in impelling us to at once make the law of enfranchisement national, universal.

But, Mr. Speaker, these reasons for the adoption of the amendment making the citizens equal in the enjoyment of the best right of citizenship, though each important in itself, become so trivial in contrast with the great reason for it that we hesitate at even naming them. The decisive argument for the amendment is that it is right. In determining whether it is right, what we have to consider and to debate and to adjudge are problems like these, and only problems like these; is the right to vote in a Government where votes make the Government's Constitution, laws, and rulers and unmake them, a right worth having for one's protection or elevation or self-defense? Or is it, on the other hand, better for all these that a privileged and proud and prejudiced class should do all the voting, and make and change and abolish all the constitutions and laws and rulers for me—me unconsulted but subject! The ballot being both the highest franchise and highest defense of a freeman, ought a free citizen who endures all the burdens of his Government be by it denied its highest means of defense merely because he is dark or light, poor or rich, high or lowly? Sir, I tell you that it is precisely true that only questions as plain, or rather absurd as these, are involved in determining the righteousness of this great measure. Others may if they will, but I cannot debate here. It may yet, in this nineteenth century of our Lord's grace, be a question in doubt and darkness whether Governments ought to be contrived and made on purpose so as to impose upon the poor and lowly its burdens equally with the high, and then deny to the former the chiefest means for the rescue of themselves and children from being the poor, lowly, and suffering.

It may be yet, in political science, one of its unsolved problems whether these poor do not need their Government's protection as much as do the opulent, the defenseless as much as do the powerful, those ready to perish as much as do the prosperous and mighty. It may be that the moral sciences which go into the structures of our Christian civilization have not yet found out whether it is magnanimous or pusillanimous, honor or dishonor, courage or cowardice, virtue or crime, for the powerful to so contrive their Government's structure as to put upon the weak and lowly the common burdens of their Government, and then to take from them and their children forever that supremest right of their citizenship which best secures their elevation, defense, and happiness. But, Mr. Speaker, if these be, indeed, yet questions in our moral or social or political or religious or legal science, or in any other science, which are unsolved, then its non-solution turns that science, where such questions are unknown things, into the monstrous, and we turn away from arguing them, not as we do when invited to prove that things equal to the same thing are equal to each other, with the sense that our reason has been insulted by the invitation, but we turn away from their argument with the feeling that our very instincts of honor and manhood have been outraged by the invitation to such debate.

Mr. Speaker, the argument which is to make it and to keep it forever part of the foundation law of the Republic, that all its virtuous children shall be to it equals, is the argument that this is right. In the light of such an argument all others of expediency or convenience pale and disappear. He knows little of the resistless currents of our national mind and heart who sees not that that which is a wrong to those vast masses of our countrymen who are most of all in need of their rights is to be swept away speedily and forever by the conscience of our people and age.

Mr. Speaker, I have alluded to the righteousness of this great measure rather for the purpose of saying that its ultimate adoption by the States is certain, than to show that it is right or that we ought to pass it through Congress. Sir, I not only do not doubt its ultimate adoption, but I also believe it will be speedily adopted. I know that good men hesitate and fear that this measure is premature and out of time; and that it will turn this Government's control over into the hands of its recent "public enemies." Mr. Speaker, I do not expect such results; but if they come from our advocacy of a measure so plainly just to all the people, then it will not be our wrong, but our opponent's, which shall bring the disaster. Besides, sir, the great party of liberty which has saved the Republic during its last decade, and which has also ruled it, cannot pause, if it would, here. If, indeed, ruin be ahead if we advance in the discharge of this high duty now, yet both ruin and dishonor lie in retreat. If it be so that part of that great army of liberty which has just rescued and redeemed the Government has turned craven and timid and will desert and retreat as its old comrades go forward in obedience to imperious duty, so, on the other hand, will other parts of it desert should we now hesitate or turn back in retreat. Mr. Speaker, it is absolutely plain that for the Republican party of America to-day the path of safety is the path of duty. All the instincts of our common loves of liberty, equality, and fair play; all the memories, histories, and glories of our great party of freedom; all the senses of magnanimity, of chivalry, justice, and merest decency, which make us revolt at robbing the lowly and their children of those rights and franchises of freemen to which they are entitled as much as we, and which they need far more than we, tell us where that path of duty is. Nay, nay, Mr. Speaker—God, who made of one blood all the nations—God who maketh it so that righteousness exalteth a nation—God who careth for his poor as he doth for his sparrow; God hath shown us which way goes the path of this nation's duty. To go in it is virtue, honor, and success. To go from it is crime, dishonor, and overwhelming disaster and defeat.

But, Mr. Speaker, I have no fears of disorganization and defeat. The Republican party was never more compact in its purposes, its organization, and all its moral forces than to-day. It means success. It will consummate speedily its sublime mission in making equal in the political rights of freemen all the citizens of the Republic whom it has just made equal in their civil privileges. Such are its purposes. Its ability to consummate them is seen in that near half a million of majority by which it has just selected the Chief Magistrate of the Republic. And, sir, I see in that magistrate's incoming administration many and high promises of prosperity and of good for the Republic; and as not the least of these I see assurance of the success of the constitutional amendment if such assurance were needed. That administration will not (as it ought not to) obtrude itself into the control of policies or questions which belong to the people. But, sir, he knows little of the forces which influence and guide and at times control the currents of the popular mind and heart who makes no account of the silent but potent moral power which even the known opinions and wishes of a great and revered and virtuous ruler have upon popular decisions in public affairs. Who can compute the force of the advice or even opinions of our early Presidents or of Mr. Lincoln, in popular decisions? And who affirms that these men improperly obtruded executive dictations into the affairs of the people? Or who will say that General Grant has not to-day upon the confidence, the gratitude, and the love of the people a hold beginning to be only second to Washington?

Sir, men tell us that this strange apparition which has stalked so suddenly—a colossus—into

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the arena of human affairs, and who challenges the wonder and admiration of mankind, is incomprehensible, delphic, unknown, silent. Sir, the patriot whose life has been on his country's side is ever comprehended by the people. The incoming President is not, perhaps, an orator "as Brutus is;" but he is to his countrymen not "The silent." He hath spoken to them in speech which they comprehend right well; speech where the sentences are wars, the words campaigns, the syllables battles, and the very letters victories; deeds which as they have fallen one by one from that strange hand of iron and of destiny have dropped into the story of his country, epochs, and of the world—history. It is these utterances of General Grant's life, all unambiguous, patriotic, illustrious, that make him not only not uncomprehended by his countrymen, but the most comprehended of his country, of his age, and, indeed, of his century. And it is these which have given to him that place in the confidence, the gratitude, and love of his people which will give to his administration moral forces with the people like those possessed by his first and most illustrious predecessor. These forces will be exercised, as I have said, in no other way than that expressly provided for by the Constitution, as recommendations for the consideration of Congress and the people who make the Congress, or else by those silent but sublime persuasions which the wishes and example and opinions of a good and wise ruler ever exert upon a people who regard him with admiration, confidence, and gratitude.

General Grant's earnest, cordial, and anxious support of an amendment which shall secure to all the virtuous citizens of the Republic equality in all the benefits of their Government, including the elective franchise, is open, avowed, and unambiguous; and the constitutional amendment will have the moral sanction and support of his administration in so far as such support would be proper.

Mr. Speaker, the success of the amendment is not therefore in doubt. Once submitted this word of a great people, uttered in accord with the attributes of God, will be like His word—one that cannot return unto us void, but "will accomplish that whereunto it was sent." Because the measure is in itself intrinsically and evidently just, all the attributes and energies of good men throughout the world will fight on its side; because it is just the very elements and forces of our common Christianity and civilization will fight on its side; because it is just all that is true and good in the science and the literature of our age will fight for it. And, sir, if I be not mistaken in deeming the measure just, then I am not irreverent in saying that the attributes of God will fight on its side.

Here, sir, I leave the debate, confident that by the sublime fiat of the people it shall soon be enacted into unchangeable and organic law of the Republic that all her children who are equal in their virtue and fealty shall be equals also in their country's protection and care, and equals in their powers for its government and preservation.

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SPEECH OF HON. C. M. HAMILTON,
OF FLORIDA,

IN THE HOUSE OF REPRESENTATIVES,

January 29, 1869,

On the joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States.

Mr. HAMILTON. Mr. Speaker, in the performance of a pleasing duty it was my fortune to present to this House, in July last, a memorial from the constitutional convention of Florida, praying Congress to propose an amendment to the Constitution of the United States establishing equal and uniform suffrage

in all the States of the Union. That memorial was referred to the Committee on the Judiciary, and I shall be more than gratified if it was at all instrumental in urging, less encouraging, that distinguished committee to report the amendment, having for its aim the accomplishment of that high object which was so powerfully sustained by its distinguished chairman, the honorable gentleman from Massachusetts, [Mr. BOUTWELL,] in a speech as remarkable for its convincing argument, comprehension, and ability, as for its eloquent breathings of devotion to the rights of man.

I have listened with peculiar gratification and attention to the many able, earnest speeches in support of and against this great measure, and although enough has been said already to convince the most opposite mind of its justice, wisdom, and necessity, and impel the most obdurate heart to its cordial support, I beg leave to add my feeble voice in furtherance of this noble movement in the cause, not only of humanity, but also of human administration and republican government. The law, the authority under the Constitution, the duty and expediency upon which this suffrage amendment finds its solid support, has been so thoroughly and ably presented—and I gladly leave that phase of the question to wiser heads—that it will be my endeavor, briefly and imperfectly as I shall, to present the justice, right, necessity, and obligation upon which it finds no less substantial foundation.

Mr. Speaker, it is the fortune of the American people to live under a government exclusively, entirely, resting upon and administered by their own free will. To execute that will, to secure its free expression by the citizen, to insure the personal security of the individual and the safety of his possessions and to protect his rights and immunities is the great object of this Government; and because of these, its grand purposes, it is happily denominated a "republican form of government." And to perpetuate this form of government, "we, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity," do make it solemnly obligatory upon the United States, the General Government, the Congress, "to guaranty to every State in this Union a republican form of government," and to "the citizens of each State all privileges and immunities of citizens of the several States."

It is unnecessary to ask if all the requirements of the Government have been observed, all the obligations of the nation adhered to, all the demands of the people answered, all their rights respected, and all their liberties, privileges, and immunities guaranteed to them. Has the nation been just to itself; has the Government been true to the principles of its creation; have the States conformed their legislation to the expressed will of "we, the people of the United States," in securing the personal rights and liberties of all "citizens of the United States" and of every integral portion of our population? We are astounded by the answer that there are upward of two hundred thousand of our fellow-American citizens whose right of suffrage has been not only ignored, but denied them. No, not denied—for that would suppose an option of a gift on the part of the Legislature, State or national—but deprived them; an indication of something unjustly, illegally withheld, which I mean to convey by the assertion that the right of suffrage is inherent, inalienable, as far as human government is concerned, and by easy inference is so declared to be by the Declaration of Independence.

The fathers of our Republic, speaking through that sacred oracle of our liberty, assert, and none are so bold to deny it, that "we hold these truths to be self-evident, that all men are

created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness." Life, liberty, and the pursuit of happiness are here made the three grand divisions of inalienable human rights or the purposes of man's temporal existence. The object of civil government being to secure and maintain these inalienable endowments of the Creator to man, is it not apparent that the right of suffrage, the right to a voice in the government by which almost every human act is regulated, closely underlies these great objects of our creation? Without the elective franchise; without a voice in the making of laws by which he is controlled and to which he is amenable; without an option as to who shall administer them or how they shall be administered, what insurance has a man of his life, what security for his liberties, what protection in his pursuit of happiness? If this seems strongly drawn it is only because we live in an enlightened Christian age and country, and are a moral, generous people.

But that does not alter the facts or the argument. And here, may I ask, what is the best policy in political affairs as well as in all others? Honesty all would answer. Yet when it comes to the rub and evil looks threatening we are often ready to doubt the universal application of the maxim that "honesty is the best policy;" and many who admit its correctness in theory do not always have the courage to practice it in trying circumstances. Such was the case with the men who nominated General Grant and our distinguished Speaker. The men of that convention, unless they would not see, could not fail to see an attempted mixture of truth and error in the second resolution of their platform. They could not say that "the guarantee by Congress of equal suffrage to all men is demanded by every consideration of" right and duty as well as of "public safety, of gratitude, and of justice." They could not admit Congress had the same right to regulate suffrage in one State as it had in another. It is true that in reconstructing the rebel States Congress was bound to see to it that it was done according to the principles of republican government, and done at the time they were being organized and not afterward. And further, Congress could do no more or less than to act according to its own convictions of what was essential to republican government. When the question is raised as to the anti-republican character of any State government Congress is bound to take up the question and decide it according to its own judgment.

According to a rigid interpretation of our present Constitution—the clause which enjoins the guarantee of a republican form of government—members could not be admitted to seats here from some of the States, States in which a large class of citizens are deprived of the elective franchise, because I hold it to be an essential principle of republican government that representative officers "shall be freely chosen by the people from among themselves." And where numerous citizens are disfranchised, as in Maryland, Kentucky, Ohio, and Pennsylvania, it is not the people but a class who chooses, an aristocracy, or anything you may choose to call it. The rebellion has stirred up reflection; it has led to an examination of the old landmarks and opened a road to reformation. The Convention of 1787, alarmed by threatened evil, abandoned the old maxim that "honesty is the best policy" and continued the African slave trade for twenty years, when they could have made it piracy then as well as at the end of that time. So now, while we are advancing in reformation and undergoing reconstruction, while the public mind is in a condition to receive new thoughts, may be, and wholesome impressions and changes, in this age of gigantic advancement, which it may not be in when the public pulse becomes settled after the "peaceful" incoming administration, let us

examine with caution and candor the ground we build on; let us violate no feature of republicanism, no principle of equal justice to all men. This is the only safe foundation for human governments.

Equality of the States, their "equal footing" in their relations to the General Government, must also be maintained. The republican character of each State ought now to pass under the scrutiny of the people of the United States. By their Constitution they have bound themselves to guaranty to the people of each State a republican form of government; and I doubt not, Mr. Speaker, that when this amendment is presented to them for their ratification they will, in passing upon it, accept it as coming from the hands of those who went forth from them, (but to return no more,) to vindicate the cause of freedom; accept it as something in return for their unutterable, patriotic sacrifices. And they will tell the honorable gentleman from Wisconsin [Mr. ELDRIDGE] that "the argument that the Federal Government, the people, and all the States have acquiesced so long in the exercise of this power by the several States" (of depriving a portion of their fellow-citizens of their immunities) "is not conclusive." They will tell him that because past generations have done wrong it is no excuse for them to do so; or that because their fathers powdered their hair, wore queues, and ruffled bosoms it is not a "conclusive argument" that the fourth generation should do so. The great national question which presents itself for settlement is, What is a republican form of government? This has been so ably answered by eminent gentlemen who have preceded me that it will be tedious to hear the few observations I may make. The antecedents of the Democratic party, extending back for years, are such as to unfit it as a party to come to a proper judgment. The accumulated voice of the whole people must decide. Their sentiments in the present condition of things must be developed through the Republican party.

The gentleman from Massachusetts says that the Republican party has a vast deal yet to accomplish, and is responsible for what this Congress and the next administration do. I was glad to hear so influential a member of the party touch upon this point, for it seems to me it has not yet settled itself upon a solid, determined basis, notwithstanding the rapid advances it has made in brushing away the old cobwebs of aristocracy, and in securing to a great extent the civil and political rights of the humblest of our people. If I may be allowed to say it, and I do not utter it in a spirit of criticism either specially or generally, had that great party, I mean as a mass, stood firmly up to that exalted position in which it found itself at the close of the war, without wavering, halting, or undue leniency to the enemies of the country which its valor and patriotism alone saved, and turned half as deaf an ear or hard a heart to those who croaked about tyranny and oppression were dumb to reason and flint to magnanimity, reconstruction would have been an easy task compared with the herculean labor it has been, though so nobly performed, and the Republican party would have increased by thousands.

But to my question. Is the theory of human rights well understood even at the present day? Not many years since the editor of the New York Herald traveled over bog and quagmire, sea and flood, and into the dark caverns and caves of our ocean of literature, and into the myths and depths of ancient history, to discover what our fathers meant when they declared that all men were equal, free, and independent, and endowed by their Creator—mark, endowed by their Creator—with certain inalienable rights, &c. That editor held and taught, and was followed by a great majority of his party, that common men who had not the ability and opportunity to dive into the

wells of knowledge and reach back into the mysteries of the history of the race were not competent to form a correct sense as to the meaning of the proposition, or to whom it applied, to all men or to only a part. The proposition is self-evident, and so say our fathers. It was just as true before it saw the light of liberty blazing through the fires of successful revolution on independence day as it was then, or is now, and is just as intelligible to the humblest individual as it is to the most exalted, and perhaps more so. Admit the equality of men in natural rights, and you confess their equality in all other rights. If all men have equal rights without regard to classification, or equal natural rights, as they are called, does it not follow that they must have the equal right to the means of protecting these rights, which is termed a political right—the ballot, which is the "palladium of our rights and liberties," as is universally conceded?

The gentleman from Wisconsin, [Mr. ELDRIDGE,] with fervent eloquence, says, and I agree with him in the main:

"Sir, the powers and rights and liberties of the States and people do not come down from Congress or the Federal Government. There are some powers with which Congress has not been intrusted. Congress cannot determine just how much of liberty the people shall enjoy, just how they shall speak and move and breathe. All the powers of the Federal Government come up from the States and people, and it never had and it never can have the rightful authority to exercise any power not granted in and by the Constitution. The exercise of any other is rank usurpation."

Here in this country, thank Heaven, the people are sovereign, and "*vox populi*" is the law of the land. Government is the creature of the people. Constitutions, powers, limitations, and rights "do not come down from Congress, the General Government," or the States, but come down from the people. Therefore, neither Legislatures, nor States, nor Congress, nor the United States can "determine just how much of liberty the people shall enjoy," nor discriminate as to the equal possession of equal rights by men. "The servant is not above his master," nor the creature greater than the creator. Can men, equal men, "endowed by their Creator with equal inalienable rights," say one to another, "thus far shalt thou go and no further," and go beyond himself; or, "This only thou shalt possess," and claim more for himself?

Here the unreasonable reasoning of some gentlemen makes itself apparent. As if I should say to my neighbor citizen, "Our rights are equal and stand upon the same foundation, but you have not the same right to the means of protecting yours." Here, I take it, is also shown the unsoundness of the theory that would make suffrage a privilege instead of a right. John Bright, of England, makes it a right, not merely a privilege. "If a privilege," asks John Hamilton, of Pennsylvania, "by whom granted or conferred? By one of superior to one of inferior rights? If a right, who would venture to withhold it but He that conferred, even the Creator, who has 'endowed all men' equally 'with certain inalienable rights'? To speak of it as a privilege supposes at once inequality of rights." Again he says, and he has bestowed upon the subject of human rights an abundance of thought:

"The right to vote is included in and growing out of equality of other rights; equality of one class of rights supposes equality of all others; otherwise, at what point will inequality begin? The Creator, who has the only right to make a difference, has not made it. For one class to assume superiority of rights leads to endless confusion of ideas. Human constitutions are not the fountain-head of law. The harmony, the truth of things, as it comes from the Divine head, the only sovereign law-giver, is law."

Mr. Hamilton says, and I ask to quote him a little further:

"Government is an ordinance of God. The church, the family, and the State organizations are instruments in the hands of the Divine head for governing the world and building up the kingdom of Christ. No authority in church or State or family, can of

right assume powers not delegated by the Creator and head of all things. The people are to 'submit to the powers that be,' to honor the king, and to be in subjection to governors and magistrates as unto those who are sent by Him 'for the punishment of them that do evil and a praise to them that do well,' as to ministers of God assuming no powers but such as are delegated—dealing out justice to all without partiality, as to children of one common parent. Now, if we have established the doctrine of equal rights and equal protection for all men, what are the obligations of Governments to secure these rights and this protection to all citizens or subjects; and what the advantages of a faithful guarantee of the blessings of liberty to all men? Both are greater than we are apt to believe. While it remains a law of Divine economy, 'that righteousness exalteth a nation and sin is a reproach to any people,' both the advantages and the obligations will be very great; and blessed is that people whose God is the Lord."

Grotius assures us that "God approved and ratified the salutary constitutions of government made by men;" and Demosthenes declares that—

"The design and object of laws is to ascertain what is just, honorable, and expedient; and when that is discovered it is proclaimed as a general ordinance, equal and impartial to all."

Algernon Sidney maintains that—

"The Israelites, Spartans, and Romans"—

And, of course, Americans also—

"who framed their Governments according to their own will, did not do it by any peculiar privilege, but by a universal right conferred upon them by God and nature. They were made of no better clay than others; they had no right that does not as well belong to other nations. That is to say, the constitution of every Government is referred to those who are concerned in it, and no other has anything to do with it. 'The welfare of the people is the supreme law.'"

Allow me one other reference. The celebrated Beccaria writes that—

"In every human society there is an effort continually tending to confer on one part the height of power and happiness, and to reduce the other to the extreme of weakness and misery. The intent of good laws is to oppose this effort, and to diffuse their influence universally and equally. In a free State every man, who is supposed a free agent, ought to be concerned in his own Government; therefore the legislative power should reside in the whole body of the people. The political liberty of the citizen is a tranquillity of mind, arising from the opinion each person has of his safety. In order to have this liberty, it is requisite the Government be so constituted as that one man need not be afraid of another. The enjoyment of liberty, and even its support and preservation, consists in every man's being allowed to speak his thoughts and lay open his sentiments."

And I may add, in every citizen's possessing the highest, most sacred right of manhood-suffrage, which by this amendment to the Constitution we hope to secure to him. Mr. Speaker, do I make too broad an assertion in saying that the very fundamental basis of this Government is suffrage, the ballot, the means by which the people manifest and execute their will? Laws are a dead letter without the means to execute them; the will of the people would be worthless without the means to express it. The will of the people recently expressed through their great charter, fourteenth article, first paragraph, is as follows:

"All persons born in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the States in which they reside."

Congress is the guardian of the Constitution; it is sworn to see that its provisions are observed both by the States and by the United States; that no State encroaches upon the rights of that portion of the people residing within the borders of a State; it is the guardian of the rights and liberties of the entire people of the United States. Mr. Speaker, I am not one of those who esteem the Constitution as above the nation. I was not one of those who, from fear of violating the Constitution to prevent it, would have permitted treason to stamp it under rebellion's foot while traitors and rebels held their bloody carnival all over the land. I speak with all deference of that sacred and inspired instrument; but I ask, in all seriousness, what would the Constitution be worth without this Government? Not the parchment on which it is written. I think we have heard Thaddeus Stevens, whose venerable presence in this chamber imparted a sol-

emunity to its atmosphere, say that "The Constitution was made for the Government, not the Government for the Constitution."

Did the generation made illustrious by the possession of Washington, Madison, Hamilton and Jefferson, intend by this emanation of their wisdom to bind succeeding generations hand and foot? They well knew that the ever-changing necessities of a great people could not be anticipated, and therefore we find in our Magna Charta the following thoughtful provision, upon which I so confidently rely for this necessary amendment:

"ARTICLE V.—The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution."

Deeming it to be demanded by that inexorable master, necessity, we propose it to the people, and our work is done. To those who claim that this is an encroachment on the States, I would say that the States are independent only to such extent as the Union is independent; and I trust that such evidences will be made to appear upon State and Federal Constitutions, "in proof as clear as holy writ," as do the million untimely graves which furrow all the South, of the dangerous dogma of State's rights, and the atonement for the deprivation of the rights by Himself endowed of any of God's children.

The theory of centralization, or the polity advocated by Alexander Hamilton at the formation of the Government, and which subjected him to the unjust criticisms of the statesmen of that age, of establishing a strong central government as the best means to secure the liberties, the safety, and the unity of the people, the States, and the country, is seen no longer to be, if ever, a dangerous one. The theory of arbitrary States rights in a national government, of which those States constitute not a distinct but an integral party, so long and so warmly advocated by the Democratic party, especially in the South, has indeed proved a dangerous one—almost fatal to our national existence, upon which hinges the future freedom, glory, strength, and prosperity of all the States, and the high destiny of the Union.

Let us heed the lessons taught by the recent past, and recognize the equal manhood of all "created in the image of God." All men were brought into existence by the same common Creator, all placed upon the same common footing, and all are alike responsible to divine laws and to human government, and all should possess the same mutual advantages to meet the same common obligations. And must we even go to the Constitution of the United States or to those of the States for the authority to incorporate the just provisions of this amendment into the fundamental law of the land? May we not, should we not, rather, go to that source whence constitutions come and who create States—the people? The successful accomplishment of that gigantic end, the establishment of universal suffrage in the reconstructed States, and the triumphant vindication of its justice and wisdom by the freedmen whom it raised to full citizenship from a condition worse than vassalage, should be a most powerful incentive to the spreading of this benign blessing over all the land.

Our ears are still ringing with the cry from the North and from the South, from that party which has opposed, still opposes, every step of progress taken by the Republican party toward the high destiny of the Union, that "universal suffrage was forced upon the South." I acknowledge the fact, and I shall never rest, God helping me, until it is forced upon the North in the same way! Yes, sir, universal suffrage was forced upon the South; forced by justice, right, necessity, duty; forced by justice to that generous, loyal, noble, patriotic people, black though they be, who during the darkest days of the rebellion never faltered in their devotion to the Union—two hundred thousand of

whom followed the flag of our country, though it was to them an emblem of wrong and oppression, through the fires of a hundred battles to protect it; who, with cautious care, led thousands of the nation's soldiers from the death-pens of rebel captivity to freedom and gladness beyond, themselves remaining in bondage and sorrow until the fulfillment of their Christian hope of God's blessing of liberty to them; forced by right to the national freedmen, Americans born upon our soil, citizens of a country they helped to save, brothers in the family of mankind, equals in the brotherhood of men; forced by necessity to save the nation from a second rebellion more wanton than the first, to secure and garner up the results of the victory of the sword, to restore and heal the shattered fabric of the Union, to protect the loyal whites of the South, to erect on the ruins of slavery the institutions of freedom; forced by duty to God. I dared to hope, though still distrustful, that while all around is new we would here begin anew for the future, guided by the lessons taught by the experience of the past, securely garnering the priceless harvest of the war, "with charity for all, with malice toward none," sacredly recognizing the equality of men, the manhood of the negro, their citizenship, and consequent right of suffrage. A celebrated poet has written, that—

"Man can no more exclude war than he can
Exclude sorrow; for both are conditions of man
And agents of God. Truth's supreme revelations
Come in sorrow to men, and in war come to nations.
Then blow, blow the clarion, and let the war roll,
Strike steel upon steel and strike soul upon soul,
If in striking we kindle keen flash and bright
From the manhood in man, stricken thus into
light."

If, as a chastisement of our too self-reliant people, and to purge this nation of the foul stain of slavery, the Almighty snatched from every home in the land the pride of each individual household, man's sorrow, and caused to flow through all our borders the desolating river of war, the nation's woe, it were rebellion still not to accept the stern sequel of events and turn ourselves to the atonement of our sins of omission as men and of commission as a nation. If, as the logical result of the war—a nation's judiciary—the manhood of a whole race has been stricken thus into light, how dare we appeal from this decision of the god of battles, the judgment of Heaven? If the manhood of the slave is a result of the war, is not his citizenship the result of his manhood and his franchise the natural sequence of his citizenship? All these successive conditions are as naturally the corollary of the first—manhood, as that an ocean-emptying stream flows from some higher fountain. Gentlemen complain of this ordering of events, and hope against the hopelessness of a change. As well attempt to dam the swelling flood, "the higher the dam the higher the tide; it will overflow or break through." It is done, inexorably accomplished, and it were unwise, nay criminal, to permit our passions and prejudices to sweep away the senses of our reason, or hesitate to conform ourselves to the uncompromising condition of things.

Is it not just and consistent that universal suffrage and equal rights in a republican government should march hand in hand with universal manhood and equal existence? Dare we appeal longer from the will of the nation? Republicanism is in the ascendancy; it has regenerated and recreated the South; it has raised aloft from the decrepid carcass of slavery and darkness to the high Olympus of a full citizenship of the proudest country on the face of the globe a race whom oppression and superstition bound down for ages under the ægis of the Democratic party, and it will spread its benign, enlightening, Christianizing influence to the furthest ends of the globe, until all men shall freely and fully possess and as freely and fully enjoy the inalienable endowments of Heaven.

Constitutional Amendment.

REMARKS OF HON. J. M. BROOMALL,
OF PENNSYLVANIA,
IN THE HOUSE OF REPRESENTATIVES,
January 30, 1869,

On the joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States.

Mr. BROOMALL. Mr. Speaker, in the debate upon a bill introduced by myself at the last session of Congress, providing for universal suffrage, I gave my views at length upon that subject. Those views may be stated in short thus: every person owing allegiance to the Government and not under the legal control of another should have an equal voice in making and administering the laws, unless debarred for violating those laws; and in this I make no distinction of wealth, intelligence, race, family, or sex. If just government is founded upon the consent of the governed, and if the established mode of consent is through the ballot-box, then those who are denied the right of suffrage can in no sense be held as consenting, and the Government which withholds that right is as to those from whom it is withheld no just Government.

The proposition before the House is so to change the Constitution of the United States that no State shall hereafter discriminate among citizens of the United States with respect to the right of suffrage on account of family or race. This, though not going to the extent which I desire, is a great stride in the right direction, and therefore it commands my most hearty support.

It is no argument against inserting this provision in the Constitution that we have already the power to effect the same thing by legislation. Laws may be repealed, and it is not advisable that so important a principle of republican government should be left to the caprices of party. Its proper place is in the organic law.

A bill providing for impartial suffrage in the same particulars has been reported from the same committee and is now pending before the House. It is alleged that there is inconsistency in the same Congress proposing the amendment and passing the bill, both having the same object. This is a mistake, because, first, the bill is intended to produce immediately the same result which it may require the amendment several years to accomplish; and second, it is eminently right and proper that all those who are intended to be affected by the amendment should have an equal voice in its adoption or rejection. I shall therefore support the bill, as well as the proposed amendment.

It is interesting and instructive to trace the progress of the great party which is carrying into practical operation the cherished dreams of our fathers, step by step, toward the consummation of its holy purposes. It began less than fifteen years ago, by denying the right of slaveholders to carry their human chattels into the Territories against the will of a majority of the occupants. In 1860 it declared not that slavery was illegal, but that it could only exist by virtue of State laws and within the States whose laws recognized it.

Then came the rebellion; and it is humiliating to remember that in its early stages black men who had deserted their rebel masters in order not to be compelled to abet treason, and had sought the Federal camps to tender their feeble aid to the Government to which they owed so little, were arrested by men wearing the uniform of the nation and sent back to their masters to be scourged. But this could not long continue; and the next step, treating these poor fugitives still as chattels, confiscated them as contraband of war and employed them in menial services about the camps.

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Affairs in the South—Mr. Newsham.

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Next came the proclamation of emancipation, which was worthy of him who issued it, and this is saying much, and which shocked the nerves of gentlemen of nice conservative sensibilities by declaring all slaves within the rebel lines free. Soon followed the amendment to the Constitution by virtue of which the footprint of no slave shall ever again be found upon American soil. About this time it was suddenly discovered that the negro could fight, and the uniform of the nation was placed upon his limbs and its arms in his hands. In the fore-front of the battle circumstances gave him the courage of desperation. He knew that for him capture was death, and he did fight, let the history of the country tell how gallantly. It was not to be wondered at that at times he refused the quarter which he knew he never could receive. To have done otherwise would have proved him either more or less than human.

The arming of the blacks tolled the knell of the rebellion, and in 1865 its last armed forces surrendered. Then came a period fraught with more danger to the cause of human progress than any since the firing upon Fort Sumter. A generous victor might have been lulled into false security by a show of submission and repentance, and the rebels might have gained by political strategy all they had lost in war except their slaves, and these they might have put under an iron rule compared with which enslavement would have been a mercy, but an accidental and faithless Executive became an unconscious instrument of good. That man, the living exemplification of the declaration that God hardened the heart of Pharaoh, stimulated the conquered rebels imperiously to demand rights instead of graciously accepting favors. The result was the reconstruction of the South upon the basis of impartial suffrage. Thus far is written history. Frequently in the progress of those great events, the patriot heart despaired, and cried out, "How long, Oh, how long!" But in all that time there was taken no step backward, and we shall never know that any advance was delayed beyond the period when it could be safely made.

The measure now before the House is necessary to the complete fulfillment of what has gone before it. To hesitate now is to put in peril all we have gained. Let this, too, pass into history as an accomplished fact. Let it be followed, in due course of time, by the last crowning act of the series—an amendment to the Constitution securing to all citizens of full age, without regard to sex, an equal voice in making and administering the laws under which they live, to be forfeited only for crime. Then the great mission of the party in power will be fulfilled; then will have been demonstrated the capacity of man for self-government; then a just nation, founded upon the full and free consent of its citizens, will be no longer a dream of the optimist.

Affairs in the South.

REMARKS OF HON. J. P. NEWSHAM,

OF LOUISIANA,

IN THE HOUSE OF REPRESENTATIVES,

February 2, 1869,

On the condition of affairs in the State of Louisiana.

Mr. NEWSHAM. Mr. Speaker, I respectfully beg to lay before this House, in as terse a manner as the blunt powers of my speech will permit, the condition of things in the State I have the honor in part to represent. I wish the long-stilled voice of Louisiana to commingle with the more eloquent voices of her sister States in our national Halls of representation. Through conversations with northern gentlemen, Representatives upon this floor, and from citizens visiting the capital since my arrival here, I have gathered the impression

that the exact status of the condition of affairs in the South is not understood by the northern people. An erroneous impression seems to prevail. It is generally believed that all or many of the riots, murders, and massacres are caused by a war of races; and in the existence of such a war many seem firmly to believe. This is an error. No such war ravages there. There is no objection on the part of the rebels of my State to the color or smell of the negro, so far as I have been able to ascertain; and I take this means, by placing myself upon the record, to disabuse the northern mind from this fallacious opinion.

The fundamental, original cause of all the bloodshed, murders, massacres, violence, fraud, and intimidation which have blackened the fame of the South, and which will forever blur the page of Louisiana's history, may be attributed and traced to the following causes: loyalty to the General Government; an unflinching attachment to the Union of these States during the dark and doubtful days of the Republic. The fact of once having served in the Federal Army has heretofore been sufficient reason, in the estimation of the people of my State, to incite riot and commit murder. The cause of all our trouble South has been in the hatred and bitter animosity of the people of Louisiana against anything like loyalty, against the policy of Congress, and against everything which was calculated to affect the perpetuity of the Union of these States. The holding and honest expression of Republican sentiments and principles has been and continues to be sufficient cause to murder the man who dares express them. The war is because of opinion's sake. It is a war of the rebel against the loyalist. Combinations are perfected and wield their influence against every man who holds Republican sentiments, no matter what may be the color of the Republican's skin, or occupation. The interdiction is hurled against the lawyer, the artisan, and the humble tiller of the soil. The cry is, "Drive them out!" "Send them to their mud-sill homes!" The classic soil of the South needs them not.

Gentlemen protected by the operation of our constitutional guarantees in security of life, liberty, and property are not expected to nor cannot appreciate the condition of things in Louisiana. But, gentlemen, facts are stubborn things; and in order that I may prove the position assumed I shall endeavor to adduce a few facts. Just prior to the late election in the parish of Bossier, in the fourth Representative district of Louisiana, one hundred and sixty-two men, all Republicans, were murdered without provocation for opinion's sake. In the parish of Caddo, in the same district and State, the only man who voted the Republican ticket was murdered the night of the day he polled his vote. No other cause was alleged in extenuation of this than that he voted the Republican ticket. George W. Smith, an honorable man and a member of the Texas constitutional convention, was assaulted by an armed mob in Jefferson City, in Davis county, Texas, immediately adjoining the parish of Caddo, Louisiana, who, in defending himself, wounded two of his assailants; after which he ran for his life, to save which he surrendered to the military authorities, and was committed to jail for safe keeping. The next night a disguised band of armed Kuklux passed or bought the guard, who did not fire. The Kuklux broke down the jail door and fired sixty bullets through the body of the unfortunate man, besides killing two freedmen.

What, you ask, was the cause of this dastardly, cowardly, inhuman conduct? Why, the murdered man had been an officer in the Federal Army, had served with distinction in a New York regiment, and was a man without reproach. Shall I refer you to jails broken open, of persons adjudged guilty being by mob force liberated, as was done in the city of

Jefferson in my own district? Shall I prove these utterances by telling you of men found dead in the roads, shot and horribly mangled; of laborers discharged without pay; of public notices to the rebel planters of the State notifying them not to employ the parties named, to lease them no land, without the reservation of the right to eject them without cause unless they voted the Democratic ticket; refer you to the report, made public, of the election committee of the General Assembly of the State of Louisiana, wherein eighteen hundred murders are reported, and each case proven, in the period of less than one year; or to the report of General Hatch, while in New Orleans; or to that of General Reynolds, of Texas, so lately laid upon the desks of members of this House?

In the parish of St. Landry, represented by my honorable colleague, I am informed two hundred men, all Republicans, were murdered in one month, in September. Men are compelled in that parish to wear red tape upon their arms, as a sign of rebel Democracy, to secure the guarantees of the Constitution. The mark is an evidence that they have joined the Democracy and their only security for life, liberty, and locomotion. The atrocious murders in cold blood of Colonel Pope and Judge Chase of that parish by the Democratic bandits of Louisiana, and the failure under the laws of the State and nation to bring the murderers to trial, presents a glimmering view of the state of republican liberty in Louisiana. Shall I refer you, to substantiate these utterances, to printing offices mobbed and the material thereof thrown into the river or otherwise destroyed? Or will you demand of me copies of papers in evidence to prove that nothing was therein written but a plain and, too often, a too mild statement of facts committed; that newspapers devoted to the diffusion of Republican principles were mobbed and yet not entirely destroyed, while a Kuklux note, written in blood, is left at a man's door as a mild hint to the editor and proprietor that his life is in danger, ordering him to leave his home and property, and that the avenger is upon his track?

If the action of the Democracy, in this destruction of the bulwarks of civil liberty, was caused by passion or incited altogether because of gunpowder and whisky, or in a fit of frenzy; if it was committed by a class of men desperate in their character, unsupported and unbacked by the leaders of the best society, there might be some extenuating circumstances. I submit it to this House, in all candor, if a lawless ruffian practicing his barbarities and horrid murders could exist in any community any length of time unless he was supported in his atrocities by the community wherein he lived? The very fact that assaults are made upon the person and property of loyalists South; that notices written in blood are left in a man's pathway or sent to him through the mail; that coffins, upon whose lids the cross-bones and skull are laid, are left at a man's door; that newspapers are not at first entirely destroyed, but which, after the warning delivered, are doomed upon the second assault; that loyal men are subject to these indignities—evinces a determination upon the part of the southern rebels to enforce their threats, and that the perpetrators are protected and encouraged by the community in which they live.

I charge here that no cause has been given by the loyal people of my State to incite upon the part of their rebel neighbors such bitter animosity and unrelenting cruelty. The scallawag and the carpet-bagger, so termed, have brought this upon themselves, because they loved their whole country and the Union of these States, because when the Republic was bleeding at every pore, when she was mangled and weak, they showed themselves to be patriots and dared to be men. For this in the land they fought to save, wherein they have so long and so patiently suffered, they are at pres-

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ent, under a republican form of government established by this Congress, to endure tenfold what I am able to tell you.

I now appeal to your own memories, to the written history of the last two years, to support me in the statement that never have any people shown more magnanimity under the like cause for retribution than have the Republican party in the entire South in the framing of their new State constitutions under the wide margin allowed by the reconstruction acts of Congress. The liberality shown to their old oppressors, the entire forgetfulness of the past horrors they had from the nature of things to endure, stamps the course of the southern blacks as the most sublime and God-like course of any people under the sun. For this sublimity of forgiveness, for this almost divine magnanimity, they have been shot down and murdered as if they were swine in the butcher's pen—simply because they were true to the country and party who had given them their liberties and which afterward dared to give them citizenship. I am not ignorant of the fact that much of the success of the Republican party of the North in the late elections may be attributed to the mild and conciliatory policy adopted by the Republican party of the South in the reconstruction policy as pursued by them. What I complain of is that this success should have been purchased at such a fearful cost of life and security; that the people of the North should so superficially understand the exact status of affairs in the South; that the bleeding, devastated, wasted South should have the other burden, defeat, added to the catalogue of her sufferings; that loyal men of the South were made to bleed and die to secure success to the happy, prosperous, and peaceful North, East, and West.

I know, Mr. Speaker, that a share in the enjoyment of the general benefits resulting to the country, secured by the election of General Grant to the highest office within the gift of the American people, will accrue to Louisiana and to the people of the whole South; and Louisiana congratulates the whole American people upon the favorable auspices indicated by the late triumph of the Republican party. General Grant may depend upon the warm support and best wishes of the Republican party of Louisiana. Never did an Executive of the United States, since the first inauguration of Washington, enter upon his troublous voyage with a more thorough love of the American people than will General Grant after the 4th of March next.

Louisiana has an approximation majority of thirty thousand registered Republican voters. In the last election the Republican party was defeated by over thirty thousand majority in that State. The loyal men of Louisiana did not dare to vote. However dear to the heart of the liberated slave the high privilege of the American ballot may be—and I assure you no people more thoroughly appreciate its value—his love of life is equal to that of other men. The cries of his infant child commingled with the sobs of the wife and mother, when the Republican father of Louisiana went to vote at election, the affections stirred by this wailing may have lost the State to the Republicans, but it saved many a loyal life. The loyal men of Louisiana have lived long in hope, and patiently waited in poverty and hunger, without pay and clothing, for the coming day.

To-morrow, next day, or after the 4th of March next, the result of an election in Louisiana would be similar in bloodshed, murder, and terror to the one so lately made a monument to perpetuate the crime, folly, and madness of the unrepentant rebels. Louisiana has never known the boon of the privilege of a fair election. A republican form of government as contemplated by the language of the Constitution does not exist in Louisiana. The right of the people to peaceably assemble is denied. The security of life, liberty, and property are privileges almost unknown to loyal

men. Many a martyr has sacrificed his life on the bleeding altar of liberty in Louisiana, and many another man is bound for

"The undiscovered country, from whose bourn
No traveler returns."

because of his attachment to the principles of liberty and the equal rights of all men. The revolution in the South is not over. It is not dead, but only sleeping. It is coiled like a snake; its fangs are deadly poison—beware its sting! It is the boast of the South to-day that they are better armed than in 1861. By sending the late election back to the people of Louisiana you inaugurate another reign of terror, commence again the destruction of newspapers, incite wholesale murders and massacres, and you will, phoenix-like, resurrect a new State Government out of and over the smoldering and putrid mass to be created by the military power. Forty thousand military and a million of money will be inadequate to secure the untrammelled expression of the people's will in Louisiana, and God only knows how many lives will pay the rest of the debt of liberty.

The rebel of the South to-day stands appalled at the verdict of the American people expressed by the election of General Grant. Their most cherished hopes have been ruthlessly scattered and cast to the ground. They know not which way to look for succor. They grope like blind men beneath the rays of the meridian sun. At present they are quiet. Do not trust it too confidently; it is the baffled effort of the wounded lion, whose rage is confined to his breast; it will break forth with a mighty rage, and its roar may make you tremble.

The history of the last three years is pregnant with historic facts. Shall we carelessly read its lessons and cast it unheeded by? Have not compromise and conciliation proven a failure? Has not kindness reverberated in lacerating stripes upon our backs? Do not the ghosts of the murdered dead of rebel vengeance in Louisiana rise up before you to sear your eyeballs? Has not your mercy, shown to an insulting and arrogant foe, returned to you permeated with poison bitter to the taste? Is not the action of Mississippi and Georgia proof enough? "The battle will be fought again, but the seat of war will be the North." This is their own language.

No wild beast crouched behind the foliage of his jungle ever yearned with a greater lust for the munched bone and pulpy flesh of his unsuspecting victim with a more intense thirst than does the rebel of Louisiana yearn for the destruction of this Government and for the spoils and emoluments of office. Does any sane man doubt that had the impeachment of Andrew Johnson been effected that one tenth of the crimes, murders, or self-asserted superiority of the rebels of Louisiana would have been committed? To this failure may be attributed and traced all the horrid, blood-stained history of Louisiana. I am satisfied that I express the sentiments of every loyal heart in Louisiana when I say that to the election of General Grant loyal men in Louisiana owe their lives as well as their privilege to reside there. What we want in Louisiana is a republican form of government, in its fullest, broadest sense and meaning. We want security for life and liberty and property; we want the late election investigated, and its whole catalogue of crime held up to the gaze of the world; we want peace and security—a *desideratum* which elections have failed to supply; we want our confidence in the General Government fostered and preserved by protection; we want the fourteenth constitutional amendment enforced in the South. To do this will cost less than our expensive Indian wars, and its complete vindication is of vastly more value to the nation.

Mr. Speaker, vacillation is dangerous; weakness is manifest defeat. There is but one hope left to the loyalist of the South, and that hope is in the manly, unflinching, aggressive policy of

Congress. Away, then, with conciliation and compromise; this Congress should have nothing to do with it. The life of every man is secured by constitutional guarantees. This Congress would not hesitate to declare war against any European Power for an infringement upon an American citizen's rights; then why not protect the humblest citizen at home? He is as much entitled to it as the most exalted. If the laws prevent this protection they are foreign to the spirit and reason of our institutions, and should be repealed. A republic or any Government which cannot protect its citizens does not deserve the name of government and should be blotted from the map of nations. Let us legislate so as to secure to each his rights; and if the fundamental laws of the country hedge us in and bar us, let us rise above them. Centralize the Government, if need be, but secure to each and all life, liberty, and a fair chance.

Constitutional Amendment.

REMARKS OF HON. M. WELKER,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

January 30, 1869,

On the joint resolution (H. R. No. 402) proposing an amendment of the Constitution of the United States.

Mr. WELKER. Mr. Speaker, I would very much have preferred the amendment proposed by my colleague [Mr. SHELLABARGER] to that of the Judiciary Committee. That of my colleague, and for which I voted, was as follows:

No State shall make or enforce any law which shall deny or abridge to any male citizen of the United States of the age of twenty-one years or over, and who is of sound mind, an equal vote at all elections in the State in which he shall have such actual residence as shall be prescribed by law, except to such as have engaged or may hereafter engage in insurrection or rebellion against the United States, and to such as shall be duly convicted of treason, felony, or other infamous crime.

But a majority of the House thought otherwise and refused to amend the original proposition. I will now vote for the amendment of the committee, which is as follows:

The right of any citizen of the United States to vote shall not be denied or abridged by the United States or any State by reason of the race, color, or previous condition of slavery of any citizen or class of citizens of the United States.

This proposition simply prohibits all distinction between voters on account of color, race, or previous condition of slavery, and makes throughout the United States a uniform rule in that respect. Negro suffrage is no new question in this country. It is as old as our Government. The old Articles of Confederation allowed it. In their adoption an attempt was made to confine voting to white men, and the proposition only received the vote of two States for it to eleven against it. I believe all of the original States, in some form or other, allowed slavery. Of these original thirteen States, ten of them allowed negroes to vote under their constitutions, to wit: Massachusetts, New Hampshire, New York, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, and North Carolina. South Carolina, Virginia, and Georgia never allowed it. This voting was confined to free colored men—slaves were not allowed the privilege. The ordinance of 1787, that gave freedom and free institutions to the great West, allowed it. Four of the old thirteen States have, through all the persistent efforts of the advocates of slavery, the terrible contests for its nationalization, continued to this day to give the ballot to the negro. These are New York, New Hampshire, Massachusetts, and Rhode Island. The other States, at different times, changed their constitutions so as to prohibit this class of voters. Connecticut, for a period of thirty-one years, allowed them to vote, until 1818, when her constitution was changed to prevent it. Maryland, for fifty-

five years allowed it, until 1831, when her constitution was amended prohibiting it. Delaware, for the same period, allowed it. North Carolina, in 1836, amended her constitution to prevent it, after allowing it for sixty-one years. Pennsylvania changed her constitution in 1838, inserting the word "white" in the suffrage part of her organic law, having allowed colored men to vote for sixty-two years. New Jersey, in 1840, changed her constitution to disqualify this class of voters, after having, for sixty-four years, allowed them to vote. Several of the States afterward formed allowed negroes to vote.

It is said that our fathers made this a "white man's" Government. It is not so written in the Constitution they made us. It nowhere confines the ballot to white men. Indeed, the delegates that made it were voted for by negroes. It nowhere makes color a qualification for office. It does not prevent a colored man from being elected to the office of President, Vice President, Senator, or member of Congress, or holding any office in the Federal judiciary, or representing our Government in foreign countries.

Our fathers made this for a free Government, one to which the prosecuted and down-trodden of the world might come and find secure asylum and equal rights. It was made by the people and for the people. The Declaration of Independence had announced the grand doctrine uttered by Paul and Peter centuries before, "that all men are born equal and possess certain inalienable rights, among which are life, liberty, and the pursuit of happiness." This declaration had been maintained through the great struggle that established on foundations of rock the great temple of liberty in the New World. Its deepest and broadest foundation was this equality of rights. On this was erected the grandest structure of Government the world had ever seen.

In England, France, Prussia, Italy, and other countries in which the ballot is given its citizens color is not made a test of voting—no distinction is made on account of color. In fifteen States of this Union, and in all the Territories, negroes are now allowed to vote. With this history of colored suffrage before us—these precedents of our fathers to guide us—let us now make the right uniform in all the States, and thus make this Government what it was intended to be by the patriots who made it, and secure to all men equal and exact justice. Why not now give the ballot to the colored man? He is free, and a citizen with us of a common country. In the late terrible contest for the life of the nation two hundred thousand black men went forth to fight for the Government that made them free. On every battle-field they freely offered up their lives that free institutions might live—that our country might be saved. No black man deceived us, or proved untrue to the flag. Side by side with the white soldier he marched to the conflict to save the nation. In all the States white and black are alike required to bear equal burdens—pay taxes, which are assessed without respect to color. They are alike punished for crime, and bound to obedience to the law. Let us, then, incorporate this amendment in our Constitution, and secure in all time to men of all races and color this great right of freemen, the elective franchise.

Heald and Wright Frauds on the Choctaw Indians.

SPEECH OF HON. W. MUNGEN,
OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

February 3, 1869,

On the Heald and Wright frauds on the Choctaw Indians.

Mr. MUNGEN. Mr. Speaker, some time last session, perhaps in April or May, 1868, it

may be earlier than that, the claim of Heald and Wright was before the Committee on Indian Affairs. The honorable gentleman from Kansas [Mr. CLARKE] was instructed by a vote of four to three (there being but seven of the members of the committee present to take part in the matter) to report a bill in favor of the payment of the claim of Joseph G. Heald and Reuben Wright. There were some others connected with the firm, whose names and business it were perhaps better for the claimants should not be mentioned here; but with the consent of the House they will be named. Instead of reporting the bill on this question, as he was instructed by the committee, the gentleman from Kansas on Saturday afternoon, when nearly all the members of the House had gone to their homes, gets the claim of Heald and Wright inserted as an amendment to the Indian appropriation bill, not directly however, but in the form of selling bonds. Such a maneuver, such tactics, speak more for the ingenuity of the gentleman than for any other trait of character. It was a splendid piece of strategy, for which the gentleman deserves the thanks of Heald and Wright and their friend, the gentleman from Massachusetts, [Mr. BOUTWELL] who so assiduously attended to their claim before the Committee on Indian Affairs. He deserves the thanks of the other partners of the firm, F. E. Williams and Leonard B. Dow, of whom I shall speak hereafter.

Allow me to say that in my opinion such an amendment is entirely out of place in an appropriation bill, is not germane to the subject, has no business there, and, without impugning the motives or honesty of the gentleman from Kansas, [Mr. CLARKE], was very adroitly dropped in at a time and place where it was likely to be overlooked. The amendment, instead of being an appropriation, is only a clause allowing certain stocks or bonds belonging to the Choctaw Indians to be sold from them to pay what I believe to be an unjust and "trumped-up" claim of three or four men, all of whose names do not appear on the face of the claim—having examined the matter thoroughly I know of what I speak; and two others, the honorable gentleman from Indiana [Mr. SHANKS] and the honorable gentleman from Illinois, [Mr. ROSS], both members of the committee with me, signed the minority report which was laid upon the tables of the members this morning.

The House, I hope, will bear with me while I give a few of many of the very important reasons why this amendment offered by the gentleman from Kansas should not prevail.

The amendment proposes to sell certain securities held by the United States under treaty stipulations, in trust for the Choctaw Indians, for the purpose of paying off claims set up by Joseph G. Heald, Reuben Wright, and others, under the forty-ninth and fiftieth articles of the treaty of April 28, 1866, with the Choctaws and Chickasaws.

The Choctaws have two funds of \$500,000 each; one derived through the convention between them and the Chickasaws of January 13, 1837, and ratified by the United States, nearly all of which was invested in Virginia State stocks, which if they were to be sold now would have to be disposed of at a ruinous sacrifice. The other fund of \$500,000, derived from what has been denominated "leased lands," was never appropriated or invested by the United States Government, but was retained in the Treasury, the United States preferring to pay an annual rate of interest of five per cent. on the amount; that is, \$25,000 per annum, equivalent to a perpetual annuity of that amount. An order, therefore, to the Secretary of the Treasury to sell one hundred and eighty or one hundred and ninety thousand dollars under both articles of this fund is the same in effect as to make an appropriation of that sum to be paid out of the Treasury of the United States. All these funds have been set apart by the

Choctaws and Chickasaws to educational purposes, or made irreducible; and the ninth and tenth articles of the treaty of April 28, 1866, provides as follows:

"ART. IX. Such sums of money as have by virtue of treaties existing in 1861 been invested for the purposes of education shall remain so invested, and the interest thereof shall be applied for the same purposes in such manner as shall be designated by the legislative authorities of the Choctaw and Chickasaw nations, respectively.

"ART. X. The United States reaffirms all obligations arising out of treaty stipulations or acts of legislation with regard to the Choctaw and Chickasaw nations entered into prior to the late rebellion, and in force at that time, not inconsistent herewith, and further agree to renew the payment of all annuities and other moneys accruing under such treaty stipulations and acts of legislation from and after the fiscal year ending on the 30th of June, in the year 1866.

By an examination of the constitution of the Choctaw nation we find in article seven, section six, the following words:

"No money shall be drawn from the treasury but in consequence of an appropriation made by law. No money from the treasury shall be appropriated to objects of internal improvements unless a bill for that purpose shall be approved by two thirds of both branches of the general council."

The treaty articles nine and ten, above quoted, provide that money invested, &c., shall remain in the treasury of the Choctaw nation. They provide that the interest may be used, but only in such manner as shall be designated by the legislative authorities of the nation. If Congress pass this amendment, and take money belonging to the Choctaws out of the funds referred to, it will, in my opinion, be in clear violation of treaty stipulations. The Choctaw nation never having by their Legislature authorized even the appropriation of the interest, and the constitution of the nation being direct in its terms against the reduction of the principal of those funds, and the Government of the United States being bound by the treaty of April 28, 1866, to see that moneys invested and the interest thereof, &c., shall be applied for the same purposes, "in such manner as shall be designated by the legislative authorities of the Choctaw and Chickasaw nations respectively," I cannot consent to this appropriation of the fund as proposed by the amendment.

Under the solemn treaty stipulations referred to I doubt very much whether Congress has any right by legislative action to disturb these trusts. The treaty of 1866 makes provision for the settlement of large claims—claims by which it is expected that considerable sums of money would be paid by the United States to the Choctaws and Chickasaws, much more than enough to meet all their liabilities without disturbing these funds so held in trust. The United States voluntarily assumed the guardianship of the Indian tribes, and in exercise of such authority as guardian caused these moneys of the Choctaw nation to be so invested, the interest only to be used or expended for the education of the children and support of the churches and government of the nation. It would be an act of bad faith on the part of the United States, as such self-constituted guardian, to take the moneys of its wards, thus sacredly invested for the promotion of their education and civilization, to pay a claim of doubtful justice, when at the same time the United States is largely indebted to those wards on other accounts in the sum of \$300,000.

The fiftieth article of the treaty of 1866 recites that Joseph G. Heald and Reuben Wright "were licensed traders in the Choctaw county at the commencement of the rebellion, and claimed to have sustained large losses on account of said rebellion by the use of their property by said nation," &c., and then proceeds to provide for the appointment of a commission to investigate said claims, and to set aside a sum of money not exceeding \$90,000 to cover the amount to be allowed by said commissioners, "provided that no claim for goods or property of any kind shall be allowed or paid, in whole or in part, which shall have been

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used by said nation, or any member thereof, in aid of the rebellion, with the consent of said claimant." The above recital that Heald and Wright were licensed traders at the time of the commencement of the rebellion is incorrect in point of fact. By reference to the records of the Indian Bureau in Washington, it appears that the last license granted to J. G. Heald & Co., (F. E. Williams and Leonard B. Dow being the company,) was dated October 28, 1859, and approved December 7, 1859, and that the last license granted to Reuben Wright was on the 28th day of January, limited by law to twelve months, so that neither of these parties were licensed traders at the commencement of the rebellion, and consequently they were in the Indian country in violation of the intercourse act of 1834, which establishes the rules for all such trading.

Under the fiftieth article of the treaty Messrs. Rice and Jackson were appointed commissioners, and proceeded to Fort Smith, in the State of Arkansas, where they profess to have made the investigation required, and awarded the whole amount of \$90,000 to Heald and Wright. I find that Messrs. Rice and Jackson made no such investigation as was contemplated by the fiftieth article of the treaty. The facts appear to be that several gentlemen of the Choctaw nation, sent here to negotiate the treaty under which the claim is made, and for that purpose and clothed with that authority only, and previous to the ratification of the treaty, agreed that the nation was indebted to the claimants, Heald and Wright, in the sums claimed, and on account of the items set out in their respective accounts an agreement which they were not authorized to make. These gentlemen excuse themselves to their nation for making such by asserting that but for such admission they feared that what political influence Messrs. Heald and Wright could control, with their very particular friend, the gentleman from Massachusetts, [Mr. BOUTWELL,] at their head, would be used to their injury in their pending negotiations with the United States.

Messrs. Rice and Jackson, doubtless honestly misled by the belief that such admissions were conclusive under the treaty, adopted them as evidence; and so far as I can ascertain the only further evidence they took or looked for under their commission was to show the items of their award to Hon. Allen Wright, one of the gentlemen who first made the admission, and had in the mean time been elected principal chief, and to John Page, another of the gentlemen who first made the admission before the making of this treaty. They took no testimony as to the alleged loyalty of Messrs. Heald and Wright, or as to the correctness of any item in their account against the nation. And thus was their award made. The Secretary of the Interior was induced to ratify the award made by Messrs. Rice and Jackson through representations that the Choctaws were satisfied and made no objection to the award. This is the reason given by the Secretary, and I doubt not given sincerely, but the fact is that the Choctaw council entered a solemn protest against the whole proceedings of Commissioners Rice and Jackson so soon as they became cognizant of the fact that an award had been made against them, a certified copy of which I have obtained from the Indian office here, and read as follows, and is hereby made a part of my remarks:

Whereas a commission by the authorities of the United States did convene in the city of Fort Smith, Arkansas, in the month of September last, 1866, in compliance with the forty-ninth and fiftieth articles of the late treaty concluded and signed in the city of Washington on the 28th day of April, 1866, to investigate the claims of the loyal Choctaw and Chickasaw Indians, and Joseph G. Heald and Reuben Wright, of Massachusetts, as provided in said articles; and whereas it appears from the report of the parties engaged in the defense that fraudulent claims to a very large amount were presented and established against the national funds of the Choctaw and Chickasaw nations, upon the testimony of persons actuated by corrupt and mercenary motives; and whereas the convening of the court of commission beyond the limits of the Choctaw and Chickasaw nations was a

hardship to the defendants, as well as unusual in practice to parties litigant to go beyond their limits to adjudicate their differences: Therefore,

SECTION 1. *Be it resolved by the General Council of the Choctaw Nation assembled, (the Chickasaw nation concurring.)* That a solemn protest is hereby presented to the honorable Secretary of the Interior against the confirmation of the awards recommended by the said commission for the reason before stated; and further reason, that the hurried course of examination adopted by the commissioners gave the nation no chance to introduce rebutting testimony, nor to offer any legal remedy before the said court of commissioners. Hence they respectfully refer the final consideration of their interest to his honor, soliciting further indulgence to prepare a series of depositions under the supervision of the United States agent for the Choctaws and Chickasaws, in order to correct as far as practicable the wrong done to the defendants.

Resolved, further, That General Rice, one of the commissioners on the part of the United States, and Captain Campbell Leflore, junior counsel on behalf of the Choctaw nation, did agree "that testimonies might be taken by the defense and be considered as proper evidence by said commissioners upon cases already reported, and that such testimonies be taken in the presence of the United States agent, who shall certify that the same has been taken according to the usual rules of taking evidence;" therefore this nation, being a party interested, respectfully request the honorable Secretary of the Interior to favorably respond to the solicitation of the Choctaw and Chickasaw nations.

And be it further resolved, That the principal chief of this nation be, and he is hereby, authorized and requested to transmit a certified copy of the above resolution of the Secretary of the Interior, through the proper channel of communication with the Government of the United States, accompanied with such report and suggestions as he may deem necessary to make, to the effect that the claims made under the forty-ninth and fiftieth articles of the treaty above mentioned be suspended until this nation shall have further time to introduce rebutting testimony.

APPROVED, December 21, 1866.

ALLEN WRIGHT, P. C. C. N.

I do hereby certify that the above is a true and correct copy from the original in the office of the national secretary, this 22d day of December, A. D. 1866.

[L. S.]

EDWARD DWIGHT,
National Secretary.

DEPARTMENT OF THE INTERIOR,
OFFICE INDIAN AFFAIRS, March 25, 1868.

I certify on honor that the foregoing is a true and correct copy of an act of the general council of the Choctaw nation, approved December 21, 1866, relative to the forty-ninth and fiftieth articles of the treaty with the Choctaws and Chickasaws of April 28, 1866, as appears from the records in this office.

CHARLES E. MIX, Chief Clerk.

This protest of the general council of the Choctaws was entered on their journals on the 21st day of December, A. D. 1866. The report of Messrs. Rice and Jackson as commissioners under the treaty was filed in the Indian Office at Washington on the 31st day of December, 1866, ten days after the protest; and on the same 31st day of December, the Choctaws placed the foregoing protest, being an official transcript from their journals, on file in the Indian office here. There was no delay on their part, no neglect, no assenting to the payment of the claim of Heald and Wright, and the Secretary of the Interior must have approved the report made by Rice and Jackson without knowledge of the existence of the Choctaw protest. But beyond the treaty stipulations and legislative authorities resting upon the Government in regard to the funds of those Indians in a plain and direct manner there are other questions which should engage the attention of Congress and weighty reasons against the passage of the proposed amendment. It is certainly competent for Congress when called upon to appropriate money to inquire what the appropriation is for, whether it is just and equitable, whether there is any fraud attaching to the matter if it be a claim, and all the surrounding circumstances. It may be unnecessary to say that fraud vitiates all contracts. I propose to call the attention of Congress to some facts connected with this case.

On the 8th of April, 1858, as appears by the records in the Indian office, Joseph G. Heald entered into partnership with F. E. Williams and Leonard B. Dow to engage in the business of merchandising in the Choctaw country. This partnership was limited to three years and expired on the 8th day of April, 1861, which was

previous to the commencement of the rebellion. By the terms of their partnership each of them agreed to put in \$4,000, making their whole capital in trade \$12,000. Heald sets up a claim against the Choctaws of \$90,000 for himself alone, saying nothing about his partners, Williams and Dow; presuming, doubtless, that his loyalty would not be questioned because he hails from Massachusetts. He may have entertained the idea that their joint interests, whatever claim they might set up, would be covered and protected under his name in this behalf.

Let us next examine upon what the claims of Messrs. Heald and Wright are founded. The largest item in the account of Heald against the Choctaw nation is for the sum of \$40,000 for a draft drawn by Sampson Folsom in favor of L. S. Lawrence & Co., bankers, of New York, on E. W. Lehman & Brother, of Philadelphia, and drawn in the summer of 1862, more than a year after the commencement of the rebellion, and drawn, too, in the Choctaw nation.

The history of this transaction is, that one F. E. Williams, before that time a partner of Mr. Heald in the business in the Choctaw nation, finding that Sampson Folsom was agent and attorney for Samuel Garland and others, of the Choctaw nation, to whom the gold (about thirty-three thousand dollars) belonged, proposed to purchase it of him and pay him in confederate notes or money or lands of the confederate States. After considerable negotiation Folsom gave Williams the draft or order for the gold, and he paid for it in the confederate currency. He had it drawn in favor of Lawrence & Co., but some man named Johnson, sharper or more fortunate than himself, connected with the house of Lehman & Brother, got it and kept it to this day. Mr. Heald, assuming the whole transaction to have been for his benefit, charges the Choctaw nation \$40,000 for the failure. In this he implicates himself in purchasing gold with confederate money. Where did he get it? I cannot conceive that such a transaction entitles Mr. Heald to very favorable consideration at the hands of this Congress. The very moment he seeks to derive a benefit from such "illegal trafficking with the enemy" he makes himself liable as the guilty agent, and cannot say that Mr. Williams or Mr. Lawrence were the guilty parties, and not he. If Heald had any interest whatever in this transaction it does not appear from the evidence. I am therefore forced to this conclusion:

1. That this draft transaction was with individuals, and not with the nation as such, and that no valuable consideration was paid for the draft.

2. That such a transaction was in violation of the law of the land, and no benefit sought to be derived from it should be enforced by Congress.

I can find nothing in this transaction to sustain a claim for "money advanced to the nation," and look upon it as entirely a private speculating transaction on the part of F. E. Williams or Heald. The "chances of war" prevented it from paying, and we cannot see that this Congress should make it pay Mr. Heald by converting confederate State bonds and notes, furnished by rebels to his emissaries and agents in violation of law and morality, into current funds of the United States for his benefit. The act to regulate trade and intercourse with the Indian tribes and to preserve peace on the frontier in the fourth section provides—

"That any person, other than an Indian, who shall attempt to reside in the Indian country as a trader, or to introduce goods or to trade therein without license, shall forfeit all merchandise offered for sale to the Indians so found in his possession, and, moreover, forfeit and pay the sum of \$600."

The twenty-fourth section provides for the arrest by military force of any person violating any of the provisions of the act. Section twenty-six provides that offenders of this pro-

vision of the act may be arrested in any of the States or Territories of the Union. Section twenty-seven provides for actions and proceedings against the parties violating the provisions of the act, and section twenty-eight provides for proceedings against the property of offenders.

How can violators of the law come here and ask Congress to pay them for their illicit, not to say disloyal traffic? Section seven of article seven of the constitution of the Choctaw nation contains these words:

"No law shall ever be passed to raise a loan of money upon the credit of this nation for the payment or redemption of any loan or debt, unless such law be proposed in the senate or house of representatives, and be agreed to by a majority of each house and entered on their journals, with the yeas and nays taken thereon, and be referred to the next succeeding general council, and published throughout the nation for three months previous to the next general election," &c.

Nothing of this kind was ever done in this case; no loan was ever authorized by the nation from Heald. A people so jealous of and so completely guarded by the provisions of their fundamental law in regard to borrowing money never asked a loan from Heald, as pretended. Another item in the account of Heald is for sixty-two bales of cotton alleged to have been at Sculleyville, in the Choctaw nation, in 1861 or 1862. How came Mr. Heald to be the owner of cotton there, and in those years? Did he raise it or did he buy it? He claims to have been a loyal citizen and resident of Massachusetts at the time. I am of the opinion that if there were any cotton at Sculleyville in those years it belonged to some person other than Mr. Heald, perhaps to his late rebel partner, Mr. Dow, or his blockade-running agent and also late partner, Mr. F. E. Williams, who may have expended his confederate bonds in its purchase. If Mr. Heald had his cotton there at the commencement of the rebellion in 1861 what prevented him from sending it to market? All these things present themselves to my mind and force upon me the conviction that the claim is a fraud and an outrage upon the Choctaw nation. It bears the stamp of fraud on its face.

The next largest item is for a mill and machinery claimed to be owned by Heald at Sculleyville, in the Choctaw nation. The proof shows that this machinery was removed by United States officers to Fort Smith, Arkansas, and set up in the Government workshop there, and that the Choctaws never injured it in any way whatever.

There is strong reason to believe that the mill in question never was owned directly nor remotely by either of the noble quartette, Heald, Wright, Williams, or Dow; but was, in fact, the property of the confederate general, Albert Pike, or of the confederate government. In either case Heald or his partners had no right to the mill, nor have they any right to set up any claim here for damages. If they claim any right by purchase from the confederate government or from a confederate officer during the rebellion it is void, and the transaction should brand them as traitors to this Government.

There is strong reason to believe, however, that the saw-mill was returned by our Government to Heald and Wright, or some other one of the firm, and by some one of them, I believe Mr. Heald, sold to one J. K. Kennedy for some six thousand dollars, and that he is still running the mill at Fort Smith. At all events, the mill is still at Fort Smith, still sawing, and is yet the property of J. K. Kennedy, or was his at last accounts. No matter how this is, one thing is certain, that if Heald, or Heald & Wright, or Heald, Wright & Co., or Heald, Williams, Dow & Wright, or any or either or all of them are entitled to anything, the proof shows clearly that it is the United States, and not the Choctaw nation, to whom he or they should look for compensation. Other items in the accounts of Mr. Heald or Heald & Wright are for debts due by individual Indians, on account of goods

sold them on credit, and running through the various years during which those gentlemen were licensed and unlicensed traders in the Choctaw country. It is almost if not quite certain that many of these charges are against Indians who were in the confederate service with the guilty knowledge of some of the firm and claimants now here as "Heald & Wright, of Massachusetts."

I have seen no evidence in their report to warrant Messrs. Rice and Jackson in allowing such demands against the Choctaw nation. Those here representing the Choctaws assert that Heald and Wright favored the rebel cause; that Wright readily furnished supplies to the rebel troops; and that if any connection still existed between Heald and Williams and Dow the concern was actively engaged in transactions with the rebel authorities in the years 1861 and 1862.

The claimants, Heald and Wright, although they knew this was charged against them during the pendency of this claim heretofore, have produced nothing to controvert this assertion, but, on the contrary, all their associations, and the written evidence produced, pretty conclusively establish the fact charged against them.

There is no doubt but that Heald was well informed as to the gold deposited in Philadelphia; and as things then were, it is evidence that all parties supposed it would be confiscated by the Government should its place of deposit be discovered.

Had Heald been the loyal man he claims to have been why did he not give information to the Government so that the gold could have been discovered? It was well known that the officers of the Government were endeavoring to discover this deposit at the very time Williams was endeavoring to purchase it and Heald was engaged in covering it up. Wright has not denied the charge that he furnished supplies to the rebel troops, nor is it denied that Dow, one of the partners of Heald & Co., was in the rebel service. The Choctaws deny that their treasurer ever borrowed any money of Joseph G. Heald. He had no right to do so without an act of the council of the nation authorizing such a loan.

The Choctaws therefore object to the proposed sales of stocks or bonds held and assumed as trusts for their benefit by the United States on the ground, first, that the terms of the treaty and obligations assumed by the Government do not authorize it; and second, that all or very nearly all of the claims set up by J. G. Heald and Reuben Wright are fraudulent and not covered by the terms of the fiftieth article of the treaty of April 28, 1866, and were in violation of the intercourse act of 1834.

In this view of the matter I concur, for I do not see how the United States can sell these funds without a violation of the trust assumed by them for the benefit of the Choctaws, and I am also satisfied that a great imposition has been practiced on the Government and on the Choctaws by the parties setting up these claims, and that they were acting in violation of the intercourse law.

It is proper to call attention again to the fact that the Indian tribes sustain the relation of wards to the Government, and they are therefore entitled to the benefit of all the moral as well as legal obligations which attach to that relation. One of the most obvious of these obligations or duties on the part of the guardian, which in this case is the Government, is that of protecting against wrong if attempted to be perpetrated by others, and *a fortiori* to abstain itself from the commission of wrongs. In this particular case this double duty rests upon the Government, in the first place to protect the Choctaws against claims set up against them which they have had no fair opportunity of contesting, and in the second place to preserve funds held in trust which have been

solemnly devoted to the purposes of education or otherwise.

The grounds upon which the amendment is urged is, that the "Choctaw nation agreed to pay the amount," and that the bill only provides for the manner and means of payment. The only evidence of such facts, as I understand the question, is the statement of Messrs. Rice and Jackson in their report that Allen Wright, principal chief of the Choctaw nation, and John Page, a citizen of the nation, examined the claims of Heald and Wright, and admitted they were just and should be paid. I understand the Choctaw nation to have a written constitution and laws and a representative form of Government; and upon an examination of the constitution and laws can find no authority in the principal chief or Mr. Page to confess judgment against the nation. I have been furnished with no law making them attorneys for that purpose, nor have they pretended to produce authority from the Choctaw nation to act as their agents. Besides, it is a fact that Wright was only chief-elect at the time.

It is also contended that the delegates of the Choctaw nation, sent here only to negotiate the treaty of April 28, 1866, allowed the claim of Heald and Wright, and hence it ought to be paid. The Choctaw nation by solemn enactment denied their authority to do so. And the fiftieth article of the treaty under which the claims are set up does not admit of such a construction. If such were the fact, why the necessity of a commission to ascertain the facts?

The only evidence of any allowance or admission of indebtedness on the part of the Choctaw delegation of 1866 is found in the following paper, on file in the office of the Commissioner of Indian Affairs. Here is the paper:

The Choctaws agree and stipulate to pay to Joseph G. Heald, of Massachusetts, who for many years traded among and befriended them, the sum of \$70,288 80 in full of all demands for spoiliations upon his property, and for other reclamations and debts due to him by the Choctaws, which sum shall be paid out of the \$300,000 in the event the Choctaws receive the same under the provisions of the third article of this treaty; and in the event they do not receive the same under said article, then to be paid in two annual installments with interest at the rate of five per cent.

The foregoing article, after full consideration, has been approved by us; and we request that it be inserted in the treaty, April 28, 1866.

ALLEN WRIGHT,
JOHN PAGE,
JAMES REILEY,
ALFRED WADE.

Now, these men, if they had any power, only had the power to negotiate the treaty and not the power to settle or allow claims or strike balances. The parties who obtained the names or signatures to the foregoing knew very well the trick they were playing and the advantage they gained if the paper were of any validity. Those who signed the paper will certainly receive the thanks of the Choctaw people, and will long be remembered by them, but I doubt whether they will be employed again in their behalf.

If Messrs. Heald and the other partners rely on this paper, they should be governed by its terms. Under its provisions the amount allowed to be paid, if it were just, is not yet due. The three hundred thousand is by the terms of the treaty held by the United States in trust, to be paid to the Choctaw nation or appropriated otherwise, as events might determine. Until the time when such contingency is to be determined and made certain according to the above agreement, if it be of any force, which I deny, they have no claim against the nation. They can have none until after such contingency has become a certainty. (See article three, treaty of 1866.)

I find no such allowance in favor of Mr. Wright, and the only evidence upon which his claim is based is the fact reported by Messrs. Rice and Jackson, that Allen Wright and John Page said the award in his favor was just and correct.

HO. OF REPS.

Railroad from Washington to New York—Mr. Cook.

40TH CONG. ... 3D SESS.

I do not find a scintilla of evidence taken by the commissioners to establish the fact that Heald and Wright were licensed traders in the Choctaw nation at the commencement of the rebellion; that they were and remained loyal during the war; or that no portion of the articles charged for were furnished the nation or individuals thereof in aid of the rebellion without their consent. These points are very material under the treaty, and their claim must fail without this proof.

It seems manifest to me that the amendment should not pass; that simple justice demands that a new investigation be ordered in accordance with the terms of the treaty; that the Choctaw authorities have proper notice of the time and place of meeting of the commission; that such meeting be held within the limits of the Choctaw country, and at such place therein as the authorities of the nation and the commissioners may agree upon, and that the Choctaw authorities may be permitted to be present at the investigation.

This Government owes the Choctaw nation some fifty thousand or more dollars of an unpaid balance under treaty stipulations exclusive of the \$1,000,000 I have mentioned. If the claims of Heald and Wright and their conferees were just it should be paid out of this balance without disturbing the trust funds sacredly held by our Government and dedicated to the purposes of education and civilization—to schools and churches, and made by the most solemn enactments and declarations irreducible. Let us not disturb those trusts and violate the plighted faith of our Government, and disregard the obligations we are under as the guardian of those people.

Railroad from Washington to New York.

SPEECH OF HON. BURTON C. COOK,
OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

February 3 and 4, 1869,

On the bill (H. R. No. 621) to authorize the building of a military and postal railway from Washington, District of Columbia, to the city of New York.

MR. COOK. I presume that it will be admitted by every one that a railroad from this city to New York such as is proposed by this bill would be of very great advantage to the Government and to the public. A single road is now the only means of communication between the political capital and the commercial capital of the nation, between this city and the northern section of the country. Not long since, when this capital was menaced by enemies on every side, we saw how utterly insufficient for the transportation of troops, material of war, and subsistence for the Army to secure the safety of the capital of the nation was this single road; we saw also that it was entirely unsafe to depend upon a single road for the transportation of troops and supplies when that road was liable at many points to be assailed and broken up. It cannot be denied successfully that the construction of an air-line road from this city to New York would be as legitimate an exercise of the power to provide for the common defense as the casting of cannon or the establishment of magazines.

The road is necessary to secure the certain transmission of the mails. It has appeared in evidence before the committee, by the statement of the Postmaster General, that he has not been able to make a contract for the carrying of the mails between Washington and New York upon the conditions prescribed by law, and that the proposition that the railroad corporations forming the continuous line between said cities might refuse to carry the mails of the United States has been frequently stated by the officers of said roads, and the committee see no reason why it is not in the power of the corporation to cut off all railway postal

communication between Washington and New York. The construction of the road is necessary to relieve commerce from the burdens imposed upon it by State legislation.

The eighth section of the law of Maryland, passed in 1832, provides that "one fifth of the whole amount which may be received for the transportation of passengers on said railroad by said company during the six months last preceding shall be reserved and paid to the treasurer" of the State of Maryland. It is then provided—

"That the charge for conveying each person the whole distance between the cities of Baltimore and Washington shall not be reduced below the maximum of \$2.50 hereinbefore established, unless by the consent of the General Assembly."

It is then provided further:

"That in no case shall the amount received by the State from the Baltimore and Ohio Railroad Company, for the conveyance of each person the whole distance between the two cities, be less than twenty-five cents."

The second section provides for a reduction of fare where there are a certain number of passengers to be carried from one city to the other, and to be returned within three days, in which event the rate of fare is to be reduced, which would be an anomaly now in railroad fares; but the section concludes:

"Provided always, That one fifth of all such passage money so received be accounted for and paid into the State treasury as aforesaid."

The law of New Jersey chartering the Camden and Amboy railroad provides:

"That from and after the completion of the said road or roads it shall be the duty of the treasurer of the said company, under oath or affirmation, to make quarterly returns of the number of passengers and the number of tons of goods, wares, and merchandise transported on said road or roads to the treasurer of this State for the time being, and thereupon to pay to the said treasurer of the State at the rate of ten cents for each and every passenger, and the sum of fifteen cents for each and every ton of merchandise so transported thereon, and that no other tax or impost shall be levied or assessed upon the said company."

We have seen, also, within a few months, that persons passing along the existing route have been violently assailed for their political views and beaten and outraged. I do not say that the road was responsible for this; I do not know whether this was so or not; but I state a historical fact when I say that passengers have been placed in great peril and subjected to gross outrage on account of their political opinions.

But I only propose to state, not to discuss, some of the reasons why an air-line railroad from this city to New York would be of very great public benefit, and to confine my remarks to a discussion of the question whether Congress has the constitutional power to pass this bill. The eighth section of the first article of the Constitution provides—

"That Congress shall have power to regulate commerce among the several States."

There are some questions arising under this clause of the Constitution that have been so often decided by the Supreme Court, and the construction given so long acquiesced in by every department of the Government, as to have become fixed and settled permanently, and to be no longer open to discussion; and

1. It is settled by judicial definition that the term commerce, as used in this clause of the Constitution, means the interchange of merchandise and the intercourse of persons between two or more States.

2. It is also settled that the power to regulate commerce conferred upon Congress is a power to prescribe rules in conformity with which commerce must be carried on, and extends to the persons who conduct it and to the instruments used.

3. It is also settled that the means used for the transportation of merchandise and of passengers from one State to another are the instruments of commerce. In support of these propositions I cite the case of *Cooley vs. The Board of Wardens*, 12 Howard, 316, as one of many cases that might be cited.

The commerce among the several States when the Constitution was adopted was limited to a few million dollars. In the year ending March 31, 1867, the value of freight transported by railroad across the State of Illinois alone, from east to west, was \$411,000,000. The value of freight transported across the same State by railroad from west to east was \$235,000,000.

It cannot be successfully controverted that the immense traffic now carried on between the several States, the interchange of the commodities of such States, and the transit of passengers from one State to another, constitute commerce among the several States according to the strictest meaning of these words as used in the Constitution; and in the case of *Gibbons vs. Ogden*, (9 Wheaton, 191,) it was expressly held by the Supreme Court of the United States that wherever "commerce among the States goes the power of the nation goes with it to protect and enforce its rights." That at this day railroads extending from one State to another are the instruments of commerce among the States cannot be questioned, and if the power to regulate commerce among the several States extends to the instruments of commerce as settled by the Supreme Court in the case of *Cooley vs. The Board of Wardens*, (12 Howard, 316,) then the power of Congress to pass this bill cannot be successfully denied.

It is well known that one of the principal reasons which led to the adoption of the Constitution was to rescue commerce from the embarrassments and restrictions resulting from the legislation of so many different States, and to place it under the protection of a uniform law. The debates in the convention show that the national power over commerce was conceded to be of primary importance. Of what avail would it be to prohibit States from imposing any tax or impost upon the commodities of other States passing through it if the State has a right to control the avenues of commerce and to authorize corporations created by the State to impose any tariffs of freight, and place any restrictions upon the commerce of other States that may be for their interest? In either case the power is the same for one State to render others tributary to it in their commercial relations.

A very material and essential object of this power to regulate commerce among the States was the relief of those States which, from their peculiar geographical position, must import and export through other States, from the improper contributions which might be levied upon them by the latter. Were the several States at liberty to regulate the question between State and State, means might be resorted to to load the articles of export and import, during their passage through their jurisdictions, with burdens which would fall with peculiar severity on the citizens of the interior States. Since the adoption of the Constitution the importance of these considerations has greatly increased. A large number of new States have grown up, at a great distance from the seaboard, whose exports and imports are carried mainly over the great lines of railroad. If any State has the right, either directly or indirectly, to collect from the inhabitants of other States passing through it any tax or impost whatever, whether the same be collected directly from the passenger or freight, or from the corporation, in proportion to the number of its passengers or the amount of its freight, and so indirectly from the passenger or freight, or if a State may lay a special tax upon any particular line of road, its passengers, or earnings, different from that imposed on other roads, and in consideration of the payment of such tax may grant to the corporation the right to fix its own charges, and provide by law against the construction of any competing line, a very heavy burden may be imposed upon the people of the interior States, and the relief sought to be secured by the pro-

vision of the Constitution which gives power to Congress to regulate commerce among the several States be in a great measure lost.

It is insisted that although the power to regulate commerce among the several States is given to Congress by the Constitution, yet this power is limited to commerce carried on over the navigable waters of the country. To this it may be answered that the power given in the Constitution to Congress to regulate commerce among the States is an unqualified power, not limited to any particular branch nor restricted to any specified instruments of commerce. The power conferred is not a power to regulate navigation, but the power to regulate commerce, and if commerce be not limited to the interchange of commodities and the intercourse of persons by boats and vessels, or by navigable waters, then the power of Congress is not limited to the regulation of navigation only. The necessity is the same for the exercise by Congress of the power to regulate commerce carried on by railway as that carried on by steamboat. The reason for the power is the same. The grant of power in the Constitution applies, by its terms, equally to both. Commerce among the several States is not, at this day, exclusively or even mainly carried on by water; other instruments of commerce are now used unknown to the framers of the Constitution, but which seem as plainly within the letter of the Constitution as the instruments of commerce which were known to the framers of that instrument. In the case of *Gray vs. The Clinton Bridge Company*, reported in the *American Law Register* for January, 1868, Mr. Justice Miller, of the Supreme Court of the United States, says:

"Navigation, however, is only one of the elements of commerce. It is an element of commerce because it affords the means of transporting passengers and merchandise, the interchange of which is commerce itself. Any other mode of effecting this would be as much an element of commerce as navigation. When this transportation or interchange of commodities is carried on by land, it is commerce as well as when carried on by water, and the power of Congress to regulate it is as ample in the one case as in the other. The 'commerce among the States' spoken of in the Constitution must, at the time that instrument was adopted, have been mainly of this character, for the

steamboat, which has created our great internal commerce on the rivers, was then unknown.

"Another means of transportation, equal in importance to the steamboat, has also come into existence since the Constitution was adopted, a means by which merchandise is transported across States and kingdoms in the same vehicle in which it started. The railroad now shares with the steamboat the monopoly of the carrying trade. The one has, with great benefit, been subject to the control of salutary congressional legislation, because it is an instrument of commerce. Is there any reason why the other should not? However, this question may be answered in regard to that commerce which is conducted wholly within the limits of a State, and is, therefore, neither foreign commerce nor commerce among the States. It seems to me, that where these roads become parts of great highways of our Union, transporting a commerce which embraces many States, and destined, as some of these roads are, to become the channels through which the nations of Europe and Asia shall interchange their commodities, there can be no reason to doubt that to regulate them is to regulate commerce, both with foreign nations and among the States; and that to refuse to do this is a refusal to discharge one of the most important duties of the Federal Government. As already intimated, the shackles with which the different States fettered commerce in their selfish efforts to benefit themselves at the expense of their confederates was one of the main causes which led to the formation of our present Constitution. The wonderful growth of that commerce, since it has been placed exclusively under the control of the Federal Government, has justified the wisdom of our fathers. But are we to remit the most valuable part of that commerce again to the control of the States, and to the consequent vexations and burdens which the States may impose through whose territories it must be carried on? And must all this be permitted because the carrying is done by a method not thought of when the Constitution was framed?"

"For myself, I must say, that I have no doubt of the right of Congress to prescribe all needful and proper regulations for the conduct of this immense traffic over any railroad which has voluntarily become part of one of those lines of interstate communication, or to authorize the creation of such roads, when the purposes of interstate transportation of persons and property justify or require it."

Before the days of railroads, in the celebrated case of *Gibbons vs. Ogden*, above referred to, Mr. Webster said:

"A road, indeed, may be a matter of great commercial concern; in many cases it is so; and when it is so I think there is no doubt of the power of Congress to make it."

When the Constitution was adopted commerce was carried on in sailing vessels. When steamboats were used it was not insisted that Congress had no control over them because

they were instruments of commerce not known when the Constitution was adopted, but immediate, complete, and unquestioned jurisdiction was assumed by Congress over them because they were instruments of commerce among the several States.

I ask the House to look at some of the results which must follow the conclusion that the United States has not the power to regulate commerce between the several States when carried over railroads. In such case the State of New York, extending from the ocean to the great lakes, might refuse to allow the construction of any road by which the commerce of the New England States could reach any other portion of the Union by railway, thus effectually cutting off the greatest portion of the commerce of those States; or the State of Maryland could control perfectly all the avenues of communication between New York and the capital. It is no answer to say that this will not be done. The point is, has any State the constitutional power thus to cripple the commerce of another State?

But it is insisted that Congress has no power to authorize the construction of a railroad, even if it has the power of regulating commerce over those already existing and extending from State to State.

I do not see how any distinction can be made between the power to widen and deepen a river so that the commerce of the country can be carried on by an avenue through which it could not pass before and constructing a railroad for the same purpose. The end sought in either case is the same, and the exercise of power is the same. If Congress may deepen Lake St. Clair, it may construct a railroad around it if the interests of commerce would be better served thereby. And it is too late now to question the power of Congress to create avenues of commerce which did not before exist by the improvement of those great rivers which, reaching from State to State, may be made instruments of commerce among the States. I call attention to the following tables to show how constantly this power has been exercised by Congress:

Statement of Appropriations for the construction and repair of roads and for the improvements of rivers in the United States and the amounts expended in each State.

No.	Designation of work.	Year.	Amounts appropriated.	Total amount.	In what State.	Total in each State.	By whom approved.
6	Removing obstructions in the Berwick branch of Piscataqua river, Maine.....	1828	\$8,000 00	\$8,250 00	Maine.		J. Q. Adams.
	Removing obstructions in the Berwick branch of Piscataqua river, Maine.....	1832	250 00				Jackson.
7	Military road from Mattanawcook to Mars Hill, North Carolina.....	1828	15,000 00	137,383 72			J. Q. Adams.
	Military road from Mattanawcook to Mars Hill, North Carolina.....	1829	42,932 00				J. Q. Adams.
	Military road from Mattanawcook to Mars Hill, North Carolina.....	1830	47,451 72				Jackson.
	Military road from Mattanawcook to Mars Hill, North Carolina.....	1831	5,000 00				Jackson.
	Military road from Mattanawcook to Mars Hill, North Carolina.....	1832	21,000 00				Jackson.
	Military road from Mattanawcook to Mars Hill, North Carolina.....	1834	6,000 00				Jackson.
						\$145,633 72	
8	Deepening the channel of the Cocheco branch of Piscataqua river, New Hampshire.....	1836	5,000 00	10,000 00	N. Hampshire		Jackson.
	Deepening the channel of the Cocheco branch of Piscataqua river, New Hampshire.....	1837	5,000 00				Jackson.
						\$10,000 00	
10	Deepening the channel between the Hero islands, Lake Champlain, Vermont.....	1836	15,000 00	21,000 00	Vermont.		Jackson.
	Deepening the channel between the Hero islands, Lake Champlain, Vermont.....	1837	6,000 00				Jackson.
						\$21,000 00	
11	Deepening the channel at the mouth of the Merrimac river, Massachusetts.....	1828	32,100 00	60,366 72	Massachusetts		J. Q. Adams.
	Deepening the channel at the mouth of the Merrimac river, Massachusetts.....	1830	3,506 72				Jackson.
	Deepening the channel at the mouth of the Merrimac river, Massachusetts.....	1831	16,000 00				Jackson.
	Deepening the channel at the mouth of the Merrimac river, Massachusetts.....	1833	4,900 00				Jackson.
	Deepening the channel at the mouth of the Merrimac river, Massachusetts.....	1834	3,860 00				Jackson.
						\$60,366 72	

HO. OF REPS.

Railroad from Washington to New York—Mr. Cook.

40TH CONG....3D SESS.

TABLE—Continued.

No.	Designation of work.	Year.	Amounts appropriated.	Total amount.	In what State.	Total in each State.	By whom approved.		
26	Deepening the channel of the Thames river, Connecticut.....	1836	\$10,000 00	\$40,000 00	Connecticut.		Jackson.		
	Deepening the channel of the Thames river, Connecticut.....	1837	20,000 00				Jackson.		
	Deepening the channel of the Thames river, Connecticut.....	1838	10,000 00				Van Buren.		
28	Deepening the channel of Bridgeport harbor, Connecticut.....	1836	10,000 00	10,000 00	New York.	\$50,000 00	Jackson.		
39	Improving the entrance into Genesee river, New York.....	1829	10,000 00	158,395 00		J. Q. Adams.			
	Improving the entrance into Genesee river, New York.....	1830	13,335 00			Jackson.			
	Improving the entrance into Genesee river, New York.....	1831	16,670 00			Jackson.			
	Improving the entrance into Genesee river, New York.....	1832	16,000 00			Jackson.			
	Improving the entrance into Genesee river, New York.....	1833	15,000 00			Jackson.			
	Improving the entrance into Genesee river, New York.....	1834	20,000 00			Jackson.			
	Improving the entrance into Genesee river, New York.....	1835	3,390 00			Jackson.			
	Improving the entrance into Genesee river, New York.....	1836	20,000 00			Jackson.			
	Improving the entrance into Genesee river, New York.....	1837	10,000 00			Jackson.			
	Improving the entrance into Genesee river, New York.....	1838	25,000 00			Van Buren.			
	Improving the entrance into Genesee river, New York.....	1844	10,000 00			Tyler.			
40	Improving the entrance into Big Sodus bay, New York.....	1829	12,500 00	143,620 00		J. Q. Adams.			
	Improving the entrance into Big Sodus bay, New York.....	1830	15,280 00			Jackson.			
	Improving the entrance into Big Sodus bay, New York.....	1831	17,450 00			Jackson.			
	Improving the entrance into Big Sodus bay, New York.....	1832	17,000 00			Jackson.			
	Improving the entrance into Big Sodus bay, New York.....	1833	15,000 00			Jackson.			
	Improving the entrance into Big Sodus bay, New York.....	1834	15,000 00			Jackson.			
	Improving the entrance into Big Sodus bay, New York.....	1835	11,790 00			Jackson.			
	Improving the entrance into Big Sodus bay, New York.....	1836	12,600 00			Jackson.			
	Improving the entrance into Big Sodus bay, New York.....	1837	12,000 00			Jackson.			
	Improving the entrance into Big Sodus bay, New York.....	1838	10,000 00			Van Buren.			
	Improving the entrance into Big Sodus bay, New York.....	1844	5,000 00			Tyler.			
44	Improving the navigation of the Hudson river, New York.....	1834	70,000 00	370,000 00	Virginia.	\$672,015 00	Jackson.		
	Improving the navigation of the Hudson river, New York.....	1836	100,000 00				Jackson.		
	Improving the navigation of the Hudson river, New York.....	1837	100,000 00				Jackson.		
	Improving the navigation of the Hudson river, New York.....	1838	100,000 00				Van Buren.		
63	Improving the debouches of the Dismal Swamp canal, Virginia.....	1836	15,000 00	25,000 00		\$25,000 00	Jackson.		
	Improving the debouches of the Dismal Swamp canal, Virginia.....	1838	10,000 00				Jackson.		
64	Improving Ocracoke inlet, North Carolina.....	1828	20,000 00	132,750 00	N. Carolina.		J. Q. Adams.		
	Improving Ocracoke inlet, North Carolina.....	1829	21,000 00				J. Q. Adams.		
	Improving Ocracoke inlet, North Carolina.....	1831	17,000 00				Jackson.		
	Improving Ocracoke inlet, North Carolina.....	1832	22,000 00				Jackson.		
	Improving Ocracoke inlet, North Carolina.....	1833	16,700 00				Jackson.		
	Improving Ocracoke inlet, North Carolina.....	1834	15,000 00				Jackson.		
	Improving Ocracoke inlet, North Carolina.....	1836	9,000 00				Jackson.		
	Improving Ocracoke inlet, North Carolina.....	1837	12,050 00				Jackson.		
65	Improving Pamlico river below Washington, North Carolina.....	1836	5,000 00	10,000 00	Georgia.	\$370,377 00	Jackson.		
	Improving Pamlico river below Washington, North Carolina.....	1838	5,000 00				Van Buren.		
66	Improving New river and harbor of Beaufort, North Carolina.....	1836	10,000 00	55,000 00			Jackson.		
	Improving New river and harbor of Beaufort, North Carolina.....	1837	20,000 00				Jackson.		
	Improving New river and harbor of Beaufort, North Carolina.....	1838	25,000 00				Van Buren.		
	Improving New river and harbor of Beaufort, North Carolina.....	1832	-						
67	Improving Cape Fear river, North Carolina.....	1829	20,000 00	172,627 00			J. Q. Adams.		
	Improving Cape Fear river, North Carolina.....	1830	25,688 00				Jackson.		
	Improving Cape Fear river, North Carolina.....	1831	25,705 00				Jackson.		
	Improving Cape Fear river, North Carolina.....	1832	28,000 00				Jackson.		
	Improving Cape Fear river, North Carolina.....	1833	28,000 00				Jackson.		
	Improving Cape Fear river, North Carolina.....	1834	5,234 00				Jackson.		
	Improving Cape Fear river, North Carolina.....	1835	20,000 00				Jackson.		
	Improving Cape Fear river, North Carolina.....	1836	20,000 00				Jackson.		
68	Improving the navigation of the Savannah river, Georgia.....	1826	50,000 00	140,043 06			Florida.	\$243,043 06	J. Q. Adams.
	Improving the navigation of the Savannah river, Georgia.....	1832	25,000 00						Jackson.
	Improving the navigation of the Savannah river, Georgia.....	1833	43 06						Jackson.
	Improving the navigation of the Savannah river, Georgia.....	1834	30,000 00						Jackson.
	Improving the navigation of the Savannah river, Georgia.....	1835	20,000 00						Jackson.
	Improving the navigation of the Savannah river, Georgia.....	1838	15,000 00						Van Buren.
70	Improving the inland passage between St. Mary's, Georgia, and St. John's, Florida.....	1828	13,500 00	78,000 00	J. Q. Adams.				
	Improving the inland passage between St. Mary's, Georgia, and St. John's, Florida.....	1830	1,500 00		Jackson.				
	Improving the inland passage between St. Mary's, Georgia, and St. John's, Florida.....	1833	9,000 00		Jackson.				
	Improving the inland passage between St. Mary's, Georgia, and St. John's, Florida.....	1835	15,000 00		Jackson.				
	Improving the inland passage between St. Mary's, Georgia, and St. John's, Florida.....	1836	5,000 00		Jackson.				
	Improving the inland passage between St. Mary's, Georgia, and St. John's, Florida.....	1837	5,000 00		Jackson.				
	Improving the inland passage between St. Mary's, Georgia, and St. John's, Florida.....	1838	29,000 00		Van Buren.				
71	Road from Fort Hawkins, Georgia, to Fort Stoddard, Alabama.....	1816	10,000 00	15,000 00	Florida.				Madison.
	Road from Fort Hawkins, Georgia, to Fort Stoddard, Alabama.....	1818	5,000 00						Monroe.
72	Improving the navigation of the river St. Mark's, Florida.....	1829	6,500 00	37,030 00					J. Q. Adams.
	Improving the navigation of the river St. Mark's, Florida.....	1830	10,000 00				Jackson.		
	Improving the navigation of the river St. Mark's, Florida.....	1831	7,430 00				Jackson.		
	Improving the navigation of the river St. Mark's, Florida.....	1832	4,500 00				Jackson.		
	Improving the navigation of the river St. Mark's, Florida.....	1833	1,500 00				Jackson.		
	Improving the navigation of the river St. Mark's, Florida.....	1834	4,600 00				Jackson.		
	Improving the navigation of the river St. Mark's, Florida.....	1844	2,500 00		Tyler.				
	Carried forward.....			37,030 00					

TABLE—Continued.

No.	Designation of work.	Year.	Amounts appropriated.	Total amount.	In what State.	Total in each State.	By whom approved.
73	Brought forward.....						
	Improving the Ochlocony river, Florida.....	1833	\$5,000 00	\$37,030 00	Florida.		Jackson.
74	Improving the Escambia river, Florida.....	1833	5,000 00	5,000 00			Jackson.
	Improving the Escambia river, Florida.....	1836	5,500 00				Jackson.
76	Improving the Choctawhatchee and Holmes rivers, Florida.....	1844	10,000 00	10,500 00			Tyler.
	Removing obstructions in Appalachieola river, Florida.....	1828	3,000 00	10,000 00			J. Q. Adams.
	Removing obstructions in Appalachieola river, Florida.....	1830	2,000 00				Jackson.
	Removing obstructions in Appalachieola river, Florida.....	1831	8,000 00				Jackson.
	Improving the harbor of Appalachieola, Florida.....	1833	8,700 00	13,000 00			Jackson.
	Improving the harbor of Appalachieola, Florida.....	1836	10,000 00				Jackson.
78	Canal to connect Indian river and Mosquito Lagoon, Florida.....	1844	1,500 00	18,700 00			Tyler.
79	Road from Alachua Court-house to Jacksonville, Florida.....	1830	2,000 00	1,500 00			Jackson.
80				2,000 00			
81	Road from Alaquia to Mariana, Florida.....	1830	2,000 00				Jackson.
82	Road from Pensacola to Tallahassee, Florida.....	1829	6,000 00	2,000 00			J. Q. Adams.
	Road from Pensacola to Tallahassee, Florida.....	1830	5,369 72				Jackson.
	Road from Pensacola to Tallahassee, Florida.....	1832	6,500 00				Jackson.
	Road from Pensacola to Tallahassee, Florida.....	1835	15,000 00				Jackson.
83	Road from Pensacola to St. Augustine, Florida.....	1824	20,000 00	32,869 72			Monroe.
	Road from Pensacola to St. Augustine, Florida.....	1825	8,000 00				Monroe.
	Road from Pensacola to St. Augustine, Florida.....	1827	5,000 00				J. Q. Adams.
84	Road from Georgia line to New Smyrna, Florida, (King's road.).....	1827	11,000 00	33,000 00			J. Q. Adams.
	Road from Georgia line to New Smyrna, Florida, (King's road.).....	1830	2,000 00				Jackson.
85	Road from St. Mary's river to Tampa bay, Florida.....	1835	12,000 00	13,000 00			Monroe.
	Road from St. Mary's river to Tampa bay, Florida.....	1837	6,000 00				J. Q. Adams.
86	Road from the northern boundary of Florida, by Mariana, to Appalachieola, Florida.....	1834	12,000 00	18,000 00			Jackson.
	Road from the northern boundary of Florida, by Mariana, to Appalachieola, Florida.....	1837	20,313 00				Jackson.
87	Road from Pensacola to Webbville, Florida.....	1835	4,000 00	32,313 00			Jackson.
88	Road from Tallahassee to Iola, Florida.....	1838	10,000 00	4,000 00			Van Buren.
89	Road from St. Augustine to Picolata, Florida.....	1838	17,300 00	10,000 00			Van Buren.
90	Road from Jacksonville to Tallahassee, Florida.....	1838	10,000 00	17,300 00			Van Buren.
91	Jacksonville to Newnansville, Florida.....	1839	5,000 00	10,000 00			Van Buren.
92	Jacksonville to St. Marys, Florida.....	1839	7,500 00	5,000 00			Van Buren.
				7,500 00			
94	Deepening the channel through the Pass-au-Heron, Alabama.....	1828	18,000 00		Alabama.	\$287,712 72	J. Q. Adams.
95	Road from line creek to the Chatahoochee river, Alabama.....	1826	6,000 00	18,000 00			J. Q. Adams.
	Road from line creek to the Chatahoochee river, Alabama.....	1833	20,000 00				Jackson.
96	Road between Pensacola and Blakely and Mobile Point, Alabama.....	1829	3,000 00	26,000 00			J. Q. Adams.
				3,000 00			
97	Improving Pascagoula river, Mississippi.....	1827	8,000 00		Mississippi.		J. Q. Adams.
	Improving Pascagoula river, Mississippi.....	1828	17,500 00	25,500 00			J. Q. Adams.
98	Road between Jackson and Columbus, Mississippi.....	1826	15,000 00	15,000 00			J. Q. Adams.
99	Road from Nashville, Tennessee, to Natchez, Mississippi.....	1806	6,000 00	6,000 00			Jefferson.
						\$46,500 00	
100	Increasing depth of water at mouth of Mississippi river, Louisiana.....	1836	75,000 00		Louisiana.		Jackson.
	Increasing depth of water at mouth of Mississippi river, Louisiana.....	1837	210,000 00	285,000 00			Jackson.
101	Improving the navigation of Red river, Louisiana.....	1828	25,000 00				J. Q. Adams.
	Improving the navigation of Red river, Louisiana.....	1832	20,000 00				Jackson.
	Improving the navigation of Red river, Louisiana.....	1834	50,000 00				Jackson.
	Improving the navigation of Red river, Louisiana.....	1835	50,000 00				Jackson.
	Improving the navigation of Red river, Louisiana.....	1836	70,800 00				Jackson.
	Improving the navigation of Red river, Louisiana.....	1837	65,000 00				Jackson.
	Improving the navigation of Red river, Louisiana.....	1838	70,000 00				Van Buren.
	Improving the navigation of Red river, Louisiana.....	1841	75,000 00				Van Buren.
102	Road on the frontier of Georgia on the route from Athens to New Orleans, Louisiana.....	1806	6,400 00	425,800 00			Jefferson

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TABLE—Continued.

No.	Designation of work.	Year.	Amounts appropriated.	Total amount.	In what State.	Total in each State.	By whom approved.
106	Improving the navigation of the Arkansas river, Arkansas.....	1832	\$15,000 00	\$120,000 00	Arkansas.		Jackson.
	Improving the navigation of the Arkansas river, Arkansas.....	1835	40,000 00				Jackson.
	Improving the navigation of the Arkansas river, Arkansas.....	1837	25,000 00				Jackson.
	Improving the navigation of the Arkansas river, Arkansas.....	1838	40,000 00				Van Buren.
107	Road from Little Rock to Cantonment Gibson, Arkansas.....	1827	10,000 00	10,000 00			J. Q. Adams.
108	Road from opposite Memphis to the St. Francis river, Arkansas.....	1833	100,000 00	206,000 00			Jackson.
	Road from opposite Memphis to the St. Francis river, Arkansas.....	1835	106,000 00				Jackson.
109	Road from opposite Memphis to Little Rock, Arkansas.....	1824	15,000 00	59,065 00			Monroe.
	Road from opposite Memphis to Little Rock, Arkansas.....	1827	9,065 00				J. Q. Adams.
	Road from opposite Memphis to Little Rock, Arkansas.....	1832	20,000 00				Jackson.
	Road from opposite Memphis to Little Rock, Arkansas.....	1834	15,000 00				Jackson.
110	Road from Fort Smith to Fort Towson, Arkansas.....	1827	12,000 00	12,000 00			J. Q. Adams.
111	Road from Washington to Jackson, Arkansas.....	1831	15,000 00	17,000 00			Jackson.
	Road from Washington to Jackson, Arkansas.....	1832	2,000 00				Jackson.
112	Road from Helena to the mouth of the Cache river, Arkansas.....	1834	10,000 00	10,000 00			Jackson.
113	Road from Strongs, via Littlefield, to Batesville, Arkansas.....	1834	7,000 00	7,000 00			Jackson.
114	Road from Columbia to Little Rock, Arkansas.....	1834	10,000 00	10,000 00			Jackson.
115	Road from the southern boundary of Missouri to Fulton on Red river, Arkansas.....	1835	20,000 00	20,000 00			Jackson.
116	Road from Fort Towson to the northern boundary of Louisiana, Arkansas.....	1835	15,000 00	15,000 00			Jackson.
						\$486,065 00	
117	Western frontier military road from the Mississippi river to the Red river, Missouri and Arkansas.....	1836	100,000 00	100,000 00	Miss. and Ark.		Jackson.
119	Improving Mississippi river above the mouth of the Ohio and Missouri, Improving Mississippi river above the mouth of the Ohio and Missouri, Improving Mississippi river above the mouth of the Ohio and Missouri.	1836 1837 1838	40,000 00 40,000 00 20,000 00	100,000 00			Jackson. Jackson. Van Buren.
120	Improving the Ohio and Mississippi rivers.....	1824	75,000 00	585,000 00			Monroe.
	Improving the Ohio and Mississippi rivers.....	1827	30,000 00				J. Q. Adams.
	Improving the Ohio and Mississippi rivers.....	1828	50,000 00				J. Q. Adams.
	Improving the Ohio and Mississippi rivers.....	1829	50,000 00				J. Q. Adams.
	Improving the Ohio and Mississippi rivers.....	1830	250,000 00				Jackson.
	Improving the Ohio and Mississippi rivers.....	1831	200,000 00				Jackson.
	Improving the Ohio and Mississippi rivers.....	1837	60,000 00				Jackson.
	Improving the Ohio and Mississippi rivers.....	1838	70,000 00				Van Buren.
121	Improving the Ohio, Mississippi, and Missouri rivers.....	1832	50,000 00	303,000 00			Jackson.
	Improving the Ohio, Mississippi, and Missouri rivers.....	1833	50,000 00				Jackson.
	Improving the Ohio, Mississippi, and Missouri rivers.....	1834	50,000 00				Jackson.
	Improving the Ohio, Mississippi, and Missouri rivers.....	1835	50,000 00				Jackson.
	Improving the Ohio, Mississippi, and Missouri rivers.....	1836	60,000 00				Jackson.
	Improving the Ohio, Mississippi, and Missouri rivers.....	1837	23,000 00				Jackson.
	Improving the Ohio, Mississippi, and Missouri rivers.....	1838	20,000 00				Van Buren.
122	Improving the Ohio above the falls.....	1835	50,000 00	280,000 00			Jackson.
	Improving the Ohio above the falls.....	1836	20,000 00				Jackson.
	Improving the Ohio above the falls.....	1837	60,000 00				Jackson.
	Improving the Ohio above the falls.....	1838	50,000 00				Van Buren.
	Improving the Ohio above the falls.....	1844	100,000 00				Tyler.
123	Improving the Ohio below the falls at Louisville, and the Mississippi, Missouri, and Arkansas rivers.....	1842	100,000 00	430,000 00			Tyler.
	Improving the Ohio below the falls at Louisville, and the Mississippi, Missouri, and Arkansas rivers.....	1843	150,000 00				Tyler.
	Improving the Ohio below the falls at Louisville, and the Mississippi, Missouri, and Arkansas rivers.....	1844	180,000 00				Tyler.
						\$1,698,000 00	
124	Cumberland road in Indiana.....	1829	50,000 00	1,135,000 00	Indiana.		J. Q. Adams.
	Cumberland road in Indiana.....	1830	60,000 00				Jackson.
	Cumberland road in Indiana.....	1831	75,000 00				Jackson.
	Cumberland road in Indiana.....	1832	100,000 00				Jackson.
	Cumberland road in Indiana.....	1833	100,000 00				Jackson.
	Cumberland road in Indiana.....	1834	150,000 00				Jackson.
	Cumberland road in Indiana.....	1835	100,000 00				Jackson.
	Cumberland road in Indiana.....	1836	250,000 00				Jackson.
	Cumberland road in Indiana.....	1837	100,000 00				Jackson.
	Cumberland road in Indiana.....	1838	150,000 00				Van Buren.
125	Cumberland road in Illinois.....	1830	40,000 00	746,000 00	Illinois.		Jackson.
	Cumberland road in Illinois.....	1831	66,000 00				Jackson.
	Cumberland road in Illinois.....	1832	70,000 00				Jackson.
	Cumberland road in Illinois.....	1833	70,000 00				Jackson.
	Cumberland road in Illinois.....	1834	100,000 00				Jackson.
	Cumberland road in Illinois.....	1836	150,000 00				Jackson.
	Cumberland road in Illinois.....	1837	100,000 00				Jackson.
	Cumberland road in Illinois.....	1838	150,000 00				Van Buren.
128	Cumberland road in Ohio.....	1825	150,000 00		Ohio.		
	Cumberland road in Ohio.....	1826	110,749 00				
	Cumberland road in Ohio.....	1827	170,000 00				
	Cumberland road in Ohio.....	1828	175,000 00				
	Cumberland road in Ohio.....	1829	200,000 00				
	Cumberland road in Ohio.....	1830	100,000 00				
	Cumberland road in Ohio.....	1831	103,650 00				
	Cumberland road in Ohio.....	1832	100,000 00				
	Cumberland road in Ohio.....	1833	130,000 00				
	Cumberland road in Ohio.....	1834	201,609 36				
	Carried forward.....		\$1,341,008 38			\$746,000 00	

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No.	Designation of work.	Year.	Amounts appropriated.	Total amount.	In what State.	Total in each State.	By whom approved.
	Brought forward.....		\$1,341,008 36		Ohio.		
	Cumberland road in Ohio.....	1835	200,000 00				
	Cumberland road in Ohio.....	1836	200,000 00				
	Cumberland road in Ohio.....	1837	190,000 00				
	Cumberland road in Ohio.....	1838	150,000 00				
				\$2,081,008 36			
129	Road from the line established by the treaty at Greenville to the North Bend, in Ohio.....	1812	800 00	800 00			
130	Road from Mississippi river to the Ohio river.....	1806	6,000 00	6,000 00			
131	Improving the navigation of Huron river, Ohio.....	1826	5,000 00				J. Q. Adams.
	Improving the navigation of Huron river, Ohio.....	1828	4,413 35				J. Q. Adams.
	Improving the navigation of Huron river, Ohio.....	1829	1,935 00				J. Q. Adams.
	Improving the navigation of Huron river, Ohio.....	1830	1,880 36				Jackson.
	Improving the navigation of Huron river, Ohio.....	1831	3,480 00				Jackson.
	Improving the navigation of Huron river, Ohio.....	1832	1,500 00				Jackson.
	Improving the navigation of Huron river, Ohio.....	1834	6,700 00				Jackson.
	Improving the navigation of Huron river, Ohio.....	1836	4,300 00				Jackson.
	Improving the navigation of Huron river, Ohio.....	1837	2,565 00				Jackson.
	Improving the navigation of Huron river, Ohio.....	1838	5,000 00				Van Buren.
	Improving the navigation of Huron river, Ohio.....	1844	5,000 00				Tyler.
				45,773 71			
132	Improving the navigation of Black river, Ohio.....	1828	7,500 00				J. Q. Adams.
	Improving the navigation of Black river, Ohio.....	1830	8,559 77				Jackson.
	Improving the navigation of Black river, Ohio.....	1831	9,275 00				Jackson.
	Improving the navigation of Black river, Ohio.....	1832	8,000 00				Jackson.
	Improving the navigation of Black river, Ohio.....	1833	2,400 00				Jackson.
	Improving the navigation of Black river, Ohio.....	1834	5,000 00				Jackson.
	Improving the navigation of Black river, Ohio.....	1835	4,400 00				Jackson.
	Improving the navigation of Black river, Ohio.....	1836	6,650 00				Jackson.
	Improving the navigation of Black river, Ohio.....	1837	6,410 00				Jackson.
	Improving the navigation of Black river, Ohio.....	1838	5,000 00				Van Buren.
				63,204 77			
134	Removing obstructions mouth of Grand river, Ohio.....	1825	1,000 00				
	Removing obstructions mouth of Grand river, Ohio.....	1826	5,620 00				
	Removing obstructions mouth of Grand river, Ohio.....	1828	9,135 11				
	Removing obstructions mouth of Grand river, Ohio.....	1830	5,563 18				Jackson.
	Removing obstructions mouth of Grand river, Ohio.....	1831	5,680 00				Jackson.
	Removing obstructions mouth of Grand river, Ohio.....	1832	2,600 00				Jackson.
	Removing obstructions mouth of Grand river, Ohio.....	1834	10,000 00				Jackson.
	Removing obstructions mouth of Grand river, Ohio.....	1836	6,000 00				Jackson.
	Removing obstructions mouth of Grand river, Ohio.....	1838	10,000 00				Van Buren.
	Removing obstructions mouth of Grand river, Ohio.....	1844	10,000 00				Tyler.
				65,598 29			
135	Removing obstructions at the mouth of Ashtabula creek, Ohio.....	1826	12,000 00				J. Q. Adams.
	Removing obstructions at the mouth of Ashtabula creek, Ohio.....	1828	2,403 50				J. Q. Adams.
	Removing obstructions at the mouth of Ashtabula creek, Ohio.....	1829	6,940 25				J. Q. Adams.
	Removing obstructions at the mouth of Ashtabula creek, Ohio.....	1831	7,015 00				J. Q. Adams.
	Removing obstructions at the mouth of Ashtabula creek, Ohio.....	1832	3,800 00				Jackson.
	Removing obstructions at the mouth of Ashtabula creek, Ohio.....	1833	3,400 00				Jackson.
	Removing obstructions at the mouth of Ashtabula creek, Ohio.....	1834	5,000 00				Jackson.
	Removing obstructions at the mouth of Ashtabula creek, Ohio.....	1835	7,591 00				Jackson.
	Removing obstructions at the mouth of Ashtabula creek, Ohio.....	1837	8,000 00				Jackson.
	Removing obstructions at the mouth of Ashtabula creek, Ohio.....	1838	8,000 00				Van Buren.
	Removing obstructions at the mouth of Ashtabula creek, Ohio.....	1844	5,000 00				Tyler.
				67,149 75			
136	Improving the navigation of Conneaut creek, Ohio.....	1829	7,500 00				J. Q. Adams.
	Improving the navigation of Conneaut creek, Ohio.....	1830	6,135 65				Jackson.
	Improving the navigation of Conneaut creek, Ohio.....	1831	6,370 00				Jackson.
	Improving the navigation of Conneaut creek, Ohio.....	1832	7,800 00				Jackson.
	Improving the navigation of Conneaut creek, Ohio.....	1836	2,500 00				Jackson.
	Improving the navigation of Conneaut creek, Ohio.....	1837	5,000 00				Jackson.
	Improving the navigation of Conneaut creek, Ohio.....	1838	8,000 00				Van Buren.
	Improving the navigation of Conneaut creek, Ohio.....	1844	5,000 00				Tyler.
				48,305 65			
137	Improving the navigation of Cunningham creek, Ohio.....	1826	2,000 00				J. Q. Adams.
	Improving the navigation of Cunningham creek, Ohio.....	1828	1,517 76				J. Q. Adams.
	Improving the navigation of Cunningham creek, Ohio.....	1829	2,956 00				J. Q. Adams.
	Improving the navigation of Cunningham creek, Ohio.....	1832	1,500 00				Jackson.
	Improving the navigation of Cunningham creek, Ohio.....	1833	500 00				Jackson.
	Improving the navigation of Cunningham creek, Ohio.....	1836	1,307 36				Jackson.
	Improving the navigation of Cunningham creek, Ohio.....	1837	5,000 00				Jackson.
	Improving the navigation of Cunningham creek, Ohio.....	1838	5,000 00				Van Buren.
				19,781 12			
						\$2,398,521 51	
143	Road from Detroit to Fort Gratiot, Michigan.....	1829	15,000 00		Michigan.		J. Q. Adams.
	Road from Detroit to Fort Gratiot, Michigan.....	1830	7,000 00				Jackson.
	Road from Detroit to Fort Gratiot, Michigan.....	1831	8,000 00				Jackson.
	Road from Detroit to Fort Gratiot, Michigan.....	1832	15,000 00				Jackson.
	Road from Detroit to Fort Gratiot, Michigan.....	1835	3,000 00				Jackson.
				48,000 00			
144	Road from Detroit to Grand river, Michigan.....	1832	3,500 00				Jackson.
	Road from Detroit to Grand river, Michigan.....	1833	25,000 00				Jackson.
	Road from Detroit to Grand river, Michigan.....	1835	25,000 00				Jackson.
				53,500 00			
145	Road from Detroit, Michigan, to Chicago.....	1827	20,000 00				J. Q. Adams.
	Road from Detroit, Michigan, to Chicago.....	1828	8,000 00				J. Q. Adams.
	Road from Detroit, Michigan, to Chicago.....	1829	8,000 00				J. Q. Adams.
	Road from Detroit, Michigan, to Chicago.....	1830	8,000 00				Jackson.
	Road from Detroit, Michigan, to Chicago.....	1831	10,000 00				Jackson.
	Road from Detroit, Michigan, to Chicago.....	1832	15,000 00				Jackson.
	Road from Detroit, Michigan, to Chicago.....	1833	8,000 00				Jackson.
	Road from Detroit, Michigan, to Chicago.....	1835	10,000 00				Jackson.
				87,000 00			
146	Road from Detroit to Saginaw Bay, Michigan.....	1829	10,000 00				J. Q. Adams.
	Road from Detroit to Saginaw Bay, Michigan.....	1830	7,000 00				Jackson.
	Road from Detroit to Saginaw Bay, Michigan.....	1831	8,000 00				J. Q. Adams.
	Road from Detroit to Saginaw Bay, Michigan.....	1832	10,000 00				Jackson.
	Road from Detroit to Saginaw Bay, Michigan.....	1833	15,000 00				Jackson.
	Road from Detroit to Saginaw Bay, Michigan.....	1835	10,000 00				Jackson.
				60,000 00			
147	Road from Sheldons, on the Chicago road, to St. Joseph's river, Mich.	1834	20,000 00	20,000 00			Jackson.
148	Road from Niles to the mouth of the St. Joseph's river, Michigan.....	1834	10,000 00	10,000 00			Jackson.
	Carried forward.....			\$278,500 00			

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Railroad from Washington to New York—Mr. Cook.

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TABLE—Continued.

No.	Designation of work.	Year.	Amounts appropriated.	Total amount.	In what State.	Total in each State.	By whom approved.
149	Brought forward.....	1834	\$8,000 00	\$278,500 00	Michigan.		Jackson.
	Road from Clinton to the rapids of Grand river, Michigan.....			8,000 00			
150	Road from La Plaesance Bay to the Chicago road, Michigan.....	1832	15,000 00				Jackson.
8	Road from La Plaesance Bay to the Chicago road, Michigan.....	1833	15,608 76				Jackson.
	Road from La Plaesance Bay to the Chicago road, Michigan.....	1835	10,000 00	40,608 76			Jackson.
151	Road from Port Lawrence to Adrian, Michigan.....	1834	10,000 00	10,000 00			Jackson.
152	Road from Vistula to Indiana State line, Michigan.....	1834	10,000 00	10,000 00			Jackson.
153	Road from northwestern boundary of Ohio to Detroit, Michigan.....	1824	20,000 00	20,000 00			Monroe.
154	Road to connect the Detroit and river Raisin with the Maumee and Sandusky roads.....	1827	12,000 00	12,000 00			J. Q. Adams.
155	Road from Detroit to Maumee, Michigan.....	1823	5,900 00	5,900 00			J. Q. Adams.
						\$393,090 76	
160	Road from Fort Howard to the northern boundary line of Illinois, Wisconsin.....	1838	15,000 00	15,000 00	Wisconsin.		Van Buren.
161	Road from Milwaukee by Madison to the Mississippi river.....	1833	10,000 00	10,000 00			Van Buren.
163	Road from Fort Crawford to Fort Howard, W. T.....	1832	5,000 00				Jackson.
	Road from Fort Crawford to Fort Howard, W. T.....	1838	5,000 00				Van Buren.
	Road from Fort Crawford to Fort Howard, W. T.....	1845	2,000 00	12,000 00			Tyler.
164	Road from Racine to Sinipee, Wisconsin.....	1839	10,000 00	10,000 00			Van Buren.
165	Road from Sauk Harbor to Dekora, Wisconsin.....	1839	5,000 00	5,000 00			Van Buren.
166	Road from Fond du Lac to Wisconsin river, W. T.....	1839	5,000 00	5,000 00			Van Buren.
167	Road from Southport to Beloit, W. T.....	1845	5,000 00	5,000 00			Tyler.
168	Road from Sheboygan to Fox river.....	1845	3,000 00	3,000 00			Tyler.
169	Road from Green Bay to Fort Winnebago.....	1830	2,000 00	2,000 00			Jackson.
						\$67,000 00	
171	Road from Dubuque to the northern boundary of Missouri, Iowa.....	1839	20,000 00		Iowa.		Van Buren.
	Road from Dubuque to the northern boundary of Missouri, Iowa.....	1844	10,000 00				Tyler.
	Road from Dubuque to the northern boundary of Missouri, Iowa.....	1845	8,000 00	38,000 00			Tyler.
172	Road from Burlington to the Sac and Fox agency, Iowa.....	1839	5,000 00				Van Buren.
	Road from Burlington to the Sac and Fox agency, Iowa.....	1844	5,000 00				Tyler.
	Road from Burlington to the Sac and Fox agency, Iowa.....	1845	5,000 00	15,000 00			Tyler.
173	Road from Burlington, Iowa, to De Hagues, Illinois.....	1839	2,500 00	2,500 00			Van Buren.
174	Road from Mississippi Bluffs, opposite Bloomington, to Iowa City.....	1845	5,000 00	5,000 00			Tyler.
						\$60,500 00	

It is argued with great earnestness that Congress has no right to create a corporation in a State. I grant that this is so, except in cases where the creation of such a corporation is a necessary, or at least a proper means of carrying into effect some one of the powers expressly granted to Congress by the Constitution. If the power to regulate commerce among the several States be one of these powers, if that commerce must be to a very great extent carried on over railroads, to deny to Congress the right, under proper restrictions and limitations, for the benefit of commerce, to create a corporation for the purpose of making that commerce free from the imposts and heavy charges imposed either by individual States or by corporations created by such States, would be to construe the Constitution as if it read thus: "Congress shall have the power to regulate commerce among the several States, subject, however, to the control of each individual State at its pleasure." This is not a case of first impression. The precise point was argued by very eminent counsel and decided by the Supreme Court of the United States in the case of *Osborn vs. United States Bank*, 9 Wheaton, 800, Chief Justice Marshall delivering the opinion of the court, and deciding that Congress has the power to create a corporation in any case where it is a proper instrument to carry into effect any power vested in the Government of the United States. Whether the bank was a necessary agency in carrying out any of the express powers conferred by the Constitution upon Congress may be a matter of argument, but no one can doubt that a railroad between

Washington and New York is an agency necessary for the postal, military, and commercial service of the United States.

But it is insisted that Congress has not the right to authorize the taking the land of individuals within the several States. The right of eminent domain existing in the States is qualified by whatever right the Constitution has vested in the United States. The question is: is it necessary or proper, for the proper regulation of commerce among the several States, that a railroad should be constructed between two or more States? If it is, Congress has clearly the power to authorize its construction, and it is believed to be precisely the same exercise of power as would be the improvement by Congress of the navigation of a river running through several States. In both instances it would be the creation of a means of transportation of commerce not before existing, and would require in each case the appropriation of some soil of the State; and yet the power to improve the navigation of the rivers extending from one State to another has long been exercised, and is believed to be unquestionable. The right to authorize the building of bridges across the navigable waters of the country has been repeatedly exercised by Congress, and the exercise of such right repeatedly sustained by the Supreme Court.

It is urged that Congress can pass no law whereby the title to the soil can be divested from the owner and vested in the corporation, and that the power of the Government, uninterruptedly exercised from the beginning, to erect light-houses, forts, arsenals, and dock-yards is derived, not from their authority to

regulate commerce, but from the following clause in the Constitution:

"To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may by cession of particular States and the acceptance of Congress become the seat of the Government of the United States; and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings."

And contending that the consent of the State was by this clause required to the erection of light-houses, dock-yards, and other needful buildings; and it is argued that this is inconsistent with the idea that Congress possessed the power under other grants of the Constitution. The mistake in this argument is evident in not adverting to the real object of the clause in question, which is not to enable the United States to hold lands in the States, but simply to give Congress exclusive jurisdiction over such places as should be purchased with the consent of the States.

The Supreme Court have decided (3 Wheaton, 388) that Congress may purchase land for a fort or light-house and erect such buildings without the consent of the States, but that in such cases the jurisdiction remains with the State, and cannot be acquired by the United States except by a cession.

Mr. VAN TRUMP. Will the gentleman yield to me for a question?

Mr. COOK. I will.

Mr. VAN TRUMP. I would inquire of the gentleman why the several State conventions, preparing constitutions for the respective States, expressly declared the power of eminent domain to be in the States, while the Fed-

eral Constitution does not mention that power at all?

Mr. COOK. Because the principle is inherent in every Government to the extent that it is sovereign and need not to be specified.

Mr. VAN TRUMP. I am speaking now in regard to the power of the Federal Government to go into a State and appropriate private property for the use of the Government.

Mr. COOK. I will discuss that point at the proper time.

Mr. WOOD. Has the Government of the United States any national sovereignty except what was delegated to it by the States?

Mr. COOK. I suppose the power of the national Government is derived from the people of the United States under the Constitution, and not from the States.

Mr. WOOD. Did not the people when they delegated their authority expressly declare that the powers not directly delegated were reserved to the States and to the people thereof?

Mr. COOK. Yes, sir.

Mr. WOOD. That is all the answer I want.

Mr. COOK. But they also declared that there were certain powers expressly delegated to the United States, and that whatever powers were necessary to carry those delegated powers into execution were also delegated to the national Government.

But, to return to my argument, I was saying when interrupted, that it has been decided by the courts that Congress may purchase land for a fort or light-house, and erect such buildings without the consent of the States. This was actually the case with Fort Niagara, which was held for many years by the United States before the jurisdiction was ceded by the State of New York. There is no power given in the Constitution to the United States to erect light-houses, dock-yards, &c., except the power to regulate commerce. That the power to take private property for public use is given to the national Government may be clearly inferred from the last clause of the fifth article of the amendment of the Constitution: "Nor shall private property be taken for public use without just compensation." This is simply a restriction upon the power possessed by the Government of the United States under the Constitution. (Fox vs. State of Ohio, 5 Howard, 434.)

An attempt is made to place a different construction upon the clause in the Constitution which gives Congress power "to regulate commerce among the several States" from that universally given to the clause giving the power to regulate commerce with foreign nations and with the Indian tribes. The power to regulate foreign commerce has been always conceded to give the right to build light-houses, dock-yards, and harbors, to open harbors, to deepen the mouths of rivers, and to create avenues of commerce where they did not before exist. Can any one draw a distinction between the right to do this and the right to create new avenues of commerce between two or more States?

Can one State without appeal authorize or forbid at its pleasure the passage of the commerce of another State through its limits by railroad communication? Is the authority of every State over the greater portion of the commerce of the several States superior to that of Congress? By what right can you create a new avenue for foreign commerce if you may not do so for commerce among the several States?

The necessity of the exercise of this power may be seen from the fact that it is in the power of great corporations created by the laws of one State, by the use of controlling capital, to become virtually the owners of connecting lines in other States, and thus to form great trunk lines of communication over which the commerce of the interior States must be carried on, and thus to subject that commerce to such impositions as their own interests may dictate, and thus virtually to "regulate commerce among the several States" by a power wholly

unknown to the Constitution, and wholly independent of the people. Nor do I believe that any plan can be devised by which the government of any one State can remedy this evil.

Mr. O'NEILL. Will the gentleman allow me to ask him a question?

Mr. COOK. Certainly.

Mr. O'NEILL. The gentleman has said that these railroad corporations chartered by a State are entirely independent of the State. I wish to ask him if they are not bound by the provisions and conditions of the charters granted by the States through which they run?

Mr. COOK. Undoubtedly. But the gentleman wishes to be understood as arguing that the Erie railway, in the instance he has referred to, is acting under corporate powers given to them by the State of New York.

Mr. O'NEILL. I do not suppose the gentleman wishes to be understood as arguing that the Erie railway, in the instance he has referred to, is acting under corporate powers given to them by the State of New York.

Mr. COOK. I have been insisting that the power to regulate commerce, which ought to be exercised by Congress, is being exercised by monopolies which are responsible to no one. So far as the Erie railway exercises control of great trunk lines running west, outside of the State of New York, it is not possible for the State of New York to exercise control outside of its limits.

There is another reason, which addressed itself to the committee with some degree of force, why Congress should exercise power to regulate railroads as instruments of commerce. The great lines of railroad west of the Mississippi river, which connect the Atlantic with the Pacific ocean, are being built mainly by means furnished by the national Government; the money which is used in their construction is taken from the common fund belonging to all the States. It is well settled that every highway and all public improvements made by Congress in a Territory, and which the Federal Government has not a right to establish in a State, passes by necessity to the State government when the change from a territorial to a State organization takes place. Congress cannot by legislation for a Territory obtain a power in the future State which it cannot originally exercise without it. This has been frequently decided. The control, therefore, of the Pacific roads can be continued after States are organized along their lines only by the assertion of a power to charter a railway within their limits after their admission.

Such has been the pressing necessity for the exercise of the power to regulate the connection of these roads where they form lines passing through different States that attempts have been made to exercise this indispensable power by authorizing the consolidation of companies chartered by different States. Three or four States get up a new confederation among themselves, under which they attempt to create a corporation by conjoint legislation. What will ultimately be the effect when exigencies occur which call for a legal solution of the difficulties arising from this legislation cannot be foretold. That great confusion has already ensued no one can doubt. What are the powers of a consolidated railroad company whose several charters contain the most conflicting provisions? How can a mortgage be foreclosed upon a railroad in several States? No American court, State or Federal, has jurisdiction beyond the State in which it sits. We see to-day the disgraceful spectacle presented by the Erie railroad war. Gentlemen take a boat in the evening and row themselves and their corporation out of the jurisdiction of the courts. If followed, no tribunal can be found in which can be impleaded more than a fraction of the prop-

erty and persons concerned. These facts show the necessity of the exercise by Congress of the power conferred by the Constitution to regulate commerce among the several States, a commerce not limited either in fact or by constitutional definition to the navigable waters of the country, but for the most part carried on over the great national highways extending in every direction through the length and breadth of the land.

And where does Congress derive the power to create corporations to build railroads in the Territories? The power is given to dispose of and make all needful rules and regulations respecting the territory or other property of the United States. These words are no broader or more comprehensive than the words to regulate commerce. "To make needful rules and regulations for," and "to regulate," mean exactly the same thing, and to restrict the power of Congress over the Territories, as it is claimed to be restricted over commerce among the several States, has never been attempted except, perhaps, in the Dred Scott case.

The practical question is can Congress regulate the vast and increasing commerce among the States carried on by means of railways, or must that commerce be regulated by monopolies whose power over such commerce is limited only by the amount of capital at their command? It will be seen that the details of this bill have been framed with care to prevent the creation of fictitious capital stock, to prevent heavy charges, to prevent unnecessary delays; and it is confidently believed that the road can and will be built should this bill become a law, and a speedier, cheaper, and better communication be established between this capital and New York.

In regard to one provision of the bill I will say that I think it is open to amendment. Perhaps it is not sufficiently guarded to prevent a consolidation of the powers granted to this company with those of any other corporation. But I conceive that the great difficulty with the railroad corporations now existing in the country is that the capital stock does not represent the cost of the road, but represents precisely the amount which in the judgment of the directors or those having control of the road is necessary to carry on its operations successfully. When Massachusetts sought, by legislation, to prevent the increase of the capital stock of her railroads, and also the declaring of dividends greater than a specified per cent., the result was that the usefulness of the roads was greatly diminished, the roads doing no more work than was sufficient to earn the specified rate of dividend upon the capital stock. The only way, it seems to me, by which these evils can be guarded against in a measure of this kind is by fixing, as is done in this bill, the maximum rate of fare and tariff of freight. In other words, we say to this company, "You may earn all the money you can; but you must impose no greater charge for passengers or freight than we here specify; you must make the trip in a certain number of hours; you must comply with certain regulations as to the time of starting and arriving." If this bill should become a law it will be found that, so far as the traffic over this road is concerned, the commerce will be effectually regulated for the interest of the public.

Mr. O'NEILL. I am sorry to interrupt the gentleman with another question, but I wish to inquire whether the object the gentleman seeks would not be better accomplished if he would prepare and present to the House a measure to be enacted by Congress as a general railroad law? I think he has shown most clearly the power of Congress to pass a bill of this kind, but if his object is to assert that power, why not urge upon the House the passage of a general railroad law which might extend, if capital could be raised for the purpose, a railroad from the Atlantic to the Pacific?

Mr. COOK. In the first place, the Commit-

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tee on Roads and Canals were under instruction, if in their opinion Congress had power over this subject, to prepare a bill regulating commerce on railroads, not authorizing the building of roads, but regulating commerce over them. Now, I agree that until some members of the House shall be able to give time and study to this subject, to the exclusion of every other, and shall be furnished with the necessary statistics and other information, it will be impossible for us to adopt such a law as will be fully operative and effectual. To frame, as was contemplated by the resolution of instruction, a general law for the purpose of regulating the running of trains, the connection of roads, the kinds of cars to be used, the precautions against fire and other accidents, &c., is, with the ordinary demands of our legislative duty from day to day, beyond the power of any committee. In the British Parliament commissioners were appointed to examine this class of questions and to report from session to session all the information obtained. Without something of the same kind in this country it will, I think, be impracticable for us to frame such a general law as was contemplated in the resolution instructing the committee. I believe the importance of the subject demands that we should have a bureau of statistics upon the question; that the statistics should be prepared as other important statistics are prepared, by a commissioner, whose attention should be devoted exclusively to this subject.

Now, as to the inquiry of the gentleman from Pennsylvania, [Mr. O'NEILL,] "Why not report a general railroad law?" the answer is very evident. Our power to charter a railroad grows out of the necessities of commerce. We must in each individual case decide upon our sworn responsibility as legislators that in our opinion it is necessary for the purposes of free commercial intercourse that a road should be built upon a particular route. I submit that such being the nature and extent of our power, we cannot authorize a general system of railroads, which might extend anywhere at the pleasure of those who might choose to build them.

Mr. TWICHELL. The gentleman says that this bill requires the company to make the through trip within a given time. I wish to know what is to be the penalty in case they do not run through in that time?

Mr. COOK. There is, I believe, a general provision for a forfeiture of the charter in case of any failure to comply with its requirements.

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SPEECH OF HON. W. D. KELLEY,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

February 4, 1869.

The House being in Committee of the Whole on the state of the Union on the President's annual message—

Mr. KELLEY said:

Mr. CHAIRMAN: On the 19th of January the Committee on Printing submitted a resolution to print twenty thousand copies of the report of the Special Commissioner of the Revenue for the use of the House, and one thousand bound copies for the use of the Treasury Department, and though I had no hope of preventing its adoption, I felt constrained to resist the motion and submit the reasons which impelled me thereto as fully as I could in the brief time allowed me by the courtesy of the gentleman from New Hampshire, [Mr. ELA,] who presented the resolution. I could not hope that the House would refuse to print a report the preparation of which had cost the Government so much money in the pay of the Commissioner and his clerical assistants. What I sought to do was in some measure accom-

plished; it was to send with the report a note of warning to the country. I then said:

"I hope the resolution reported by the committee will not be adopted. I do not think the report ought to receive such an indorsement. I do not see how Congress can consistently cast it broadcast over the country. It is a report full of figures, which are so ingeniously selected and marshaled that one might suppose it had been prepared specially to show the pestilent character of that most false and dangerous of all the aphorisms embodied in the English language, namely, that 'figures cannot lie.' They are so culled and marshaled in this report as to lead to conclusions false, delusive, and damaging to our country, and especially unjust to that Congress which has carried the country through the great struggle from which she has just emerged. I do not mean to say that the figures embodied in it are in themselves false; upon that point I do not speak now; but I do mean to say that they are so detached from their correlatives as to lead to conclusions utterly at variance with facts which are notorious and familiar to every gentleman on this floor."

"The gentleman who is announced several times in the report as collecting the statistics and making the calculations has, so far as I know, done his duty fairly; but the Commissioner who selected the material for this report, and prepared and marshaled it, has not done so with a view to letting Congress and the country deduce conclusions from an impartial array of facts, but to sustain a foregone conclusion and advocate a favorite theory of his own, which is, in my judgment, at variance with the true interests of the country."

And again:

"The thesis of the report is that we have since 1860 so legislated that while wealth is accumulating more rapidly than it ever accumulated in any other land or age the poor are steadily growing poorer and the rich richer; that the yawning gulf between poverty and wealth is ever widening in this country, and that the laboring man and his family cannot live as well upon their earnings as they could in 1860."

"The report—and it is voluminous—devotes five or six pages only to the progress of wealth and productive power in this country, but they suffice to show that it is with constantly increasing velocity and momentum. If it be true in that respect, and the laboring people are really becoming poorer daily, we are on the eve of an aristocracy more potent than any that has preceded it, and of a social condition such as the world has never seen. I propose to inquire whether this startling proposition be true. The Commissioner, assuming that his array of facts have established it, says on page 21:

"It has been well said that there can be no true theoretic conclusion which will not be proved by the facts whenever the theory can be applied. We have given the theory of the effects of inconvertible paper money, and we find that the facts prove it. The rich become richer and the poor poorer."

"Not satisfied with this, he says:

"The aggregate wealth of the country is increasing, probably, as rapidly as at any former period; yet it does not follow that there is the same increase in general prosperity. The laborer, especially he who has a large family to support, is not as prosperous as he was in 1860. His wages have not increased in proportion to the increase in the cost of his living. There is, therefore, an inequality in the distribution of our annual product which we must, in no small degree, refer to artificial causes. This inequality exists even among the working classes themselves. The single man or woman, working for his or her support alone, is in the receipt of a rate of wages from which savings may be made equal or greater than ever before, especially in the manufacturing towns, where the price of board is, to a certain extent, regulated artificially by the employer."

"And again, I ask gentlemen to listen to the Commissioner's statement of the condition to which their legislation has reduced our countrymen:

"Unmarried operatives, therefore, gain; while those who are obliged to support their own families in hired tenements lose. Hence, deposits in savings-banks increase, while marriage is discouraged; and the forced employment of young children is made almost a necessity in order that the family may live."

"If this be the condition of our country, do we not, as I have said, perpetrate a fraud when we ask the laboring immigrant to come and dwell among us?"

The gentleman from Ohio [Mr. GARFIELD] did me the honor to reply to me in a rejoinder which had been prepared for the occasion, as appears from his remark that, "hearing that this attack was to be made, I have asked information from two sources in order to test the correctness of the Commissioner's position." His reply would, I doubt not, have been more candid had it been prepared after he had heard what I had to say. His misrepresentation of my position was not intentional. It arose from his misconception of the point I would make when I should have an opportunity to express my convictions. In view of the passages from my remarks already quoted, especially of my announcement that I did not mean to examine

the question whether the figures embodied in the report are, in themselves, false, but did "mean to say that they are so detached from their correlatives as to lead to conclusions utterly at variance with facts which are notorious and familiar to every gentleman on this floor," he was hardly justified in saying that I had admitted "in the first place that the facts stated are generally correct; that the statistics collected and arranged in tables are true and correctly stated." I certainly did not admit the truth or correctness of that which the single purpose of my remarks was to deny, and which every fact I presented contradicted. I am sure, from the gentleman's well known character, that he would not have made this assertion had his remarks been prepared after he had heard me. After he had thus charged me with admitting all I had been denying and disproving, the gentleman pronounced the conclusion that "it must be, then, that he refuses to print this report because its facts and deductions do not square with his theories and notions," and exultingly proclaimed my opposition to the printing "a most damaging admission."

I resume the discussion in pursuance of a promise made when the fall of the Speaker's gavel announced the expiration of the brief time allowed me, and in the hope of showing by an array of facts, many of which were not then in my possession, the dangerous fallacies the Commissioner has attempted to sustain by "doctored," "manipulated," "garbled," "marshaled," or in other words, artfully arranged figures. The correctness of the figures set forth in the report I am willing, as I then was, to admit for argument sake, but not in fact, as time has not yet permitted me to test them fully. They may in themselves be true; but there is a falsehood known as the *suppesio veri*—the statement of part of the truth in such a manner as to produce the effect of a positive falsehood; and of that I charge that the Commissioner has been guilty in almost every part of his voluminous report. He who denies the existence of Deity, and from the exclamation "the fool hath said in his heart, there is no God," and in support of the denial quotes the last four words as a complete sentence, misrepresents the teachings of the Psalmist, though he correctly quotes that particular portion of his language. The falsehood is in the manner of the statement, and not in the thing stated. This illustration is not inapplicable to the document under consideration.

Gentlemen who read the report from pages 14 to 21 inclusive, will find an abundant array of tabular comparative statements which, if they are true and in themselves constitute the whole truth, prove most adequately its assertion:

"That for the year 1867, and for the first half of 1868, the average increase of all the elements which constitute the food, clothing, and shelter of a family has been about seventy-eight per cent., as compared with the standard prices of 1860-61."

And that the rate of increase in wages for the year 1867 as compared with 1860-61, was put as follows:

"For unskilled mechanical labor, fifty per cent.; for skilled mechanical labor, sixty per cent."

I pause for a moment to deny the correctness of these figures, and to assert that the price of the necessities of life enumerated in these tables are, on an average, not more than fifty per cent. higher than in 1860, while labor is now immeasurably more fully employed at an advance of from eighty to one hundred per cent. over the wages of that year. But this is a point about which ingenuity may cavil, and is not essential to the support of my argument. To give these figures any practical value they should have been accompanied by another column for each year, in which should have been stated the number of working people employed in each of the several branches of business referred to, and the number who, though skilled workmen at those branches, were unable

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to obtain employment of any kind by which to earn any wages. The omission of these elements from the calculation vitiates the Commissioner's figures, even though they are in themselves true as Holy Writ, and conceals the fraud this report was intended to perpetrate. Let the gentleman from Ohio glorify the memory of 1860 as he may, I confidently reiterate what I said in the former discussion:

"Eighteen hundred and sixty and 1861, and from 1857 to the autumn of the latter year, was one of the darkest periods ever seen by the laboring people of America. Not one out of five of the skilled workmen of the country was steadily employed. In Philadelphia, when they wanted to build a street railroad they advertised for two hundred and fifty hands at sixty cents a day, and more than five thousand offered, a majority of whom were skilled artisans who could find no other employment. In the neighborhood of one of the establishments, the statistics of which go into this report, a rolling-mill, the number of unemployed men was so great that the county authorities, to save its skilled workmen from open pauperism, determined to build a turnpike, and experienced hands from rolling-mills were employed at breaking stone and road-making at fifty cents a day rather than become paupers. For the comparatively few who had employment the wages are, I assume, honestly given in the report; but of the many who were picking up a precarious living by getting an occasional day's work at half wages or quarter wages no account is taken; and thus facts that may be true in themselves, by being separated from those which would have explained and interpreted them, are made to libel our country and the Congress that carried it through the war.

"Let me in this connection bring the attention of gentlemen to some facts:

"Look at the palatial buildings erected in this city during the last year and the comfortable dwellings for mechanics and laborers. How many of them there are you have all seen. They are built by squares and blocks. I have endeavored to ascertain how many were built in 1860, and can hear of but four dwelling houses built in Washington in that year. In 1861, so far as I have been able to learn, but one dwelling house and one public school-house; the contract price for which was \$3,500, were erected. Leaving Washington, I go to my own city, and by turning to the report of the building inspectors find that in 1860 twenty-four hundred and seventy-two houses were built. The decline had commenced, and in 1861 but sixteen hundred and seventy-three were built. In 1860 we enlarged five hundred and eighty-eight buildings; in 1861 but two hundred and four were enlarged. But in 1868, when the Commissioner tells us labor was not as prosperous as in 1860, we erected forty-seven hundred and ninety-six buildings and enlarged twelve hundred and fifteen. In 1868 there was an active demand for labor, and its price was high. It could determine its own wages. In 1860 labor was begging employment and wages were low. As a general thing mechanics had to accept whatever wages were offered, though in a few instances favored establishments were able to run, continuously and pay fair wages. These exceptional cases have furnished the Commissioner data for what he announces as a general law.

"The low rate of wages that ruled in 1860 would have led a proficient in political economy to look for the facts I am now about to lay before you. It is a law of social science that when employment is scarce labor must accept low wages and loses time; but when employment is quick and active labor regulates its own wages and is constantly employed. The tables presented by the Commissioner ignore this law, and are consequently a fraud upon Congress and a slander upon our country, the working people of which were never so prosperous as now.

"Let me exhibit some other comparisons between 1860 and 1868 which bear upon the question at issue. In that blessed year, 1860, when the Commissioner eulogizes, the sheriff of Philadelphia received seventeen hundred and forty writs for the sale of real estate, while in 1868, the year of congressional wrong and pecuniary depression, the sheriff of that city received but seven hundred and six writs for the sale of real estate, a falling off of largely more than fifty per cent. though in the interval there has been an increase of forty per cent., in the population and vastly more than that in the wealth of the city."

In connection with these statements I brought to the attention of the House on that occasion such figures drawn from the reports of the savings-banks of seven States as I happened to have at hand. Since then I have been able to add much to my collection of that class of facts, some of which I will proceed to exhibit. I have the official statement of the total amount of deposits in the savings-banks of Maine, New Hampshire, Massachusetts, and Rhode Island, of the Philadelphia Saving-Fund Society, which is allowed to receive but \$200 from any one depositor in a year, and of the savings-banks of the city of Newark, New Jersey, for 1860 and 1861, and of those institutions, and a third at Newark, a dime savings-bank, which has since come into existences for 1867 and 1868. I have also reports from other states, but as they

do not cover the four years designated they could not be embraced in the table I have compiled. That I have not been wanting in diligence in my endeavors to procure such official information as would enable me to make a general comparative table for these years will be attested by gentlemen on this floor and in the Senate, of whom I have requested the names of the proper parties to whom to apply, and by Mr. Spofford, the Librarian of Congress, to whose industry and courtesy I am much indebted.

All the information obtained shall be fully presented, and I think the gentleman from Ohio, [Mr. GARFIELD,] though he may remember 1860 as a pleasant and prosperous year, will be persuaded that millions of his countrymen remember it as a year of ceaseless agony, during which gaunt want entered their homes because the last dollar of their past earnings had been extorted from them by enforced idleness.

I have not been able to ascertain the number of depositors in all the institutions to which I am referring for each year, but have them from the Saving Fund Society of Philadelphia and the savings-banks of New Hampshire, Massachusetts, and Rhode Island. These are, however, sufficient to indicate the general condition of the class of people who are depositors in such institutions, and whose relative poverty in 1867 Mr. Wells so deplores. On the 1st day of January, 1860, there were twenty-one thousand two hundred and sixty-five depositors in the institution at Philadelphia, and on the 1st of January, 1861, there were but twelve thousand six hundred and sixty-two; and the total amount of deposits had gone down from \$4,083,450 to \$2,251,646, or little more than one half. In Massachusetts, as an official statement before me shows, the number of depositors has fallen off in but two years from 1834 to 1868, inclusive. In 1865 the total decrease was one hundred and twenty-eight, an almost incalculably small fraction of one per cent., but in the year 1861, in consequence of the want of employment in 1860, the number fell off five thousand and ten, or two and one sixth per cent, and the deposits remaining at the close of the year were reduced \$268,797.

The number of depositors in the savings-banks of Rhode Island has receded in but one year from 1855 to 1868 inclusive, which was 1861, when they fell off five hundred and ninety-eight, notwithstanding which the aggregate deposit increased \$119,119 33.

The extreme force of the depression which, as the result of our adhesion to free trade and an exportable metallic currency, overtook the country in 1857, and terminated only with the issue of the currency known as greenbacks, and the passage of the protective tariff of 1861 seems to have fallen upon New Hampshire as early as 1858. From 1850 to 1868, inclusive, the number of depositors in savings-banks of that State has decreased in but two years, 1858 and 1866. In the latter year the number of depositors fell off about one per cent., notwithstanding which the deposits increased \$26,265 31; but in 1858 the depositors fell off seven per cent., or thirteen hundred and twenty-three, and the deposits were reduced \$159,627 40.

While recounting the manifold blessings that period brought to the working people of the country the gentleman from Ohio reminded me that the working people were docile in that year, and indulged in no strikes either for higher wages or against a reduction of their pay. He said:

"It was a year of plenty, of great increase. I remember, moreover, that it was a year of light taxes. There was but one great people on the face of the globe so lightly taxed as the American people in 1860. Now we are the most heavily taxed people except one, perhaps, on the face of the globe; and the weight of nearly all our taxes falls at last on the laboring man. This is an element which the gentleman seems to have omitted from his calculation altogether.

"The gentleman says that at the present time laborers are doing better than in 1860. I ask him how many strikes there were among laborers in 1860-61? Were there any at all? And how many were there in 1868? Will the gentleman deny that strikes exhibit the unsettled and unsatisfactory condition of labor in its relations to capital? In our mines, in our mills and furnaces, in our manufacturing establishments, are not the laborers every day joining in strikes for higher wages, and saying that they need them on account of the high price of provisions, or that the capitalists get too large a share of the profits?"

The gentleman has my thanks for bringing this significant fact, so destructive of his own argument and that of Mr. Wells to my attention. He knows that it was not until Jeshurun waxed fat that he kicked; and he ought to know that unemployed workmen, who had drawn the last dollar from the savings-bank, and parted with furniture in exchange for food and fuel, were not in a condition to strike, and had no employers whose decrees they might resist. I need no more powerful illustration of the absurdity of the assertions of the Commissioner than the fact that the workmen of to-day, in contrast with their abject condition in 1860, find so wide a market for their labor and are so comparatively easy in their condition that when their rights or interests are assailed they are able to offer resistance to the assailant.

Our positions are fairly taken, and as the condition of savings-banks furnish the truest and most general index to the condition of the laboring people, the facts I am about to present will overthrow him who is in error. Be the judgment of the general public what it may, I am confident that the memory of every American workingman who remembers the experience of 1860 will sustain me in this controversy. Having shown the loss of depositors and deposits in the only banks from which I could obtain information on those points in or about 1860, let me compare the condition in these respects of the same banks in 1867 and 1868:

State or City.	Year.	Increase in number of depositors.	Increase of deposits.
New Hampshire.....	1867	4,967	\$2,672,250 05
New Hampshire.....	1868	7,476	2,765,242 01
Massachusetts.....	1867	31,740	12,699,519 40
Massachusetts.....	1868	34,501	14,406,752 33
Rhode Island.....	1867	6,845	3,651,934 11
Rhode Island.....	1868	4,429	2,984,988 81
Philadelphia.....	1867	2,490	579,749 03
Philadelphia.....	1868	2,234	761,901 00
		94,682	\$40,462,034 24

The contrast these figures present to those of 1860 does not give the Commissioner's theory much support, and casts a shade of doubt over the accuracy of the position taken by the gentleman from Ohio. It may, however, be regarded as exceptional, and I therefore propose to present a broader range of facts, embracing the amount of deposits in the banks of Maine, New Hampshire, Massachusetts, New York, New Jersey, and the only institution at Philadelphia from which I have been able to obtain this information for the years 1860-61 and 1867-68. I have sought for corresponding facts from all the other New England States and New York, but have not been able to obtain them. These tables are, therefore, as complete as industry and the broadest research possible in so limited a period could make them. As, however, they present so general a correspondence for both periods it is fair to presume that they indicate the condition of the savings-banks and their depositors throughout the country. The total amount of deposits in these banks in 1860-61 was as follows:

	1860.	1861.
Maine.....	\$1,466,457 56	\$1,620,270 26
New Hampshire.....	4,860,024 86	5,590,652 18
Massachusetts.....	45,054,236 00	44,785,439 00
Rhode Island.....	9,163,700 41	9,282,879 74
Philadelphia.....	4,083,450 28	2,251,646 46
Newark.....	1,687,551 51	1,539,932 34
	23,926 72	269,182 67
	60,539,307 34	\$65,330,002 65
	65,330,002 65	
Decrease.....	\$1,239,304 69	

Ho. OF REPS.

Report of Special Commissioner of the Revenue—Mr. Kelley.

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By this statement it is shown that the savings-banks in these three States and two cities in one year, during what the Commissioner calls a season of great prosperity for working people, lost deposits amounting to \$1,239,304 69.

The total deposits for 1867 and 1868 in the banks of the same cities, the same institution in Philadelphia, the same in Newark, with the addition already referred to of a time savings institution which was not in existence in 1861, were as follows:

	1867.	1868.
Maine.....	\$5,998,600 26	\$8,132,246 71
New Hampshire.....	10,468,418 50	13,541,534 96
Massachusetts.....	80,431,583 74	94,838,336 54
Rhode Island.....	21,413,647 14	24,408,635 95
Philadelphia.....	5,003,379 42	5,765,280 63
Newark.....	4,405,726 46	5,430,874 60
	1,116,762 26	1,338,596 94
	325,920 57	468,160 74
	<u>\$128,759,038 32</u>	<u>153,823,667 07</u>
		<u>128,759,038 32</u>

Increase.....\$25,064,628 65

This exhibit is as unfortunate for the Commissioner's facts and theories as that which preceded it, for they show that in spite of all his rhetoric about the crudities and oppressive character of the legislation of Congress the deposits in these banks, which fell off so largely in his season of prosperity, have increased \$25,064,628 65 during the last year, and that the aggregate deposit at the close of 1868, his disastrous period, is largely more than double that of 1860, which he says was so prosperous. In the pursuit of a complete comparative table for these four years I have obtained an amount of information which, though it does not relate to the particular years alluded to, will not be without interest to the House and the country, and I will therefore proceed to present the figures with as much method as I can.

Through the kind assistance of the honorable gentleman from the Troy district, New York, [Mr. GRISWOLD,] I have authentic statistics from the savings-banks of his State; and though we were unable to obtain the figures for the years 1861 or 1868, I can present the number of depositors, the total amount of deposits, and the amount deposited during each year for the years 1860, 1866, and 1867. They were as follows:

Year.	Total number of depositors.	Total amount of deposits.	Total deposited during the year.
1860.....	300,693	\$67,440,397	\$34,934,271
1866.....	488,501	131,769,074	84,765,054
1867.....	537,466	151,127,562	99,147,321

From Vermont I have been able to obtain only the total amount of deposits for 1867 and 1868. They were as follows:

Year.	Total amount of deposits.
1867.....	\$1,898,107 58
1868.....	2,128,641 52

From Connecticut I have only been able to obtain the total amount of deposits for 1860, 1861, and 1866. They are as follows:

Year.	Total amount of deposits.
1860.....	\$18,132,820 00
1861.....	19,377,670 00
1866.....	31,224,464 25

Thus the figures derived from every quarter are consistent with each other, and the contrast between the condition of things that prevailed between 1857 and 1861—for the return to which the Commissioner sighs—and that from 1861 to the close of 1868, which he so deprecates, is in itself sufficient to show the grotesque absurdity of his theory, that the head of every family could save money and make deposits in 1860 and that none but unmarried people could do so in 1867 and 1868. Let me repeat his language on this point:

"Unmarried operatives, therefore, gain; while those who are obliged to support their own families in hired tenements lose. Hence deposits in savings-

banks increase, while marriage is discouraged; and the forced employment of young children is made almost a necessity in order that the family may live."

The country will hardly believe that when every head of a family among the laboring people of New York could save money the whole number put at interest but \$34,000,000 per annum, and that when their condition had been so sadly impaired by the unwise legislation of Congress that people feared to marry because their wages would not enable them to support families they deposited \$99,000,000 annually, or nearly three dollars for one, and that the number of depositors nearly doubled, and the total amount on deposit to their credit ran up one hundred and twenty-five per cent.

Thus, in defiance of the Commissioner's facts, heartily as they are indorsed by the gentleman from Ohio, the returns from savings-banks prove that, with our labor protected and a cheap and expanded currency, our small farmers and workmen have been able to lay up hundreds of millions of capital upon which they receive interest and for their support in age or adversity. They are happily corroborated by other facts, which in a striking manner prove the superiority of the present condition of the classes of people to which I allude over that to which the Special Commissioner of the Revenue would lead them back. While accumulating capital in savings-banks they have felt themselves able to make still more ample provision for their families after they shall have been called away by the dread summoner, death. In the course of the former discussion of this subject I invited your attention to the fact that in Massachusetts alone there were policies of life insurance outstanding on the 1st of January, 1868, for the enormous sum of \$1,234,630,473. Through the further kindness of the gentleman from New York I have been able to obtain the life-insurance statistics for that State for 1859, 1860, 1866, and 1867. The tables show the number of policies in force at the close of each of these years, and the total amount of the policies and the number of companies issuing them.

Year.	No. of companies.	No. of policies.	Amount of policies in force.
1859.....	14	49,617	\$141,497,977 82
1860.....	17	56,046	163,703,455 31
Increase.....	3	6,429	\$22,205,477 69
1866.....	39	305,390	\$53,105,877 24
1867.....	43	401,140	1,161,729,776 27
Increase.....	4	95,750	\$296,623,899 03

From this table it will be seen that the increase in the number of policies and the amount insured during 1867 was nearly a hundred per cent. in excess of the total number insured and the amount of insurance at the close of 1860, and that the percentage of policies for such small sums as small farmers or workmen may maintain had increased, as the average amount of policies in 1860 was \$2,920 88, and had fallen to \$2,896 07 in 1867.

I had hoped to present results from the life insurance companies of Connecticut, but have failed to receive them. I have, however, some facts from one company chartered by New Jersey whose office is at Newark and its principal branch at Philadelphia. Through the kindness of the gentleman from New Jersey [Mr. HALSEY] I am able to present the number of policies issued by the Mutual Benefit Life Insurance Company, the company referred to, on the 1st of January of four years. They are as follows:

Date.	No. of policies outstanding.
January, 1861.....	7,575
January, 1862.....	7,096
January, 1867.....	29,858
January, 1868.....	34,317

I have also been favored with the number of

policies outstanding for substantially the same period by the American Life Insurance Company of Philadelphia, together with the number of its policies which were for \$3,000 or less. They are as follows:

Date.	No. of policies.	Amount insured for.
December 31, 1860.....	991	\$1,090,450 09
December 31, 1861.....	1,120	1,206,000 00
December 31, 1867.....	7,656	18,312,478 93
December 31, 1868.....	10,282	24,759,901 59

The number of these policies in each year which were on the lives of people of limited or moderate means, and were for \$3,000 or less, were as follows:

Year.	No. of policies.	Amount insured.
1860.....	827	\$789,150 09
1861.....	938	920,600 00
1867.....	6,125	9,724,378 93
1868.....	6,689	13,021,878 93

The relative magnitude of our national debt disappears before these statistics; for if the policies existing be maintained the companies of Massachusetts and New York and the two referred to outside of those States will pay to the widows and children or creditors of the parties insured a sum vastly in excess of our total debt, and it is not unfair to assume that the greater portion of the whole amount will be paid to that class of people whom the Commissioner describes as so oppressed by a protective tariff and the cheap and abundant currency now in use. When in my former remarks on this subject I invited your attention to the figures relating to life insurance then in my possession, I said:

"When people in addition to laying up money at interest are insuring their lives, they are living well; but when, as in 1860, past accumulations in savings-banks are running down, and they are wasting their time in enforced idleness, they cannot live well and contribute freely to the support of the Government. Accept the recommendations of the Commissioner and you will paralyze industry, reduce wages, throw the producing classes upon their deposits for support, and deprive them of the power to keep up the insurance on their lives. Such facts as I have presented are sufficient to refute a thousand fine-spun theories. It may, with the ingenuity that fashioned this report, be said that the policies to which I have referred are on the lives of wealthy people. But such is not the case; two hundred and sixty-five out of each thousand of them are for \$1,000 or less; five hundred and forty out of each thousand are for \$2,000 or less; seven hundred out of each thousand for \$3,000 or less. Only three hundred out of each thousand are for amounts over \$3,000. These policies are the precautions taken by well-paid industry to provide for widowhood and orphanage after the head of the family shall have paid mortality's last debt."

It is not improper, Mr. Chairman, that in concluding this branch of my subject I should say that I have presented no statement which is not warranted by official indorsement, and that I hesitate not to assert that could the business of the savings-banks and life insurance companies of the whole country be investigated the results would conform to those I have produced. They are truly surprising, and should they through our widely diffused periodicals find their way across the waters, will prove an abundant antidote to the Commissioner's notice to those who have thought of emigrating to this country, but who desire to live in wedlock, that they may not hope to do so under the legislation of that Congress which has for several years been in such absolute government of the country as to render the veto power of the Executive nugatory. They are, in my judgment, important enough to produce some effect upon the credit of the country, for they show that our laboring people are saving and putting at interest hundreds of millions of dollars annually, and that the people at large are paying from their abundance more, largely more, than the interest on our national debt to life insurance companies, as a provision for their widows and orphans when they shall no longer be able to provide for and protect them.

The Commissioner's theory that our legislation is making the rich richer and the poor

poorer is that which was hurled at us by every copperhead orator, from Horatio Seymour down, during the last canvass. We also encountered it in every rebel paper in the South, and there were those who feared that it might produce an effect upon the popular mind. I was not one of them. The American people are intelligent enough to know when they have the toothache, or are involved in a lawsuit, or are being stripped of property through the medium of a sheriff's sale, and remembering the disasters of the last free-trade and hard-money era of the country, I contrasted it with their present condition and relied confidently upon their judgment. In order to test the accuracy of my memory and judgment on this point, I appealed during the canvass to the statistics of my own city, and among other telling facts found, as I have already told you, that in 1860 the sheriff of Philadelphia had received seventeen hundred and forty writs for the sale of real estate, and that in 1867 he had received but seven hundred and six—a decrease of more than sixty per cent., although the population of the city had increased more than forty per cent. What makes this fact more significant is, that under our system of selling land under ground rents the purchase of a homestead is the savings-bank of the Philadelphia workingman. I also ascertained the number of suits that were instituted in the years 1857–58–59 and 1865–66 and 1867, respectively, in our local courts. The evidence from this source is not less significant than any that has preceded it. The court of common pleas is emphatically the poor man's court. It obtains jurisdiction by appeal from the judgments of magistrates, and the amount at issue before its jury is for sums less than \$100. The result of my investigation showed that the number of the suits brought in the latter years, notwithstanding the increase of population which had taken place, was but little more than one half the number instituted in the former period. The figures are as follows:

Suits in Common Pleas.	
1857.....	2,503
1858.....	2,651
1859.....	3,041
	8,195
1865.....	1,500
1866.....	1,461
1867.....	1,672
	4,633
Decrease of cases.....	3,562

The jurisdiction of the district court extends to all cases involving more than \$100. Its records are consistent with those of the common pleas. The figures from the records of that court are as follows:

District Court.	
1857.....	9,894
1858.....	9,702
1859.....	7,202
	26,858
1865.....	4,977
1866.....	5,716
1867.....	6,674
	17,387
Decrease.....	9,471

I am sure I do Mr. Wells no injustice when I complain of his palpable negligence in omitting to appeal to such sources of information as I have indicated, and attempting to deduce general laws by which to guide our legislation from the lame and impotent array of facts he has digested. We pay him a salary which he deems adequate. His traveling expenses are at the cost of the Treasury, and he is surrounded by a competent clerical force, and that he should have rested all his theories upon an array of facts so meager and so easily disproved is, to say the least, not creditable to his industry or judgment.

The gentleman from Ohio told us that hearing of my intended attack he had asked information from two sources in order to test the correctness of the Commissioner's position.

That was an idle waste of time. Had he spent it in examining Mr. Wells's figures, he would have discovered from their own manifest incongruity that no two or two hundred authorities could give them a character for respectability or the weight of authority. The gentleman is an arithmetician and knows that \$111,000 are not twenty-one and forty-nine hundredths per cent. of \$5,164,500, and that \$37,000 are not seven and twenty-six hundredths per cent. of \$5,053,500. Yet the Commissioner tells us they are, and so impairs the value of the important table on page 111 of the report. I invite the gentleman's attention to the two elaborate tables to be found on page 16 of the report, the first purporting to show in parallel columns the "average weekly expenditures for provisions, house-rent," &c.; the second, "average weekly earnings," and the third, "surplus for clothing, housekeeping goods," &c., of families in 1867; the other in corresponding columns purporting to show "average weekly expenditure of families of varying numbers in the manufacturing towns of the United States for the years 1860 and 1867, respectively."

More remarkable tables than these never were prepared by statistician. I had supposed that Mr. Delmar, late chief of the Bureau of Statistics, was a paragon in his way; but he must look out for his honors, for in these tables the Special Commissioner of Revenue has beaten him roundly in his own department. Unhappy Delmar! Happy Commissioner Wells! For Delmar's report Congress had nothing but an indignant vote requiring its suppression, though it lay ready printed and bound; but for Wells's budget of more egregious blunders it has such admiration and approval that no love of economy could restrain it from voting to print it for the widest possible circulation. The tables to which I refer must speak for themselves, for no man can describe or characterize them. As evidence of the want of care with which the report has been sent to the country I call attention to the fact that one column of figures which ought to be in the latter table has been omitted and that another appears twice. It is so in both editions. The tables are as follows:

Size of families.	Average aggregate weekly earnings and expenses of families for 1867.		Surplus for clothing, housekeeping goods, &c.
	Average weekly expenditures for provisions, house-rent, &c.	Average weekly earnings.	
Parents and one child.....	\$10 24	\$17 00	\$6 76
Three adults.....	8 35	17 52	9 17
Parents and two children.....	12 26	18 75	6 49
Parents and three children.....	15 02	19 50	4 48
Parents and four children.....	17 79	23 33	5 54
Parents and five children.....	15 23	17 11	1 88
Parents and six children.....	11 67	13 50	1 83
Parents and seven children.....	23 78	25 00	1 22
General average of the above.....	\$14 29	\$18 96	\$4 67

Size of families.	Average weekly expenditures for provisions, house-rent, &c.		Surplus in 1860.
	In 1867.	In 1860.	
Parents and one child.....	\$17 00	\$12 17	\$2 21
Three adults.....	17 52	12 00	1 69
Parents and two children.....	18 75	11 50	7 1
Parents and three children.....	19 50	12 41	1 08
Parents and four children.....	23 33	14 15	97
Parents and five children.....	17 11	10 37	91
Parents and six children.....	13 50	9 50	1 83
Parents and seven children.....	25 00	15 17	1 08
General average of the above.....	\$18 96	\$12 16	\$1 31

Table showing the average weekly expenditures of families of varying numbers in the manufacturing towns of the United States for the years 1860 and 1867, respectively.

I hope the gentleman from Ohio will give these tables a reasonable amount of consideration, and if he still thinks they may be correct refer them to another authority—the ancient matrons of his district. But before making this reference I beg him to advise the ladies of the fact that he draws his question from an official document; for if he fails to take this precaution they will hold him guilty of perpetrating a practical joke at their expense by submitting to their judgment so absurd a proposition. They will doubtless be able to tell him that parents with two children cannot live so well on the same money as parents with but one, and that as a general rule it costs more to maintain parents and three children than is required for the support of those with but two or one, and that the same is true with reference to parents and four children; but they will probably doubt his sincerity in asking whether parents with five children can live just as well on less money than is required to support in the same communities parents with but three, and will laugh at the proposition that parents with six children can live as well on less money than parents with but two; and I think I hear them crying out, "Why, sir, what do you mean by asking us whether parents with six children can live for less than parents with two, and yet in the same breath telling us that if they happen to have a seventh, be it boy or girl, it will more than double the expenses of the whole family? Unwelcome seventh child! According to Wells you come into the family of every laboring man to double the household expenses, though all your six predecessors be still sheltered by the paternal roof! Lucky children numbers five and six!—henceforth you will be welcomed everywhere; for the Special Commissioner of Revenue has proved that in all instances your coming reduces the expenses of the family to less than they were when the household flock consisted of but two! According to the Commissioner this law of social life, hitherto undiscovered, is absolute, and prevailed alike in 1860 and 1867.

To invite attention to these tables is to subject them to ridicule; and yet, Mr. Chairman, they are the foundation-stone and the keystone of Mr. Wells's entire structure; upon them he rests all his argument, and from them he deduced his conclusion, so disparaging to the Republican

SENATE.

Railroads in the States—Mr. Doolittle.

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party in Congress, and so damaging to the interests of the country, that as a result of unwise legislation marriage is a luxury the laboring people of America cannot safely enjoy. Happily for the country they are so flagrantly and absurdly false that Mr. Wells' deductions and conclusions will be received but as the vain imaginings of a dreamy and indolent theorist.

In view of the surprising facts I have brought to the attention of the committee, and the urgency of the Commissioner for a return to the revenue tariff and contracted currency of 1860, I am forced to the conclusion that he regards poverty and idleness as supreme blessings to the laboring people of a country, and I rejoice that I succeeded in obtaining the floor upon the motion to print his report, and sounded an alarm to the masses of my countrymen that it is an insidious plea for their impoverishment.

In my judgment the first duty of an American statesman is to watch and guard the rights of the laboring classes of the country. They produce its wealth, they fight its battles, and in their hands is its destiny; for at every election they cast a majority of the ballots, and upon their intelligence, integrity, and manly independence rest the welfare of the country. To make republican government an enduring success we must guard the productions of our laborers against competition with those of the ill-paid and oppressed laborers of Europe, that each head of a family may by the wages he can earn maintain a home and be able to support his children during the years required to give them the advantages of our common-school system. If the Commissioner's report proves anything to those who are able to detect its fallacies and test the fullness and accuracy of its comparative tables, it proves that under the influence of the cheap and abundant currency we now have and the system of protection which the war forced us to adopt, the American people are consuming more of the necessities and comforts of life than they were ever before able to consume; are producing more of what they consume than ever before and in spite of the taxes imposed by the national debt and other incidents of the war, are rapidly coming to be commercially independent of other nations. Yes, sir, under the influence of a tariff which though it levies duties on raw materials and commodities which we do not and cannot produce, is still in a measure protective, and an adequate amount of currency. We are slowly emerging from our commercial dependence upon England, as is shown by the fact that our imports have steadily diminished since 1865. Thus in 1866, 1867, and 1868, respectively, the amounts of foreign merchandise imported into the country were as follows:

Year ending 30th of June, 1866.....	\$423,470,646
Year ending 30th of June, 1867.....	374,943,502
Year ending 30th of June, 1868.....	344,873,433

Thus it appears that notwithstanding the facts that the increase of our wealth is unparalleled, and the natural increase of our population is very rapid, and that "from the 1st of July, 1865, to the 1st of December, 1868, about one million natives of foreign countries have sought a permanent home in the United States," our purchases of foreign commodities are steadily diminishing. The sapient deduction of the Special Commissioner of the Revenue from these facts is, that we are unable to trade with foreign nations, and that to stimulate foreign trade we must reduce the wages of our laborers and diminish the amount of currency now profitably employed in the development of our productive power. His theory is that "all commerce is in the nature of barter or exchange," and his complaint is that:

"We have so raised the cost of all domestic products that exchange in kind with all foreign nations is almost impossible. The majority of what foreign nations have to sell us, as already shown, we must or will have (?) What foreign nations want and we produce, cotton and a few other articles excepted, they can buy elsewhere cheaper. We are, therefore, obliged to pay in no small part for such foreign pro-

ductions as we need or will have, either in the precious metals or, what is worse, in unduly depreciated promises of national payment."

The Commissioner's exception of "cotton and a few other articles" leaves Hamlet out of the play and surrenders his whole case, for we can raise enough of the articles he expects, and of which we have a natural monopoly, to pay for every foreign production "we must or will have."

The beneficent results of free labor in the former slave States are an agreeable surprise to its most sanguine friends. The South is abundantly rich in mineral and special agricultural resources, but she is suffering for the want of currency to develop them. Were she adequately supplied with currency, and the season should be a favorable one, her production of cotton, and the few other articles excepted by the Commissioner, would more than double that of 1868, and as other nations must have her cotton, tobacco, rice, and other semi-tropical productions which they cannot procure elsewhere, it seems to me that the true way to stop the flow of precious metals and Government bonds is to stimulate production by protecting the wages of labor and avoiding any contraction of the currency. In support of this view let me call attention to the fact that we send from eighty to one hundred million dollars abroad annually for sugar. If capitalists will lend the planters of Florida, Louisiana, and Texas the means to cultivate their sugar fields they will produce crops that will save a large percentage of this vast sum to the country.*

I showed in the former discussion of this subject, we bought about forty-five per cent. of the entire amount of railroad iron exported by Great Britain during the first ten months of 1868, saying:

"I hold in my hand a circular which reads thus: 'Fifty-eight, Old Broad street, London, November 30, 1868, from S. W. Hopkins & Co., exporters of railway iron. Monthly Report of Exports of Rails from Great Britain, extracted from the Government returns.' By this report it appears that in the ten months ending October 31, 1868, Great Britain exported five hundred and nine thousand nine hundred and sixty-eight tons of rails. Gentlemen probably think that England's colonial dependencies took most of this iron; that British India, British North America, and Australia took it. No, gentlemen; we are her chief commercial dependency. She is our mistress, and we maintain her throne and aristocracy. No; the British dependencies took but eighty-four thousand tons, and her American dependency, the United States, took two hundred and twenty-eight thousand tons. Of the five hundred and nine thousand nine hundred and sixty-eight tons of rails we took twenty-one thousand tons more than were taken by British India, Russia, British North America, Sweden, Prussia, France, Spain and Canaries, Cuba, Brazil, Chili, and Australia."

The Commissioner makes no note of such facts as this, but finding some fortunately situ-

*Since my remarks were delivered I have received from Messrs. McFarlan, Straight & Co., commission merchants of New Orleans, their trade circular of February 1, from which I extract the following corroboration of my views:

"Receipts of the Louisiana sugar crop this season to 30th ultimo, inclusive, foot up 47,419 hogsheds sugar and 109,518 barrels, 4,692 half barrels, and 17 quarter barrels molasses. But for lack of promptness in commencing grinding early and of adequate preparation on the part of the producers for securing a large yield, and the early severe frosts succeeded by floods of rain, the Louisiana sugar crop of 1868 would probably have reached 115,000 hogsheds at least, or about three times the product of 1867. The yield of 1868 must have been reduced by mere waste, caused by lack of wood, lateness in beginning to grind, and the unfavorable weather during the latter part of the grinding season, say 25,000 hogsheds or more, leaving perhaps 90,000 hogsheds to be realized. This great waste from a bountiful crop is greatly to be regretted, and we may hope it will not be repeated."

The production of domestic cane-sweets properly protected and encouraged might be increased far beyond the ideas of many who are directly interested. We believe the sugar lands of this State and Texas might be made to produce the entire 650,000 tons of sugar said to be required annually by the people of the United States, saving the \$100,000,000 of specie paid yearly for foreign sweets, including charges and import duty, or perhaps fifty to sixty millions actually paid to foreign producers. We have space only to ask the genuine financier to consider this important instrumentality in aid of a return to the specie basis."

ated manufacturers of pig-iron guilty of making profits almost equal to those merchants' and bankers' average, he holds them up to contempt and ridicule, and wonders—yes, in an official report, sneeringly expresses his surprise—that they have not petitioned Congress to legislate for the reduction of their profits! He probably does not know that the high rate at which pig-iron is now selling is stimulating the production of that primary article to an extent that promises an early home supply and such competition among our own people as must inevitably cheapen the price of iron and reduce the profits of those whose product is now in unusual request. In proof of this assertion I not only point the Commissioner to the rapid increase of the means of producing pig-iron in Pennsylvania, but appeal to all the gentlemen on this floor from districts in or near which coal, iron ore, and limestone are found. Districts hitherto unknown to the iron trade are now producing large quantities of pig-iron; and I ask gentlemen from New York, New Jersey, Ohio, Indiana, southern Illinois, Missouri, Alabama, Georgia, Maryland, West Virginia, Kentucky, Tennessee, North Carolina, and Oregon, whether there are not more furnaces erecting in their States, respectively, than ever were in process of erection at one time before, and whether those already existing are not in full operation? Virginia has no voice on this floor with which to respond to my appeal, but it is within my knowledge that Pennsylvania iron men have constructed and are constructing furnaces, forges, and rolling-mills in various parts of that State. If we would turn the balance of trade in our favor and put our bonds at par and stop the outflowing of gold interest by receiving them in the hands of immigrants, or in pay for our cotton, rice, tobacco, provisions, &c., we must avoid the Commissioner's nostrums, free trade and hard money, and promote the developments of the boundless natural resources of the country. By no other means can we arrest the export of specie and bonds in exchange for foreign commodities.

There are many points in the Commissioner's report that I would glad review, but having addressed myself to a single one I will leave them for the consideration of others. Meanwhile I congratulate the country that it is so strong, and the currents of its prosperity are so broad, and moving with such increasing volume, that no official report or the vagaries of no theorist can impair or arrest its progress.

Railroads in the States.**SPEECH OF HON. J. R. DOOLITTLE,**

OF WISCONSIN,

IN THE UNITED STATES SENATE,

January 22, 1869.

The Senate, as in Committee of the Whole, having under consideration the bill (S. No. 554) to promote commerce among the States, and to cheapen the transportation of the mails and military and naval stores, being a bill to grant charters of incorporation to build three railways, one from Washington to New York, another from Washington to Pittsburg, and a third from Washington to Cincinnati, and the pending question being on the amendment of Mr. DOOLITTLE, to insert after the word "empowered," in line two of section eight, the words "with the consent of the Legislature of the State or States through which said railway may be located"—

Mr. DOOLITTLE said:

Mr. PRESIDENT: Without this amendment I can hardly understand how any Senator can bring himself to believe that, within the powers granted by the Constitution, Congress can pass this bill. Even with that amendment there are considerations, in my judgment, so strong against the exercise of the power, if we possessed it, that I should feel constrained to vote against the bill.

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I repeat, sir, I can hardly conceive how any Senator can find in the Constitution the power, express or implied, to pass this bill. There certainly is nothing in the language of the Constitution as it now stands, or as it was originally made, or as it was understood by the Convention while making it, or as it was always construed by the great men who took part in that Convention, which gives to Congress any such power. But, first of all, are we bound by the Constitution? Notwithstanding what we have heard during the last ten years of the revolutionary times through which we are passing about a dispensing power above the Constitution, which can release our consciences from the oath we have taken to support the Constitution, I have never persuaded myself to believe in any such power over the Constitution and our oaths to support it. I have no faith whatever in the plea sometimes heard from the Senator from Massachusetts, [Mr. WILSON,] that, "for the sake of God and humanity," we may, without violating our oaths, step over the boundaries of the Constitution; nor in that other plea sometimes made, that "we are bound by a higher law than the Constitution" in the performance of our duties here; nor in that other plea sometimes urged, more specious and delusive than any other, that "the logic of events" compels Congress every now and then to step over the boundaries which the Constitution has thrown around them in the exercise of their power.

And, sir, I have just as little faith in that idea, often advanced by the honorable Senator from Michigan, [Mr. HOWARD,] that in the midst of war we are in the exercise of powers "outside the Constitution" or "above the Constitution." No, sir; no; I have never yielded to these ideas. I trust I never shall yield to them the convictions of my judgment, nor suffer my action as a Senator to be controlled by them. The Constitution as it stands, as it was made, as it was understood by those who made it, and by those who construed it for more than half a century, is the law and the highest law binding upon us, upon our consciences, and upon our oaths. Twice, sir, during the period that I have been here have I been called to that desk, in the presence of this Senate, and in the presence of Him who liveth and reigneth forever, to take a solemn oath to support the Constitution of the United States; and, sir, as I understand it, I swore that I would support it in war as well as in peace, in storm as well as in sunshine. No higher law, no higher obligation than this can be pleaded. No plea of "war necessity," no "logic of events," nothing in the war or in the purpose of the war, can lead me to think for one moment that I am not bound by the Constitution as a Senator upon my oath and upon my conscience.

The purpose of that great war through which we have just passed was to maintain that Constitution. It was not enough that we ourselves should obey it. We resolved to compel every other man in the United States and in every State of the Union to obey it also. To maintain its supremacy over every man and over every foot of the soil of this Republic we entered upon that great struggle of arms. To maintain its supremacy in the States of the South, where it was attempted to be overthrown, we struck every blow, we fired every shot, we spilt every drop of blood of our sons and of our brothers. It was our avowed purpose in the beginning and before the beginning. It was our avowed purpose in every step of our progress. If now in words or in acts we are to admit that purpose to be false, that the Constitution is no longer supreme and binding upon our consciences and our oaths, then it follows that this war which we waged and carried to success at an expenditure of half a million of lives and more than five thousand million dollars was in all its progress a huge and monstrous lie. No, sir; there is nothing in the war, nor in the purpose of the war, nor in the

results of the war, which gives to "the logic of events," or to "war necessity," or to any "the higher law," any dispensing power over the Constitution to release any Senator from his oath to maintain that Constitution as it stands, as it was formed by our great ancestors and construed by them. I yield to it, therefore, Mr. President, my willing, my hearty obedience without any mental reservation.

In saying this, I wish it to be distinctly understood that I do not question the patriotic purposes of any other Senator who may have differed with me in his view of the powers granted by the Constitution, or who may even have persuaded himself to believe that for some reason based upon "war necessity," "the logic of events," or other cause, the Constitution was for the time suspended.

Mr. President, while upon this subject allow me to say that I regard my allegiance to the Constitution as higher and more sacred than any allegiance to party. Upon this point, and upon this point alone, have I been severed from the Republican party. Upon new questions, which had not arisen or been discussed at all previous to my first or to my second election to the Senate, upon which I was compelled to choose whether I would follow the demands of party or keep my oath and my allegiance to the Constitution, my relations to that party were sundered. It was because I believed and now believe that many of the measures proposed and adopted by this and the last Congress are openly and palpably unconstitutional that I have openly, earnestly, and persistently opposed them here and elsewhere.

Being about to leave my place in the Senate, as I look back upon the past I have no regrets for any resistance which I have made to the passage of unconstitutional laws demanded by party policy or party necessity. There is not one single instance from the beginning to the end of my course here in which I have opposed the passage of laws on account of their unconstitutionality that if called upon again, this very hour, to cast my vote or declare my opinion I would not give the same vote and declare the same opinion in stronger terms if possible. In full view of all the personal consequences which might come to me I took the responsibility. I would do so again. I knew full well, sir, that I should be subjected to denunciation. I knew that what has already come would in all probability come, that the people of my State would refuse to sustain me and would elect another in my place. Yet, sir, after all these consequences have come, I distinctly repeat, that on no occasion in this body have I resisted the passage of any law upon the ground of its unconstitutionality that I would not now, if possible, resist it more firmly and more earnestly. My only regret is that I have not done so with greater ability and with greater success.

But, Mr. President, I congratulate myself that in the discussion of this question now before the Senate none of these exciting topics of political strife arise. I shall not reopen their discussion. I shall not even refer to the cases in which I believe that Congress has transcended its constitutional powers. Let those dead issues pass; they are a part of history. "Let the dead bury the dead," and around their tomb let us have peace; at least let us have truce long enough to cool our passions and calm our judgments and wisely meet the living questions of the present.

I repeat, Mr. President, I think we may congratulate ourselves that in the discussion of the railroad question there will be no opportunity for my honorable friend from Massachusetts [Mr. SUMNER] to rise in his place, and, with eloquent voice and imposing manner, urge the Senate to make no distinction on account of race or color. My honorable friend from Michigan [Mr. HOWARD] will have no occasion to rise and say the "war necessities of the country require the passage of this bill." Nor

will my other honorable friend from Massachusetts [Mr. WILSON] rise and say, as he often does, when he would close his eyes to constitutional objections, "I do not profess to discuss or to understand constitutional questions, but I believe the cause of God and humanity requires me to vote for the pending measure." Nor do I believe that on this subject at least there will be any Senator to appeal to the "war power outside the Constitution" in favor of the passage of this bill. Nor will there be any appeal to "the logic of events," that hackneyed phrase of radicals and revolutionists, in which they seek to find an inexhaustible source of unlimited power in Congress to do everything it may desire to do on any subject whatever, the limitations of the Constitution to the contrary notwithstanding.

The only thing calculated to prejudice the mind and prevent a calm consideration of the questions involved is what I will denominate, without disrespect to any, a clamor about monopoly. This clamor has been long, loud, and deep, both in the press and in Congress. I do not know all the facts. Some things may have transpired in the railroad operations of New Jersey and Maryland to give some occasion for this clamor, and to produce the discontent which manifests itself here. But whatever there may have been in the past, I believe that for some reason, whether from the fear of interference by Congress, or whether it be because the States of New Jersey and Maryland, the first to enter upon the construction of railways, resting upon their early laurels, suffered themselves for a time to get a little behind the age, but have now awakened to the true situation of affairs, one thing is certain, they have learned what all other roads, both at the West and the North, will learn, that their true interest and best policy is to be found in reducing rates and affording the best possible accommodations to the traveling public.

In justice to these States we are bound to say that the facility of communication from Washington to New York has been greatly improved within the last ten years. The route is made much easier, the journey is made quicker, and I think cheaper, than it was ten years ago. The Delaware has been bridged, the Susquehanna bridged, the Gunpowder bridged. There are now through trains, without change of cars, from here to New York, with very good sleeping cars for the night trains, though on some of our western railroads they may be in some respects superior. But that is only a question of a little more time.

Mr. President, the first question that arises is this: suppose Congress has power to grant an act of incorporation to build a railway from here to the city of New York, what is the necessity for now exercising that power? Surely there is no greater necessity upon us now than there has been at any time within the last twenty-five years. The necessity is not as great to-day as it was ten years ago, and that necessity is growing less and less. The Senator from Maryland [Mr. WYTHE] has just read in the Senate a letter from the Governor of Maryland, who is himself a president of a new railway company already incorporated by the State of Maryland to build a railway from Baltimore to this city, in which he declares that it will be finished by January, 1870—within twelve months. That railway is to be a competing railway with the Baltimore and Ohio road, connecting at Baltimore with the Northern Central railway, and over that to Harrisburg, with the great railroad system of Pennsylvania; so that at the end of one year from this time we are to have in fact competing railways from here to the North and West, and that, too, by the action of the States and the citizens of the States, without any interference by Congress or the exercise of any such doubtful and extraordinary powers.

I insist, therefore, that even if we possessed all the power which is claimed by the Senator

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from Ohio there is no such necessity pressing upon us to open new railway communications from the city of Washington northward as to justify us in entering upon this dangerous policy. The people of this city, if they would depend less upon the Government and more upon themselves; if they would rely upon their own industry, energy, and enterprise; in a word, if they would do in Washington as the people have done in Baltimore and other cities, take their own interests into their own hands and open new railway communications with the other great railways of the country, there would be no difficulty in its accomplishment and in making Washington a city of commercial importance.

Mr. SHERMAN. They cannot now.

Mr. DOOLITTLE. I grant that the people of this city have no legislative power; Congress is to legislate for this District; and there is no difficulty in Congress granting acts of incorporation to build railroads within the District of Columbia. These things we do every day, because we have exclusive jurisdiction to legislate for the District. The people of this District, having obtained a charter for a railroad company through the District, can apply to the States of Virginia, West Virginia, Maryland, Pennsylvania, Ohio, and other States, and obtain acts of incorporation for the building of railroads wherever they are practicable or may be desired.

Mr. SHERMAN. I desire not to interrupt my friend or prolong his argument, for I wish to get a vote on this bill to-day, but I desire to say that I am informed by credible persons here that they have applied to the State of Maryland for charters for roads in various directions from this city and they have always been beaten, and it was with great difficulty, by taking advantage of doubtful phraseology of a very doubtful law, that they finally got one road under way from here to Baltimore.

Mr. DOOLITTLE. That may have been so in years past. I do not profess to understand the history of the legislation of Maryland; but certainly, if we can rely on the statement of her Senators and on the statement of her present Governor, there is a road now being built between this city and Baltimore under a charter granted by that State, which is to be a competing road with the Baltimore and Ohio railroad, the great railroad corporation of that State.

Mr. SHERMAN. I desire to say to my honorable friend that that very road referred to by him will probably be a part of the line for which this bill provides. It is authorized by this bill to form part of the new road.

Mr. DOOLITTLE. So far, then, the Senator is agreed that the monopoly exercised by the State of Maryland, or the restrictive policy pursued by the State of Maryland, has been overcome.

Mr. SHERMAN. By Congress.

Mr. DOOLITTLE. Not by Congress. It has been overcome by the granting of this charter by the Maryland Legislature, which authorizes a road from Baltimore to this place; and the Northern Central road, which comes to the city of Baltimore, is standing ready to connect with it, so that from the city of Washington there will be a through, direct route, without change of cars or baggage, to Harrisburg; and there you intersect the great Pennsylvania Central and the whole railroad system of Pennsylvania. From Harrisburg there are several routes to the city of New York. Having succeeded at last in relaxing the former policy of Maryland, and the Baltimore and Potomac road now being in process of construction and so soon to reach this city, what necessity is there for the exercise of this power, which all must regard as doubtful, and which, in my opinion, was expressly denied to Congress by the convention which framed the Constitution? Bear in mind the statement of the Governor of Maryland, that nearly every mile of the road is being

rapidly graded, some sections are completed, and that it will be done by January, 1870.

Mr. President, I repeat, it is perfectly clear the necessity for entering upon this policy by Congress now is not as great as it was twenty years ago, nor as great as it was ten years ago. In fact, there is no necessity at all. Even the question of inconvenience will be removed when we have this competing line connecting with the Northern Central running to Harrisburg. All who come from the West will have the choice of two routes, one by Pittsburg to Harrisburg, and thence by this new line to Washington, the other by the Baltimore and Ohio from Wheeling to Washington; and all going west can go by the Baltimore and Potomac, Northern Central, and Pennsylvania Central, to strike the Ohio system of roads at Pittsburg, or by the Baltimore and Ohio direct to strike that system at Wheeling.

Mr. SHERMAN. By either route we go around seventy-five miles.

Mr. DOOLITTLE. It might be well if the people of Washington and all who are interested in the growth of this city should wake up to their true interests and seek to open a shorter route to the great West. They could undoubtedly, if they attempt it, obtain a charter from the States of Virginia and West Virginia and Pennsylvania which will allow them to build an air-line railway, if the mountains will permit it, to the nearest point on the Ohio river. I believe that Washington, from its natural location, might be made a great commercial city. It is as near, if not nearer, than any other point upon navigable waters running into the Atlantic to the navigable waters of the Ohio. Why, sir, the railroad mentioned by the honorable Senator from West Virginia, [Mr. WILDER,] the Chesapeake and Ohio railway, is the one, in my judgment, in which the city of Washington is more interested than any other. By a direct connection from here to Staunton, upon that road, in Virginia, and thence by the Kanawha valley to the Ohio river, there to connect with the navigation of the Mississippi and with all the great railroad systems of the West, is, above all others, the most important route for this city. But, Mr. President, for Congress to charter a new railroad from Washington to New York at the very time when all necessity for it is disappearing is, in my opinion, very unwise. I see no good reason for it. I see many, many reasons against it even if we had the constitutional power.

As to the inconveniences mentioned by the honorable Senator, the refusal to check baggage or sell through tickets, I believe they might be remedied under the power which we undoubtedly possess here in Congress over the District of Columbia. When a competing road reaches this city from Baltimore, connecting with the Northern Central and Pennsylvania Central, there will be no longer any difficulty on this point; it will regulate itself. Competition will compel the checking of baggage and the selling of through tickets to all the North and all the West; but even if that does not, the authority of Congress over the railroads within this District could impose such terms and conditions upon them as would be just and reasonable on this question. We could make it for their interest to be reasonable. There is nothing in these inconveniences, therefore, to make it necessary to enter upon the exercise of this great, this gigantic power of building railways through the States by act of Congress.

Mr. President, before I go to the argument of the question of power I will call attention for a few moments to a portion of the argument of the honorable Senator from Indiana, [Mr. MORTON.] In some things I agree with him; I will go so far as to say if any restriction is imposed upon either the carrying of freight or passengers across the States of Maryland and New Jersey which is not imposed equally upon the citizens of New Jersey and the citizens of

Maryland it would be a clear violation of the Constitution of the United States, and must be held so by every court where the question is presented; and Congress, in the regulation of commerce between the States, might go so far as by enactment to prohibit the imposition of any duties or tolls upon travelers or merchandise through the States of New Jersey and Maryland other or greater than are imposed upon their own citizens; but, sir, if the States of New Jersey and Maryland treat their own citizens upon precisely the same footing as they treat the citizens of other States, levying no heavier tolls for the use of their railways, I think it is within the power of those States to levy tolls upon merchandise and upon the transportation of passengers.

Let us see, for one moment, how far this doctrine of the Senator would go. Suppose the State of Maryland authorizes a toll-bridge across Gunpowder river for travelers, and says to the company making it, "You may collect twenty-five cents *per capita* of every traveler who crosses the bridge," is that an unconstitutional exercise of power? Is that levying such a tax or toll on passengers that the Congress of the United States would be authorized to interfere, and by a penal provision make it a crime on the part of those who undertake to collect such a tax? Or if a ferry across a river is chartered by the State, is it an unconstitutional tax upon passengers or merchandise if the State allows that corporation to collect toll for crossing the river? Or suppose a State, instead of chartering a company to build a bridge across a river, should charter a company to build a railroad across a portion of its territory, and should say that the company, in lieu of taxes imposed upon the real estate belonging to it, should pay a certain portion, if you please, of its net receipts or of its gross receipts into the State treasury, would that be an unconstitutional tax? Or let me suppose another case—and this will bring the question home: suppose the State, instead of chartering a corporation, builds the road itself and runs it and takes all the tolls for passengers and all the tolls for freight, instead of taking one fifth or one seventh, would that be an unconstitutional levying of tolls upon travel and merchandise through a State? If the State deals with all the citizens of the United States precisely alike, if it says to those who cross a toll-bridge, whether they live in New Jersey or Pennsylvania, "You shall pay a certain sum, and no more," it is not, in my opinion, a violation of the Constitution of the United States. If this new doctrine is carried out what shall we say of the great State of New York, which levies tolls on the Erie canal, the great highway of commerce between the West and the East? That State has expended probably a hundred millions to open these channels of commerce. Has she no right to any remuneration whatever for all this vast expenditure?

Mr. MORTON. Will the Senator allow me to ask him a question?

Mr. DOOLITTLE. Yes, sir.

Mr. MORTON. If the State of Maryland has the right to require that the railroad company shall pay into the treasury of the State thirty cents for every passenger carried between Washington and Baltimore, I ask if it has not the right to require that the railroad company shall pay thirty dollars for every passenger between here and Baltimore? I ask, further, whether such a tax as that would be constitutional, and what would be the effect of it?

Mr. DOOLITTLE. Suppose the State of Maryland had never built a railroad? Suppose the State of New Jersey had never built any railroads? This putting of extreme cases, cases which are in themselves impossible to be supposed, even, does not test the question. But suppose a State, by its own exercise of eminent domain in opening its own thoroughfares, builds a road itself; according to the Senator's doc-

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trine the State cannot impose a single cent of tax upon a traveler for traveling over it. If the State taxes one fifth of what the passenger pays for the privilege of going over the road, he claims that to be a tax on passengers; but if the State had built the road itself and taxed five fifths, that is no tax on passengers at all.

Mr. MORTON. How was it in the Nevada case?

Mr. DOOLITTLE. I will come to the Nevada case in about five minutes.

I do not believe that either the State of New Jersey or the State of Maryland has obstructed the transit of passengers or freight or merchandise. I believe what is stated by the Senators from both of those States, that they were among the first, I think the very first, to enter upon the experiment (for it was then an experiment) of railway communication. It proved to be a success. But it cost the State of Maryland a large sum of money. It involved the State in debt. It was compelled, and I think it was but just that it should do so, to require the railroad in some way or other to pay a portion of its proceeds into the treasury. How does the railroad acquire any proceeds? It must acquire them either upon merchandise or passengers; for that is all their business. If you require them to pay two per cent. or five per cent. or any other per cent. on their receipts it is a tax on their business; and what is their business? Receiving tolls for freight and receiving passage money for passengers; and if the State collects anything of the railway company you take a part of the receipts from each source. Whatever is collected from the company is of necessity collected by the company on freight or passengers. If the State had built the road, as it had the undoubted right to do, it would take the whole of them; but as the State charters a corporation to do it, it gives to the men who furnish the money for the enterprise a share of the proceeds, reserving something to the State in lieu of taxation and to pay the indebtedness incurred by the State in aid of the construction of the railway.

Now, sir, I am discussing the question of constitutional power, not of good policy. I admit that it would be better policy for every State in the Union to adopt the policy pursued by the State of Indiana, and not to impose, if you please, any direct tolls upon passengers and travel; and yet even Indiana is compelled to get taxes out of these railroad corporations in some way, and those taxes, whatever they are, must come out of the earnings of the corporations, and those earnings come from the carriage of passengers and freight, and from no other source.

And now, sir, let us come to the Nevada case. Although there was some general language used by the judge delivering the opinion in that case looking in that direction, it seems to me that the principle contended for by the honorable Senator from Indiana is not involved in the facts of the case. What was that case in Nevada? That State levied upon a stage company a tax *per capita* upon all men going out of Nevada. It was a kind of *ne exeat regnum* to stop a man going out of the State. It was an assertion, in a modified form, on the part of this young State of Nevada of that old, exploded doctrine of Great Britain, "once a subject always a subject." There was no tax levied on men going into Nevada. It was a tax levied on their going out. The court very properly decided that a man who went into Nevada had a right to go out of Nevada without being taxed for going out or coming in. But let me ask my honorable friend from Indiana, suppose Nevada had authorized a company to construct a tunnel through the Sierra Nevada mountain and had said to the company, "You may charge twenty-five cents a head on every traveler that goes through it," would that have been unconstitutional? Or if Nevada had built a bridge across one of its rivers, would it have been unconstitutional to require

the company to pay so much a head for every passenger that crossed it? If the Supreme Court have decided that, they have decided a great deal that they did not decide in the Nevada case, I am quite certain. They simply decided in the Nevada case that a man had a right to go out of Nevada without any restriction being imposed upon him by the State.

Mr. MORTON. I should like to ask the Senator right here if the State of Nevada has no right to levy a tax upon a man going out of Nevada has it a right to levy a tax on a man going into Nevada, or one going clear across it? The Senator seems to place it on the ground that the State had no right to levy a tax on a man going out of it, but carrying with his argument the implication that if he was going into it, or clear across it, the State would have a right to tax him.

Mr. DOOLITTLE. I do not say that Nevada has a right to tax a man for going into it. The Supreme Court have decided in the case referred to a little while ago by the honorable Senator from New Jersey, [Mr. FRELINGHUYSEN,] where the opinion was delivered by Justice Grier that no State has a right to tax a passenger for coming into it. Neither the State of New York nor the State of Massachusetts has a right to impose a tax on immigration into the State, nor has Nevada a right to impose a tax on emigration out of the State; but in traveling upon the roads built in Nevada, or under the authority of Nevada, if the State of Nevada puts no other or greater tax or restriction upon the people who do not live in Nevada than it does upon its own citizens we have no right to complain, and the Constitution is not broken, in my opinion; and that, I think, is the distinction.

Mr. MORTON. I will state to the Senator from Wisconsin that the Supreme Court does not base its decision at all upon the fact that it is a tax on passengers going out of Nevada any more than on those coming in or going across; but that it is, in substance, a tax upon passengers at all is the very question decided.

Mr. DOOLITTLE. I have stated my view of the substance of that decision, and I think all that it will bear upon full consideration, and I shall pass on without further discussing that point, as I do not wish to occupy too much of the time of the Senate.

Now, Mr. President, let us come to the great question, the question of constitutional power. I maintain, first, that there is no express grant of power in the Constitution to Congress to grant an act of incorporation to build a railroad within the States. I think no person on the floor of the Senate has contended that there is any express grant of such a power. If there be any grant in the Constitution it must be implied from other clauses of the Constitution. It must be upheld as an incident to some of the powers which are granted. The words which are relied upon by those who contend for the exercise of this power are these:

"Congress shall have power to establish post offices and post roads;" * * * "to regulate commerce with foreign nations and among the several States;" * * * "to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare."

How was this question understood by the men who made the Constitution? I undertake to say that it was unanimously understood in the Convention which made the Constitution that the clauses of the Constitution then agreed upon contained no such power. Every person who took part in that discussion understood that the clauses then adopted contained no such power. Roger Sherman, of Connecticut, perhaps the most distinguished man that Connecticut produced in the revolutionary period, and whose brother, I believe, was in the direct line the ancestor of the honorable Senator from Ohio, understood that it contained no such power and he was opposed to granting any such power when it was proposed by Doctor Franklin.

Mr. Sherman was opposed to it because "the expense in such cases would fall on the United States and the benefit accrue to the places where the canals may be cut." There were no railways then. The debate arose on a question about canals as a means of opening a new and easier means of communication. Mr. Madison understood that such a power was not granted. This is certain; for in the Convention he proposed to give Congress the power to grant charters of incorporation, avowing that his purpose in giving that power to Congress was to give the power to open means of communication. Mr. Rufus King understood that no such power was granted and opposed the granting of any such power. Alexander Hamilton believed that Congress had no such power, and in his articles in the *Federalist* expressly declares that it was his opinion that Congress had no such power. Jefferson, as everybody knows, declared that no such power existed under the Constitution of the United States. Mr. Madison, who has sometimes been looked up to as the very father of the Constitution, whose opinions upon its true meaning have always been held in the highest respect, having proposed it in the Convention and it having been voted down, knew, when President of the United States and the question was brought before him for his official action, that no such power was granted in the Constitution, that no such power was intended to be granted, but was expressly refused to Congress by the Convention which made it, and therefore he put his veto on the internal improvement bill. I have the veto message of President Madison before me, in which he discusses this question and takes up these different clauses in the Constitution under which this power is claimed, and in which he states in the clearest and most unequivocal terms that Congress does not possess it.

Mr. EDMUNDS. In what year was that?

Mr. DOOLITTLE. The veto bears date on the 3d of March, 1817:

"I am constrained, by the insuperable difficulty I feel in reconciling the bill with the Constitution of the United States, to return it with that objection to the House of Representatives, in which it originated."

The legislative powers vested in Congress are specified and enumerated in the eighth section of the first article of the Constitution; and it does not appear that the power proposed to be exercised by the bill is among the enumerated powers, or that it falls, by any just interpretation, within the power to make laws necessary and proper for carrying into execution those or other powers vested by the Constitution in the Government of the United States.

"The power to regulate commerce among the several States," cannot include a power to construct roads and canals and to improve the navigation of watercourses, in order to facilitate, promote, and secure such a commerce, without a latitude of construction departing from the ordinary import of the terms, strengthened by the known inconveniences which doubtless led to the grant of this remedial power to Congress.

"To refer the power in question to the clause 'to provide for the common defense and general welfare,' would be contrary to the established and consistent rules of interpretation."

I will not read further from this able message of Mr. Madison. He is, I think, justly regarded as one of the ablest expounders of the Constitution, for he took a most important part in its creation and in its defense before the people, and he positively knew that the Convention which framed it withheld this very power because he had himself offered in the Convention to give Congress that power and it was voted down, and voted down for reasons distinctly stated. The veto message of President Monroe has already been referred to in the course of this discussion. Mr. Monroe states his opinion with that clearness for which he was distinguished, touching all the clauses of the Constitution by virtue of which or under which this power is claimed. I will refer to but a single paragraph. He says:

"It has never been contended that the power was specifically granted. It is claimed only as being incidental to some one or more of the powers which are specifically granted. The following are the powers from which it is said to be derived:

- "1. From the right to establish post offices and post roads.
- "2. From the right to declare war.

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"3. To regulate commerce.
 "4. To pay the debts and provide for the common defence and general welfare.

"5. From the power to make all laws necessary and proper for carrying into execution all the powers vested by the Constitution in the Government of the United States, or in any department or officer thereof.

"6. From the power to dispose of and make all needful rules and regulations respecting the territory and other property of the United States.

"According to my judgment, it cannot be derived from either of those powers, nor from all of them united, and in consequence it does not exist."

Mr. President, we all know, for it is within the recollection of Senators, the discussion which took place upon the veto of General Jackson upon the Maysville road bill. It is so familiar that I will not quote any of its language. It is well known that he maintained the same views which had been maintained by Madison and Monroe in their veto messages, and which were known to be the views of the Convention that framed the Constitution of the United States.

But, Mr. President, there are two other gentlemen as distinguished, and perhaps more so, than any others in civil life in the revolutionary period, whose opinions upon this question ought to be well considered. I refer to Mr. Jefferson and Alexander Hamilton. They were the representative men of their period, representing different and somewhat antagonistic ideas on this very question of the proper construction of the Constitution; the one representing, if you please, laying great stress at least upon the powers reserved to the States; the other, from his natural tendency of mind and his convictions, in favor of the most liberal construction of the powers vested in the Federal Government. Sir, when both those men—the man who represented the most enlarged ideas of Federalism, whose tendencies and opinions favored centralization of power, and also the man who represented the ideas of republicanism, a strict construction upon all the powers granted to the Federal Government and a liberal construction of all the powers reserved to the States—when both these men, who were somewhat extreme in their views and opinions, but were the true representative men of their period, concur in telling you that the Convention which framed the Constitution gave Congress no power to charter incorporations, to build railways, or to cut canals, it seems to me almost impossible that gentlemen, if they desire to construe the Constitution as it was made or as it was construed by those who made it, can find in the Constitution the power to grant this railroad incorporation.

There are one or two other features of this bill to which I desire to call attention. Having shown, as I think, both from the Constitution itself and from its proper construction that no such power was expressly given and no such power can properly be implied, there are still other objections. Under the terms of this bill the power of eminent domain is asserted over the soil and territory of the State without its consent. The State is substantially ousted of its jurisdiction. The bill provides that for all acts done or omitted by the railroad company there shall be no suit commenced in a State court which shall not be transferred, upon application, to the courts of the United States. Therefore the property which is taken is to be taken by the authority of the United States. True, by an amendment adopted yesterday, the words "in behalf of the United States" are stricken out, but the effect is not changed. The property is still to be taken from the State by the Federal Government and the title put into a corporation created by the Federal Government, and then the Federal Government asserts its jurisdiction over this road and over the soil of the State covered by its tracks and depots and over all questions done or omitted to be done in and about the same. It asserts the jurisdiction of the United States and the United States courts without asking the consent of

the State. Without the adoption of my amendment, which requires this to be done only with the consent of the Legislatures of the States, this bill is, in my judgment, a clear violation of the spirit of the Constitution, if not of its express letter. By the seventeenth clause of the eighth section of the first article of the Constitution Congress has the power—

"To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be for the erection of forts, magazines, arsenals, dockyards, and other needful buildings."

These words, "other needful buildings," would cover a railway, its stations and its track, because its track may be said to be a building within the comprehensive meaning of the term. It is a great engine, laid upon the earth it is true, over which pass locomotives with cars so rapid as almost to annihilate time and distance. A mighty engine! to be sure, a thing of modern growth, not known when the Constitution was formed, but none the less a thing, a "building," which would be embraced within these words. Sir, is it to be supposed that if the Government of the United States has no power to obtain exclusive jurisdiction over the ground on which to build a fort without asking the consent of a State Legislature—

Mr. SHERMAN. My friend certainly must be aware that it has been decided that the United States may purchase ground for forts or other public buildings, but it cannot have exclusive jurisdiction, under the language of the Constitution, without the consent of the States.

Mr. DOOLITTLE. I understand that. If the honorable Senator had heard the beginning of my argument he would understand the force which I give to this clause. I maintain that this bill ousts the jurisdiction of the State over this railroad by giving jurisdiction to the courts of the United States over whatever may be done or omitted to be done in the operation of the railway or in its construction.

Mr. SHERMAN. The bill itself allows no cases to be carried to the courts of the United States except cases where the validity of the franchise is called in question.

Mr. DOOLITTLE. I understand the language of the bill. That was offered by way of amendment to a certain portion of the section and adopted. But, sir, there is another clause in the section. Let me read a clause from the bill:

"That if any suit or proceeding, either in law or equity, or any criminal prosecution shall be commenced in any State court, against the New York and Washington Railway Company, their successors or assigns, or any person authorized or employed by them, for any act done, or omitted to be done, in and about the construction of the railway hereby authorized under and by virtue of this act, and in which the validity of any franchise conferred by this act is denied, or to restrain by injunction or otherwise the construction, completion, or operation of the said railway," &c.

This clause in italics I have no doubt was inserted with a view in part to avoid the effect of the constitutional provision to which I have referred; but it does not relieve the section from the fact that the United States Government creates a corporation, endows it with just such powers as it pleases, and it denies to the State any right to have any suit against any person for what has been done or omitted to be done, if it is claimed that it draws in question any one of the franchises of the corporation. Those franchises are without limit. If the power exists in Congress which is asserted here, those franchises may be such as completely to oust all jurisdiction whatever. The franchise may grant to the corporation the power to forbid a single person to set his foot within any building or upon the track of the railroad which belongs to this company except by the express permission of the company,

and thus exclude every citizen and officer of the State from setting his foot upon it except by permission of the corporation. In substance, it is an ouster of the jurisdiction of the State, if Congress has this power. I do not say that this bill by its terms goes so far as absolutely to oust all jurisdiction in criminal cases. If a murder were committed within one of the depots of the railway, the case might be tried in a State court; but if Congress chooses to do so, if it has the power asserted, it can oust the jurisdiction even in a case like that.

But there is still another objection. This bill asserts the power of Congress to take a portion of the real estate of the State without the consent of its Legislature, and withdraw it just so far as Congress chooses to withdraw it from taxation by the State. The State can tax its own property no longer in its own right. It can only tax it by permission of Congress. We all know that these great railroad franchises are among the most valuable of all property which can exist in a State. Take the great Pennsylvania railroad company in the State of Pennsylvania. One of the most important property interests of that State is in that railway. Shall Congress have the power to usurp jurisdiction over that railway corporation, to take possession of it and withdraw it from the taxation of Pennsylvania except by the consent of Congress? If Congress has the power to charter a railway corporation side by side with the Baltimore and Ohio railroad, Congress has the power in the exercise of this right of eminent domain to take the Baltimore and Ohio railroad itself and to subject it to its control, and to withdraw it altogether from the taxation of the State of Maryland. I maintain that without the consent of the State no such power can be exercised by Congress, and none ought to be exercised even if Congress had the power. If Congress enters upon the work of building railways it must defend them by law against State taxation, or the States can tax them out of existence. And if Congress takes away the power to tax them for State purposes, some of the greatest and most valuable portions of the State, its soil and jurisdiction, are withdrawn from State taxation.

It is upon these grounds, Mr. President, first, that by the Constitution Congress has no power to grant an incorporation for any such purpose; that such power is neither expressly given nor can fairly be implied from the powers which are granted; second, because Congress has no power without the consent of the State Legislature to assert the right of eminent domain, and thus far to oust the jurisdiction of the State over its property, its own soil; and third, because Congress has no power to withdraw valuable and important property interests belonging to the State from State taxation, that I am opposed to the passage of this bill. I believe in the truth of what Justice McLean said, that the exercise by Congress of these tremendous powers will, if once entered upon, revolutionize the Government. If Congress once begin, of necessity all railway corporations will seek to be chartered by national authority. I believe if Congress shall bring to itself here, and under its control, all the railway corporations of the United States, it will in the end subject the control of this Government to an aristocracy of concentrated wealth, not an aristocracy of men which may have some redeeming qualities, but an aristocracy of mammoth corporations, which, as has been said in strong Anglo-Saxon, have neither "bodies to be kicked nor souls to be damned." In the hands of these great mammoth railway corporations representing thousands of millions, Congresses and Presidents will be but playthings.

Sir, we know from the history of the country and what transpires in the different States on the subject of railway corporations, the power and influence that are exercised at the capital of every State by the great moneyed cor-

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porations which control this greatest engine of modern invention, the railway system. If you concentrate them all here—and concentrated they will be if you once enter upon this policy—who can predict the result to our Government and to our institutions? If, as we have seen, even Alexander Hamilton, one of the ablest men of the Revolution, but who, in the formation of the Constitution and the construction he sought to give to it was always in favor of enlarging the powers of the Federal Government and concentrating as much as possible power in Congress; if even he, who was in his day the genius of centralization, shrank back from this proposition, if he was unwilling to give a construction to the Constitution which would bring such a power here, how is it possible that any statesman at this day can find such a power under the Constitution?

Mr. President, I have observed the fact—it may be entirely by accident, I hope it is—that under the new régime every statue has been removed from the Rotunda of the Capitol except that of Alexander Hamilton. Is he to be the presiding genius of the coming future? Having always represented in his life the Federal tendency to bring consolidated power to this Government, he may represent the future just before us, and which is soon to come, and which if you pass this bill has already come. The power of the States over their own railways, their own means of communication, their own institutions, even over their suffrage, is to be subjected to the power of this Government. If this measure shall pass and be acquiesced in by the people every railway corporation will desire its charter under this Government. They will seek a national charter. They will seek national authority for all their acts independent of State control. The time would not be far distant before they would seek to relieve themselves from State taxation in whole or in part. They will be here in immense force, the representatives not only of hundreds of millions, but of thousands of millions of dollars, concentrated and controlled by directors who meet in secret and control all their gigantic operations. When the time comes that all this concentrated power is here, I tell you, Mr. President, and I tell you, my brother Senators, the days of this Republic under the Constitution of the United States as our fathers made it, as our fathers understood it, are already numbered. The plea for a strong government will be set up by these moneyed monopolies, and they will not plead in vain. Capital seeks strong governments. Capital seeks to concentrate itself; and concentrated capital, wherever it exists and in whatever form, has a tendency to concentrated despotism. If we would not see the just powers of the States destroyed, if we would not have them broken down and an imperialism established here at Washington, an imperialism not represented by monarch or potentate or aristocracy of birth, but represented by an aristocracy of concentrated wealth held by railway and banking corporations, we must resist the passage of this bill.

Mr. President, I know it has been said, and sometimes with force, that we are in the midst of a revolution; that the war which has been upon us has accustomed us to the centralization of power in the Government at Washington. To a certain extent that may be true; and yet I, for one, hope that revolution is not yet complete. I hope when this great question is fully discussed and fairly understood, it does so much to trample down the rights of the States, it does so much to enlarge the powers of this Government, that reaction will begin in favor of the just rights reserved to the States under the Constitution, and that this Government shall cease from the exercise of doubtful and unconstitutional power.

Mr. President, I have perhaps detained the Senate too long. I have spoken upon this subject with earnestness because I feel that in it are involved the very gravest questions that

have ever been presented here. As I said, in a brief period I shall leave the Senate and probably public life forever. I can have no other hope or wish, but the prosperity of my country. I implore my brother Senators not to allow any of these specious pleas of commercial necessity or the logic of events or the desire to build up a great and splendid capital at Washington to induce them to enter upon this doubtful and most dangerous experiment.

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SPEECH OF HON. J. T. ELLIOTT,

OF ARKANSAS,

IN THE HOUSE OF REPRESENTATIVES,

February 2, 1869,

On the joint resolution (H. R. No. 402) proposing an amendment of the Constitution of the United States.

Mr. ELLIOTT, of Arkansas. Mr. Speaker, it is with some embarrassment that I appear before you to-day, as I am a new member in this House, and consequently but little acquainted with the route I should take in placing myself properly before it and the country. It is said that "an honest confession is good for the soul." To this I agree, upon certain conditions. I believe in an honest confession, not made through policy, but from a conscientious conviction coming from the heart deep down in its inmost recesses. That man who from mere policy puts on a show of honesty is a bad man, and not to be trusted. Hence I appear before you to-day with no lip-service, but to state earnestly and truthfully facts as they are, leaving you and members generally to judge of the truthfulness and sincerity of my statements.

I feel the weight of the responsible duty I have to perform, but in its discharge I expect to derive a personal satisfaction, if nothing more, even if I should not succeed in saying anything to help the glorious cause in which the present Congress has been so long engaged—the reconstruction of the southern States, the failure of which would be destructive and ruinous to the best interests of our country, and fatal to the realization of those bright hopes and wishes which a seemingly auspicious future encourages us to entertain.

Mr. Speaker, I belong to a class of men who have peculiar claims upon the sympathy if not upon the admiration of this House. To come to the point at once, you are now being addressed by a truly and thoroughly "reconstructed rebel." I say this in no canting or boasting spirit. I detest a hypocrite, and despise that man who, like the vain-glorious Pharisee of old, makes an ostentatious parade of assumed humility, while his heart is full of pride and deceit. When I say that I am a "reconstructed rebel" I do not wish to imply any pretension to extraordinary virtue, or any claim to extraordinary consideration, nor, on the other hand, do I say it in that spirit of undue humility which suggests a craven and coward heart; but I say it in the open, frank, and manly spirit of one who has the honesty to confess that he has done wrong, and the courage to say that he is sorry for it. Though for nearly three years a rebel against our Government I can declare with entire truth and sincerity that I have always been at heart a Union man. Entertaining no boasting or vain-glorious spirit, what I mean to say by this is that I was always opposed to secession, and always thought it was wrong in principle as well as policy to break up or attempt to break up that glorious Union which was devised by the wisdom and cemented by the blood of our brave old revolutionary sires. I fought against secession with all the energy I could put forth. I struggled against it with all my powers of mind and body. But I could not stop the frantic current of revolution that seemed to be borne along by the irresistible hand of destiny, carrying, like the

besom of destruction, everything before it. Arkansas, by a majority of five thousand votes, decided against secession; but the members of our convention, exhibiting a fatal weakness, allowed themselves to be shorn of their locks, and thus Arkansas fell from her loyalty. Thank God, she was the first to return, as the prodigal son, and ask from a just but magnanimous and beneficent Government pardon for her sins. And to-day she forms one of that bright constellation which is the object of admiration and affection of the downtrodden and oppressed among all the nations of the earth.

But I am digressing. Well, I resisted to the last; yes, so long as one single ray of hope remained to encourage or justify resistance. But when the last hope had vanished I yielded to what appears to me to be, if not the reason, at least the necessity of the occasion, and went with my State. I became a rebel, but not exactly a fighting rebel. I hunted soft and easy places. Whether fortunately or unfortunately I will not undertake to say, it happened that the path which fate had marked out for me to tread in the progress of that great rebellion did not lead me within the range of the enemy's minie rifles. I was one of those favored few whose lot it was to remain in the rear and enjoy the luxury of smuggled goods, &c.

Now, there are a great many men who appear to find an incomprehensible mystery in the fact of a Union man voluntarily wearing the confederate uniform; but the mystery is easily enough comprehended when you take into consideration that peculiar phase of patriotism, so characteristic, I may say, of the southern people, so well illustrated in what was in time past one of their popular and most universally-toasted Fourth of July sentiments, "Our country, right or wrong." This phase of patriotism has been, I say, a peculiar characteristic of the southern people, and fully accounts for the otherwise strange and anomalous fact that so many Union men joined the confederacy. The southern people of all parties "had been schooled," more or less, in the doctrine of State rights at least, to the extent of believing that their first allegiance was due to their State, and that this allegiance was paramount to that they owed the United States. Thus, while thousands of them were opposed to secession, yet when their State seceded they, with this fatal delusion in their minds, were led astray and fell victims to one of the most damnable doctrines ever promulgated. There may be something to admire in this regard for the ties of State and section; but while we admire the pluck of him who exhibits it, we must damn his discretion.

Now, Mr. Speaker, this is the kind of a rebel I have been. As soon as the war was over I fully realized that I had been guilty of a great wrong in aiding rebellion. I was not only willing, but glad to see the Union restored, and was ready to make all proper apology and reparation for the part I had taken in resisting the authority of the Government. I was conscientious and sincere in that feeling, and I still hold to it. As the best evidence I could give of the sincerity of my repentance I at once connected myself with that great political party which had fought and vanquished secession, and which had nailed up at its masthead that good old motto, which found a responsive echo in my heart, "The Union, it must and shall be preserved." I connected myself with the Republican party because I believed that it was the Union party; that as it had opposed and overcome secession Democracy and saved the Union it would use the same great powers and energies to preserve that which had cost so much to save. So far as regards the great leading fundamental idea of restoring the Union upon a just and enduring basis, I say that the Republican party is entitled to the credit of maintaining and carrying out that doctrine. It has proved faithful to its promises and its pro-

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claimed policy, and it will, I doubt not, finally succeed in establishing that policy throughout our country.

Although I have been a truly loyal citizen since the close of the war, yet Congress in its prudence and discretion did not pardon me for my political sins until some two years after the war had terminated. Of course I felt this was hard and oppressive upon me individually; yet I regarded it as one of those necessary evils that must be borne temporarily in order that a great good might be secured in the future. I was willing to bear the burden, looking forward to a day of rejoicing, not far remote in the future, when the shackles should be stricken from my limbs, and when in the fullness of my heart I could once more exclaim, "I am a free American citizen."

Now, Mr. Speaker, I have talked at some considerable length about myself. Yet in doing so I have done what I considered my duty, and nothing more. The rebellion is over; the fratricidal conflict has ended; and it now devolves upon the conquerors to put the old household again in order. How to do this is the great question that is agitating the minds of our people. The work of reconstruction is a momentous one; for it involves not only the property but the lives of thousands of loyal and devoted Union men in the South. Beware how you act. You have conquered; and let not the power you now hold pass hastily from your hands. Remember that poor Israelite of old, Samson, who conquered by his strength everything within his path, even the lion, king of beasts, succumbing to his mighty power; yet he was at last shorn of his strength and placed in captivity. Yet during his captivity he regained his strength, and seizing the pillars of the temple which surrounded him destroyed himself and all that were within it. There is a Samson in the South, who yet has a lurking disposition to destroy the temple of our liberties, that has been erected at the sacrifice of so much blood. And that Samson is the Kuklux Democracy of the South. The Democrats North may be true Union men and loyal citizens; I do not deny it; but I say beware of a large portion of those in the South. Warm them into political life again and no man who favored the reconstruction acts of Congress can live in the South with safety to himself or his property. "Experience keeps a dear school." And in this school have I learned the terrible intentions of the Kuklux Democracy.

I do not wish to oppose any one for being a Democrat; nor do I object to Democrats enjoying under this Government all the political and other rights which I enjoy, when they prove to be truly loyal and devoted to the Union. But in the State of Arkansas men have found themselves subjected, with their wives and children, to calumny, insult, and ostracism merely because they were Republicans, or supported the reconstruction acts of Congress. This is the state of things existing there to-day; and but for the protection afforded by the United States Government and Governor Clayton's militia no Republican who advocates and sustains the reconstruction policy of Congress could live there in safety a single week. These are grave charges to bring against a people who are everlastingly professing their loyalty and devotion to the Union; yet they are facts, and susceptible of the most abundant proof. It is said:

"While the lamp holds out to burn
The vilest sinner may return."

That is all right; but let us find out first whether the sinner is truly repentant. We cannot take in any probationary members; our church will not allow it. We must confine ourselves to the old Baptist doctrine, "once a Christian always a Christian." This southern feeling can only be cured by a fixed and determined course against Kuklux Democracy; loyal Democrats I am not talking about.

Many will advise us to "make the best of the

matter." This advice is all excellent, though decidedly gratuitous, lacking, indeed, nothing but the supplementary information how we are to make the best of that which is confessedly at its worst. But to turn all this Kuklux Democracy indiscriminately loose upon us without some protective measure will not only sap our intellects, but shorten our lives; and many of us will, unless we leave the country, meet sooner or later the fate of the lamented Abraham Lincoln and James Hinds. I am willing to stop a gap in the world's fencing or to form a cog, however minute, in the world's machinery. But I prefer to go slowly in my movements in regard to the reconstruction of the southern States, especially whenever there is a manifest disposition among the people to oppose the reconstructions acts of Congress. The will of the people as expressed through Congress does not go down well in my State; and I guess a little more exercise of power on this subject by Congress will be beneficial to the body politic. But we have a duty to perform and must shirk no responsibility. We must stand inflexibly at our post, like a Roman soldier, during the watches of the night. Presently the morning will come when every phantom will vanish into air, and that inevitable reality for which we dreamed and fought will be consummated, and we shall be once more a united, happy, and prosperous people.

But, Mr. Speaker, this language may not sound well to some southern ears. If it does not, I cannot help it. But I am not yet done. In my State I am called a "scalawag;" and why? Because I support the Government and its laws. A "scalawag" there means a citizen carpet-bagger. Such a one is subjected to an ostracism which includes both himself and family, and is deprived of all those friendly courtesies existing among civilized people, except by his own household and among his political friends. My ancestry, I guess, were "carpet-baggers." It was a lot of "carpet-baggers" that landed on Plymouth Rock. William Penn and Henry Clay were "carpet-baggers." Daniel Boone was a "carpet-bagger." I could go on enumerating many more, but it is unnecessary. I will close this branch of the subject by saying that Judah P. Benjamin is a "carpet-bagger" in England, and expects, as I learn, to be sent by the British Government on some diplomatic mission to this country. The fact that such a thing is deemed possible shows that at least in foreign countries "carpet-baggers" are not considered very bad men.

The truly loyal people of Arkansas extend a hearty welcome to all loyal "carpet-baggers" who may come among them. "Scalawags" are on the increase there, especially since the last presidential election. Governor Clayton's militia have silenced, for a time at least, the Kuklux party there. But that hellish spirit that drenched its hands in the blood of so many is still existing, and only needs to be warmed into life again by political success to inaugurate the old system of assassination. A brief history of the plans and operations adopted by the Democracy in the last election will probably not be amiss here.

Seymour and Blair were, it was said, the men who would, if elected, deprive the emancipated slaves of all those rights they now enjoy under the reconstruction acts of Congress. This, then, accounts for the determined fight that was made by the Democracy against negro suffrage. But poor deluded people, they knew not what they were doing. Yet in many instances the negro and the white man were, through fear of death or the destruction of their property, compelled to vote in the interest of the Kuklux Democracy. In other words, the mandate was "Vote that ticket or die." But a wonderful change has come over the spirit of their dreams since the last election. Their motto now is, "Let us have peace." Yes,

we want peace, but not by enfranchising Kuklux Democrats!

Now, a word of advice to the Democratic party. They may take it or not, just as they please; but I give it to them to be acted upon when, if ever, they get into power. In the first place, let me ask them, How long will you have to wait for this possible event? I should have said impossible. But should you succeed in another four years' cruise, you must elect not only a Democratic President, but a Democratic House of Representatives, and have also a Democratic Senate, before you can suspend any laws of Congress, to say nothing about the question of how far the repeal of a law can abrogate vested rights of franchise. We are speaking now of the right of the colored man to vote, a right that, in our opinion, can never be taken from him, notwithstanding the desire of the Democratic party to do so. But, in any event, there must be a lapse of six years before the present reconstruction laws of Congress can be repealed; and during all those six years the colored man will be quietly and peaceably enjoying the elective franchise—if Kuklux Democracy will let him—in all the southern States. Now, under this view of the case, it must be admitted by good common sense reasoning that when he has thus peaceably and quietly enjoyed the elective franchise for six or seven years it will be utterly impossible to take away that right from him. The right having been confirmed by so long and uninterrupted use, no party will dare to interfere with its continued exercise. Why, sir, Democrats South are now at every call for an election giving barbecues and cajoling and almost hugging the colored people to secure their votes and influence. These are the very men, too, who a few months ago not only denied the right of the negroes to suffrage, but swore in their wrath that they never would countenance the exercise of that right nor accept office through negro votes. Further comment on this subject is unnecessary.

This House a few days since passed by a large majority a joint resolution to ingraft upon the Constitution of the United States a new article giving the right of suffrage to all male citizens, regardless of race or color. I voted for that resolution, and feel proud to have done so. I honor the man who framed and introduced it in this House. This amendment to the Constitution simply embodies in an enduring form one of the fundamental principles of reconstruction. The poor colored men will be thereby only clothed with their just rights; for they, in conjunction with the white loyalists, have accepted the proffered terms of reconstruction, and have assisted, to the extent of their power, in bringing the late rebellious States back into the Union. The right of suffrage, regardless of race or color, will soon be settled forever. There is no way to prevent it short of revolution; and I guess the South, at least, has had enough of that, and will hardly care to go to war again in opposition to the just authority of the Government.

The Democratic party insist that the whole plan of reconstruction is unconstitutional and wrong; and they propose, or did propose, in some States in the South to deprive the colored man without his consent of the right of suffrage, which he now lawfully enjoys. Upon this point we again take issue with them, and insist that the present accomplished plan of reconstruction shall be accepted as a part of the lawful condition of the country. Any determined or formidable resistance to this just measure will bring about a more fatal result to the opposers than the one so recently imprinted upon their remembrance. To all those who are so anxious to fight this war over again I say, keep cool, and "bear the ills you have" rather than "fly to others that you know not of." Yet, with this array of facts staring us in the face, so changeable is the Democratic party of the South in its

conduct toward the colored man, that in my own city, Camden, Arkansas, a short time since, one of these fire-eating gentlemen actually ran for mayor on the same ticket with several colored men, and he was elevated to the position he sought by the votes of those very men who only a few short months previous he had so despised and spurned.

But, sir, I return to the main question. Negro suffrage is now a fixed fact. Though the Democrats would have it otherwise if they could, yet, in my opinion, the time will never come when the constitution of any southern State will be so amended by the consent of the people as to deprive so large a class of citizens of the exercise of a right so earnestly fought for. The supposition is too unreasonable and preposterous to be entertained for a single moment; and its unreasonableness will become more and more manifest as the scales fall from the eyes of the Democracy; and, what is more than all, we shall find that this great Democratic party that once attempted to destroy this Union, and failed in their mad design, will long before the next presidential election claim to be the colored man's best friend. They know how to adapt themselves to the changed current of popular opinion, and would willingly inscribe upon their banners to-day the captivating motto, "universal freedom and manhood suffrage." But, sir, if this policy be adopted without certain restrictions and safeguards I say it will be the death-knell of freedom and safety for loyal men in the South. No man who ever favored the reconstruction acts of Congress will be able to live there in peace and happiness "under his own vine and fig tree."

The carpet-bagger and scalawag must leave unless they abandon their former political sentiments and join the Democratic party. The former slave will be but a tool in the hands of designing demagogues, who will threaten him with death or with starvation for himself, his wife, and children, and thus compel him to vote as they may dictate; and that will be against that man or set of men who dared to favor the present reconstruction acts of Congress.

Lest my remarks appear too strongly or vividly expressed I beg leave to refer to publications in the Democratic journals of Arkansas during the last presidential election and since. Would that I could tell with truthfulness a different tale, but the outrages and assassinations committed by the Kuklux Democracy during those terrible days speak in accents so strong and loud that I cannot stultify myself by denying or ignoring them.

Mr. Speaker, with the facts that I know, and the awful sights I have witnessed in my own State, it would be criminal in me to be silent.

The South went into revolution and was subjugated; and the repentant and now loyal men there are not only suffering the bitter fruits of rebellion, but have been murdered in cold blood for merely expressing their penitence for participation in rebellion and asking pardon of the Government they so ungratefully wronged. What Government upon the face of the earth has ever been more magnanimous and forgiving than ours? In every instance where true repentance has been shown the Government has reached out the hand of forgiveness and friendship and welcomed the wayward wanderer back. Even to the most violent has this friendly greeting been extended. Yet the man who asks this forgiveness at the South, and shows the sincerity of his repentance by indorsing the reconstruction policy of Congress, is abused, maltreated, and ostracised by his former friends; his life is endangered; vituperation is hurled at him; he is denounced as an enemy and a traitor to his country. Even the women and children join in the general howl of indignation, and death lurks around him in every form until he consents to join in the general warfare against Congress or

seeks some more genial and liberal clime. Let those who speak of the Republican party as radical go South and try radical Democracy awhile, and in my opinion they will soon concede the fact that they never knew before the true meaning of radicalism.

But, Mr. Speaker, a large majority of the people in the South really want peace. The difficulty is that those who were their political leaders before the war will not let them have peace. They constantly urge them through their newspapers not to forget the terrible war that they have just gone through. The man who sustains or indorses the reconstruction acts of Congress is denounced as a traitor to the South by the old leaders of secession and rebellion, who still rule in the South and counsel and advise the people if they want peace and their rights to vote the Democratic ticket; and poor deluded men in many cases follow their advice. Vanquished, defeated, and deprived of the "loaves and fishes" which they formerly enjoyed at the expense of the United States Government, and which, in a mad moment, they cast from them, the Democratic leaders of the South are actuated now by a desperation caused by their hopeless prospects in the future. They would destroy not only themselves, but, like a drowning man, carry down with them all who come within reach.

But a better day, thank God! is coming for the South. The people are beginning to open their eyes to the treacherous teachings of Kuklux Democracy. They are going to work, and, forgetting their past troubles, they are looking forward to the happy day when the shrill whistle of the iron horse will be heard in all portions of the South; when the bloody sword of contention will have been sheathed; when the tramp of troops will have given place to the tramp of the cow-boy and the pretty milk-maid as they go singing merrily in the performance of their daily duties; when peace will reign throughout the land; when the haggard and anxious look will no longer be seen on the faces of our wives and little ones; when all nature will smile and happiness once more reign supreme throughout our dear "sunny South;" and all this as the result of the reconstruction acts of a generous and forgiving Government.

Constitutional Amendment.

SPEECH OF HON. JAMES MULLINS, OF TENNESSEE,

IN THE HOUSE OF REPRESENTATIVES,
February 5, 1869.

The House being in Committee of the Whole on the state of the Union—

Mr. MULLINS said:

Mr. CHAIRMAN: Being in Committee of the Whole, and having the state of the Union under consideration, it brings up clearly the subject upon which I now ask to be permitted to address the House. I will speak upon a topic that nearly concerns the state of the Union. I will say in advance that I scarcely ever have written out a speech preparatory to delivering it. In ninety-nine cases out of every hundred where I have spoken I have done it without even notes, as I do now. This being the case, I fear that the reporters will not be able to put my ideas together as easily as they have done for those who are accustomed to writing out their speeches. I am very sorry to require at the hands of those gentlemen, the reporters, so much labor for the little matter to be gathered from the remarks I shall make touching the subject now under consideration or that I have indicated a purpose to consider.

I ask the indulgence of the Chair and the members of the House while I submit some crude remarks of my own upon the constitutional amendment recently before us. I say my own, because I gather them not from any

one man or set of men. The ideas which I intend to advance are the best deliberations of my own mind, taking into view such evidence as I could obtain. And permit me to say here that I am so constituted as to believe no man or set of men, unless what they state be founded upon evidence that my mind can grasp and I can see the reasons of that whereof they speak.

This subject brings me naturally to consider what it is that constitutes the Union of these States. All nations or governments are made up of men. Man is unquestionably created free and equal to his fellow-man, and is endowed by the great Creator with certain inalienable rights. The most prominent in the group are those of life, liberty, and the pursuit of happiness. These three grand inalienable principles circumscribe and take in all the other rights of man. Those rights he owes to no living man or Government. He owes them to God alone. There is the source whence they spring. He cannot sell them; he cannot buy them. Man being in that condition, and originally intended for society, he enters it with those rights, each and every one of them. Those rights must be brought into partnership by all—convention or assembly—that may combine and form society. Certain of them are yielded up by consent, so that all may enjoy the residue under some certain corporate law, such as may be agreed upon. Man, I say, was originally made for society. It was not good that he should live alone.

Being, then, in this condition, being independent and free, endowed with these inalienable rights, they cannot be taken away from him by any conventional body. They are rights that no human power can legislate away. He is at liberty to draw upon them as an individual and as a member of the body-politic and of the nation whenever it becomes necessary, or to exercise them in self-defense or for the preservation of his own existence. Then how can the Government in which he may live, made up of beings thus endowed—how can any Government be formed otherwise or exist otherwise than by the force and power of the elements which compose it? Governments, then, are made up of men thus constituted. The right of the Government rests on that of the citizen, upon those rights that each and every one brings with him into the body-politic. This being the case, Government stands based upon the natural right of every individual man, a right which can to a certain extent be compromised, so that the body-corporate may exercise certain powers surrendered by the parties who united to organize it. This is done in all Governments that they may exist or be established. We come on down through the dark and feudal ages. Pass them all by, despotic as they may have been, tyrannical as they may have been. Though many empires have risen up like blazing meteors, they have been nevertheless overridden by these inalienable rights and crushed out, and other empires and dominions have sprung up at different periods of the world's history. It does appear that very few of them have been so framed as to stand more than a few years compared with the history and age and travel of this terraqueous globe in which we live. Since Governments have begun on earth they have each lived but a few weeks, months, or years, as compared with the ceaseless ages that have rolled on and will roll on until the final winding up that none of us can see.

Governments, then, have lived but a comparatively short time. Still it is presumed that every one as it comes up will be an improvement on the one that has passed away. Such has been the history of the world. Some Governments have seemed to stand the shock of centuries—even from five to six hundred of them. Yet the foundations being laid by man, fallible man, each individual endowed with all these inalienable rights, they were such that violence and intrigue, treason, rebellion, dis-

loyalty, and other prejudicial influences have constantly operated against them. They have crumbled away and gone to wreck and for centuries past have been but a hissing mass of ruins. We might suppose that this would be a lesson to succeeding governments, and would point out the stumbling-blocks in their path, the breakers where the ship of State has so often stranded, but it seems not in every case to have proved effectual. These ruins are the finger-boards standing along the track of time traveled by the nations and Governments to warn us of where they went to wreck.

Then passing over the earlier periods of time, we come down to the establishment of our own Government. We see what powers and what rights it has, recognizing the principle that man who founds and establishes the Government possesses rights of self-preservation and self-defense of which no Government or body of men can deprive him. That is one of the strongest powers that belongs to the individual man, and it partakes of and makes up the vital principle of every Government and body-politic into which he enters. This being the case, as I clearly believe and am well satisfied, we find ourselves at the threshold of the Republic, the setting up and putting in operation of our unrivaled Government.

We revolted against the Crown of Great Britain, that Government mighty, gigantic, and with a machinery that has stood the tear and the wear and the rack of many centuries; which stands as a pillar amid the storms and desolation of other Governments, as an eternal pyramid amid the waste of many generations and peoples, and amid the waste of empires and dominions that since the dawn of her day have come up and gone down to be remembered no more. Yet we saw fit, a few colonies away here in the western world, to rebel against that Government and throw off her deadly yoke. The people of this nation saw fit to set up for themselves and to declare, "Here are our inalienable rights, the rights of all peoples to set up a government, and when they find it so oppressive that they cannot bear it to set up another." Then what did they do? Standing upon the foreground, in gold, floating upon their banners in living letters of light was the fundamental principle that I have declared to have been the constituent element in their great work, the inalienable rights of life, liberty, and the pursuit of happiness. This flaming banner they threw to the wind; they unfurled from their staff toward heaven an ensign proclaiming to all nations, kingdoms, empires, tongues, and dominions that in these colonies man will no longer tolerate princes, nabobs, and tyrants to reign over them, proclaiming this immutable principle, the germ and the root and the chief corner-stone upon which the whole fabric rests, the inalienable right of life, liberty, and the pursuit of happiness.

With that ensign unfurled to the gaze of mankind we met the strongest Power of the civilized world, not only on the land but on the sea—the Power that had made all other nations almost lick the dust before her, whose commerce whitened every sea. With this ensign of nationality, with this immutable principle emblazoned on our banners, we conquered and made the British lion crouch in the dust. And yet, after having, through a seven years' struggle of fire and blood, conquered the strongest Power on earth under this grand ensign of inalienable rights, this immutable principle, what do we find still lurking in our Government? Those fathers of ours that had followed this ensign, this great ark of the covenant intended for the people of the United States—that had followed it and had borne it through the conflict—what did they do after they had carried it through so triumphantly? They did as many, ay, hundreds of other human beings have done and I fear will do for all coming time, through the prin-

ciple of fallen nature which impels men to yield more to and for their own selves and their own firesides than they will yield to the strongest power on earth. They compromised this principle of universal right, this God-given endowment of life, liberty, and the pursuit of happiness. Of these three cardinal franchises they yielded one—that of underived, inprescriptible liberty, and thus compromised with themselves. They placed in the organic law, known as the Constitution of the United States, the declaration that they had compromised this immutable principle for which they had resisted the British Government and made known to world as their ensign.

Thus they compromised with themselves by guarantying the system of slavery, of the absolute bondage of one of the races on the continent of America known as the negro, at that time about one seventh part of the inhabitants of the United States. We kept them in slavery, and yet declared that we had a republican Government—a Republic with one seventh part of the inhabitants held as slaves.

With this system ingrafted upon the Government we have run on for eighty years and more with the most unparalleled progress that any Government, perhaps, has ever made since governments began, our populations outstripping all others and our wealth increasing more rapidly than all others. And this principle of political liberty was coupled with another grand principle that I must not lose sight of—that God in his mercy saw fit to bless us with the light of revelation of the revealed word as a school book—a well of Christian civilization and the exemplar of Christian government; and it has always been to me a matter of astonishment as well as of sorrow that there was not incorporated as a fundamental maxim in the Declaration of Independence and the Constitution of the United States the acknowledgment that governments are ordained and upheld by God through the instrumentality of an enlightened and Christian people. But this fundamental maxim, unfortunately, was omitted in the formation of our Government; no such declaration is to be found on the pages of our Constitution.

Now, sir, when our Government has been established in the manner I have already described does it lose any of the rights that belonged originally to its members? In discussing this point I shall use illustrations which I think will be appreciated by both mechanics and farmers. I ask, is this Government destitute as a nation of any of the rights, any of the powers, any of the attributes which were possessed by the individuals who contributed to its formation? I hold that it is not. I know it is argued by lawyers and declared by jurists upon the bench that legal rights may after a certain lapse of time be lost by statutes of limitation. But, sir, the great right of self-defense, the right of a man to resist all invasions upon his property, his liberty, or his life, is one of the fundamental and inalienable rights derived from God himself and which can never be forfeited. If, then, each individual who makes a constituent part of this great nation possesses this right of self-protection and self-preservation, does not the same right inhere in the Government itself? I say that the Government has it in tenfold magnitude and strength.

Why, sir, man, must die; the term of his life is brief; it is calculated that the average period known as a generation of men is thirty-three years. But who can measure the lifetime of Governments? Who can determine the number of their years? What dial can announce the hour when the last sands in the life of Government shall run out? To do this is beyond the power of man. Such being the age of Government as compared with the brief term of man's existence, does not Government, which consists of a mass of individuals, one generation succeeding another, possess in a still higher degree and with greater majesty and power

than the individual man the right of self-defense and self-preservation?

Let me, for the sake of illustration, put a question to the mechanic or the farmer. Does not the house which you build or in which you live need sometimes to be repaired? What is there made by mortal hands that can stand the destruction of time, which makes its impress upon the solid rocks and melts away the limestone bones of old earth? It is nonsense, sir, to say that any work of human hands can be so perfect as never to need repairs. Why, sir, our bodies, the handiwork of a greater being than man, sometimes become sick; and when they do, we send for a physician and are willing to take the most nauseating medicines to restore us to health. It is not only our right, but our duty to do this—a duty we owe to ourselves, our wives, and our children—a duty we owe to God, who gives us our lives that we may properly care for them and wisely use them. It has been said, "What will a man give in exchange for his life?" And if the life of an individual is so precious, how many times more precious is the life of a Government upon which depends the welfare of untold millions?

The question then recurs, can a Government like ours be repaired, and if need be remodeled, for the benefit of its citizens, who are multiplying every day? We have in our time a set of politicians who tell us that we must not dare to make any change in our fundamental Constitution, which recognized a part of the people as held in slavery. Sir, when we threw off the British yoke and adopted the ensign of nationality, we declared that all men are created free and equal, and entitled to life, liberty, and the pursuit of happiness. Yet within a few years afterward we made a compromise with wrong, and thereby sinned against the God of the universe, by whose kindness victory had perched upon our banners. The consequences of our iniquity have been felt in tears and lamentations for more than eighty years. Our sin, like the blood of Abel, has cried to the very heavens. And at last, within our own day, we see man armed with the avenging sword of God's majesty and wrath. The Government rocks amid the conflict and staggers like a drunken man. Empires and dominions are astonished at the revolution going on in the United States; a pall of darkness hangs over the horizon; the sun rises and sets in blood; the red horse and his rider have rushed heedlessly into the battle; the saber of horrid civil conflict is drawn; thunder shakes the foundations of earthly potentates and Powers; men madly rush to the slaughter of their fellow-men. Why is all this? It is because of the lying promise which was held out in our original frame of government that all men were born free and equal and entitled to the alienable rights of life, liberty, and the pursuit of happiness, when at the same time one seventh of our inhabitants were held in slavery. Well might the earth tremble, well might the red horse and his rider rush heedlessly into the battle, well might the air be filled with bursting bombs, the sulphurous smell of powder, and all the wrack and fury of war, for out of the fiery ordeal millions of our people were to come cleansed from slavery and clothed with the rights to life, liberty, and the pursuit of happiness. If we had obeyed God's word, and let the bondmen go free, there would have been no war; but we did not do so, and war was the payment we had to make for our sins.

Why do we not live in the houses in which our fathers lived? Farmers and mechanics will understand my argument. Logs that were put in and deemed all right have turned out to be rotten and to have decayed. We must cut the rotten timbers away and supply their place with good wood. To do this in time will save us from seeing the whole structure come tumbling down about us and being compelled to erect a new one out and out.

Now, when the white-winged angel of peace

hovers over the land, a returning sense of duty must bring us to look out what legislative action it is necessary for us to take. This house built by our fathers with bad logs must be repaired, and repaired from the foundation-stone. We have saved the life of the Constitution by cutting out the diseased parts. The disease removed, the body-politic has grown in strength and health and vigor.

If we find anything evil is there anything wrong in correcting it? Of course not. Men who sit upon judicial benches argue that we must go back from two to five hundred years to discover whether the things we propose were then recognized as right, and if they were not, they then gravely tell us that we have no power to do them. God deliver us from such musty and rusty old men who deny the right of everything unless you discover the authority for it in some old black-letter law. God deliver us from such men; they are an incubus upon the advancing civilization of the age. I argue these matters as one of the people who has come up from among them and who understands them. What we all feel to be right and just we ought to apply in our principles of government. I do not want to go back to the flood to learn what my present duties are. The science of government has advanced as men have advanced from childhood to old age. Fifty or seventy years ago all those about me were in their infancy. Not long before the Colonies had won their independence after a long and fierce struggle. The infant garments that suited us then will not answer our purposes now. We must have other food and raiment. As a people we are not what we were. From three millions we have grown to have a population of forty millions. The machinery of government that may have worked smoothly then will not work so smoothly now. Now, sir, is the accepted time. We must put our house in order. It is dilapidated and decayed, and we must put it in repair. You owe it not only to yourselves, but to your families. You ought to put your house in order because you do not know how soon it may be your time to be called. Do your duty therefore to your country, and do it at once. Let us make this a country which shall be glorious not only for the political liberty it grants, but for that liberty and goodness which cometh down from above. Let us so act that the light of heaven shall shine before us in the path that we travel as a Christian people, loving and fearing God and loving and caring for our fellow-men. We want new garments, those of eighty years ago being too small; we want a new house, for the old one has fallen into decay; we want to repair and invigorate our constitution of government to meet the demands of the times. "Sufficient unto the day is the evil thereof." That which we ought to do that let us do. There is no fear but we shall have the favor of the people for the accomplishment of so grand a work as putting our Government upon a true and solid basis.

I hope we have paid this debt that we incurred when we established our Constitution by betraying the banner under which we fought with that motto of our nationality upon it—the right to life, liberty, and the pursuit of happiness; and this brings me down to the present. I run right briskly over all the period of the war and come immediately to the subject that was under discussion here in this House but a few days ago and now pending in the other end of the Capitol, the right and power of the people at this day and time to amend the Constitution. We find the Constitution badly in need of repair, and needing it, have we not a right to repair it? Sir, if we had not done it we would have been unworthy of the trust committed to our hands.

And while upon this subject it strikes me that some writer—I care not who—tells us there is a tide in the affairs of men, which, taken at the flood, leads on to fortune; and I will

add, to happiness and everything that is good. Now, sir, do I see a tide of that sort in the onward moving of this Government? I think I do. I think I see it as plain as Belsazzar saw the hand-writing on the wall, and I see it in a like figure, saying, "Seize the golden moment and improve it; this day is your opportunity." Let it be improved while we have it. The water is now troubled; step in. After having paid this debt of blood in this rebellion, and made this repair to our great national, fundamental Constitution that completes the foundation on which is erected the mighty building of our national Government, I regret to say that gentlemen here in this House, belonging to a party calling itself Democratic, have argued that we have no right to change our Constitution, no right to repair this building. And among the reasons that they give is this: that it is an invasion of State rights.

Now, sir, that the States originally held these rights I do not dispute. But it was in their colonial capacity. Then each State was a sovereign. But still we find even at that period of our history they depended more or less upon one another, and after a brief trial they found that that form of confederacy could not exist; it had no power or virtue within itself to execute its own decrees, no executive or administrative officer that could carry them out. So, finding that they could not exist in that way, the Colonies, in order to secure a more perfect form of government, established our present Constitution. There they surrendered certain of their rights to form a nation, and when they formed it the question arose, had the States the supreme power or had the nation the supreme power? If, according to the argument of the Democratic party, the States possessed the right to regulate the elective franchise, which is the great lever-power of the national Government in the political sense, then I ask the broad question, in what way is a government created out of those independent powers of the people when they have organized themselves into a State to maintain itself? I submit that it is the quintessence of the power of the national Government to maintain itself against all opposing powers. Hence the sovereignty of the States melts before the burning fire of this great principle that a Government must be able to control itself. Otherwise its national life is at the mercy of other Powers. The powers of the people all merge into that Government. The sovereign power of the Government consists in the sovereign will of the majority of the people, making up in the aggregate the will of the Government, and when that people have spoken no other power must dare to gainsay it.

Then, you have the right as a Government to say to the States, "You cannot declare supreme authority and sovereign powers in yourselves and undertake to control the great lever-power that holds together the Government and must be brought to bear to maintain its life." It is the life-giving power, it is the voice of the great American people in their assembled capacity expressed at the ballot-box. As well might one of the little wheels in yonder clock say, "I am independent and sovereign, and though the workman that put me in there intended me to revolve in combination with the whole, I will withdraw from the rest of the machinery." If the parts should withdraw, how are the hands on the dial plate to indicate the time of day? How is that machinery to run? It is as in Ezekiel's vision, "a wheel within a wheel." The Government being mighty, carries all the States with it in one harmonious whole along the luminous path of a Christian, political Government to grandeur and empire and dominion and happiness. Then, away with your State sovereignty.

And, sir, while gentlemen on the other side were arguing this constitutional question, for fear that they would not be distinctly understood about the sovereign capacity of the States

and the different classes and color of mankind, one gentleman from Kentucky [Mr. BECK] cried out that it would be "intolerable," and would interfere with their social rights to amend the Constitution and allow equal privileges at the ballot-box and in holding office. Sir, it is astonishing that the Democratic party should be so much alarmed about their "social rights." In the name of common sense and justice and truth what need they be alarmed about? I see nothing in the world alarming. But they are dreadfully alarmed about "social rights" and "social equality." They seem at least to be dreadfully alarmed lest somebody will marry a negro or a negro will marry somebody else. For their benefit I will say that I believe this to be a false alarm. Our party—the Republican party—do not seem to be the least alarmed on that score; none in the world; neither now nor in days gone by. But I judge the Democratic party are most dreadfully alarmed and shocked about it, and I ask the reason why? I think they need have no uneasiness. The negro is a human being, as I verily believe, and as most of them admit. Some of them I know do charge him with being more of a brute than of a human being, and they doubt whether he has a soul or not. They say he belongs to the orang-outang race. Not so with me; I do not believe that. And yet they are dreadfully alarmed about intermarriage and social equality. They have less faith in their party than I have, God knows, and I will try to relieve them. I do not believe they are in half as much danger of intermarrying with the negro as they think. Our party is not the least concerned about it. They have no fear that negroes will marry their daughters, and no fear that their daughters will marry negroes, and they know they are not going to marry negroes themselves. In the next place, I would say to the Democratic party, "Give yourselves no uneasiness for another reason: the negro is a rational being; he certainly knows who his friends are; and he has known from the earliest days in the history of the country that the most inveterate enemy he ever had in the world is the Democratic party, and the negro is not going to marry his life-long enemy; he will not do it." Why should he do it? I could see some reason why the other side might want to marry negroes, but no reason why the negro should go to them to marry; and for this reason: in about forty or fifty years of Democratic administration the negroes have attained all castes, hues, and colors, from snow-white down to sooty. Thus the negro has a variety of choice: he can select among his own race any caste or color he sees fit. There is another good reason. I will ask the Democratic party if they get very badly scared on this subject, and are alarmed about this thing of social equality, to get some man that is, of all others, the best engineer and the best qualified and most capable of determining the lines between race and color with every instrument and appliance he can find upon the continent of America, or he may ransack the whole civilized world, and let them see if he can tell where in the race the white blood begins and the negro blood ends. I think he cannot do it. Then there is no reason whatever for any alarm. And I think when this day passes by the Democratic party will cease to be alarmed about it; they will cease to throw in our teeth that we are breaking up the fundamental powers and principles of the Government by allowing these classes to go to the ballot-box. If you have an evil in your country, in the name of God give the franchise to all that are legitimately entitled to have it, and they will help you to cure the evil.

Now, having passed over that, this brings me closer down to the subject upon which I will close my remarks; that is, the constitutional amendment that has passed this House by a decided party vote. It was presented to us in several different forms. The first that I shall speak of is that brought forward and sub-

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mitted to the House for its action by the chairman of the Committee on the Judiciary, [Mr. BOUTWELL.] This may answer to repair this political House of ours, and to give it that scope and basis and extent of surface, with all the principles necessary for the time being—might be ample perhaps for many weeks and months and years to come. But that it will do for all coming time is more than I can possibly promise myself. The time will come when it will have to be looked into and repaired again. Human wisdom has never been able yet to attain perfection. This proposes that—

The right of any citizen of the United States to vote shall not be denied or abridged by the United States or any State by reason of the race, color, or previous condition of slavery of any citizen or class of citizens of the United States.

That proposition, brought forward by the chairman of the Committee on the Judiciary after a great deal of argument, running through many days, each member having a suggestion of his own, was under certain rules subjected to amendment; and among the amendments offered was one proposed by a gentleman that for legal ability and grace of oratory stands high in the estimation of the country and in my own, as much so as any other man in the House. I allude to the honorable gentleman from Ohio, [Mr. BINGHAM.] He brings forward his amendment in lieu of the one offered by the chairman of the Committee on the Judiciary. This is it:

No State shall make or enforce any law which shall abridge or deny to any male citizen of the United States of sound mind and over twenty-one years of age the equal exercise of the elective franchise at all elections in the State wherein he shall have actually resided for a period of one year next preceding such election—

All of which is right. And then—

except such of said citizens as shall hereafter engage in rebellion or insurrection, or who may have been, or shall be, duly convicted of treason or other crime of the grade of felony at common law.

These, to my mind, are the exceptional words, and they will look him in the face as a specter as he travels along his political path. This is the exception: "except such of said citizens as shall hereafter engage in rebellion or insurrection."

Sir, I put the question right now, and ask him, or any other living man who entertains any such idea as was advanced in this proposed amendment, why do you propose to punish them that engage hereafter in rebellion, and exculpate those who have already engaged in it? If you exculpate the parties who have engaged in rebellion and are absolutely guilty now—for in this case you only judge the future by the present and the past—if you exculpate those who have reddened our soil with blood, and who even now are swift to shed the innocent and loyal blood, and who have whitened the forests with the bones that cover the earth, exposed to be dragged about through the woods by the vermin and the wild dog; if you hold that these are of no weight, and these marks are not to be taken into this terrible account, why provide for the punishment of any future rebellion? And he, hailing from one of these northern States that has always cherished the principle of liberty, and has filled ten thousand graves with martyrs slain to save this blessed heritage imperiled by the assaults of these red-handed traitors, recognizes the power of the Government to punish for treason committed hereafter, but not to punish those who are now guilty.

And, sir, the sublime remarks of the gentleman, (I say "sublime," for his is one of those minds whose lightning flashes dispel the darkest clouds and illuminate with grandeur every argument; his speech runs like rivers of water; his eloquence seems to flow from inexhaustible fountains; his tongue is radiant with light, though I fear in this case the head is wrong) his sublime remarks are closed with the grand expression quoted from the words of our President-elect. "Give us this amendment" says

the gentleman from Ohio, "and let us have peace."

Sir, with all due respect to the gentleman, whose legal abilities are equaled by but few, I ask upon what principle of justice or humanity do you expect to "have peace" by incorporating into the body-politic the worst enemies the country has ever had? When they are properly fitted to come in, as living, healthful elements, there is a way prepared by which they can receive the restoration of their rights. But, if, without that probation and preparation which the safety of the Government demands, these enemies are to be incorporated into the body-politic, why did you fight them for four years? Why did you not yield to their demand and let them take the "peace" they wanted in their own way? I cannot see that "peace" is to be found by readmitting these men, without question, to all the rights of citizenship? I would not deal with them in any vindictive spirit. I have never been disposed to treat with severity even my enemy when he was in my power. But while I would treat even my enemies and the enemies of my country humanely, I would not intrust my household, my wife, and my children to the guardianship of the man who has attempted to burn my dwelling and destroy my family. So, when men have deliberately undertaken to destroy the best Government that the sun ever shone upon, I would permit those men, when vanquished and in our power, to exercise only such rights as they can exercise without danger to the Government. Why, sir, the power and majesty of the Divine Being, who granted civil governments to man, and by whose ordination they exist, would be insulted by our saying that these men who have defied all governmental authority, who have steeped their hands in the blood of law-abiding citizens, shall, unpurged of their crime, be welcomed back to the political household. Shall we give such men the control of the ballot-box? Shall we make their votes the corner-stone of our political edifice? Shall we say of them, "Upon this rock will we build our church?" Sir, if such is our foundation, we build upon the sand. When the winds blow, and the floods come, our house will fall, and great will be the fall thereof.

I wish, in the next place, to say a word in regard to the amendment of another gentleman from Ohio [Mr. SHELLABARGER,] more old-fashioned, it may be, than his colleague. It proposed to declare that—

No State shall make or enforce any law which shall deny or abridge to any male citizen of the United States of the age of twenty-one years or over, and who is of sound mind, an equal vote at all elections in the State in which he shall have such actual residence as shall be prescribed by law, except to such as have engaged, or may hereafter engage, in insurrection or rebellion against the United States, and to such as shall be duly convicted of treason, felony, or other infamous crime.

I heartily approved this amendment, and preferred it to all the other propositions presented. It embodies in effect the same principle as the amendment reported from the Judiciary Committee and advocated by the chairman of that committee, [Mr. BOUTWELL.] There is, however, one important difference. The amendment of the gentleman from Ohio [Mr. SHELLABARGER] declares that those who have engaged in rebellion may for that crime be excluded from the ballot-box by the State if it sees fit to exercise that power. On this account I preferred that amendment. Reflect for a moment upon the blood and treasure that we have expended in redeeming ourselves from the desolation with which the rebellion threatened us, and then answer whether we should not in our fundamental law brand that rebellion as a crime? I think we should engrave upon our Constitution some mark of the detestation with which the iniquity of rebellion should be visited. I preferred the amendment of the gentleman from Ohio [Mr. SHELLABARGER] because, if it had been adopted, it would have been a declaration that the nation looks upon

the recent rebellion as a heinous offense, the enormity of which should be kept before the minds of the people in all coming time as a warning to future generations. There was the crime of our fathers, the sin of slavery, and there was the rebellion and war and slaughter and debt with which it was so signally punished. Such was the draft drawn upon us by our fathers, and the lesson of history is emblazoned in letters of living light.

However, sir, that amendment was by a close vote rejected. It was contrary to my wish and to my vote; I voted for the amendment, and was sorry to see it rejected. Then the proposition of the Judiciary Committee was passed, and so far as this House is concerned it has become a part of the foundation principles of our Government. I believe that it will pass the Senate as it has passed here. In this we have done well; we have at last carried out our vaunted boast that all men had the inalienable right to life, liberty, and the pursuit of happiness. It will give new life to our political organism.

One word more and I am done. An individual has the inalienable right to protect himself, but when he has taken the life of his adversary in self-defense he is estopped and can go no further. The Government being assailed can not only take the lives of those who assail her, but she is not estopped from going further; she may take indemnity for the past and security for the future. We are not estopped because we have slain or conquered our adversary; we must provide for the future that no man, whatever may be his color, shall without fault of his own be deprived of any of his inalienable rights. We must as a nation go on conquering and to conquer, lifting it still higher and higher, defying the machinations of all earthly potentates, principalities, dominions, and powers, until, under the blessing of God, it shall culminate in that millennium of political life that the light thereof shall dazzle the world with its glory.

Railroad from Washington to New York.

SPEECH OF HON. M. C. KERR,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

February 4 and 9, 1869.

The House having under consideration the bill (H. R. No. 621) to authorize the building of a military and postal railway from Washington, District of Columbia, to the city of New York—

Mr. KERR said:

Mr. SPEAKER: I trust honorable gentlemen on this floor will hold it to be their duty, in reference to this proposition, to familiarize themselves with its very remarkable provisions. The importance of this bill does not exist in the fact alone that it proposes to authorize the location and construction of a railroad from the city of Washington to the city of New York. It does not rest upon the fact, which is assumed here, that there does exist a public necessity for that kind of railroad, but its importance rests upon other matter and upon other propositions which are involved in it. And if gentlemen will turn their attention to the provisions of the bill they will find it to embrace, for the first time in the history of the country, these very grave and important propositions: Has Congress, under the Constitution, the power to create corporations for the purpose of constructing highways in the States of the Union wherever Congress may believe such corporations and highways ought to exist? Has Congress the power, under the Constitution, to take charge of all railways in this country which have been built by the efforts of private individuals, private enterprise, and private wealth, under the regulation, power, and jurisdiction, and with the aid

of the States of the Union, and to control all of those corporations and all of their property? Has Congress, under the Constitution, the right to assume the control and management of the \$2,600,000,000 that are to-day invested in the different railroad enterprises in the country—a sum amounting to more than our vast public debt, and equal to one seventh part of all the values in the country? Has Congress the power, under the Constitution, to undertake to dictate how private parties or corporations shall make their contracts, not alone between themselves and the Government, but between themselves and other persons? Has Congress the right to say this corporation or that corporation in this country shall not charge over three cents per mile as fare for the carriage of passengers and six cents a ton per mile for the transportation of freight? Has Congress the right to go into any State of the Union, and by law of Congress, without consent of the State, without the cession of State jurisdiction, without cession of the right of eminent domain, which is and always was, under the Constitution and prior to the Constitution, in the States of the Union and not in Congress, has Congress the power by a bill of this kind to take from a State its jurisdiction over its citizens, over its own corporations, over its own property, over the taxation of its own property, and transfer all that jurisdiction to the courts of the Federal Government, or to courts created under its various bills? Has Congress the power by a bill of this kind to take from the judicial and ministerial tribunals of the States all right and power given them by State constitutions and laws to adjudge the value of private property sought to be taken for public uses? Has Congress the power, under the Constitution, to take private property without compensation first made or tendered?

The Constitution provides that the property of any citizen shall never be taken for public use except compensation be first made or tendered therefor; and if that cannot be determined by mutual consent, then it shall be determined under tribunals and by courts and ministerial officers created under State law. Has Congress the right to take from citizens of the States all these rights or guarantees, and say by one single sweep of the congressional pen, by one single declaration of congressional power, that no citizen of this country shall henceforth be entitled to the protection of any of the laws of his State in protecting his own property and in protecting him in the enjoyment of that property?

These, Mr. Speaker, are some of the questions involved in this bill. If honorable gentlemen will take the time to examine the bill, and especially its first section, and its sixth, seventh, eighth, and ninth sections, they will find these remarkable powers declared to belong to and inhere in this Federal Government under the Constitution. This Capitol is now filled with the agents and emissaries of corruption. Let there be added to the subjects of congressional control and regulation the vast interests involved in the railroad systems of the States, and in the systems of canals, for this will soon follow, and then the large interests and immense aggregations of wealth invested in all kinds of insurance, and in the network of telegraphs over the country, all which, on the arguments and theories of the friends of this bill, may be done, and then there will spring into existence a new brood of bureaus and departments to regulate, respectively, all those vast interests, and with them will come a fearful multiplication of officers and clerks, with their mighty contributions to the now almost irresistible tendency toward the consolidation of all powers in this Government; and with them also will come increasing swarms of corrupt and infamous men, to promote the dishonest, selfish, and lawless aims of all kinds of "rings," and to work up, extend, and perfect combinations to control legislation,

dictate nominations by the President, make or defeat confirmations by the Senate, and render honest men powerless to protect or serve their country, to the end that wicked men, land thieves, subsidy beggars, tariff monopolists, bank monopolists, revenue swindlers, villainous contractors, operators, and speculators, may prosper, while the people mourn and bear each year increasing burdens of toil and taxation. Then these agents of corruption can command if they do not fill seats on this floor, and fill the rolls of our employés with their tools and satellites, muzzle the press of the country, fill the reporter's gallery with their corrupt defenders and apologists, prevent exposure of their schemes, and deceive the people. These alarming dangers threaten us, and in a degree not appreciated by the country or ourselves are now upon us.

Let it not be supposed this bill is to be the last, as it is the first, of its kind. It is only a pioneer, an initial enactment, with which it is hoped to break down the constitutional barriers and inaugurate the new policy. Others and worse ones will speedily follow its passage. Many of them are now on our files. Instead of breaking up monopolies this policy will erect one more stupendous in extent and power than any the world has yet seen. It will inevitably lead to combinations among a few of the great trunk lines of railways to make all the less powerful and the lateral roads of the country subsidiary to them and to pay them tribute. Let Congress assume such control over a few of the great lines, such as the Erie, the Pennsylvania Central, the Baltimore and Ohio, and a few of those of the West and South, and thereafter the railroads will rule Congress, State Legislatures, and municipal governments, and dictate laws. This policy, therefore, as deeply and vitally concerns the roads as it does the people and the States.

Mr. Speaker, it does seem to me that before gentlemen should consent by their votes or their action here to award an affirmative answer to any of these assertions of power on the part of Congress they ought most gravely and seriously to consider every one of these questions in all their legal, constitutional, and national bearings upon the country, its interest, and its welfare. My friend, the chairman of the committee, [Mr. Cook,] has said to the House in that portion of his remarks delivered yesterday that Congress ought to have this power because there does exist some kind of public necessity for another railroad between here and New York city. Is that a source of power? Let me concede that all he says on that subject is true. Does that necessity give Congress a power which it did not before possess under the express language of the Constitution?

We are also told that this power may now be exercised and held to exist because during the late war it was found that between here and Baltimore and between here and New York the railroad facilities were insufficient, both for purposes of ordinary transit and for the uses of the Government. Suppose I concede that also to be true; is it not equally true that at different points all over this Union, in every State, in every county almost, the same facts exist and the same argument might be used. The same pleas for the exercise of power might be found? The experience of the Government during the war would establish the same arguments in reference to a thousand sections of our country.

Again, it is asserted by my friend that at certain times in the late years of our history it was not safe for people to pass through the city of Baltimore; that they were in danger of being beaten or otherwise injured. Let me concede that that is true, and more than true; that such wrongs were attended with circumstances of great aggravation, what follows? Do not the same facts exist in numerous other parts of this country? Why, sir, I am sorry,

ay, I am ashamed, to confess here that in my own district in Indiana, in the last three months, by reason of the existence of combinations of lawless and desperate criminals, it has not only not been safe for individuals to pass through one of the towns in that district, but it has not been quite safe even for railroad trains or express cars to pass through, for they have occasionally been arrested and robbed. Shall Congress, therefore, go into my district and build another railroad there and place it under the ampler wings of the Federal Government for protection in the exercise of its rights and franchises? Shall Congress, therefore, go into the State of Indiana, anywhere, all over the country—for the like arguments will justify the assertion of that power anywhere?

The misfortune about all my friends' arguments is that they prove too much; they go too far; they are too comprehensive; they are illogical and self-destructive; they submit to no limitations upon the power of Congress; they make the mere discretion of Congress the supreme law.

It is also said to be necessary to secure the certain transmission of the mails from here to New York because the existing railroads refuse to contract at the Postmaster General's prices to carry the mails. But the same is true of numerous other roads in the country, and yet they all do in fact carry the mails and receive therefor such compensation as the Department is willing to pay. By all this the public service does not materially suffer, and Congress acquires no new power.

It is said you must not let corporations regulate prices of fares and freights, because they may become monopolies. Yet none of these original rights of persons—and corporations in law are persons—engaged in carrying on commerce upon our rivers and upon the waters of the world are denied or regulated by Congress. Congress does not attempt to interfere with the rates of fares and freights in steamboat, river, and ocean transportation. Yet they may also become monopolies, and in fact do as often and as completely as railroads. Their conduct in these matters is left by Congress where by Congress that of all others ought to be left, to the control of the greater, wiser, and more beneficent laws of supply and demand, of competition, and intelligent self-interest, the same great laws which regulate the affairs of individuals in the infinitely varied pursuits of human life.

It is intimated in this bill, and by my colleague in his argument, that the power of Congress over railroads, their business and commerce, may be limited to those lines and roads only which are not confined in their length or in their commercial connections to a single State, but over which interstate commerce is conducted. How can it be thus limited if it exist at all? On what principle? Does not every business man in the House know that the whole railroad system of the entire country is in a most important sense a unit—a single, closely-connected net-work, consisting of what are usually called great trunk roads, with hundreds of tributary and lateral roads? If you say one is exempt from congressional control because it is wholly within a State, then you have no right to interfere with any of the great trunk lines, because most of the roads which by their business connections constitute them are also wholly within certain States. If you say one is and another is not engaged in interstate commerce alone, your facts have no basis. Every road on the continent, by itself or its commercial connections by land or water, is a channel for interstate commerce. Indeed, every common highway leading from one State into another, or connecting at the borders with such highways in other States, is also a highway for interstate commerce. It follows that the theories of congressional power which can support or justify this measure absolutely admit of no limitation except the discretion of Congress.

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Railroad from Washington to New York—Mr. Kerr.

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It is said that if Congress has no power to create a corporation to build a railroad contrary to the constitutions and laws and without the consent of the States through which it may run, it follows that the commerce of the States might thus be locked up or prevented from passing over the borders of their neighbors. To give this suggestion the character or dignity of argument you are compelled to assume that it may some time become the policy of the States to prohibit the doing of what all the people and all their interest demand shall be done, that human nature will wholly change, that self-interest will forget its office, that society will commit suicide. When these things happen we will have but little use for Congress, States, or railroads.

But we are also told that States of this Union sometimes have undertaken, by the exercise of prohibited powers, to tax either passengers or commerce which may pass over their territory in one or another kind of public conveyance, and that therefore Congress has this power and ought to exercise it. I concede again, for the sake of the argument, that this assumption is true. The States have, in a very few instances, stepped so far outside of their reserved powers in the Union as to attempt to impose this kind of burdens. The little mountain State of Nevada, not four years ago, undertook to impose a tax on every passenger carried out of the State by any railroad or stage-coach, and what was done? What is always done in a case like this? What is the remedy of the citizen, what is the remedy of the country, against any unjustified and unauthorized exercise of power like this? An appeal to the courts of the country, to the judicial tribunal whose duty it is as the tribunal of last resort to say what powers they are that the Constitution of the United States denies to the States of this Union. This was promptly done in reference to the law of Nevada, and it was annulled by the Supreme Court. (6 Wallace, 35.) In every instance, therefore, where a power of this kind has ever been attempted to be exercised by any State of this Union appeal has been made to the Supreme Court, and in every case where the power has been unconstitutionally exercised it has been so adjudged by the judicial power of the country; and the people have thus been protected, the States have thus been vindicated in their rights, the true limitations upon the powers abiding in the States or in the Federal Government have thus been prescribed and maintained, and nobody has been materially injured by the result.

Mr. Speaker, the Constitution declares that—
"No tax or duty shall be laid on articles exported from any State.

"No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another."

These are limitations of the power of Congress in favor of free trade and equality of commercial rights between the States.

The Constitution also declares that—

"No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports or exports shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress."

It is also declared that—

"No State shall, without the consent of Congress, lay any duty of tonnage."

Now, these are all limitations upon the power of the States in favor of free trade and equal commercial privileges between the States of this Union. If any one of those constitutional provisions or prohibitions is violated by any State, does a citizen of the country lack a complete, a most adequate remedy under the Constitution and laws as they stand to-day? Why indulge in this kind of legislation? Is it necessary to protect the citizen? No, Mr. Speaker; no such necessity exists. There is

nothing in the history of the country to justify any assumption of this kind. On the contrary, in every instance where this kind of violation has been attempted by any of the States, it has been promptly and most completely annulled by the Supreme Court. These provisions of the Constitution execute themselves. They need only the aid of the Federal judiciary to enforce them all over the country. They need no statute of the United States; they do not require that Congress shall undertake to extend its all-grasping hand into the States of the Union and take charge of all their local and domestic policies, and undertake to control and regulate the conduct of all their local, municipal, and internal business and commerce. The very contrary is required by every dictate of sound policy, of justice, and of statesmanship.

I ask gentlemen if there is to be no end in this country to the disposition on the part of Congress to increase its power, to swallow up one after another the jurisdictions and powers that have hitherto throughout our entire national history been exercised by the States of this Union? Is nothing to be left to the control and regulation of the citizens themselves? Is nothing to be left to the law—the common, God-created, self-executing law of intelligent self-interest, the law of original personal liberty, which makes it the right, the inherent, undelegated right, of every citizen to regulate all of his private affairs, all matters of private contract connected with his business? Are all of these to be invaded, and all the people, and all their material interests to be taken under the guardianship of this central Government?

Mr. Speaker, when I last had the attention of the House on this bill I replied to most of the positions of my colleague on the committee which were of a general character, and I now beg the ear of the House to some discussion of his propositions based upon different provisions in the Constitution.

First, then, I will inquire concerning the power of Congress to create corporations. No such power is expressly granted. It is not claimed by any intelligent public man to have been so granted. The history of the Constitution shows that a proposition to confer upon Congress, by appropriate words, such power was rejected by a very large majority in the constitutional convention. (See Elliot's Debates, vol. 5, page 543.)

Alexander Hamilton, in his great argument in 1791, on the right of Congress to charter the United States Bank, conceded the entire absence of any express or substantive grant of such power in the Constitution; but he claimed that the right existed as an incident to other powers which were expressly granted, and that it could only be rightfully exercised in those cases in which such a corporation was a necessary and proper means or instrument for the execution of such expressly granted power. As Congress was expressly empowered to levy and collect large revenues and borrow money for the uses of the Government, he insisted that it might create a great financial corporation as a necessary and proper instrument to aid in the administration of its finances.

In the great case of *McCulloch vs. The State of Maryland*, (4 Wheaton, p. 411,) which involved the question of the validity of the charter of that bank, Chief Justice Marshall, in 1819, speaking of the alleged power of Congress to create corporations, said:

"The power of creating a corporation is never used for its own sake, but for the purpose of effecting something else. No sufficient reason is therefore perceived why it may not pass as incidental to those powers which are expressly given if it be a direct mode of executing them."

In 1824 the same great jurist, in the case of *Osborn vs. United States Bank*, (9 Wheaton, p. 860,) speaking of the alleged power of Congress to create corporations generally, said:

"It has never been supposed that Congress could

create such corporations. The whole opinion of the court in the case of *McCulloch vs. The State of Maryland* is founded on and sustained by the idea that the bank is an instrument which is necessary and proper for carrying into effect the powers vested in the Government of the United States."

In perfect harmony with these judicial decisions are the opinions of every other enlightened jurist or statesman in our country's history, except many of the early fathers, who earnestly insisted that these interpretations gave too much power to the Federal Government and exceeded the limits of safety and sound construction. In my judgment, they go to the verge of reasonable and just construction, and ought never to be extended further.

What is to be the test of the existence of implied power to do anything? Is it the will of Congress only? Or must the thing to be done possess certain characteristics which establish its rightfulness? On this point, too, Chief Justice Marshall has laid down a clear and safe rule. He says:

"Let the end be legitimate; let it be within the scope of the Constitution; and all means which are appropriate, which are plainly adapted to that end, and which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional." (*McCulloch vs. Maryland*, 4 Wheaton, 421.)

Apply this test to the assumptions of power contained in this bill, and who can answer that such corporations, with such powers and franchises, possess the elements required? But I will make this more apparent as I proceed. I conclude, therefore, that Congress has no power to create any corporations, except such only as are necessary and proper, and possess the characteristics prescribed by Mr. Marshall, or constitute a direct mode for the execution of some expressly granted power. Such cases are fortunately very few. The domain of congressional power does not extend to or require the creation of private corporations or monopolies to be controlled by the Federal Government and destroy the rightful jurisdiction and vitality of the States.

Then where does Congress obtain the right to enter a State and tamper with her corporations, and entice them by the promise of privileges and franchises denied them by the State on grounds of domestic policy, or drive them by the threat of a diminution of those privileges and franchises to desert their allegiance and repudiate their obligation to the State and seek protection under the ampler wing of the Federal Government. To justify the exercise of such great and dangerous powers within the States and in defiance of their constitutions and laws those who assert their existence ought to be able to point to some clear and explicit grant of them in the Constitution. This cannot be done. They are driven to seek refuge in construction, in implication, which is itself always dangerous, and ought to be vigilantly guarded against by the legislator. I do not mean to assert that implied powers do not exist, or that they are not sometimes highly beneficial, but rather that they should never be appealed to or exercised except in aid of some expressly granted power.

I now proceed to consider some of the results of such measures, which will be found to be more intolerable than the assumption of the power itself. The laws of Congress, constitutionally enacted, become the supreme law of the land. When Congress rightfully creates a corporation, or, what is the same thing in principle, confers new privileges and franchises on State corporations to be exercised under Federal authority and protection, such laws necessarily override all State legislation, and such corporations become means or instruments of the Federal Government in the execution of some of its expressly granted powers. Such corporations, with all their property, are thus by the greedy hand of Federal power snatched from the rightful control of the States and subjected to the exclusive management of the former. If the States are thereafter allowed to exercise any control whatever over them for

taxation of their property or otherwise, it can only be done by gracious *permission* of the central Government. The corporation called the United States Bank was such an *instrument*, and the Supreme Court have repeatedly announced these principles in connection with it, and have expressly held it beyond the power of the States to tax it or its property. The language of that tribunal, from the pen of Chief Justice Marshall, presents these propositions in a most forcible and unmistakable manner. We will quote a few paragraphs:

"It is of the very essence of supremacy to remove all obstacles to its action within its own sphere, and so to modify every power vested in subordinate governments as to exempt its own operations from their own influence. This effect need not be stated in terms. It is so involved in the declaration of supremacy, so necessarily implied in it that the expression of it could not make it more certain."

"All subjects over which the sovereign power of a State extends are objects of taxation; but those over which it does not extend are upon the soundest principles exempt from taxation. This proposition may almost be pronounced self-evident." * * * "The sovereignty of a State extends to everything which exists by its own authority or is introduced by its permission; but does it extend to those means which are employed by Congress to carry into execution powers conferred on that body by the people of the United States? We think it demonstrable that it does not." * * * "We find, then, on just theory, a total failure of this original right to tax the means employed by the Government of the Union for the execution of its powers. The right never existed, and the question whether it has been surrendered cannot arise."—*McCulloch vs. The State of Maryland*, 4 Wh. aton. 427.

The same doctrines are reaffirmed by the same court in the subsequent case of *Osborn vs. United States Bank*, (9 Wheaton, 283,) and in many other cases. They all rest upon the theory that these corporations, thus created or endowed by the Federal Government, become instruments, as it were, in the hands of that Government, and that to suffer them to be taxed at all by the States would be equivalent to allowing them to tax the machinery of the Government itself, and that if the States had the power of such taxation they might abuse it, might tax such instruments out of existence. Hence the denial of the power.

In other words, Congress having no power to create such corporations except in cases where they are a proper and necessary instrument for the execution of some granted power, when they are created they at once become totally exempt from all control, save that of the creating power; and to admit that they were subject to any other control in the important matter of taxation would be to endanger their very existence. Because if the States could tax them at all without the consent of the General Government they could tax them as much or as little as they please, and they might please to impose such burdens upon them as would wholly defeat their objects. The States might then discriminate against them and in favor of their own corporations, and thus drive them out of existence. It was upon such reasoning and arguments the Supreme Court held thirty years ago, and has ever since held, that such corporations, like the bonds of the Federal Government, are entirely exempt from State and municipal taxation.

Now, apply these principles to Federal railroad, canal, telegraph, and other corporations. If the power to create them exists, the power to control them follows. Then what becomes of the sacred and boasted rights of the States to control their internal affairs and commerce, to raise revenue to pay the expenses of their government by taxation of all the property of their citizens, whether individual or corporate? They have wasted away under the absorbing power of the central government. Their judicial tribunals are stripped of half their jurisdiction. The great aggregations of wealth in the States, brought into existence by their efforts, and often in part by their means, are added to the great central power to augment its patronage and all-pervading influence and endanger the liberties of the people and destroy our

glorious system of government. If Congress can enact such laws as the one to which I have particularly referred it can, by parity of reason and under the same authority, enact laws and charters which will give it absolute and sovereign control over all our great works of internal improvement. It can thus acquire, in like manner, the like control over a large portion of the territory of the States without their consent.

Recognizing these important legal results touching the taxability of such property, my colleague has proposed an amendment to his original bill, in section twelve, declaring that:

"The property and franchises of said corporation shall be subject to national, State, and municipal taxation to the same extent and in like manner as other like property or franchises in the same State or district."

This declaration is a significant admission of the truth of my argument on this point. Is it necessary and proper, under the pretense of regulating commerce, to incur such vital results? Does the legitimate regulation of commerce involve them? Certainly it does not. The constitutional regulation of ocean and river commerce never involved them. On the contrary, it was never attempted by such regulation to divest the State of its general jurisdiction, both for taxation and police, over either the instruments or the persons engaged in such commerce. In other words, it was never pretended by courts or statesmen that such commerce could or ever did become a necessary and proper instrumentality for the execution of any expressly granted powers in the Constitution. A mere power of regulation confers no absolute or exclusive jurisdiction over the things or persons to be regulated.

Does the Constitution, in any express provisions, afford a shadow of authority for such enactments? It says, in section eight of article one, that Congress shall have power—

"To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may by cession of particular States and the acceptance of Congress become the seat of the Government of the United States; and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings."

It appears, therefore, that it is the intention of the Constitution that the United States shall acquire no title to or jurisdiction over any portion of the soil of a State without the consent of the Legislature thereof. And this has been the practice of the Government ever since its organization. It has never attempted, in a single instance, to do otherwise, except during the late war, when its acts in this particular were dictated by an overruling necessity which can supply no precedent for times of peace. Whenever the United States has desired to occupy any part of the soil of a State for court-houses, navy-yards, or other national purposes, it has first procured the consent of the State by a solemn act of State legislation expressly assenting to the purchase and ceding jurisdiction to the United States over the desired territory. When it was thought desirable to construct a highway to connect the waters of the Chesapeake and the Ohio Congress would not permit the Cumberland road to be constructed until the consent thereto of the States of Maryland, Virginia, and Ohio was expressly granted. James Monroe, in his great constitutional argument which accompanied his veto of the Cumberland road bill in 1822, held that Congress has exclusive control over the revenues of the Government and may appropriate them to aid in the construction of internal improvements, but has no power itself to construct any such improvements, because to do that involved the exercise of territorial jurisdiction which belongs to the State alone. There is nothing better settled in American law than that the right of eminent domain is in the States. The right

to control the territory within the several States belongs to the States alone.

It is true that the United States may become a purchaser of real estate within a State where it can do so by mutual agreement between itself and the owner. But it thereby acquires no jurisdiction and holds title only as any private citizen would, subject to the laws of the State. When the United States desires to acquire titles without the consent of the individual owners and by legal proceedings to divest the latter's title, in every instance in the history of the Government it has sought the consent of the State, and has procured State legislation prescribing a mode of acquisition, or expropriation. For examples of such legislation see 7 Opinions of Attorneys General, page 573; 8 *Ibid.*, page 30; Act of Maryland of May 3, 1853; Act of South Carolina of 1854; Act of New York of March 18, 1808, and November 12, 1816.

It has been adjudged that mere ownership and occupancy by the United States of land within a State do not oust the jurisdiction of the State, even where such occupancy is with the full knowledge and tacit consent of such State. To do that the purchase must be "with the consent of the State Legislature." The fact that the United States holds land by a title or reservation anterior to the existence of the State does not give jurisdiction to the United States without the consent of the State or cession of jurisdiction. (17 Johnson, 225; 2 Mason, 60; 7 Opin. Att'ys. Gen. 573.) Congress would not purchase real estate in Maryland on which to erect an aqueduct to supply the city of Washington with water without the previous assent of that State and the enactment of a law by its Legislature prescribing a mode of acquiring title where mutual contracts could not be made. (Act of Maryland of May 3, 1853.) Indeed, all these questions have been considered so conclusively settled ever since the organization of the Government, that in 1841 Congress declared by a law, which still remains in full force, that thereafter no public money should be expended for any site or land for any public works until the consent of the Legislature of the State is given to the purchase, and that it should be the duty of the heads of Departments under whose supervision any public works are directed by Congress to be made first to obtain from the State cession of jurisdiction over such site or land. (5 United States Statutes-at-Large, 468.)

But we are told that Congress can create corporations to build great highways wherever it pleases, and can take charge of those already created by the States, and under one pretext or another divest the States of their original and unquestionable control over the same, and of their right to tax them, or to regulate the manner in which they shall enjoy their franchises, or carry on their business, or answer for their wrongful acts toward their citizens. This kind of legislation will inevitably rob the States and the people of their most precious and invaluable inheritance—the right of local self-government. No evil ruler on earth could devise a more appropriate or cunning plan for the attainment of such a result.

A brief contemplation of the extent, wonderful growth, and vast expense of the railroads alone may afford some aid in an attempt to appreciate the infinite dangers which would result from committing them to the control of the central Government. In the first half of the year 1830 there were no steam railways in our country. In 1840 only twenty-one hundred and sixty-seven miles existed. Now over forty thousand miles are in complete operation, at a cost in construction of about two billion six hundred million dollars. In addition to this completed extent there are, by estimate, about fourteen thousand miles in process of construction. The commerce and trade which are more or less facilitated by this extraordinary

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net-work of railroads, and the great multitude of persons who thus find compensatory employment, render our system of railroads a hand-maid to every other pursuit known to our people. It pervades, influences, and promotes the welfare of every section, farm, and workshop in the Republic. It has attained its present magnificent proportions with no guide but the unparalleled enterprise and intelligent self-interest of the people. It has had in the main no protection except from the States, and no aid except from individual wealth, with occasional Government subsidies. It has multiplied the taxable values of the country many times. It contributes immense sums to the revenues of the State and Federal Governments. It is managed with greater skill, economy, and success than under Federal superintendence it could ever attain. The local governments of the States can afford such legal direction, regulation, and control as it demands with greater wisdom and better results than any other Government on earth. If such vast interests and investments were committed to the control of the Federal Government they could not fail to accelerate the growth of corruption in connection with Federal legislation and hasten the development of centralism, the greatest danger that now threatens our country.

It is claimed that additional railroad facilities are demanded by travel and traffic between here and the city of New York. This is an assertion unsustained by any facts presented to the House. I entered upon this investigation with the impression that it had some foundation. But a most careful and exact inquiry from reliable and official reports convinces me that it is utterly baseless. I earnestly desire the attention of the House to some facts elicited by my examination. They are most significant and material to the formation of any just conclusion.

The whole capital to build and equip this projected line from Washington to New York, fixed by this bill, is \$10,000,000! More than that sum was spent in the last six years alone by the present route in mere improvements to perfect it. There are expenditures now being incurred additional of nearly three million dollars to establish new terminal facilities, avoid the use of horses in Baltimore, and build entirely new passenger equipment. The estimated capital of the present companies now composing the line between New York and Washington is \$36,000,000. The capacity of the present line, with complete double track now finished, is almost unlimited. The public much overestimate the travel and revenue of the roads between New York and Washington. While the gross revenues of the companies in the entire line exceed ten millions per annum, the whole receipts for through travel between New York and Washington do not reach one million per annum during the years since the war. There are three through trains a day between New York and Washington provided and regularly run, with a capacity and accommodation for twelve hundred passengers in both directions, while the actual number carried in the past twelve months averages but two hundred and seventy-nine daily! The gross number of passengers carried between New York and Washington in both directions in the past twelve months is only one hundred and two thousand, which paid to the line a gross revenue of only \$846,000.

The relatively heavy local and way business constitutes the chief source of revenue arising from the numerous populous towns and cities along the route. For instance, for every passenger that leaves New York for Washington fully thirty-six others start for Philadelphia or intermediate points, and while there are but three trains a day leaving Washington with New York passengers with an average of one hundred and thirty-nine and a half passengers, or forty-six and a half to a train, there are nine trains a day leaving Washington for Baltimore,

and only one thirty-sixth of the business between New York and New Brunswick is for Washington, or one hundred and two thousand passengers in both directions, against three million six hundred and fifty-six thousand nine hundred and seventy-eight passengers arriving and departing at New York.

It is not the profit made upon the New York and Washington travel, therefore, which causes the present line to oppose the chartering of another route by Congress, but it is the tendency of such action by Congress to lessen all railroad values and make uncertain the tenure and effect of this vast property.

In the United States there are about forty-two thousand miles of completed railroad in operation, which, with some sixteen thousand miles more in progress and contemplation, have enlisted a capital of fully \$3,000,000,000, or \$400,000,000 more than our whole national debt. It is this vast interest that will be struck and invalidated by the opening of the door in chartering a single road by Congress.

There is no necessity for additional freight facilities between here and New York, because the intervening water transportation is cheaper, is always abundant, and is chiefly used.

The completed English railways now amount to about fourteen thousand miles, and have cost on the average, per mile, about two hundred and thirty-five thousand dollars, while American roads have only cost an average of about fifty-two thousand dollars per mile. It is obvious, therefore, that with the continental extent of our country, our less aggregate wealth, and insufficient available capital for such investments, it would be impossible for us to build and equip railroads in such completeness as is done in England. Indeed, in view of our different national conditions and circumstances, our system of railroads is one of the most wonderful achievements recorded in the history of civilization.

I invite attention in this connection to the decision of Justice McLean in the United States vs. The Railroad Bridge Company, (6 McLean's R., p. 517.) The right of eminent domain in the State is held by Judge McLean to extend to public lands of which the title is still in the United States, so far as to enable the State to authorize the acquisition of easements over it in the construction of common highways, or railroads and canals. He says:

"This power is exercised by a State, subject to no power vested in the Federal Government. The proprietary right of the United States can in no respect restrict or modify this exercise of the sovereign power by a State. It is essential to the welfare of the citizens of the States that this power should be exercised. So far as easements by establishing public roads are concerned within a State by its Legislature the jurisdiction is exclusive."

And I cannot forego the duty of further citing the pith and substance of the opinion of the Supreme Court in the celebrated case of Pollard's Lessee vs. Hagan, the Alabama case, (3 Howard, p. 224.) It is very strongly in point, and covers the great question of State rights over its own territory in such matters. The court say:

"When Alabama was admitted into the Union on an equal footing with the original States she succeeded to all the rights of sovereignty, jurisdiction, and eminent domain which Georgia possessed at the date of the cession, except so far as this right was diminished by the public lands remaining in the possession and under the control of the United States for temporary purposes provided for in the deed of cession and the legislative acts connected with it. Nothing remained to the United States, according to the terms of the agreement, but the public lands. And if an express stipulation had been inserted in the agreement granting the municipal right of sovereignty and eminent domain to the United States such stipulation would have been void and inoperative, because the United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain within the limits of a State or elsewhere except in the cases in which it is expressly granted."

The Federal Government has no right to acquire any territory or jurisdiction in a State except for purposes authorized in the Consti-

tution, and then it must be obtained with the express consent of the State, not taken, appropriated by force, or conquered from the State.

It is urged by my colleague [Mr. Cook] that if Congress has not the constitutional right to go into States and exercise these great powers, then no consent of the States can confer such right. I agree that the States cannot confer new or original powers on Congress except by constitutional amendments; but it by no means follows that the States may not cede either territory or jurisdiction to the Federal Government to such extent and for such purposes as are proper or necessary to enable the latter to execute its granted powers. The right to do these things is expressly recognized by the seventeenth clause of the eighth section of the first article of the Constitution; and the uniform practice of the Government ever since its organization should be held now to have forever settled its true construction on this point. It is believed that every acquisition by the Federal Government heretofore of territory or jurisdiction in a State has been made with the express assent of the State.

The Constitution of the United States declares that private property shall not be taken for public use without just compensation. The constitutions of most of the States declare that private property shall not be taken for public use, or quasi public use, as for railroads, without just compensation first made or tendered. But these most valuable guarantees seem to interpose no obstacles to the power of Congress. It has been decided that the payment must be made or securely provided for as a condition precedent to the appropriation of the property. (Bonaparte vs. Camden Railroad Company, 1 Baldw. R., 205, 218.) This bill is so framed as to require no respect whatever to be given by the companies to the safeguards provided by the people of the States for the property of their citizens.

In this bill, for example, the company is authorized "immediately to enter upon, take possession of, and use all such real estate and property as may be necessary for the construction, maintenance, and operation of said railway and the accommodations requisite and appertaining thereto." But the company is kindly required afterward to purchase such property "at a price to be mutually agreed upon." "And, in case of a disagreement as to price, and before the final completion of said railway and its appurtenances, the said corporation, or the owner or owners of such real estate or property, shall apply, by petition, to the justice or justices of the Supreme, circuit, district or court of the United States having jurisdiction in the State or locality in which said real estate or other property may be situated, particularly describing the same;" and said justice is then required to conduct or direct various expensive and cumbersome proceedings, which are expected to result in the transfer of title from the individual owner to the company. Thus the citizen is compelled to seek his remedy, not in the courts of his own State, where his rights may be adjudicated in tribunals of his own choice, but in some remote Federal court, where its vindication may cost more than his relief is worth.

It is claimed by the friends of these measures that Congress obtains the requisite power to enact them as an incident to the express power "to establish post offices and post roads," and to regulate commerce "among the several States."

If it can ever be said in this country that the interpretation of a constitutional provision is settled, then it may now be said of the power to establish post roads. It has been the uniform practice of the Government to carry its mails over the highways of the States, to make them "post roads" to the extent of their common use by its mail carriers, but never to open up and construct great highways for the purpose

of facilitating the transmission of the mails. Mails never precede, but always follow, the opening up of a country and of its highways, and if they are rude and imperfect at first, the demands of the people are relatively few and simple. As society advances, and population and intercourse increase, improvements in the facility and manner of transportation keep pace with them. Hence, the General Government has hitherto come after, and not gone before these improvements in the extension of its mails. Shall it change this policy now, when the country is everywhere covered with a net-work of highways and railroads, and the people and States are everywhere inviting it to make them "post roads?" Shall it now enter into the business of constructing railroads and canals in order to provide ways over which to carry its mails? Is it necessary for it to usurp the control of the railroads and highways, established and constructed under the auspices of the States, in order to protect its postal service? These railroads and many other highways are *private* property.

It was thought necessary by the framers of our Constitution to insert an express provision to enable the United States to exercise absolute jurisdiction over ten miles square for a seat of Government, and over such places as should be ceded by the States for forts, arsenals, and other purposes. It would seem incredible that such solicitude should have existed about such inconsiderable spots, and yet that those great men should have been willing to confer the power to construct all kinds of highways throughout the country, with the consequent right to take great portions of the soil of the States and exercise exclusive jurisdiction over the same. There does not now, and never did, and never can, exist a shadow of necessity or rational pretext for the inauguration of such a system. If inaugurated it could not fail, sooner or later, to prove fatal to the well-being of both Governments. But even if I concede the existence of power with the consent of the State through which it runs to build a highway for a "post road," which I cannot do, yet it does not follow that Congress may create great corporations, with millions of capital, to erect all kinds of highways in the States for private gain, to be subject to the exclusive control and jurisdiction of the United States. It requires a most liberal charity not to believe that private gain, and not the interests of the postal service, is the inspiring motive in these measures. The power asserted in this series of bills to do these things is wholly unparalleled in the history of our Government. Why are they attempted now? Is it not done to subordinate the States more completely to the powers in this Capitol?

Does the power to regulate commerce "among the several States" authorize this kind of legislation? It is claimed that it does. This power has been the subject of frequent and elaborate discussion in the courts of the country, and it has received judicial interpretation in many cases. If the word *commerce* in this provision is to receive its largest and most comprehensive signification, then, indeed, the argument is with the friends of these measures, because thus defined it embraces nearly all the transactions and intercourse between human beings in society. But this definition has never been claimed or approved by any court or intelligent citizen. It has always been held to refer only to those public and business transactions and relations which affect the citizens of different States in their intercourse with each other. Many of the laws of a State may affect commerce in a greater or less degree and yet not be in conflict with the power of Congress.

Commerce is traffic in intercourse, not railroads, telegraphs, or highways. The regulation of commerce is one thing, and the creation of means to facilitate it or call it into being is an entirely different thing. The regulation of commerce does not require the incor-

poration of companies with vast powers and franchises. It is to prescribe the rule by which commerce is to be governed. (9 Wheaton R., 196.) It has nothing to do with the terms upon which one person engaged in aiding commerce, traffic, or intercourse shall cooperate with another. It has still less to do with the rates of fares or freights which shall be exacted by the agents of commerce. All such matters are proper subjects of private contracts. In the very nature of things, it is impossible for Congress to regulate such interests as wisely as the State or citizens may do.

The power to regulate commerce carries with it no *property*, but only a grant of jurisdiction or general legislative authority over certain subjects. It may be exercised and exhausted without authorizing any structure to be erected or laid upon soil of which the United States is not the proprietor, and which belongs to a State or is the private property of its citizens within its jurisdiction. It has never been held that this power even enables Congress to authorize the taking or occupation of real estate belonging to a State or its private citizens for the purpose of erecting structures thereon to aid in commercial intercourse with foreign nations. Its utmost extent would be to *regulate* the use of such structures as means of commercial intercourse after they are erected and have become capable of use. But it embraces no power to take private property or the property of a State for the purpose of promoting such intercourse or commerce.

This provision giving power to regulate commerce among the States was designed to secure to the States a complete equality in commercial rights. No State has the power by her laws regulating her internal commerce, or the transaction of commercial business over her great public or corporate highways, to impose restrictions or burdens upon the citizens of one State which she does not alike impose upon those of all the States. She cannot discriminate against any State or section, but her laws and regulations must affect all alike who come within their operation, and must not violate the Constitution of the United States.

Over any place within its legislative jurisdiction a State may exercise its police or other powers or its rights of property without conflicting with the power of Congress to regulate commerce in the same place. The question in all cases is, whether the power claimed and exercised by a State produces any such conflict. (Ogden vs. Saunders, 9 Wheaton, 1; Brown vs. Maryland, 12 Wheaton, 419; Passenger Cases, 7 Howard; Cooley vs. Port Wardens of Philadelphia, 12 Howard, 299; Smith vs. Maryland, 18 Howard, 71.)

In the case of Gibbons vs. Ogden, (9 Wheaton, 13,) Chief Justice Marshall, in speaking of the right of a State to enforce its inspection laws, says:

"They form a portion of that immense mass of legislation which embraces everything within the territory of a State not surrendered to the General Government—all which can be most advantageously exercised by the States themselves. Inspection laws, quarantine laws, health laws of every description, as well as laws for regulating the internal commerce of a State, and those which respect turnpike roads, ferries, &c., are component parts of this mass."

In many other decisions by the same court substantially the same language is employed and the same doctrine held. There is believed to be no opinion in the entire range of State and Federal decisions which is inconsistent with the one expressed by Judge Marshall, and not one of the great statesmen of our country has ever put on record a contrary opinion. In that great argument submitted by Mr. Hamilton to President Washington, already referred to, he, the great leader of the latitudinarian school of statesmen, denied to the General Government all authority to make any work of internal improvement requiring the appropriation by it of any part of the soil or territory

of the States without their consent. Thomas Jefferson, another of the great sages of the Republic, seems to have been sadly behind the learning of this age. He, too, always denied the existence of any such power, and in a message to Congress recommended the proposal of a constitutional amendment for the adoption of the States, expressly granting it. Mr. Madison, too, unsurpassed in wisdom and practical statesmanship, and the zealous friend of railroads, canals, and other improvements, was equally confident that this power did not exist, and could not be exercised without the aid of an amendment. Albert Gallatin, scarcely inferior to any in the great qualities of the early fathers, in his masterly report to Congress in 1803, reviewing this whole subject, used the following language:

"The manner in which the public moneys may be applied to such objects remains to be considered."

It is evident that the United States cannot, under the Constitution, open any road or canal without the consent of the State through which such road or canal must pass. In order, therefore, to remove every impediment to a national plan of internal improvements, an amendment to the Constitution was suggested by the Executive [referring to Mr. Jefferson] when the subject was recommended to the consideration of Congress. Until this be obtained, the assent of the State being necessary for each improvement, the modifications under which that assent may be given will necessarily control the manner of applying the money."

Justice McLean, of whom it is not unjust to say that he was the foremost of our Federal judges of his time in the liberal construction of the powers of Congress, in his opinion in the Rock Island bridge case, (6 McLean, 524,) referring to the powers in question, said:

"Under the commercial power Congress may declare what shall constitute an obstruction or nuisance by a general regulation and provide for its abatement by indictments or information through the Attorney General; but neither under this power nor under the power to establish postroads can Congress construct a bridge over navigable water. This belongs to the local or State authority within which the work is to be done. But this authority must be so exercised as not materially to conflict with the paramount power to regulate commerce."

"If Congress can construct a bridge over a navigable water under the power to regulate commerce or to establish post roads, on the same principle it may make turnpikes or railroads throughout the country. The latter power has generally been considered as exhausted in the designation of roads on which the mails are to be transported, and the former by the regulation of commerce upon the high seas and upon our rivers and lakes. If these limitations are to be departed from, there can be no others except at the discretion of Congress."

But it is objected by my colleague, the chairman of the committee, that this opinion of Justice McLean was only his single judgment, rendered on his own circuit, and never in terms approved by the Supreme Court. I must, therefore, ask his attention and that of the House to a more solemn and conclusive judgment of the Supreme Court, rendered in December, 1865, and reported in the case of Gilman vs. Philadelphia, 3 Wallace, page 725, and concurred in by all the present judges except Justices Clifford and Davis. The court says:

"The national Government possesses no powers but such as have been delegated to it. The States have all but such as they have surrendered. The power to authorize the building of bridges is not to be found in the Federal Constitution. It has not been taken from the States. It must reside somewhere. They had it before the Constitution was adopted, and they have it still."

The uniform conduct of the Federal Government in reference to bridges has been in complete harmony with these decisions. Congress has only given in any case the mere assent of the United States to the erection of bridges over navigable rivers subject to its jurisdiction for the regulation of commerce. The right to build them within the limits of a State, the right of way, the authority to use or appropriate the soil on which they stand, is always obtained from the State.

It is a fixed principle in the law of this country that the soil on the maritime boundaries of a State, below low-water mark, and lying within the territorial limits of the State, and

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capable of occupation for any purpose, belongs to the State as proprietor, though it may by grant or prescription become private property. (Smith vs. Maryland, 18 Howard, 71; Pollard's Lessee vs. Hagan, 3 Howard, 212; Martin vs. Waddell, 16 Peters, 367.)

Over the waters above such soil there are two legislative jurisdictions: the Federal jurisdiction, for the regulation of commerce with foreign nations and among the several States; the State jurisdiction, for the exercise of its police and other municipal powers, its right of eminent domain, and the protection of its rights of property in the soil.

Although a State holds its title to the soil under navigable waters subject to the exercise of certain common and public rights in those waters, such as taking fish, anchoring, &c., the right to lay and maintain permanent structures for conducting commercial intercourse is not such a public and common right, vested either in foreigners or in citizens of other States or in the citizens of the particular State. Such a right can be derived only from the State by grant, and does not spring from the public law or the law of nature.

The power of Congress to regulate commerce does not prevent a State from restraining the manner in which a vessel licensed for the coasting trade may exercise its common right of taking shell-fish from the soil of the State under navigable water. (Smith vs. Maryland, 18 Howard, 71.) *A fortiori*, the commercial power of Congress cannot confer a right to lay a permanent structure upon such soil of a State. For example, the court say, in Pollard's Lessee vs. Hagan, referred to and approved in Gilman vs. Philadelphia, that—

"The right of eminent domain over the shores and the soil under the navigable waters for all municipal purposes, belongs exclusively to the States within their respective territorial jurisdictions, and they, and they only, have the constitutional power to exercise it."

How impressively inconsistent with these high authorities and settled doctrines are the assumptions of my colleague that Congress has as much power to create corporations, to construct railroads, and to regulate the commerce and business of such roads as it has to appropriate public money or lands to aid in the construction of internal improvements of a national character, or to improve, remove obstructions from, or deepen, the channels or mouths of navigable rivers. He and every gentleman well knows that the power of Congress over the public revenue and lands is derived from well-defined but different grants in the Constitution, and has been settled by the uniform practice of half a century or more, and affords no analogy for the powers asserted in this bill. Our system of harbor and river improvements, designed and so well calculated to promote the interests and safety of both external and internal, foreign and domestic, commerce, was never organized in hostility to the just powers of the States, and no such improvements were ever made, or public moneys so expended, without the assent of the States within whose jurisdiction they were made, and no exclusive jurisdiction over any portion of the soil of the States was ever thus acquired without the express assent of the States, and no exemption of property engaged in the commerce to be benefited by such improvements from State and municipal taxation ever in one instance resulted from the making of such improvements by the General Government. The just distinctions between the proper regulation of commerce and the attempt to create, construct, and exercise exclusive jurisdiction over the means and instruments by which commerce is carried on are thus happily illustrated. These distinctions ought never to be lost sight of.

I might multiply like authorities with those already cited, but it cannot be necessary. These great men were at the birth of our Republic, and guided and protected by their wisdom and

patriotism it grew great and powerful, and inspired mankind everywhere with new hope and furnished them a great example. If it is competent for the human mind to comprehend the just meaning of language or the true intent of law, it must be that that capacity was possessed by these men. Their interpretations are almost equal as authority to the highest judicial decisions. The Representatives who, having sworn to support the Constitution, should make them their guides as to its true meaning, could not go far astray, and would certainly shun the wild chimeras and crotchets and mere partisan dogmas of this day.

I will yield to the temptation to refer to one other decision of our Supreme Court, (Veazie vs. Moor, 14 Howard's Reports, 573,) because it is the latest, having been made in 1852, and is the *unanimous* judgment of the judges then on the bench of that court, who were Chief Justice Taney, and Justices McLean, Wayne, Catron, Daniel, Nelson, Grier, and Curtis. In discussing the power of Congress to regulate commerce with foreign nations and among the several States the court says:

"The phrase can never be applied to transactions wholly internal, between citizens of the same community, or to a polity and laws whose ends and purposes and operations are restricted to the territory and soil and jurisdiction of such community. Nor can it be properly concluded that because the products of domestic enterprise in agriculture or manufactures, or in the arts, may ultimately become the subjects of foreign commerce, the control of the means or the encouragements by which enterprise is fostered and protected is legitimately within the import of the phrase *foreign commerce*, or fairly implied in any investiture of the power to regulate such commerce. A pretension as far reaching as this would extend to contracts between citizen and citizen of the same State, would control the pursuits of the planter, the grazier, the manufacturer, the mechanic, the immense operations of the collieries and mines and furnaces of the country; for there is not one of these avocations the results of which may not become the subjects of foreign commerce, and be borne either by turnpikes, canals, or railroads from point to point within the several States, toward an ultimate destination, like the one above mentioned. Such a pretension would effectually prevent or paralyze every effort at internal improvement by the several States; for it cannot be supposed that the States would exhaust their capital and their credit in the construction of turnpikes, canals, and railroads, the remuneration derivable from which, and all control over which, might be immediately wrested from them, because such public works would be facilities for a commerce which, while availing itself of those facilities, was unquestionably internal, although intermediately or ultimately it might become foreign.

"The rule here given with respect to the regulation of foreign commerce equally excludes from the regulation of commerce between the States and the Indian tribes, the control over turnpikes, canals, railroads, or the clearing and deepening of water-courses, exclusively within the States, or the management of the transportation upon and by means of such improvements. The design and object of that power, as evinced in the history of the Constitution, was to establish a perfect equality among the several States as to commercial rights, and to prevent unjust and invidious distinctions which local jealousies or local and partial interests might be disposed to introduce and maintain. These were the views pressed upon the public attention by the advocates for the adoption of the Constitution, and in accordance therewith have been the expositions of this instrument propounded by this court."

These views and authorities constitute a triumphant and authoritative refutation of the whole system of legislation to which we refer. Their statements are so clear and reasonable as to challenge the most careful consideration, if not to elicit the approval of every unprejudiced mind.

It is not possible, if the history of our country has any value or contains any truth, that it was ever intended by the framers of our Federal Constitution, who were at the same time pioneers and equally interested in the organization of our State governments, that the former should ever attempt to take the management of or legislate for the private and local affairs and interests of the people in the States. Such policy is everywhere deprecated and denounced by them as most dangerous to the best interests of both Governments. They have always, and with singular unanimity and tenacity, insisted that the chief element in our system of Government, which at once combines safety to liberty and great strength, is that of

a well-defined and faithfully observed division of powers between the General and the local governments. It was their most cherished aim to establish firmly and to observe faithfully this division. We cannot cultivate a sounder or more beneficent policy. Let us devote the energies of this General Government to its appropriate duties; to the wise superintendence of those general interests which pertain to and can be best administered by it; to its vast external affairs.

In opposition to all these authorities my colleague [Mr. Cook] has been able to cite but a single direct judicial opinion, and that opinion, just so far as it sustains his positions, is an *obiter dictum*. We refer to the case of Gray vs. The Clinton Bridge et al., (American Law Register, for January, 1868, page 149,) decided by Justice Miller, of the Supreme Court, on the Iowa circuit. The court in that case was required to pass upon the validity or invalidity of the act of Congress of February 27, 1867, (16 U. S. Statutes, 412,) and nothing more. The general questions involved in this discussion were not presented to the court at all for adjudication in that case. The single question which demanded decision in that case was the right of Congress to authorize the construction of railroad bridges across the public navigable rivers of the United States. It did not touch the great question of the power of Congress to invade the eminent domain of a State, and appropriate her soil without her consent, either to erect bridges or railroads. The legitimate scope of that decision is made apparent by an examination of the material section of the act referred to, which reads as follows:

"SECTION 1. * * * * * "That the bridge across the Mississippi river erected by the Albany Bridge Company and the Chicago, Iowa, and Nebraska Railroad Company, under the authority of the States of Iowa and Illinois, between the towns of Clinton, Iowa, and Albany, Illinois, shall be a lawful structure, and shall be recognized and known as a post route upon which also no higher charge shall be made for the transmission over the same of the mails, the troops, and the munitions of war of the United States than the rate per mile paid for their transportation over the railroads or other public highways leading to the said bridge."

It thus appears that all rights of eminent domain, or rights to enter upon and appropriate the soil on either side of the river necessary for the erection of the Clinton bridge, were obtained by direct grants to the companies interested from the respective States having jurisdiction over the same. The only question that remained, therefore, for the court to settle was the right of Congress, under the power to regulate commerce, to legalize the erection of the bridge over the river. The river is a natural highway; it is held to come within the admiralty and maritime jurisdiction of the United States, and therefore to be subject to the control of Congress as to the manner in which structures or obstructions of any kind may be placed over it. This limited power, upon the authorities and for the purposes of this argument, is conceded. Justice Miller, acting on these authorities, held, in the case under consideration, that—

"The act of Congress of February 27, 1867. (16 United States Statutes, 412,) declaring a bridge erected by a railroad company across the Mississippi river at the city of Clinton, in the State of Iowa, 'a lawful structure and a post route,' is constitutional and valid."

When the learned justice had thus decided the case his duty was done, but he did not consider it his duty to go no further. He proceeded to express other views on the general powers of Congress over interstate commerce, and said:

"For myself, I must say that I have no doubt of the right of Congress to prescribe all needful and proper regulations for the conduct of this immense traffic over any railroad which has voluntarily become part of one of those lines of interstate communication, or to authorize the creation of such roads, when the purposes of interstate transportation of persons and property justify or require it."

This does not attain the dignity of a judicial decision. It is only the personal opinion of

an intelligent lawyer. I give due consideration to the high position of its author, but cannot concede to it the weight of authority. In my judgment all the vast interests connected with the railroad transit of the country can be much more wisely and effectively regulated and protected by State authority. Many present regulations are imperfect, many excesses are practiced by railroad companies, and many evils need to be corrected. But when the recent origin and wonderful growth of the system of railroads is considered, it is matter of greatest surprise that all these evils are not more grievous than they are. It cannot be doubted that in the early future, if left to the sole and rightful control of the States, these defects will be removed to a great extent. It is not in the power of any human Government to regulate such vast interests in such way as to secure absolutely just results under all circumstances. They can only approximate such results. But more effective relief will probably be derived from healthful public sentiment and intelligent self-interest between the people and the proprietors of these great highways than from congressional legislation.

This bill attempts to give power to this corporation to take or condemn for its own uses, under certain rules, any property in the States through which it passes, whether it belong to the States, to private citizens, or to other corporations, and whether it "impair the obligation of contracts" between the State and its citizens or not. My colleague, I understand, assumes that this prohibition against legislation impairing the obligation of contracts "is upon the States, not upon the United States." Is this true? It impresses me as being a most untenable and dangerous proposition. Is there any line or word of authority to justify the conclusion that the framers of our Federal Constitution intended to empower Congress to pass laws to impair the obligation of contracts? Are such laws any more tolerable or consistent with justice when enacted by Congress than if enacted by a State? Is a dishonest act any less dishonest because it was committed by Congress? All such laws are contrary to the first principles of the social compact and to every principle of sound legislation. (Federalist, No. 39.) All contracts are property, and the obligation of contracts is property. They are things of value, of the greatest intrinsic value, and therefore constitute property of the most sacred character. The obligation of contracts is the right which the contractor acquires under the contract to have it faithfully performed. It is all the value the contract possesses until it is performed.

And the Constitution says no person shall "be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation." If Congress possesses omnipotent authority to impair or disregard the obligation of contracts, then what is the value of this prohibition? What safety exists for the supposed sanctity of the contracts and intercourse between man and man in society? If Congress may impair or disregard the obligation of contracts between a State and her citizens whenever in its judgment it becomes expedient for the regulation of commerce or for any other purpose, then how is the power of Congress over all such interests to be restrained? The power of the States over the most important and sacred interests of their citizens, for their regulation and protection, must then be exercised subject to the pleasure of Congress. The right of the States to regulate their own domestic policy in their own way and to protect their own citizens in their domestic, personal, and franchise rights, interests, and contracts, which is the most exalted and invaluable office of civil government, becomes a myth. It cannot be that Congress possesses any more right to impair the obligation of contracts than the States.

How to Resume Specie Payments.

SPEECH OF HON. GEO. W. JULIAN,
OF INDIANA,
IN THE HOUSE OF REPRESENTATIVES,
February 5, 1869.

The House being in Committee of the Whole on the state of the Union—

Mr. JULIAN said:

Mr. CHAIRMAN: The simple and obvious solution of our financial problem is to be found in the reduction of expenditures and the increase of productive capital. This is the chosen and sure way to specie payments, and to real national wealth, and the time has come to confess it, and to plant our feet on the solid ground of actual facts. The country has been fed on mere theories long enough. The brains of our public men have been teeming with ambitious schemes of finance, all radically differing from each other, bewildering rather than enlightening the general mind, exciting false hopes, and kindling among the people a feverish discontent, instead of invoking the spirit of patience in the endeavor to accept the real facts of our condition and the lesson which they teach. Other methods are now wanting. Discarding metaphysical projects, and putting aside the folly of looking to the Government for some splendid financial panacea which shall at once lift from us the burden of our debt and immortalize its discoverer, we must now turn to the plain and old-fashioned ways and means I have mentioned. There is no royal road out of our national indebtedness. There is no short cut to specie payments by the mere fiat of law, independent of our actual resources. Legislation can create a debt, but it cannot pay it. We might just as reasonably attempt to change the properties of the triangle by act of Congress, as to fix the precise day on which our national debt shall be fully paid, or our greenbacks redeemed in coin; since we have no foreknowledge of the course of the seasons, the productiveness of our crops, the vicissitudes of trade, the character and influence of future legislation, and other contingencies which must vitally affect our financial resources at any given time hereafter. Finance is no juggle, no sleight-of-hand by which the nation can be relieved of its great debt without actual payment; nor is it a Black Art, utterly inscrutable to the plain common sense of the people. Sir, what we want, I repeat, is economy of expenditure and increased production. On the one hand, we must cut down all appropriations to the lowest practicable figure; refuse all frightful subsidies to railroads, steamships, and kindred projects; revise the tariff and tax laws in the interest of labor, and so reform the civil service that the money drawn from the earnings of the people shall not be squandered by incompetent and corrupt officials. On the other hand, the Government, keeping within the scope of its legitimate powers, must remove as far as possible all obstructions to industrial development, and thus encourage foreign immigration, the extension of our railways, the settlement of our western States and Territories, and the profitable exploration of our mines. It is this second branch of my subject, Mr. Chairman, of which I wish briefly to speak; but before I do this, allow me to refer to some very instructive and encouraging facts and figures affecting our condition and prospects as a people.

According to Commissioner Wells, one million natives of foreign countries have permanently settled in the United States from the 1st day of July, 1865, to the 1st day of December, 1868. He says that investigations have been made which show that these immigrants bring with them on an average eighty dollars per head, while their average value as producers is one thousand dollars each. Immigration, then, since the close of the war, has

added eighty million dollars directly, and five hundred million dollars indirectly, to the resources of the country.

Within the last four to five years our cotton manufactures have increased nearly thirty-two per cent. The increase in our woolen manufactures has been much larger.

The product of pig-iron from 1863 to 1868 has grown from 947 tons to 1,550,000 tons, being considerably in excess of that of Great Britain. The product of copper from 1860 to 1867 has increased from 6,000 tons to 11,735 tons.

The product of petroleum during the years 1864 and 1865 averaged 30,000,000 gallons. In 1867 it was over 67,000,000 gallons, and for 1868, up to the 18th of December, it was 94,774,291 gallons.

The product of coal during the past three years has averaged, annually, nearly 18,000,000 tons.

Our lake tonnage in 1866 increased twenty-four per cent.; in 1867, eleven per cent.

Our average monthly consumption of sugars for the year ending November 30, 1868, was 12,061,280 pounds more than during the same period in the year 1867; and our average monthly consumption of coffee 734 tons more than during the same period of the previous year.

The increase in our agricultural products has been not less remarkable. The number of sheep in Ohio in 1868 was 1,274,204 greater than in the year 1865, and it is estimated that the number has doubled within the past eight years. The increase of her hogs from the year 1865 to that of 1868 was 700,000. The aggregate of her corn, wheat, and oats in 1865 was 107,414,278 bushels; in 1866 it was 118,061,911, and in 1867, 141,000,000. The number of hogs packed at the West in 1865-66 was 1,705,955; in 1866-67 it was 2,490,791, and in 1867-68, 2,781,034. The present rate of increase of the crop of Indian corn throughout the whole country is three and one half per cent., and the crop for the year 1868 is estimated at 1,100,000,000 bushels. In the year 1867 Minnesota exported wheat alone amounting to 12,000,000 bushels, which sold at an average of two dollars per bushel, increasing our national wealth on this one article alone twenty-four million dollars; and it is estimated that not over two per cent. of her lands have yet been reduced to actual settlement. I quote these calculations from the late able speech of Mr. WINDOM, one of the Representatives of that State.

Our cotton crop for the past year is estimated at 545,524 bales more than that of the previous year. Our railway extension since the year 1835 has averaged, annually, 1,156 miles. From the year 1865, and inclusive of that year, nearly 8,000 miles have been constructed in the United States, being more than double the annual increase prior to that time. Mr. Wells estimates that the gross earnings of our roads pay for their construction in a little more than four years. The total annual value of all the merchandise traffic on all the roads at present equals seven billion two hundred and seventy-three million two hundred thousand dollars. From 1851 to 1867 the tonnage transportation has increased at the rate of eight hundred per cent., and the actual increase has been 42,480,000 tons. The estimated value of railway merchandise for the past sixteen years has increased at the rate of nearly four hundred millions of dollars per annum. From the year 1858 to 1868 the increase of tonnage on all the roads in the United States has been sixteen times greater than the increase of population.

Within the ten years from 1850 to 1860 our population has increased fifty times faster than that of Great Britain, while the annual expenses of the latter are one hundred and nineteen millions greater than ours. During the railroad era of our country, from the year 1830 to 1860, the increase of our wealth was five hundred and eight per cent. From 1840 to 1860 our

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percentage of increase was two hundred and fifty-six, being more than eighteen times greater than that of Great Britain; and the most remarkable fact must be mentioned, that in the three and a half years following the close of the war we have paid eight hundred millions of dollars of our national debt.

In referring to our railway system it should be observed that according to the best authorities on the subject our foreign immigration increases in the ratio of our railway extension, and that the settlement of our vacant lands, the increase of productive wealth, and consequently of our exports and imports, conform to the same general principle. It should likewise be remembered that railway extension is now conceded to be the best if not the only solution of the Indian problem, and that just so far and so fast as this solution shall be accomplished, the frightful expenditures demanded by our Indian wars will be avoided. According to official documents, the expense of suppressing Indian hostilities in the years 1864 and 1865 was over thirty millions of dollars, and for every dead Indian two millions of dollars were expended. Our Indian troubles for the past six years have cost us one hundred million dollars, and calculations have been made showing that our several Indian wars within the past twenty years have cost us seven hundred and fifty millions. The present current expense of our Indian wars is believed to be five million dollars per week, or about one hundred and forty-four thousand dollars per day. These expenditures are startling, but they will be constantly diminished as our railways are extended, with the swelling column of settlement and civilization which will follow along their lines, fill up our distant borders, and augment our productive wealth.

Mr. Chairman, this encouraging exhibit of our national resources and material development would be wanting in its true value and full significance if not considered in the light of an important reflection which it naturally suggests. In the exact proportion that our wealth increases our national debt diminishes. To have paid our debt of 1865 twenty-eight years ago would have required ninety per cent. of all the property of the United States. But the payment of the debt of 1868 would only require about eight per cent. of our present wealth. The ratio of increase of our wealth from 1850 to 1860 was nearly one hundred and twenty-four and one half per cent.; but assuming that it will hereafter be only one hundred per cent. every ten years, the aggregate of our wealth in the year 1900, according to Commissioner Wells, will be two hundred and fifty-eight billions five hundred and fourteen millions of dollars.

In 1900, therefore, our debt will be only one eighth as great a burden as it is now, or one ninetieth of what it would have been on the property of 1840. A tax of one per cent. would then wipe out the entire indebtedness, while now it requires one per cent. to pay the current annual expenses of the Government. The nation, therefore, in the gratifying growth of its wealth which I have sketched is *growing out of debt*, and growing so fast as to put to flight all apprehension as to our financial future. What it wants is free scope, and the untrammelled use of its resources and energies; and this is forcibly illustrated by Commissioner Wells, in his reference to the removal of the tax on manufactures, which compelled the Treasury to relinquish at least one hundred and seventy millions of dollars, and yet by stimulating the productive interests of the country it accelerated the payment of our debt. It did this, he says, on the principle that the power of contributing to the public revenue increases geometrically as the activity of production and circulation increases arithmetically.

What, then, Mr. Chairman, is the lesson which these facts and figures plainly teach? Do they plead for some marvelous and as yet

undiscovered scheme of finance, to supersede or help along the natural processes which we have seen are so hopefully at work? I have already answered this question. The true financial policy of the Government to-day is that of a Masterly Inactivity, leaving the great forces of industry and trade to do their work, to "uncover our mountains of gold and silver," to build our railways, to multiply the tillers of the soil, and thus to solve the problem of our finances by the creation of wealth. "All that government can do," says Buckle, "is to afford the opportunity of progress; the progress, itself, must depend upon other matters." He asserts, as the general testimony of history, that the best laws that have been enacted in any country are those by which some former laws were repealed; and that while the power of government for evil is incalculable, its power for good, beyond the mere preservation of order and the punishment of crime, is negative only, and simply auxiliary to natural and social laws. All that Congress can do to improve our finances, or speed the payment of our debt, is to remove some of the principal obstructions to the development of our resources, and thus "to afford the opportunity of progress;" and I now come to the discussion of this point.

The first duty of Congress, Mr. Chairman, is to forbid the further sale of another acre of arable public land, except as provided under the preemption and homestead laws. This should be done instantly, and the time is coming when our failure or refusal to do it will be regarded with inexpressible surprise and sorrow. We say to the landless poor man, "Go upon any portion of the surveyed public lands, select your homestead, occupy and improve it, and it shall be yours." But we say to the speculator, "Go also, with the free license of Congress to throw yourself across the track of our struggling pioneer settlers, by buying up great bodies of choice lands, forcing them beyond you into the more distant frontier, or compelling them to surround your monopoly by their improved homesteads, which shall thus make you rich by their toil and at the nation's cost." Sir, such a policy is as financially stupid as it is flagrantly unjust. It has marred and crippled the homestead law from the beginning, rendering it a measure of half-way reform at best. On another occasion I have shown that more than thirty millions of acres, since the formation of the Government, have fallen into the grasp of monopolists, and been consigned to solitude, through the regular partnership which the Government has formed with the speculator to cheat the poor man out of his right to a home, and the country itself out of the productive wealth which these millions might have yielded under the hand of industry.

Sir, why should Congress any longer tolerate this wretched and ruinous policy? The wealth which is to feed our commerce and enable us to pay our debt must be dug from the soil. No man will dispute this fundamental truth. Then, why not dedicate the whole of our remaining rich lands to actual settlement and tillage, and while thus increasing our wealth provide homes and independence for the poor? Our Puritan ancestors, prior to their emigration to Massachusetts Bay, issued a paper in which they declared that "the whole earth was the Lord's garden, and he had given it to the sons of Adam, to be tilled and improved by them." And they asked, "Why, then, should any stand starving for places of habitation, and in the mean time suffer whole countries, as profitable for the use of man, to lie waste without any improvement?" Sir, this question, so earnestly asked by the Puritans nearly two hundred and fifty years ago, still demands an answer, and in the name of the homeless and toiling poor of our land I ask it from the Congress of the United States. The interests of humanity and the development of our resources go hand

in hand, and their joint plea cannot much longer be denied.

During the fiscal year ending June 30, 1868, there were taken under the southern homestead law in the five land States to which it applies 526,077 acres. During the preceding year there were taken 264,480 acres; and up to this date the aggregate amount thus appropriated since the passage of the law cannot be less than a million acres, supplying 12,500 homesteads or farms of eighty acres each, as an addition to the producing power of the South. This was done by dedicating the public lands in these States to actual settlement only, and thus rescuing them from the threatened power of the speculator. The whole number of acres taken during the last fiscal year under the southern and general homestead laws was 2,328,923 acres; and the aggregate quantity taken from the passage of the original act of 1862 to June 30 of last year was 9,500,000 acres, which by this date must have swelled to 10,000,000, being sufficient for 125,000 homesteads of eighty acres each. The settlements under these laws are steadily increasing, and all that is wanting to the full sweep of their beneficent operation is the prohibition by Congress of the further sale of our agricultural lands for speculative purposes, and the absolute pledge of them, in reasonable homesteads, to productive wealth. This, sir, is the great demand of the hour. The widespread mischiefs already inflicted upon our country by a false policy admit of no remedy; but Congress holds the key to the future, in the power to forbid all further obstructions to the settlement and improvement of the public domain. In the exercise of this power the homestead law would grow to its full stature, and have free course in accomplishing the grand work for which it was intended. Speculators and monopolists, having no longer the sanction or encouragement of the Government, would betake themselves to more worthy pursuits. Our foreign immigration, already pouring in upon our shores at the rate of three hundred thousand per annum, would be largely increased, through the motive power of greatly extended facilities of acquiring homes on our vacant lands. Railway extension, the increase of productive wealth, the growth of our exports and imports, and the development of our mines would all be quickened by this practical recognition of democratic equality and national repudiation of the principle of feudalism in these States.

Mr. Chairman, I proceed to notice another serious obstruction to productive wealth and financial prosperity which Congress should at once remove. I allude to our present system of land grants in aid of railroads. The evils of this system have become perfectly appalling, and no real friend of the country can contemplate them and hold his peace. Congress first fairly inaugurated the system some twenty years ago, and although it was originally vicious, it has for years past been constantly growing worse through the addition to it of new features, and the steadily increasing size of the grants. Congress has granted to the different lines of the Pacific railroads alone the estimated aggregate of one hundred and twenty-four million acres. If we add to this the grants made to the several States in aid of railroads and other works of internal improvement it will foot up not far from two hundred million acres. This immense domain has passed into the hands of corporations, and under the terms on which it was granted they hold it as a complete monopoly. They may sell it to actual settlers in moderate homesteads, or they may sell it to a single monopolist. They may sell it for a reasonable price, or fix upon it just such a price as they please. They may sell it to-morrow, or hold it forty years for a rise in price through the enhanced value to be added to it by adjacent settlements. Regions which the Commissioner of the General Land Office fitly describes as of "empire extent," and including vast bodies of

the richest lands in the nation, are placed entirely beyond the power of our pioneer settlers. To the homestead claimant and preëemptor they are unknown, or known only to their sorrow and disappointment. The landless and laboring poor of the Republic, who do their full share in fighting its battles in war, must pay to organized avarice just such a tariff as it may see fit to exact for the privilege of cultivating the earth and adding to the national wealth. The Northern Pacific railway alone has a grant forty miles wide, extending from the head of Lake Superior to the Pacific ocean, and containing forty-seven millions of acres. It is just about equal in extent to the five States of Pennsylvania, New Jersey, Connecticut, Massachusetts, and New Hampshire, while the total grants made to all our various roads and for other works of internal improvements are nearly equal to the entire area of the thirteen original colonies of the United States.

Sir, will any gentleman on this floor defend this national havoc and spoliation? Have we, as the representatives of the people, the right to commit to the tender mercies of monopolists territory enough for a score of principalities and kingdoms? When the nation is groaning under an immense debt can we afford to slam the door in the faces of foreign immigrants and our own people who are seeking homes on our vacant lands, and anxious to coin their labor into national wealth? Mr. Chairman, these are very practical and vital questions, and every passing day gives to them an added interest. Railway extension has become a passion with our men of capital and enterprise, and the demand for land grants meets us now in every quarter, at every turn, and is pressed with unparalleled zeal. There are now pending in this Congress at least fifty bills, asking grants of land for railroads, wagon-roads, and canals, and covering an area of more than two hundred millions of acres. The southern States, so long excluded from any share in these grants, are doing their utmost to make up for lost time. Scores of new bills are sometimes presented and referred in a single day; and judging from the signs of the times, the contagion which has seized Congress, and which threatens the country with general disaster, has only fairly begun.

The remedy, Mr. Chairman, is at hand, and is perfectly simple and easy. Let Congress provide that all future grants of lands in aid of railroads shall be made on the condition, expressed in the act making the grants, that they shall be sold to actual settlers only, in quantities not greater than one quarter section, and for a price not exceeding a fixed maximum. This will effectually destroy the monopoly which else would exist, and while furnishing immediate aid in building the roads will settle and improve the country along their lines, and thus create a local business for their benefit. Such a land-grant policy can honestly be defended, because it harmonizes the interest of these enterprizes with the settlement of the country: and it seems unaccountable that this should not have been seen from the beginning. A bill embodying this reform passed this House at the last session, and I regret, exceedingly, that it sleeps sweetly in the complacent embrace of the chairman of the Land Committee of the Senate, and that by its side reposes another bill, passed by this House about a year ago, opening to homestead settlement nearly five million acres of land in the southern States which for years have been tied up in the hands of rebel corporations, while the homeless poor of those States have longed to occupy and improve them.

Mr. Chairman, the reform of our policy respecting Indian reservations would remove a further and very serious obstacle to productive wealth. Within the past seven years this policy has been thoroughly revolutionized. Up to the year 1860, when any Indian tribe saw fit to relinquish the right to its lands, the uniform practice of the Government was to provide by

treaty for the conveyance of their lands directly to the United States, and they thenceforward became subject to the control and management of Congress, as all other public lands. This was not only the true policy, but it was enjoined by the Constitution in the authority given to Congress "to make all needful rules and regulations respecting the territory or other property of the United States." The Indians have simply a right of occupancy in their reservations, the title being in the United States; and the treaty-making power is not competent to change the land policy prescribed by Congress, but is itself bound by that policy.

The departure from this principle began in 1861, and has been persisted in ever since. One of the most notable examples of this new dispensation was the late treaty with the Cherokee Indians, by which eight hundred thousand acres were authorized to be sold in a body to a single purchaser, at the rate of one dollar per acre, thus completely withdrawing what would otherwise have been a part of the public domain from the control of Congress. The Indians desired to sell to the Government, but were not allowed to do so; and the settlers on the land of course desired to adjust their claims with the United States, instead of the monopolists who bought it. It was a disgraceful transaction, and cannot stand. Another treaty, made with the Great and Little Osage Indians, authorized the disposition of over three millions of acres, in contravention of the homestead and preëemption laws, in derogation of the authority of Congress, and without excuse.

Similar treaties have been made with the Sac and Foxes, the Delaware, the Kickapoo, and sundry other tribes, by which vast bodies of lands which should have been conveyed directly to the United States have passed into the hands of railroad corporations, or individual monopolists; the treaties in these cases providing for the location and building of important lines of railroads in connection with these operations in real estate, as if Congress had in fact abdicated its interest in this branch of legislation in favor of the Senate and the savages. By far the most remarkable of all these transactions is the last Osage treaty, now pending in the Senate. It provides for the sale of a body of land in Kansas fifty miles wide and two hundred and fifty miles long, containing, consequently, twelve thousand five hundred square miles, or eight millions of acres, which, divided by one hundred and sixty, will give an aggregate of fifty thousand homesteads of one hundred and sixty acres each; and allowing every head of a family to represent an average of five persons, it would sustain a population of two hundred and fifty thousand. The territory is nearly large enough to carve out of it three such States as Massachusetts, Connecticut, and Delaware.

And yet the whole of this domain is conveyed by the treaty to a single railroad corporation in Kansas, in utter disregard of the rights of the *bona fide* settlers on it, in defiance of the authority of Congress over our Indian reservations, the moment the right of occupancy is relinquished, and in shameless disregard of the equal rights of other railroad corporations, to the aid of the Government. All this land is sold to this corporation at nineteen cents per acre, on a credit of fifteen years, payable in equal annual installments, and in the bonds of the company; and without any reservation to the State of the sixteenth and thirty sixth sections for educational purposes. To complete this picture it should be added, that this land is among the very finest in the State, and is probably worth at least ten millions of dollars. This beautiful and celestial performance—the blessed progeny of a meretricious union of railroad rapacity with a thieving Indian commission appointed by Andrew Johnson—is now before the Senate for ratification; and judging from the past, and considering the suspicious cover of darkness under which the

Senate acts in such cases, it will be ratified. If so, the consolation will be that the act, having no warrant in the Constitution, will have no binding force. Like the Cherokee and kindred treaties, it will be pronounced void, whenever the question shall be fairly submitted to the Federal courts.

But the policy of these treaties should be reversed at once, and thus avert further and interminable litigation and trouble hereafter. This House has already passed a joint resolution denying their validity, and directing that hereafter no patents shall be issued by the President to purchasers of lands in such cases without first being authorized by law. I sincerely hope the Senate will concur in this action, and thus restore the ancient policy of the Government and the rightful authority of Congress. No man can defend our past action in thus joining hands with monopolists in squandering our great national patrimony, and conspiring against the productive industry of the nation. Our finances, of course, are deeply involved in this question. We have treaty stipulations with about one hundred and fifty Indian tribes; and the aggregate of their lands, according to official statements furnished me by the Commissioner of Indian Affairs, is one hundred and ninety-one million seven hundred and fifty-five thousand two hundred and four acres; being just about equal in extent to the lands granted in aid of railroads. The whole of this immense domain is threatened by the frightful policy now in full blast, and must succumb to the baleful power of railroad corporations and land robbers if Congress shall tamely permit it. If we are ready for this we may as well abolish our General Land Office, with the corresponding committees of Congress, at once, surrendering their functions to the Indian Bureau and its allies; and thus entertain the world with the spectacle of total depravity finally triumphant in an "Indian ring," struggling no longer against obstacles for ascendancy, but in the perfect amplitude of its dominion and the full blaze of its glory. Sir, let us insist upon it that just so fast as our Indian lands shall hereafter be disencumbered of the possessory title by which they are now held, they shall be conveyed to the United States, and fall under the operation of our preëemption and homestead laws; and that the President and Senate have no more power to build railroads and make land grants than has the judiciary to enact laws.

Mr. Chairman, in addition to the legislative reforms I have now mentioned, looking to the increase of production and the resulting improvement of our finances, the nation needs a policy that would more effectually develop our wonderful mineral resources, and thus augment the quantity of our precious metals. This is absolutely necessary to an early return to specie payments; and I have no faith in any financial theory which does not look to gold and silver as the true medium of exchange and standard of value. This is one of the questions which have been settled by the civilized and commercial world, and therefore I need not debate it. I believe a return to payments in coin is a necessity, and an increase in the product of it must, of course, speed the time when it can be done safely. The increase in our productive wealth, at the lowest estimate, is one hundred million dollars annually, while our product of gold and silver is actually on the decline. The disproportion of these metals to other values and to our commercial wants, already startling, is thus in fact increasing. How shall this disproportion be reduced? I believe it may be done, to some extent, by reconstructing our legislation on the subject of our mineral lands. I allude particularly to the clumsy and ill-considered act of July 26, 1866, which was hurried through Congress under the false title of "An act granting the right of way to ditch and canal owners over the public lands in the States of California,

Oregon, and Nevada." The act declares that the mineral lands of the United States shall be open to exploration and occupation "subject to the local custom or rules of miners." These "local rules" are to govern the miner in the location, extension, and boundary of his claim, the manner of improving and developing it, and the survey also, which is not to be executed according to the public surveys with reference to base lines and under the authority of the United States, but in utter disregard of the same. The surveyor general is to make out a plat or diagram of the claim and transmit it to the General Land Office, upon which it is made the duty of that office to issue a patent to the claimant. In case of any conflict between different claimants it must be determined by the local courts, without any right of appeal to the local land office, the General Land Office, or to any Federal court. The act, as I stated on its passage, is an absolute deed of quit-claim on the part of the United States of all right, title, or interest in the mineral lands of the nation, covering a million square miles, and commits them wholly to the disposition and arbitrament of the "local custom or rules of the miners."

The act further gives to every claimant the right to follow his vein or lode, "with its dips, angles, and variations, to any depth, although it may enter the land adjoining, which land adjoining shall be sold subject to this condition." This law, so radically revolutionary of the well-settled and well-understood policy of the nation, rests upon the "local custom or rules of miners." Sir, what are these local rules and customs? I will allow the State of Nevada to answer. An official document, being a senate report to the Legislature of that State on the subject of these local rules, informs us that as "to uniformity there is nothing approaching it. There never was confusion worse confounded. More than two hundred petty districts within the limits of a single State, each with its self-approved code; these codes differing not alone each from the other, but presenting numberless instances of contradiction in themselves; the law of one point is not the law of another five miles distant, and a little further on will be a code which is the law of neither of the former, and so on *ad infinitum*, with the further disturbing fact superadded that the written laws themselves may be overruled by some peculiar custom which can be found nowhere recorded, and the proof of which will vary with the volume of interested affidavits which may be brought on either side to establish it. Again, in one district the work required to be done to hold a claim is nominal, in another exorbitant, in another abolished, in another adjourned from year to year. A stranger seeking to ascertain the law is surprised to learn that there is no satisfactory public record to which he can refer; no public officer to whom he may apply who is under any bond or obligation to furnish him information or guaranty its authenticity. Often in the new districts he finds there is not even the semblance of a code, but a simple resolution adopting the code of some other district, which may be a hundred miles distant."

The report proceeds to show that these regulations, such as they are, have no permanency. "A miners' meeting," the committee say, "adopts a code; it stands apparently as the law. Some time after, on a few days' notice, a corporal's guard assembles, and on simple motion radically changes the whole system by which claims may be held in a district. Before a man may traverse the State, the laws of a district, which by examination and study he may have mastered, may be swept away and no longer stand as the laws which govern the interest he may have acquired, and the change has been one which by no reasonable diligence could he be expected to have knowledge of."

This comes from a great mining State, con-

taining probably the richest deposits of gold and silver in the known world.

Sir, do we really wish to found a system of laws on these "local rules," enacted by a "corporal's guard" of miners, who are here to-day and gone to-morrow? What we want is not to recognize this system of instability and uncertainty, but to sweep it away, and usher in a system of permanence and peace through our system of national surveys. We have our General Land Office, with its local land offices in every portion of the public domain. Registers and receivers are to be found in the very midst of our richest mining regions, charged with the execution of our land laws within their respective districts, and in the very vicinity of the matter in dispute; authorized to call parties before them, hear their statements, take testimony, and determine the whole matter, subject to the reasonable right of either party to appeal to the General Land Office or to the Federal courts. This machinery is as old as the Government, and perfectly familiar to the people. Why abandon it and substitute the local courts, with no right of appeal, as if these tribunals, guided by the "local rules" referred to, were infallible? Why pretend to *nationalize* our mining laws, when in fact the Commissioner of the General Land Office and the Government surveyors are the mere clerks and agents of the communities whose "local rules" are as unstable as water? Sir, the law is not simply imperfect, but a legislative abortion, worthy only of the crooked and left-handed tactics by which it was carried through Congress.

I ought to add that, in thus criticising the "local custom" of miners as the basis of a national policy, I am supported by the best informed men I have met from the mining States and Territories, who scout the idea of applying the word "custom," which implies long usage, to these fleeting and ever varying regulations; and I take great pleasure, in this connection, in referring also to the authority of Mr. R. W. Raymond, editor of the *American Journal of Mining*, who was educated and graduated at Freiberg, Germany, is a mining engineer, and has now in press an able official report as our Commissioner of Mining Statistics on our mineral resources, prepared by direction of the Secretary of the Treasury, after personal and careful observations within the past year.

I will add further, that the provision of this law allowing the miner to follow his vein on to the lands of his adjoining neighbor, and undermine him, is wholly at war with American ideas. The old mining laws of Germany allowed this, but the Prussian code of 1867 adopts the geodetical principle of ownership directly downward to the center of the earth. So do the mining laws of France, as those of England have done from the beginning, while the famous mining codes of Spain and Mexico cannot be quoted as precedents for our statute. The strong tendency of modern legislation on this subject is against the policy on which the United States have embarked, and which must inevitably lead to unending litigation and strife. That such are its fruits in many instances is well known; while the departure from the geodetical system not only has no good reasons to support it, but is made in the face of reasons which render it, as a remedy, worse than any disease it could cure. It is wrong in principle. It offends the first teachings of mathematics and the plainest dictates of common sense. It was framed, I believe, in the special interest of lawyers. The law is vicious also in exacting improvements by the claimant to the value of one thousand dollars as a condition of title. This was evidently provided in the interest of capitalists, and could not have been prompted by the rank and file of our miners. Neither could they ever have sanctioned that feature of the law which requires the miner to pay the fees for surveying his claim, which are

often very heavy, and frequently debar poor men from the benefits of the law, while in the case of other lands, where the fees are trifling, the Government makes the survey.

The practical working of this legislation has been such as any reflecting man would have anticipated. During the year 1866 our product of gold and silver amounted to seventy six millions of dollars. During the past year it was only sixty-five millions, being a falling off of eleven millions of dollars, though the population and settlement of the mining regions has considerably increased within the past two years. That this crude legislation is a partial explanation of this decline in the product of the precious metals I have no doubt, and that its amendment in the points I have specified would add to their future product is equally evident.

Mr. Chairman, I now approach the conclusion of what I desired to say. The sum of it is that beyond the enforcement of a rigid economy, legislation can only lead the country out of its financial troubles by removing the several obstructions to national progress which I have mentioned. We can abolish the curse of land speculation, and devote the remainder of our public domain to actual settlement and productive wealth. A bill providing for this is now pending. We can reform our policy of railroad land grants, so that it shall build roads, and at the same time populate and improve the country along their lines. We can overhaul our disgraceful Indian treaty system, and provide by law that hereafter whenever the title to any of our vast reservations shall be extinguished they shall fall under the control of Congress, and be dedicated to settlement and tillage. And, finally, we can so reconstruct our legislation respecting our mineral lands as more fully to develop their vast wealth, and thus compel them to help efface the existing difference between our paper currency and gold. These, sir, are the four channels through which the swelling tide of our wealth must pour in, and save at once our national finances and our national honor. These are the golden gates through which the Republic must pass, if it would crush out the insidious but steadily growing power of Aristocracy and Landlordism, and secure for itself an honorable name among the nations calling themselves free. Through the adoption of these practical reforms specie payments would be resumed, just as soon as our quickened industries and improved condition would allow. Unprecedented prosperity and wealth would answer to the roused energies of the people and the moral power of equal rights guarded by equal laws. The Old World, inspired anew by our blessed example in checking the growth of feudalism on our soil, would reinforce our grand army of producers by her surplus millions, and thus, as never before, add to our wealth and power.

"See the Old World," says Guyot, "exhausted by long cultivation, overloaded with an exuberant population, full of spirit and life, but to whom severe labor hardly gives subsistence; devoured by activity, but wanting resources and space to expand." On the other hand he describes America as "glutted with its vegetable wealth, unworked and worthless," and argues that it was made for the man of the Old World. "Everything in nature," says he, "points to this great change. The two worlds are looking face to face, and are, as it were, inclining toward each other. The Old World bends toward the new, and is ready to pour out its tribes." And he adds that "the future prosperity of mankind may be said to depend on the union of the two worlds. The bridals have been solemnized. We have witnessed the first interview, the betrothal, and the espousal; so fortunate for both. We already see enough to authorize us to cherish the fairest hopes, and to expect with confidence their realization." Sir, let us legislate in the light

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of these manifest tokens of Divine Providence. Let us, by the justice and humanity of our laws, invite Europe to our shores, and to join us in developing our inexhaustible and unused wealth. Let us reverently accept our part, and faithfully perform our duty, in the grand march of the world's civilization and progress to which we are summoned. Our great Pacific railway will soon be completed, belting the continent with bars of iron, linking in friendly embrace the two great oceans of the world, and placing the United States on the great highway from Europe to China: Our position as a free Republic commands the world, and the hour has struck for us bravely to accept it. If we prove false to our grand trust, and in welcoming the Old World to our shores we welcome also its feudalistic practices, its effete theories of government, our guilt can only be measured by the mighty opportunity sinned away; while the Old World, instead of finding its new birth and baptism on our shores, will be buried in a common grave with ourselves. But if, on the other hand, we are inflexibly true to the rights of man, spurning all compacts with Serfdom and Caste, all the approaches of Aristocracy and Privilege, then the "contrast between the Old World and the New will soon be reduced into a grand and beautiful harmony that will embrace the whole earth."

Indian Affairs.

SPEECH OF HON. W. A. BURLEIGH,
OF DAKOTA,

IN THE HOUSE OF REPRESENTATIVES,

February 9, 1869,

On the subject of Indian affairs in the United States and Territories.

Mr. BURLEIGH. Mr. Speaker, the proper management of our Indian affairs has become so important to the country, and is so imperfectly understood by many members of this House, that I have ventured to bring before this body my views upon the subject.

Since I first entered the Thirty-Ninth Congress we have had no well-defined, settled line of policy for the government of the two hundred and fifty thousand Indians who are scattered over the western third of this continent. For every Indian outbreak there has been a dozen plans of pacification. For every fraud upon the Government there has been as many remedies proposed; for every imaginary and real disorder of this department of the public service a multitude of sovereign panaceas have been prescribed. Congress has been taxed to its utmost for some plan by which a permanent and lasting peace might be secured, the Indians subsisted, and the Federal Treasury protected. And, I regret to say, that from our whole past experience in the management of our Indian affairs little appears to have been learned, and quite as little accomplished in the settlement of this vexed question.

When a scientific physician is called in to prescribe for a patient laboring under disease his first effort is to discover its true character and its cause, in order, if the malady be curable at all, that he may act understandingly and apply his remedial agents for the restoration of his patient. If, on the contrary, the medicine-man be a quack, the character, the cause, the pathology of the disease are entirely neglected, and the batteries of the charlatan's drug-shop are at once leveled at the citadel of life, and the patient, if he survives the disease, does so in spite of his doctor.

Now, Mr. Speaker, I do not mean to accuse any member of this House with being a quack, professionally or otherwise, for I believe that every one here has done the best he could, with the knowledge he possessed, to settle our Indian troubles. I believe Congress has acted with the utmost wisdom so far as it has had accurate information to guide it; but, sir, there has been a sad deficiency and want of actual

practical knowledge regarding our Indian tribes, their habits of life, their customs, the relations which they sustain to each other, and to the white population which surround them, and with whom they are thrown in contact.

Let us go back a few years and review a little of the past, for by this light we may better judge the future.

For a whole generation, at least, our country has been agitated in all its ramifications, civil, political, social, and religious, by an undue concern for the African race, not an indigenous, but an imported race, brought hither by our fathers for reasons which the circumstances, if not the nature of that degraded people, seemed to suggest and approve. The admitted evil of domestic servitude, the motive of this compulsory immigration, and all the wrongs and cruelties incident to it, have not yet settled the great question of the primary right and beneficial effect of the movement. It is for a future age to solve the problem whether slavery, as it has existed in the United States, has not been under the guidance of an overruling Providence, the most efficient and benevolent, if not the only practical mode of raising the African from abject barbarism to the enlightenment of civilization and the healing influences of Christianity.

The abstract wrong of the institution, however, has been sufficient to enkindle all our ideas of freedom, crude and unsound as they too often have been, into a flame of discordant action, which has threatened the peace of the nation, the commercial and social welfare of the people, the benign purpose of the church, the administration of public affairs, the very stability of the Government, and the disruption of every social bond. The issue of the "irrepressible conflict," although nearly completed, still leaves in our bosoms a feeling of solicitude for the future, while we boastfully rejoice at the present measure of our success. But, sir, there is an interest of greater moment, involving mightier considerations and more dreadful responsibilities which imposes upon our Government and our people more serious obligations than were ever demanded by the enslaved condition of the African race among us. This interest, notwithstanding its paramount importance, and its constant and accumulating claims upon us, has, from the very settlement of the country, been practically overlooked or neglected or tampered with, or perverted, from considerations of temporary policy, or from the basest and most sordid and sinister motives. Jefferson's famous exclamation that in view of the injustice of African slavery this nation had occasion to tremble at the justice of the Almighty has a twofold significance when applied to the glaring injustice which the aborigines of this country have received at the hands of our people. True, there are many noble private examples of religious and moral regard for the Indians, who were the primitive and rightful "lords of the soil." Christianity and benevolence have from time to time devised the worthiest and, so far as human foresight could reach, the most practicable schemes for the amelioration of the miserable condition and for the advancement of these "sons of nature."

I think it must be admitted that the policy of the Government toward them has not been wise or humane. Its professions, to our shame it must be said, have been merely nominal. The fate of the poor Indians, from the origin of our contact with the race to the present hour, illustrates the truth of the adage that wise and good professions may exist with cunning and cruel practices. Private enterprises, however well devised and zealously pursued, have failed of success through the demoralizing influences of public faithlessness and wrong doing, until the public sentiment has settled down upon the unchristian and inhuman hypothesis that the Indian tribes are doomed by their Creator to extermination from the face of the earth, in the midst of their ignorance

and barbarism, and before the very eyes of a people who pride themselves upon their peculiar enlightenment, and who boast of an especial mission to "extend the area of freedom," and to fill the world with the truest ideas of an exalted humanity and the highest standard of Christian civilization. The hearts of our people have become callous under the hardening influence of this misguided theory. The continued dropping of falsehood and deception have worn away the faith and extinguished the hopes of the sincere friends of the Indian. The fatalism with which we regard the race and the arrogance of our cherished theory of "manifest destiny," have afflicted us with a fatal blindness and deafness as to the real condition of this people, and the loud calls upon humanity and justice in their behalf. Who now so bold as to lift up his voice in defense of the just claims of the American Indian, once so full of the enjoyments of the natural rights of man? Where are his advocates; where the societies organized to redeem him from the bonds of public injustice and the cruelties of private rapacity? Where are the orators, the lecturers, and the editors to "cry aloud and spare not" in the exposition of his wrongs and the denunciation of his oppressors?

The cruelties of African slavery are tender mercies when contrasted with the hardships endured by the Indians under the nominal protection of our laws. The chains of domestic servitude are silken threads when compared with the fetters which hold the Indian in brutalizing bondage. African slavery has passed away; its foul blot upon our nation has been washed out in the best blood of the land. May we not now indulge in the hope that the time has come when the national conscience may be awakened and the public sentiment aroused to the obligations which rest upon us to protect the remnants of the scattered Indian tribes which still linger among us, and advance them as far as possible in the arts and comforts of civilized life? We owe them a debt which, do the best we may, we can never fully discharge. Our treaties with them are full of unredeemed pledges. The demands of public faith and justice and the dictates of common humanity alike require that this subject be no longer delayed.

We have driven the Indians from their homes without compensation and without mercy. We have wrested from them the title to their lands by pretended, or at least ostensible purchase. We have withheld the payments until they were comparatively valueless, or refused them altogether upon unfounded pretexts. We have paid them in depreciated currency, when we agreed by solemn treaty to pay them in gold and silver; we have paid them in worthless trash, when we promised them the money for their lands; we have defrauded the Indians in the fulfillment of our stipulations for their clothing and food and their agricultural, mechanical, and educational advancement; we have failed to afford them our promised protection against the worse than barbarous whites which infest their settlements; we have hunted them down and murdered them like wild beasts of the forest; and, what is worse than all these, our people have polluted every tribe in the land by poisoning the very fountain of life from which the Indian springs with the most loathsome of diseases, more poisonous and destructive to the race than the sting of the scorpion, the bite of the serpent, or the leprosy of old; we have, in a word, violated every feature of our pledged faith in regard to them, and have seen them degenerate, suffer, and perish under our positive oppression or cruel neglect, while we have held them to the severest accountability for all the pledges of obedience and good behavior which we have extorted from them in our treaty negotiations. Our official records will fully substantiate all these allegations, disgraceful and humiliating as they are to our national pride and honor.

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Let us go back for a few years and review some of our Indian transactions, and see if we cannot discover a rational cause for our past and present Indian difficulties. The whole country has been shocked with the reports of Indian wars and outrages. Let us look back and see if the sin or any part of it lies at our door.

The Creek treaty, the first in magnitude and importance under the removal system, was justly charged with being negotiated without the authority of the Creek nation. Mr. Benton, who in his published memoirs has elaborately considered the subject and was scrupulously anxious to screen the Government from imputations of injustice, says:

"The treaty was adopted as an act of justice to the South. The rights and the welfare of the Indians were minor considerations."

Justice to the South was a concession, without regard to public justice, to the demands of Georgia and other southern States who coveted the rich lands then in rightful possession of the Indians for the avowed purpose of extending the area of slavery. Mr. Benton calls it a southern question, and lauds the magnanimity of the northern men by whose votes the treaty was carried in the Senate. The removal of the Indians from the southern States at that time nearly or quite doubled the area of slavery.

The Creek treaty was signed at Indian Springs in 1825; McIntosh, a chief without due authority, being the principal negotiator on the part of the Indians. He and the chief with him, who was foremost in making the treaty, were justly execrated by the disaffected party of the Creek nation as soon as the existence of the obnoxious instrument became known. The disaffected Indians were open and bold in their opposition to the treaty, and determined upon forcible resistance to the execution of it. Georgia resolved, without waiting for the action of the General Government, to take forcible possession of the territory ceded by the pretended treaty. John Quincy Adams, who was then President, became satisfied that the treaty had been made without due authority and that its execution ought not to be enforced. He interposed the power of the General Government, therefore, and sent General Gaines with Federal troops to Georgia to arrest the proceedings, and finally assembled the chiefs and head men of the tribe at Washington and concluded a new treaty, which annulled the first one and changed some of its features most objectionable to the Indians. This second treaty was carried in the Senate with considerable difficulty, being opposed by the southern Senators, who objected to the clause which amended the McIntosh treaty on the ground that it implied a censure upon its authors.

This second treaty, however, was anything but satisfactory to the Creek nation; but being ostensibly concluded by authority, was submitted to—as such treaties are generally submitted to on the part of the Indians—as a necessary evil. It was obtained as Indian treaties usually are obtained, by fraud, the foulest bribery having been resorted to achieve the inglorious triumph. Out of \$217,600, the amount stipulated to be paid to the Creek nation immediately after the ratification of the treaty, the modest sum of \$160,000 was by secret agreement to be retained as a private fund and divided among the chiefs, or certain of them who had negotiated the treaty. The discovery of this fraud was made after the treaty was ratified and before the appropriation to carry it into effect was made. Measures were taken, but whether they were ever carried out or not is unknown, to defeat the fraud by making a distribution of the corruption fund among the Creek nation. He must be an inveterate confidence man who believes that this was ever done.

Again, the treaty under which the Cherokees were removed from Georgia and Alabama was

a still more glaring instance of injustice. Its history is a foul blot upon the annals of our Government. From its inception to its consummation it was a monstrous fraud upon the Indians.

If nations under a just Providence are to be rewarded or punished in this world according to their deeds—and we have no authority in Revelations or reason for presuming upon national accountability in a future state—we may regard all the massacres, outrages, troubles, and expense which have been entailed upon us by our Indian policy as but insignificant items to our credit in the retributive account which must sooner or later be made up between us and the red man.

The Cherokee treaty was concluded at New Echota, in 1835, notoriously without authority on the part of the Indians. The chiefs who negotiated it, or, to speak more plainly, from whom it was extorted, were few in number and not recognized as such by their people, but acted without authority and in direct opposition to a vast majority of the Cherokee nation. The treaty conceded to us about eleven million acres of the best land in Georgia and Alabama, then held by this semi-civilized people, and to a great extent cultivated by them. The consideration was merely nominal. Every student of American history must remember the excitement which this treaty produced throughout the country and the influence it exerted upon our national politics. When the treaty was presented in the Senate Mr. Clay offered a protest against its ratification, and to adopt in its place this resolve:

"That the instrument purporting to be a treaty concluded at New Echota between the United States and the chiefs and head men of the Cherokees was not made and concluded by authority of the Cherokee nation competent to bind it, and therefore the Senate cannot consent to advise the ratification thereof."

The treaty was confirmed, however, after a long discussion—by a strict party vote and by a majority of one only—unjust and fraudulent as it was. Its execution was decreed and insisted upon by the Government in spite of the continued remonstrance and determined opposition of a vast majority of the Cherokee nation. This majority maintained that they were not in any manner bound to the fulfillment of the treaty to which they had never assented, and resolved that they would not remove from their country in compliance with its stipulations, if it were possible to avoid it. Government decided to effect the removal by force, if necessary, and Georgia raised a large body of volunteers to aid in the ignoble design. General Scott was ordered to New Echota to accomplish the removal, peaceably if possible, but at the point of the bayonet if need be. The inflamed and greedy volunteers were already on the ground, with claims in their pockets for the land, which had been divided in advance between them by a sort of lottery. A gentleman who was in Georgia at the time, and had an opportunity to hear General Scott freely express his sentiments upon the subject of his mission, was curious enough to reduce his remarks to writing immediately after they were uttered. The memory of General Scott deserves that these words should be made public; they were literally as follows. He said:

"I am charged with the execution of the treaty with the Cherokees, by which they are to remove on the 23d of the present month, (May, 1837.) I am to cause the treaty to be carried into effect and the Indians to remove, peaceably if possible, but forcibly if necessary. I shall make the bayonet the very last resort, and shall consider it very unfortunate for the country if blood is shed in enforcing the treaty. Georgia, Alabama, South Carolina, and Tennessee are impatient for the execution of the treaty, but it must be remembered that there are twenty-two other States in the Union, and the whole Union is committed in this thing. If there be butchery in the business depend upon it there will be a cry of horror throughout the country. It will be a stain upon the annals of our country—a damning disgrace. There is a very strong feeling in a large portion of the country of injustice in compelling the Cherokees to

remove under this treaty, and I repeat it, should there be butchery in the matter we shall be damned to everlasting fame in a large portion of the country, in Europe, and throughout the civilized world, in song, in poetry, in oratory, in the pulpit, and in the lasting records of history; and who would wish to connect himself with such infamy?"

The treaty was made by about three tenths of the Cherokee nation and seven tenths are in opposition to it and will not go until they are carried away. The President says the treaty is the supreme law of the land, and Congress says so, too, and it is not for me, a soldier, to disobey their orders in regard to it."

Those who had been the active parties in making this treaty were already on the ground, "with their patents in their pockets," "eager to seize the land." The cupidity of our own people, aided by the strong arm of Federal power, had conceived and completed this wholesale act of robbery upon these poor Indians. With the Cherokees and kindred tribes about this time our wholesale system of national rapacity toward this people was thoroughly inaugurated. These and kindred acts of disgraceful injustice were construed by many of our people into a national license to the commission of every act of cruelty and wrong toward the whole Indian race, and from that time to the present has served as a pretext or excuse for any and every act of fraud toward this people. But, sir, the enormity of this great crime on the part of our Government was followed by others of a similar nature. Old treaties were abrogated by the arbitrary and despotic mandates of Federal authority, and new ones prescribed and forced upon the poor Indians at the point of the bayonet whenever their lands were wanted and the Indians refused to surrender their right to them peaceably.

By the treaties between the Government and the Creeks of 1790, 1796, 1802, 1805, 1814, 1818, and 1821, the United States, by its commissioners, guaranteed to the Creek nation the perpetual right to all the lands occupied by them in the State of Georgia. In the ratification of these treaties, the Senate of the United States, as a part of the treaty-making power of the Government, indorsed the bond and affixed its seal to it. The House of Representatives gave its sanction by making the necessary appropriations to carry each of these successive treaties into effect. By these negotiations the Government not only bound itself to secure to the Indians the peaceful and undisputed possession of their lands, but obligated itself to protect them in their full and free enjoyment. (See Statutes-at-Large, vol. 7, page 35, articles five and six of treaty.) And not only this, but they guaranteed them full and ample protection against the rapacity of all white intruders who should attempt to invade their country.

By seven solemn treaties with the Creeks, by eleven equally solemn negotiations with the Cherokees, and as many more with the Chickasaws and Choctaw nations, between the years 1785 and 1825, the Government of the United States, in consideration of the cession of a part of their territory, guaranteed perpetual possession and perfect security in the enjoyment of their rights. To these Indians national faith was pledged, and as often broken. National guaranties of security were given to the Indians without the intention of keeping faith. A system of robbery, rapine, and murder was here inaugurated by Federal sanction and by Federal action, which has resulted in degrading, brutalizing, and annihilating the Indian race.

But there is another example still more striking than these. In the darkest hour of our revolutionary war with Great Britain, when our forefathers were struggling for life against the gigantic power and vast resources of the mother country, the proud mistress of the ocean, a flickering ray of hope was shed on the gloom overshadowing their cause by two treaties of alliance made with the United States, one on the part of France and the other on the part of the Delaware nation, both of them concluded with great solemnity and ratified by acts of Congress in 1778. Great Britain had

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subsidized the Six Nations, the Mohawks, the Iroquois, and other tribes, and armed them to aid the troops of the Crown in their efforts to defeat the colonial forces. The emissaries of George III had circulated reports among the Indian tribes that the United States designed to extirpate the Indians and take possession of their country; and it was necessary to pledge the faith of the Government to the Delawares by that solemn treaty so as to arrest the disasters of the war and secure the aid and cooperation of that powerful nation. On the 17th of September, 1778, said treaty was concluded at Fort Pitt under the title of "Articles of agreement and confederation," made and entered into by Andrew and Thomas Lewis, esqs., commissioners for and in behalf of the United States of one part, and Captain White-Eyes, Captain John Kill-Buck, jr., and Captain Pipe, deputies and chief men of the Delaware nation of the other part. By this treaty all former offenses were mutually forgiven, and perpetual peace and friendship declared to subsist between the United States and the Delaware nation from thenceforth through all succeeding generations; a perpetual alliance, offensive and defensive, declared; an engagement on the part of the Delawares to aid the United States by furnishing their best and most expert warriors; to permit the United States troops to pass through the lands of the Delaware nation; to supply the colonial troops with corn, meat, horses, and everything else within their power. And in order that the old men, women, and children of the Indians should be protected while their warriors were battling for their own liberties and the liberties of our fathers, the United States agreed to build a fort to shelter and defend them against the dreaded attacks of the Mohawks and the Six Nations, and garrison it with United States troops if any could be spared.

The fourth article provides for the administration of justice by impartial trials before judges or juries of both parties, according to the laws, customs, and usages of the contracting parties, and for the surrender and delivery of criminal fugitives, servants, and slaves escaping from the respective States of the Delaware nation and the United States.

The fifth article declares that the confederation entered into by the Delaware nation and the United States renders the Indians dependent on us for clothing equipments, and munitions of war; to provide for which an Indian trading agent is to be appointed by the United States, with an adequate salary, whose chief aim is to be the advancement of the mutual interests of the confederating parties.

The sixth article recites that—

"The enemies of the United States have endeavored by every artifice in their power to possess the Indians in general with an opinion that it is the design of the States aforesaid to extirpate the Indians and take possession of their country; to obviate such false suggestions the United States do engage to guaranty to the aforesaid nation of Delaware and their heirs all their territorial rights in the fullest and most ample manner, as it hath been bounded by former treaties, as long as they, the said Delaware nation, shall abide by and hold fast the chain of friendship now entered into. And it is further agreed on between the contracting parties, should it be found conducive for the mutual interest of both parties, to invite any other tribes who have been friends to the interest of the United States to join the present confederation and to form a State whereof the Delaware nation shall be the head, and have a representation in Congress."

By the law of nations this treaty bound the United States to protect the rights thus guarantied to the Delaware nation. The territorial right of eminent domain to a State as large as Pennsylvania was expressly conceded to the Delawares as a nation by this treaty. It was under these promises and guarantees that the most expert and best warriors of that nation went forth to battle for the cause of liberty for themselves and our forefathers. Many of the best scouts were drawn from the warriors of the Delawares. Six hundred effective warriors were furnished General Washington by this

devoted tribe during one season. The United States and the Delawares were both fighting on the same issue—for independence of the British Crown and of all the world. The brave warriors of the Indian nation fought our battles; the tribe supplied our troops with food and horses; we paid them in continental money, unredeemed specimens of which remain among the Delawares to this day; the war of independence closed with a halo of glory; the celebrated Delaware chief, Hengue Pushees, had won the rank of lieutenant colonel for his courage, daring, and efficiency as a scout. He was gratefully thanked by General Washington for his invaluable services in the war of the Revolution; and this red hero, with his brave followers, went home to their wigwags to prepare for the admission of their State into the Union.

Where are they now? Alas! their braves are no more; their hearts have been broken by our ingratitude, by our base refusal to keep our treaty stipulations. On the 21st of January, 1785, (see *Indian Treaties*, page 16,) they are removed with the Wyandotts to Ohio and Indiana; this is to be the new State promised them. On the 9th of January, 1789, (page 28,) a part of the land ceded is taken away; on the 3d of August, 1795, (page 49,) many other Indian tribes are placed on the Delaware lands; in June, 1803, (page 74,) their boundaries are diminished; on the 18th of August, 1804, (page 81,) they surrender more of their lands; on the 4th of July, 1805, (page 87,) a new boundary is established, and on the 21st of August, 1805, (page 95,) the Delawares release to the United States a portion of their lands; on the 30th of September, 1809, (page 113,) another cession is made to the United States, and the United States commissioners pretended that the lands allotted to the Delawares and Wyandotts belonged to the Miamis; on the 22d July, 1814, (page 118,) the war with Great Britain induced us to make a second war treaty with the Delawares to procure their aid, and to make a second faithless promise to establish the boundaries of their lands forever; on the 8th of September, 1815, (page 131,) the United States recognized the fidelity of the Delawares in taking up the tomahawk and going on the war-path in defense of their unselfish allies, of the pale faces; on the 3d of October, 1818, they ceded all their lands in Indiana, the Ohio lands having been ceded before; they removed to the White river in Missouri and Arkansas, and on the 24th of September, 1829, (page 326,) they are removed to the lands between the Kansas and Missouri rivers, and a broken fragment of the nation that had gone to Cape Girardeau, in 1793, where they had received a grant from the Spanish governor for lands west of the Mississippi, was also driven west of the Missouri into Kansas. But they are to hold these Kansas lands forever; this was to be their last removal; the boundaries were fixed by two large rivers, and the other two lines made the square complete which they were to hold forever. They were now happy; they had made great progress in agriculture and manufactures, in the raising of horses, sheep, and cattle; and another fragment of the nation had been removed from a fertile, beautiful tract of land on the Sandusky river to a permanent home in Kansas, under the promise that the Delaware nation should thereby be united under one head, and that thirty-six sections of land should be appropriated for the establishment of schools for the education of the Delaware children.

Where are these brave Delawares now? They have been driven from this last permanent home down near the Canadian river, and a pitiful tract of eighteen miles square is all the territory that remains for this once mighty nation which was to form a State; to have representation in Congress; to hold the vast lands held by them in 1778 by fixed boundaries as an independent State. That pitiful tract of eighteen miles square of land would hardly furnish sepulture for the heroes of that nation

who have sacrificed their lives in battle in two great wars, and for the martyrs of that nation whose blood has been shed and whose hearts have been broken by the tyranny, ingratitude, and cruelty of this magnanimous Government, whose Christian mission has been proudly proclaimed to the world to be to protect, nourish, cherish, civilize, educate, and defend these wards and pupils of American civilization! With the history of this Indian nation before us, these friends of William Penn, these allies and soldiers of George Washington, these allies and soldiers of General Harrison, will not be disturbed in their new home until some adjoining marauding band of pale-faced robbers covet it and apply to the Government of the United States to further protect, cherish, and befriend their ancient allies, the Delawares, by driving them back to the waste of the American desert, where they will perish of hunger and furnish a poor repast for the prairie wolves!

The Government of the United States will sooner or later be called upon to answer for these crimes against humanity—not before the executive department, which has been instrumental in negotiating these treaties; nor before the Supreme Court, whose decisions have unjustly taken away the protection of treaties and of the Federal Constitution from these children of the Republic; nor before the Senate, where all these unjust treaties have been ratified; nor before the House of Representatives, which has appropriated all the means necessary to carry them into effect, and the blood-money also for the extirpation of this people whom we had agreed to protect; but at the bar of Eternal Justice, where the spirits of the warriors and chiefs of these nations will stand the equals of the Presidents, judges, Senators, and Representatives of our people, and receive judgment on this long indictment—a judgment that shall direct an execution too terrible to be recorded, and without which the awful retributions of Divine Providence could not be sustained.

The confiding Indians believed in the sincerity, the lasting good faith of the Government when they made these first treaties. I now ask this House and the nation if their loss of all faith and confidence in this Government and its people is not as just as it is here easily accounted for? Every one of these treaties were made with the most solemn assurances on the part of the Government that all of their provisions should be fulfilled, knowing at the same time and intending, without even suggesting it to the Indians, that they were to be violated by this moral, Christian nation, whenever a profitable opportunity should present itself.

I have dwelt thus long upon the dealings of our Government with the Indian tribes of the country to show that our past and present wars and disturbances with these people are justly chargeable to heartless usurpations, national bad faith, and cruel treatment toward them, and not to the faithlessness of a few Indian agents, about which we have heard so much of late;—especially from the chairman of the Military Committee of this House, who appears to be the champion of the measure which proposes to turn the management of all our Indian affairs over to the War Department.

Never before were such insignificant causes assigned for such terrible consequences. A nation scourged with war, robbery, and murder for three fourths of a century, for the crimes of an exceptional few of its people, while the most flagrant wrongs are allowed to go unpunished.—Who so unmindful of the teachings of history, who so blind to the dealings of God with the nations of the earth, as to believe that the terrible war, the fiery trials, the fearful carnage, the wide-spread desolation, and all the horrors from which our nation is now emerging, crippled, impoverished and demoralized, have been caused by the cruelty a few hard task-masters to some of the four millions of poor down-trodden slaves, whose

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shackles and chains, if not literally riveted upon them, have been sanctioned by the Federal Government and recognized by the Constitution and laws, from the first dawn of our national existence.

It was for this and other national crimes, and not for the sins of a few task-masters, that the Almighty poured out these vials of divine wrath upon us. Let us not further provoke that wrath; let us commit no more murders, robberies, crimes, and outrages upon these original lords of the land we inhabit; let us turn from the evil of our ways, repent of these our national sins, and restore to these oppressed and suffering children of our "Father who art in heaven," the rights, privileges, and immunities to which they are entitled by every consideration of justice, equity, humanity, and law. As well might the student of sacred history attribute the destruction of Sodom and Gomorrah by fire from heaven to the negligence of the keepers of their city gates; the overthrow of Pharaoh and his host in the Red sea to the occasional cruelty of Egyptian task-masters toward the Jewish bondmen, or the destruction of Jerusalem, "that killest the prophets and stonest them that were sent unto thee;" to the disobedience by the Jews of the Mosaic law forbidding the use of fire on the Sabbath, as for the people of these United States to delude themselves with the belief that our recent national calamities and sufferings as well as our present unjust and fruitless Indian wars, with all of their accompanying horrors, are not a just visitation and punishment from the Almighty for these national sins against the black man and the red man, who were committed to our care and protection by Him who ruleth not only the world and all that therein is, but the wide empire of creation.

It was the violation of the laws of humanity, the laws ordained of God for the preservation of the human race, to break the bonds of sin and elevate the souls of men, that has in all ages drawn down his vengeance on guilty nations. In the exercise of this divine retributive justice we see by the light of history such exhibitions of His irresistible power, of His unfailing justice, and of His eternal judgments, that I tremble in view of the terrible record of my own nation, which must be judged before "the high court of Heaven."

Where are the Assyrians, the Egyptians, the Persians, the Greeks, and the Romans? Where are the cities of Babylon, Nineveh, Tyre, Thebes, Jerusalem, and Tadmor of the wilderness? Rome, once the mistress of the world, captured savages from the Briton and the German tribes, more barbarous and untutored than our own, and used them to grace her cars of conquest and furnish combatants in the arena of the Coliseum, where they were matched in deadly strife against their fellow-savages or ferocious beasts of prey. Where are the descendants of these savages now? Where are the descendants of their Roman oppressors?

Are we imitating the examples of the pagan Romans? We do not capture our red brethren and exhibit them in mortal combat with each other or beasts of prey in our public theaters and parks for the amusement of the populace, but we are, and have always been, engaged in robbing them of their lands, in degrading, murdering, and exterminating them without regard to age or sex. This is the direct effect of the past and present Indian policy of this Government. While the Christian philanthropists are offering up their supplications and making every effort to send the gospel to distant heathen lands, there are to be found not only self-styled philanthropists and professed Christians, but ministers of Christ even who openly advocate the extermination of their Indian brethren with the same tongue that preaches the divine doctrines of love to our neighbor and "peace on earth and good will toward men."

These shameful transactions have not been confined to the poor Creeks, Cherokees, and Delawares alone, but they have extended to every tribe in the country which is under the control of Federal authority, and the man who cannot see other and more potential causes for our Indian wars than the dishonesty of agents, of which we have heard so much of late, is as ignorant of their true cause as he would be of the contents of a volume by the character of its binding. I tell you, sir, it is for the sins of the nation, for its cruelty to these people, that we are, and have been for years, atoning.

The failure of Congress to make timely appropriations, and the holding back of supplies, has done much to irritate the Indians, who, in many instances, have starved and frozen to death on account of the delay in their delivery. The failure of the Government to afford protection to their lives and property upon their own reservations, where they have been guaranteed perfect security and uninterrupted tranquillity, has also had its influence in destroying the confidence of the Indians in our sincerity. But, among other existing causes for our troubles, there have been unprovoked, cold-blooded murders of peaceable Indians by roving adventurers in the West, and the indiscriminate slaughter of individuals, families, and whole camps even, by the Federal soldiery; to a few instances of which I will call the attention of the House.

An outrage so horribly cruel as to exceed almost the bounds of belief was committed upon the Indians at Fort Kearny in 1866. The facts were substantially as follows: two young Indians belonging to a party of Cheyennes were sent to the road to beg some tobacco of the driver of a mail wagon. The driver fired upon them, whereupon one of them, as the Indians themselves afterward said, "being a fool and mad," shot an arrow and wounded the white man. The chief of the Cheyenne party, on seeing this, ran out with others to the protection of the mail driver, and punished the young Indian who had shot the arrow by whipping him according to the Indian laws. But this whipping did not wipe out the Indian boy's offense. An "Indian outrage" must, of course, be made out of the case and the military be called upon to avenge it. The next day, accordingly, the troops from the fort valorously sallied forth and attacked the Cheyenne party, who refused to fight them and ran away, leaving their horses, bows and arrows, and robes in camp. Six young braves remained behind to make something like a formal surrender. They went up to the soldiers, threw down their arms, and held out their hands in sign of submission, and were mercilessly shot down in cold blood when only a few yards from the troops.

During the summer of 1864 some bands of Sioux were encamped within six miles of Fort Laramie. They were regarded as friendly Indians, and were on terms of friendship with the officers of the fort. A man from a neighboring tribe, whose relations had the year before been slaughtered by the troops of the fort, happened to be among these bands of Sioux. Some Mormon emigrants passed by the Indian camp, and a cow escaped from them and ran toward the Indian village. The Indian whose relatives had been killed, by way of revenge for the loss, killed the cow. Complaint was made at the fort, and the chiefs, on being called upon, said they would see that reparation was made for the damage which had been done. But this was not satisfactory to the commanding officer. He detailed a brevet lieutenant with a company to arrest the Indian. The company proceeded to the Indian camp with two pieces of artillery. Demand was made of the chiefs; but the offending Indian said to them:

"I have taken a lodge here. I am willing to die; you have nothing to do with the matter; the responsibility is not upon your people, but upon me alone."

This remark was no sooner made to the lieu-

tenant than he fired, killing one man and crippling the principal chief. The chiefs rallied and exhorted the men to commit no outrage. Their influence controlled the action of the Indians; but a drunken interpreter excited the lieutenant and caused him, perhaps, to fire his cannon. The next thing was the sounding of the war-whoop, and the lieutenant and some of his men were killed. The others ran and were pursued by the Indians, and every man of them was slaughtered.

Who will say, reasoning from analogy and common sense, and especially from a philosophical view of Indian character, that the whites were not to blame in this case? And yet, concealing or distorting the facts, the ears of the public were made to tingle with the report of "another Indian massacre," and an official announcement from the War Department deluded the Government and people into a belief that the affair was an ambush and part of a deliberate plan on the part of the Indians to massacre the troops and plunder the fort.

I will now cite another glaring case of injustice toward the Winnebagoes, a tribe of Indians formerly located in that portion of the northwestern territory which is now embraced within the State of Wisconsin. Our first treaty with these Indians was in 1816; since then we treated with them in 1829, 1832, 1837, 1848, and 1855. In 1862 we find the Winnebagoes located upon a beautiful reservation in the State of Minnesota, where they were prosperous and happy, many of them having acquired a practical knowledge of agriculture and the mechanical arts. Their treaty of February, 1855, had guaranteed to them a permanent home on a reservation eighteen miles square, and a large sum of money. There they had erected their houses, opened their farms, and remained perfectly peaceable. It was at this time that the Sioux outbreak took place in that State, but the Winnebagoes remained steadfast to their treaty obligations. But their time had again come. Their reservation, their lands, their homes were demanded by the people of Minnesota. The permanent homes which the Government had guaranteed to them must be abandoned. Their attachment to the graves of their fathers and friends availed them not. The Government assented; it lent its aid to forcibly violate its own solemn treaty with these friendly Indians, and without the least valid excuse forced them from their comfortable homes to a barren and inhospitable country five hundred miles westward on the Missouri river. There hundreds of these friendly Indians died from exposure and starvation. When sickness and suffering compelled them to seek the settlements for succor they were forced back by military power over stones and ice, marking their trail with the blood that trickled from their lacerated feet.

I have seen among these same friendly Winnebagoes, while thus persecuted by the sanction of the Government, the starving infant struggling with fretful cries at the breast of a dying mother to draw the warmth of life from those nipples chilled and milkless under the embrace of death. Hundreds of these people died then, and their bones are bleaching upon those inhospitable plains as monuments of foul disgrace to our nation, by whose oppressive policy these innocents have been destroyed.

But all of these atrocities pale into insignificance before those committed upon the Indians of California, Oregon, and Washington Territories on the western slope.

The massacre by Chivington at Sand creek, in Colorado, by which hundreds of men, women, and helpless children were butchered in cold blood, is another striking instance of our cruelty.

During the massacre in Minnesota, in 1862, several white women and children were taken captives and carried to the Upper Missouri. Through the interposition of Colonel Gulpin and a number of friendly Sioux, who exchanged

their own horses for them, two women and five little girls were ransomed and returned to their friends in Minnesota. The Indians who had performed this act of humanity traveled down to the Yanceton agency, a distance of four hundred miles, where they were to be reimbursed for this act by the Government. Week after week passed away, and neither clothing nor food came to the relief of these faithful friends. Despairing of early relief, one morning ten of their number came to me for a letter, stating who they were, and obtained permission to go out and hunt for the support of themselves and families. The third morning out, and when on Ponca creek, about twenty miles back of Fort Randall, which post was then garrisoned by the sixth Iowa cavalry, a Captain Moreland, in command of some twenty men, overtook them. They presented him with the letter I had given them for protection, whereupon the captain requested them to leave their arms and go with him to the fort for food. The Indians obeyed, but had not proceeded eighty rods when the brutal captain ordered his men to fire upon the Indians, who were in advance, and murdered nine out of the ten in cold blood on the spot. The tenth member of the party escaped and bore the horrible tidings of this damnable tragedy to his kindred far up the Missouri, while the bones of his comrades still remain on that fatal spot to chronicle the foul deed and point unmistakably to the cause of the Sioux war which followed with fearful and just retaliation, and cost the Treasury of the nation more than \$30,000,000 and the loss of hundreds of innocent lives.

These and other outrages of a kindred character, added to the causes heretofore named, are the source of all our difficulties with the Indians of this country, while most of the tribes located on reservations with annuities, and under the control of agents, have remained peaceable and friendly in spite of the oft-repeated declaration that the dishonesty of these agents has been the sole cause of our difficulties with the people. The only Indian tribes that have been properly protected in the peaceable possession of their reservations since the adoption of the Federal Constitution are those that have been under State and not under Federal rule. In no instance have these tribes commenced any hostilities against the State or Federal authority. The New York and New England Indians, members of the most warlike tribes in colonial times, have never exhibited a single act of hostility during the past eighty-five years; and as the cordon of civilization has been drawn more closely around them they have abandoned their nomadic and savage habits and adopted and cultivated the arts of civilized life.

In view of these facts, which are the result of eighty-five years' experience, and in view of the utter failure of the Federal management of Indian affairs and the destruction of the noblest of the tribes under its charge, it is a question for the gravest consideration of Congress whether it would not be better to turn over to the States and Territories the future management and control of the Indians within their borders. Such a change can by no possibility place the Indians in a worse situation than they are now under the control of the General Government. It might save them from further wars and desolations, and the national Treasury from the enormous drain produced by fraud, military ambition, lawless rapine, and interminable wars resulting therefrom.

The Federal power is too far removed from these helpless children in the far West to be able to defend them against rapacious frontiersmen, who seek incessantly to destroy them and to possess their property, while the State and the territorial authorities are on the ground, ready and willing to do justice. None are so well fitted to take charge of our Indian tribes as the people who reside with them, whose lives and prop-

erty, whose wives and children are within the reach of the tomahawk and scalping-knife; who are themselves always vitally interested in maintaining peaceful relations with the Indians by a uniform course of just, fair, and impartial dealing. No people are so susceptible and more permanently affected by generous and kind treatment—none more proud, vindictive, and resolute in avenging their wrongs—than the North American Indians.

But, sir, we have exhausted our theories and must face the practical question which now presents itself to us, and from which there is no escape. Aside from the humane and Christian view of the subject, which appears to have been utterly disregarded by our Government in all of its recent dealings with the Indian tribes of the country, we are met here to-day with the earnest, practical question of peace upon the terms of returning national justice and good faith, or of a long and bloody war, waged and prosecuted by the poor, neglected, starving tribes for the God-given right to live. War, with all its cruelties and the lasting train of more destructive evils, has been resorted to and failed. Hundreds of millions from the Treasury of the nation have been expended in trying to exterminate the Indian race by our system of military murders. But, sir, thus far our force has proved unavailing. Our Army, when marshaled against these people by our most renowned leaders, has been shorn of all its power and its glory save that which crowns the murderer's efforts and entwines itself in serpentine coils around the assassin's brow. Some inscrutable power nerves the arms and fires the hearts of the race in its apparently unequal struggle for existence; and judging from the past, our national Treasury will be bankrupt and our country disgraced long before the Indian tribes of the West will be forced into submission by the military power of the Government.

Our Indian wars are costly. The interest of the money expended in the Florida war exceeds double the amount required for our whole Indian service. The Sioux war cost more than thirty million dollars, the bare interest of which is sufficient to subsist the whole Sioux nation through all coming time. Since that time our Indian wars have cost tens of millions, and are still costing many million dollars a year, every dollar of which is voted by this House without a word of complaint. But, sir, let some member get up here and venture to ask an appropriation of the interest of the amount annually expended in keeping up our western armies, to clothe and provision the Indians, and a cry of opposition will be raised that knows no bounds.

But gentleman ask what line of policy do you propose? How are we to reunite the broken cords of friendship and maintain friendly relations with our Indian tribes? There is nothing easier than this. We have but to reverse our past method of dealing with them, treat them kindly, deal justly, and convince them by our acts of humanity and justice that we sincerely desire to befriend and save them. Extend the warm hand of a brother and raise them from their low estate to a position where life will be a blessing, and not a curse. Then will the Indian, whom we have alienated and driven away, lift up his drooping head; the long lost smile will again lighten up his countenance, and he will meet us more than half way in our work of pacification, justice, and humanity.

Instead of sending soldiers armed with instruments of death and munitions of war to demoralize, degrade, and murder them, let us send philanthropists laden with food and clothing to feed the hungry and clothe the naked, and all the implements of peace necessary for their physical, mental, and moral advancement. Make comfortable homes for the poor, wandering tribes, feed and clothe them until they become sufficiently advanced in the arts of civilized life to provide for themselves.

Learn the rising generation to till the soil, instruct them in the mechanic arts, in all the varied duties of domestic life, and raise them as rapidly as possible toward our own standard, thereby fitting them for a better mode of life, and their incorporation as citizens into the States and Territories of the Union.

No class of men are so easily managed, more harmless and reliable, than the North American Indians when once you possess their confidence; none more unmanageable, heartless, and cruel than they when that confidence is destroyed by wrongs and oppression.

But we are told that the expense to the Government of feeding, clothing, and providing homes for our two hundred and fifty thousand Indians will require an enormous annual expenditure. Let it be remembered that nearly or quite one half of them are already on reservations of some sort, and that they have given us very little trouble. The cost to the Government of keeping quiet and supporting them does not exceed \$2,000,000 a year. If this policy is adopted and put into practical operation it will be found that for every dollar expended in support of our Indians we shall save five times this amount, which now goes to support the Army in the Indian country.

I am informed that there are now two deficiency appropriations asked for—one of \$500,000 for feeding and taking care of some twelve thousand Indians for eight months, under the charge of General Harney, in the Sioux district; the other for \$13,000,000, for carrying on our present Indian war in the southwest for the last six months against a much smaller number of Indians. I have learned to-day that there are now engaged in the Indian country and on our western frontiers about forty regiments of troops, including one regiment of cavalry raised in the State of Kansas, which has been in service since last October. The expense to the Government in carrying on this war will exceed \$40,000,000 a year if allowed to continue. Instead of protecting the inhabitants of the frontiers they increase their danger; more than two hundred and fifty having been murdered within the past few months. I do not wish to be understood as imputing to the War Department either dishonesty or extravagance. It is the policy alone that I object to. War is at all times costly, especially when carried on as this one is in a country so remote from the source of supplies that the expense of transportation doubles, triples, and in many cases quadruples their original cost.

If this House would take the trouble to ascertain the annual cost to the Government of keeping up the military establishments of the West, which can have no other object than to operate in the Indian country, it will be found to exceed their conceptions so far as to overshadow the comparatively insignificant amount now expended for the civil Indian service of the country, and stop the cry of extravagance whenever an appropriation is asked for feeding and clothing these people. Three years ago I proposed a plan to this House which looked to the setting apart of a large reservation in the northwest for the exclusive use and occupancy of all of the Indian tribes north of the Platte and east of the Rocky mountains; also, another reservation in the remote southwest for the Indians south of the Platte and east of the Rocky mountains. I am still of the opinion that this is the true policy so far as the unlocated tribes are concerned; and that one or two other reservations should be set apart on the Pacific coast for the location of the tribes west of the Rocky mountains.

Upon these reservations all of the tribes should be located except those now provided for and which are advancing in civilization and toward citizenship. This course will close our Indian wars forever; this will restore peace, permanent and enduring in its character. It will do away with the necessity for at least two thirds of our Army. It will save from fifteen

to thirty million dollars annually to the national Treasury. It will save hundreds of valuable lives every year. It will obviate untold miseries, wipe out our national injustice, and reclaim the poor, neglected, down trodden Indians from their present state of abject misery and restore them to the enjoyments of life and its attendant blessings, which are the free gift of God to all of his children.

Nearly two years ago Congress authorized and sent into the Indian country a commission composed of some of the first men in the civil and military service. After a thorough investigation had in the heart of the Indian country, and after having sought all the information which promised to throw light upon the subject, these commissioners were forced to the conclusion that the principle cause of our troubles with the warlike tribes is due to the invasion of their country by the whites, our cruelty toward them, and the bad faith manifested on our part in not fulfilling the treaty stipulations which exist between them and the United States.

It was agreed by the commissioners that good faith on the part of the Government toward the Indians, whose means of subsistence we have destroyed and whose homes we have invaded, as well as economy in carrying on the Government, demanded a radical change, and that a pacific policy was the only one which held out a promise of success. Accordingly, treaties were negotiated with most, if not all, of the hostile tribes east of the Rocky mountains, and although the stipulations for food and clothing were long delayed by the Government the thirty thousand Sioux who were parties to the treaty remain perfectly friendly to-day, and will continue so as long as the United States fulfills its part of the said treaty.

General Harney, an officer of the regular Army, who has seen more than fifty years of honorable service, much of which has been in the Indian country, was selected as one of the commissioners. He was present and took part in making all of these late treaties. He knew just what they contained, what they meant, and was wisely selected to take charge of the large district which had been set apart for the sole use and occupancy of the Sioux nation. It was late in the season when this veteran officer undertook the herculean task of locating and feeding these Indians through the approaching winter. The only means of transportation to the district was up the Missouri river, the waters of which were so low as to more than double the cost of transportation. There had been but \$200,000 placed in his hands to enable him to carry into effect the solemn treaty with the Sioux, who, upon the faith of its guarantees, had just abandoned the war path and pledged themselves to a future life of peace and friendship. The number of Indians who, by the terms of this treaty, were to receive a pound of beef and a pound of flour per day exceeded twenty-five thousand in number. Provision had to be made to feed them for at least six months. After making allowance for those who could not get into the reservation before spring, it was estimated that fifteen thousand would have to be subsisted for at least six months before supplies could reach them in the spring. This alone would require three million six hundred thousand pounds of beef, which, at a cost of—

Twelve cents per pound, amounts to.....	\$432,000
And 3,600,000 pounds of flour, at ten cents per pound.....	360,000
Total.....	\$792,000

In addition to these articles it was provided by treaty that houses should be built, saw-mills erected, horses and cattle purchased, farming and mechanical implements supplied for the use of the Indians; for the faithful performance of which General Harney was provided with the insignificant sum of \$200,000. He went forward, encountered the difficulty, and

overcame it. He realized that the issues of peace and war were in his hands. To fail to carry out the letter and spirit of the treaty was to rekindle the flame of a long, cruel, and costly Indian war throughout the Northwest, while the discharge of the national obligation promised the enjoyment of peace and tranquillity throughout that entire section of the country which had so long been the scene of savage warfare. By the honest, fearless, and determined efforts of this just man, this true patriot and philanthropist, the peace and safety of our frontiers have been secured, a long and cruel war arrested, and millions of dollars saved to the Treasury, while the warmest gratitude of unnumbered thousands of our citizens in the Northwest attest the value of the meritorious services which he has rendered to them and the country.

But two methods for the adjustment of these difficulties are now thought of. That proposed and so successfully inaugurated by the peace commission commends itself to the favorable consideration of the Christian statesman, the philanthropist, and the true economist. By its adoption the Indians will witness our returning good faith and rejoice; they will abandon the war-path and settle down upon their reservations; peace and safety will reign uninterruptedly throughout our entire territorial domain; hope will once more be lighted in the red man's heart, and the spirit of his brave progenitors will again elevate his depressed nature. On the contrary, if war, murder, robbery, and rapine are to be persisted in, and the policy of extermination, or subjugation even, is to be carried out, our frontiers are doomed to a fresh baptism of fire and blood unparalleled in the history of Indian warfare, and our national Treasury will be doomed to inevitable bankruptcy.

Mr. Speaker, I have entered on the last month of my congressional duties. I neither ask nor desire political honors. A sense of duty alone has prompted me to the consideration of this subject. On the page of my country's history these feeble utterances in behalf of this down-trodden race will stand as a lasting admonition of past cruelty and neglect toward all the Indian tribes of this country, and as a warning of judgments to come, if time continues and God reigns, unless we discharge the obligations which He has imposed upon this Government toward this oppressed and persecuted people.

Equal Suffrage and the Material Development of the Country.

SPEECH OF HON. JOHN R. FRENCH,

OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

February 9, 1869,

On the constitutional amendment relating to suffrage and the material development of the country.

Mr. FRENCH. Mr. Speaker, we hear much of the "lessons learned of the war." And there have been lessons well learned, many and valuable; of value to us and to our children, and of priceless value to the nations that may come after us. But in my judgment, sir, the great lesson of the war, the one which towers above all others in the infinitude of its worth, and in which we find the recompense for the great cost of the conquest, is this: the conviction which has come home to the hearts of the American people that there is a God. Our fathers were a God-fearing people, but we, their children, with the professions of our fathers upon our lips, were in our hearts and lives a nation of blank atheists. So the war found us; so it was prosecuted through its first sad years. But through terrific sacrifice and overwhelming disappointment and discomfiture we slowly learned that there was a God of justice, who held nations as well as

individuals to a stern stewardship. When we had learned this lesson, then the negro was welcomed to the ranks; then the nation put its hand to the proclamation of emancipation; then victory came and encamped with our armies, for then we were fighting side by side with God's eternal equities.

This living belief in God has lifted the nation up out of its stupid sensuality, its sordid worship of gold and love of personal aggrandizement, and the public conscience begins to recognize questions of right and duty, and the single eye of honest intent begins to discern not only the purpose of God in all our past history, but catches gleams of the growing light of His providence, which is opening up our future way. So long as this faith burns in the public heart so long will the nation march with a firm and reliant step along the high road of prosperous success. In this faith the nation to-day demands equal suffrage for all her citizens; the ballot, which is at once authority and protection, a badge of power, and a shield of defense, a schoolmaster for the ignorant, a lifter-up of the lowly, and a bond of fraternal union for all. I am glad to mark the indications that this Congress is ready to respond to this demand of the public conscience, and ready to take steps for planting this doctrine of equal suffrage in the fundamental law of the land.

When during this debate the eternal right and equity of the proposition has been pressed upon our attention, men who yet grope in the twilight have told us of the different colors of the human family, as if human rights were to be measured by such accidents, and essayed to prejudice the measure by stigmatizing it as a proposition for the benefit of the negro race. What if it be so? The dogma that "the negro has no rights which a white man is bound to respect" is dead, as well as its great judicial expounder.

When the nation was in the hour of its direst peril General Sherman was consulted as to the wisdom of arming the negro. "If you place the musket in his hands, and he perils his life for the nation," replied the brave and true man, "it would be very mean afterward to withhold from the same hands the ballot." And so answers the heart and conscience of every man in whose veins flows blood and not water. And he was armed—two hundred thousand black men stepped forth to the defense of the nation, and under perils unknown to the white soldier. They led the terrible assaults at Port Hudson and Fort Wagner, and with their dead bodies filled the trenches at Petersburg and Richmond that the soldiers of the Union might march over to victory.

History, sir, will compel us to say that it was the black skin that could always be trusted; it was the black man who never betrayed; where ever you found a negro there was a soul loyal to the Union and true to our country's flag. Never in the annals of history was there such an example of universal fidelity and faith. Among the twelve Apostles of our Saviour there was a Judas. There was a traitor among the Spartan band of Leonidas. Our revolutionary army had its Benedict Arnold. The cause of Hungary had its Gorgey, who betrayed it at Villagos. The cause of Henry VI and Warwick was lost by the desertion of Clarence. Harold, the Saxon, was betrayed by his own brother, Tosti. Maximilian had his Lopez, and in short, as far back as history carries us into the dominions of the past, treason has played its part. There was no cause, no army, no faith, without its traitors, until the universal experience of mankind was challenged, for the first time in history, by the example of the negro race. Of four million negroes there was not one who betrayed the man who came to him with the magic words, "I am a Union soldier, help me, hide me, save me, my colored friend!" Show me a case in history which is equal to this of a whole race of millions of black men and women throughout the land

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of whom there was not one who would not have risked his own life for the white Union soldier or refugee who invoked his protection; not one to whom it may not be said in the day of judgment, "I was an hungered, and ye gave me meat; I was thirsty, and ye gave me drink; I was a stranger, and ye took me in."

Such faithful allies in the hour of its victory the nation could not spurn, and in the insurgent States she promptly acknowledged their right to vote. And through such sacrifices as you who were not witnesses can little understand they so voted as to reestablish civil and loyal government in seven of those rent and distracted States. In the light, then, of experience does not the trial of black voting in the South warrant its extension to all the States? Where in all the history of the world has there been better voting than by the colored men of the rebel States during these last eighteen months? And does not the nation owe it to these faithful friends and their white Union allies in the South that she lift the ban from colored voting and make it universal throughout the Republic?

Placing ourselves squarely upon our republican principles, in unquestioning faith that they are to fill and redeem the earth, making all its waste places glad, let us enter upon our grand destiny. Every citizen protected in all rights, the humblest most cared for, the Republic meaning justice and peace, let us turn our attention to the development of the uncounted resources of our country, this grand continent, the first lifted above the waters, but withheld from man's occupancy until the fullness of time when freedom should come down from Heaven to dwell with the children of earth.

We are thirty-five millions, and not a man of us a slave, and garnered from the best blood of all the nations. With common rights and a common inheritance and common hopes, with stout and cheerful heart, let us to our work. Plant and till these rich valleys and broad prairies, capable of feeding the world, until they shall smile with an unwonted luxuriance. Let none of our grand rivers longer run idly to the sea, but with the music of the water-full mingle the hum of the loom and spindle, and the happy shouts of well-paid labor. Let our mines no longer slumber in the sleep of ages, but on mountain slope and through hushed valleys light the fires of the furnace and awaken the ring of the forge until new settlements shall shout to their fellows through all our happy borders. Let us extend our railroads and devise new ones. Somebody has said that "iron is the great civilizer of the age," and it may be added, never more so than when stretched across States and continents in the form of railroad bars. Railroads make neighbors and friends of those who else would be strangers and aliens, bind distant peoples with a common interest, develop business, multiply population, quicken thought, and hasten action. Already has the nation's wise munificence nearly completed a grand iron road across the continent. The rich commerce of the East awaits its completion to come to us, while they in turn await the coming of our institutions and our civilization. And other lines of iron railway should be laid across the continent for reasons that I may not stop here to enumerate. A few weeks since the arguments for a northern line were right royally presented in the exhaustive speech of the honorable gentleman from Minnesota. A like statement could be made in behalf of a southern line more directly connecting the rising and soon to be important States of the South with the Pacific coast. Across these grand national railways is to flow the commerce of the world. With trade will ride ideas and sentiments, and while Asia and the islands of the sea shall give us of their wealth we shall return to them the thoughts and teachings of our better civilization. The Orient and the

Occident, no longer distant and stranger, shall become neighbor and friend, and quickened by common sentiment keep step in the march of life.

But we are often warned, sir, in this House not further to squander the "people's land" upon railroads. What is the land worth to the "people" without railroads? We are also reminded that the nation is heavily in debt, poor, and burdened with taxation. Indeed we are in debt, and grievously taxed; but we are not poor, but beyond all other nations rich in all manner of resources, and the sensible way of lightening taxation and paying debts lies not through despair and idleness, but by the energetic and courageous development and working of these native resources. Let me submit for the consideration of the House a few significant figures, telling what railroads have already done in our own and other countries in the way of developing trade and wealth.

Great Britain has about four thousand miles of navigable waters. For a number of years prior to 1833 the exports and imports of that country had averaged about \$400,000,000; but during the seven succeeding years lines of railroads were constructed which have been added to from year to year, and the construction of railroads and increase of commerce is shown to be as follows:

Years.	Miles of railroad.	Total exports and imports.
1840.....	1,200	\$581,000,000
1845.....	2,441	659,000,000
1850.....	6,733	840,000,000
1855.....	8,334	1,227,000,000
1860.....	10,433	1,832,000,000
1865.....	13,289	2,393,000,000
1867.....	-	2,500,000,000

Thus it will be seen that the commerce of Great Britain, which had increased but little for many years, received a new impulse from railroad development, and from \$400,000,000 in 1833 reached the enormous sum of \$2,500,000,000 in 1867.

Let us now see what effect the construction of railroads has had upon the commerce of France, whose people are blessed with about seventy-seven hundred miles of navigable waters.

The following figures will show the progress of commercial development in connection with railroad construction in that country:

Years.	Miles of railroad.	Total exports and imports.
1840.....	564	\$403,000,000
1845.....	847	475,000,000
1850.....	1,807	500,000,000
1855.....	3,315	845,000,000
1860.....	5,586	1,134,000,000
1865.....	8,130	1,432,000,000
1867.....	-	1,440,000,000

Here it will be seen that commercial prosperity kept pace with railroad construction; so that from \$403,000,000 in 1840 the exports and imports of France increased to \$1,440,000,000 in 1867.

I will now bring to the attention of the House the remarkable effect that the construction of railroads has had upon the trade of the two busy little States of Belgium and Netherlands. While under the Government of the United Netherlands their commerce reached a point of considerable importance; but at the time of their separation, in 1830, the total exports and imports of the Netherlands were nearly treble those of Belgium, resulting mainly from the fact of superior means of transportation by canals and by sea; but in 1835 Belgium commenced the construction of a wise system of railroads so as to give her an outlet into Germany, Austria, and France.

Immediately production and trade received a powerful impulse, and with the progress of her railroad system the commerce of Belgium increased in a ratio unparalleled by that of any other nation on earth. The soil was more skillfully tilled; valuable mines were opened; furnaces and workshops were erected, and the little State, insignificant in point of territorial extent, outstripping her neighbor, the Nether-

lands, has taken a first-class position as a producing and commercial people. The following figures may prove interesting as showing the progress of commerce in Belgium in relation to railroad construction, and the manner in which she outran the Netherlands in the race of progress:

Years.	Miles of railroad.	Total exports and imports.
1835.....	-	\$53,000,000
1839.....	185	77,000,000
1845.....	235	130,000,000
1853.....	720	232,000,000
1860.....	1,037	352,000,000
1862.....	1,130	380,000,000
1864.....	1,350	475,000,000

I now wish to compare the figures showing the commerce of those two countries, calling attention to the fact that the Netherlands constructed no considerable extent of railroads until as late as 1856, and that she possessed vastly superior advantages over Belgium in the way of water communication by means of her extensive canals and by the river Rhine, commanding the trade of Germany:

Years.	Total exports and imports.
1835 { Belgium.....	\$53,000,000
1835 { Netherlands.....	105,000,000
1839 { Belgium.....	77,000,000
1839 { Netherlands.....	130,000,000
1862 { Belgium.....	380,000,000
1862 { Netherlands.....	288,000,000
1867 { Belgium.....	475,000,000
1867 { Netherlands.....	322,000,000

This enormous production and interchange of wealth is the result of the labor of a population of a little more than four million five hundred thousand, on a territory of eleven thousand four hundred and two square miles, Belgium being, in fact, but little larger than the State of Maryland.

Now, with that pride which is the right of all of us, I turn to a table showing the progress of railroad construction and commercial development in the United States:

Years.	Miles of railroad.	Total exports and imports.
1830.....	41	\$160,000,000
1840.....	2,197	239,226,000
1845.....	4,522	232,000,000
1850.....	7,475	330,000,000
1855.....	17,398	535,625,000
1860.....	28,771	762,300,000
1866.....	37,027	1,003,000,000

Here we see the commerce of the United States, which in 1830 amounted to \$160,000,000 reach the enormous sum of \$1,003,000,000 in 1866; and while Great Britain, India, France, Belgium, and the United States had a total commerce in 1840 of \$1,471,000,000, in 1866 their commerce reached the startling sum of \$6,003,000,000.

The *pro rata* increase of exports and imports of those countries since 1833, for each mile of railroad constructed, is as follows:

Countries.	Yearly exports and imports per mile of railroad.
Great Britain.....	\$110,000
France.....	69,000
India.....	65,000
Belgium.....	33,000
United States.....	25,000

As I have just shown, the total exports and imports of those countries increased from 1840 to 1866, a period of twenty-six years, \$4,532,000,000, while the increase of railroads during the same period was sixty-three thousand and eighteen miles, which gives an average increase of \$71,000 of commerce every mile of railroad built.

Previous to the opening of the Erie canal, in 1827, the tonnage crossing the Allegheny range in both directions, and from the lakes to New York, did not exceed 15,000 tons. This tonnage consisted almost wholly of merchandise going west, the cost of transportation being a complete bar to the movement east of western produce. The only outlet of the interior was the Mississippi river with its tributaries, the navigation of which was tedious and hazardous, and so expensive as to leave little profit either to the forwarder or the producer.

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The opening of the Erie canal was an epoch in the commerce of the country, but it exerted for the first ten years but little influence beyond the route immediately traversed. So late as 1836 the total amount of tonnage from the western States coming through this channel to tide-water equaled only 56,000 tons. Before the western States could avail themselves of it, they had to connect their territories with it and with the lakes by canals or by the best earth roads they could construct. In 1846 the amount of western produce reaching tide-water by canal was 419,000 tons. In 1851, the date of the opening of the Erie railroad and the removal of the restrictions on the transportation of freight on the New York Central railroad, (which was first opened in the fall of 1842,) the tonnage of western produce on the canal had reached 965,993 tons. This tonnage measured to a very great extent the commerce then existing between the eastern and western States. In 1867 the united through tonnage of the five great lines between the two sections—the Erie canal, the New York Central, Erie, Pennsylvania, and Baltimore and Ohio railroads—equaled 6,000,000 tons, having a value of \$1,200,000,000.

In the light of these facts and figures I submit, Mr. Speaker, that it is wise statesmanship for the nation to aid these great lines of Pacific railway, now petitioners at our doors. Yet there is another grand duty kindred, indeed, urgently claiming the attention of Congress, which I would briefly discuss. Railroads are continental, but the ocean washes all lands; and if we would be "a power among the nations" we must command the seas. Pirate craft built in English waters by English gold and manned with English seamen and permitted to go to sea by an English Government, joined later by the depreciated condition of our currency and the heavy impost on all shipbuilding materials and ship supplies have annihilated more than fifty per cent. of our tonnage. We must not resign our strength upon the ocean; and it seems to me, sir, almost the first duty of the American Congress to legislate for its rescue. I give interesting statistics, setting forth both the growth and decline of our commerce, found in a valuable paper on "American shipping," by an observant merchant of Boston:

"In 1789 our shipping comprised about 200,000 tons. On the 30th of June, 1861, it had reached 5,500,000 tons, and was nearly as large as that of all the maritime nations combined, excepting Great Britain. At the latter date the United States had attained a position in the first rank among the maritime Powers; our flag was seen in every port upon the globe; our merchants were competing successfully for the traffic, under canvas, of every ocean; and they participated with profit even in the carrying trade between different ports of the British empire. This great interest had been to that time a source of strength to our Government, a source of wealth to our people. But since 1861 the almost uninterrupted growth of three quarters of a century has been reversed, and a steady decline has been going on which, it would seem, is still in progress, and which must be expected to continue unless arrested by prompt, earnest, and adequate measures of relief.

"The total tonnage of the United States on the 30th of June, 1867, is given by the Register of the Treasury Department at 3,868,615 tons. The total reported on the 30th of June, 1861, was 5,539,815 tons, which was the highest point ever gained by us. The decline for the six years thus indicated is 1,671,193 tons, or about thirty per cent. But in order to be precise in our statements of fact, and intelligent, therefore, in our judgment, it is necessary to separate the national tonnage into two divisions—that which is employed in the internal commerce of the country upon the rivers and lakes and along our coast, and that which is engaged in foreign trade. The figures for the former, or, as it is called, the enrolled and licensed tonnage, are as follows:

In 1861.....	2,897,185
In 1867.....	2,514,380
Difference.....	382,805

"We have here a falling off of thirteen per cent. But, although the tonnage of 1861, as a whole, exceeded that of any year before or since, the enrolled and licensed tonnage reached its highest point in 1864:

In 1864 it was.....	3,404,506
In 1867 it was.....	2,514,380
Difference.....	890,126

"This shows a decline during the three years, in the internal water-borne transportation facilities of the country of twenty-six per cent. But we do not here see the full decline. Since the 30th of June, 1864, a new method of measuring vessels has been in use in the United States, and many spaces are now included in the measurement which before were not taken into the account. The proportion between the new system and the old changes with every difference of model, and it is difficult to reach an exact estimate in reference to it: the authorities of the Department think that from ten to fifteen per cent. would cover it. If we subtract only ten per cent. from the tonnage of 1867, to bring it to the same terms with that of 1864, we have the following result:

Domestic tonnage in 1864.....	3,404,506
Domestic tonnage in 1867.....	2,514,380
Less ten per cent.....	251,438
	2,262,942

Difference.....2,141,564

"We have declined, it would seem, in our domestic tonnage, thirty-three per cent. in the last three years; and these years, be it remembered, were years of peace, and of at least average commercial activity. If this is the condition of the coasting trade, which is jealously protected against all competition from without, what is likely to be the case in regard to the registered tonnage, that is, the tonnage engaged in foreign commerce, in rivalry with all the world? The official report gives us the following information:

1861, registered tonnage, sail.....	1,173,715
1867, registered tonnage, steam.....	173,520
	1,354,235
Difference.....	1,288,393

"This shows a loss of nearly fifty per cent. But, as before, if we would reach the exact truth, we must allow for the new system of admeasurement.

Registered tonnage, 1861.....	2,642,628
Registered tonnage, 1867.....	1,354,235
Less ten per cent.....	135,423
	1,218,812
	1,423,816

"The absolute decline, therefore, in the foreign tonnage of the country, from 1861 to 1867, has been fifty-four per cent., or nearly a million and a half tons.

"Let us examine this state of things in another aspect. From almost the beginning of our history as a nation our traffic upon the sea has been steadily increasing, with occasional reverses, as between 1811 and 1814, and 1818 and 1828. Even during the period of the last war with Great Britain our foreign tonnage fell off only twelve and a half per cent., although it should be said that during the two years previous to that war it fell off twenty-two per cent. We have prepared the following table for the purpose of indicating the changes which have taken place in the registered tonnage of the country for the eight years from 1789 to 1797, and from 1797, by decades, to 1867:

Year.	Reg'd tonnage.	Change.	Rate of change.
1789.	123,893		
1797.	597,777, increase in 8 yrs.	473,884 or 384 1/2 p.c.	
1807.	848,307.	10	250,530 42
1817.	800,725, decrease in 10	47,582	5 1/2
1827.	747,170.	10	53,555 6 1/2
1837.	810,447, increase in 10	62,277	8 1/2
1847.	1,241,313.	10	430,866 53 1/2
1857.	2,463,067.	10	1,221,664 98 1/2
1867.	1,354,235, decrease in 10	1,108,732	45

"This table shows an average gain of eighty and a half per cent. for the periods given, including the remarkable growth which took place between 1789 and 1797, when, in consequence of the wars then prevailing among the maritime Powers of Europe, our foreign tonnage increased three hundred and eighty-four and a half per cent., and including also the decades between 1807 and 1827, when there was a decrease of five and a half and six and a half per cent., respectively. As the period from 1789 to 1797 may be considered exceptional, let us look at the growth of our foreign tonnage during the three decades between 1827 and 1857: the first of these shows an increase of only eight and a half per cent., and yet the average of the three is fifty-three and three eighths per cent. In looking forward in 1857 through the coming ten years, it would not have been thought extravagant to anticipate an increase equal to the average of the previous thirty years. Let us see how much this difference really is, between what in 1857 would not have been an unreasonable anticipation, and the existing fact:

In 1857 our foreign or registered tonnage was, 2,463,967	
Add fifty-one and three eighths per cent.	
for the average growth per decade from 1827 to 1857.....	1,315,142

Our tonnage might have been expected to reach in 1867.....	3,779,109
Our actual tonnage in 1867, was.....	1,354,235
Allow ten per cent. for new system of admeasurement.....	135,423
	1,218,812

Showing a net difference of.....2,560,297

or instead of a gain of fifty-three and three eighths per cent., a loss of sixty-eight per cent.; and leaving our foreign tonnage less than one third of what in 1857 we should have been justified by past experience in estimating that it would be."

With this showing, patent to all the world, is it not our duty to readjust our tariff rates, now discriminating so injuriously against this right arm of the nation's power and wealth, and make haste to get back to the rock bottom on which the nations of the earth transact business? How can our shipping interest, with our depreciated currency, compete in the maritime centers of the globe with tonnage built on a gold basis?

As the result of the depreciation of our currency and the severity of our taxation we have it on the authority of a member of this House, Hon. Mr. PIKE, of Maine, that a thousand-ton ship would cost a builder of his State \$85,000 in currency, while a similar vessel could be built in the adjoining British provinces for \$45,000 in gold; and, as was truly said by this gentleman in the House last winter:

"It is apparent that our ships cannot compete with foreign ships, when the difference of cost is so great, unless a corresponding advantage is in some way given to them in the way of employment. But the House is aware that an American ship has no such advantages. She competes with her great rival on a free-trade basis. The St. John ship comes into the port of New York and gets the same freight and is subject to the same insurance as the American ship. The only privilege the American ship has is that of the coastwise trade, and that is hardly appreciable."

But the great blow given our commerce was dealt by the English-built pirates, and the perfidious English Government should be held to the sternest accountability. A recent writer in one of our popular magazines treats of this subject with such excellent sense that I must beg indulgence while I give a page or two of his sterling argument:

"The restoration of amity with Great Britain is of the utmost importance to both nations. It is not merely the amount of our claim and interest, now seven millions sterling, a large portion of which is held by English insurance companies, that is involved, but great interests of both nations suffer from the questions between them, and the British provinces suffer more than either nation. While Great Britain asserts her claim to San Juan, denies compensation for all our losses, even for the ships of our whalers burned in time of peace by her cruisers in the Arctic sea, and declines to punish any of her pirates who return to her ports after their ravages on the deep; while she seeks to awe the United States by military roads and new batteries at Halifax and Victoria; while she arrests our naturalized citizens, and claims their allegiance after she has banished them from her soil and we have adopted them—hostile tariffs, consular fees, and interdicts must succeed to moderate duties and treaties of reciprocity. Great Britain requires the wheat of California and Minnesota, the corn, beef, and pork of Illinois, the petroleum, bark, and clover-seed of Pennsylvania, at least thirty thousand tons of the cheese of New York and New England, and the market which eight million prosperous families afford. We require her metals, chemicals, and other products. We need the fisherman's salt, wood, and timber, the herrings, alewives, salmon, eggs, cattle, wool, barley, white wheat, and potatoes of Canada; and Canada needs our corn, tobacco, pork, carriages, coal, and manufactures.

"The townships which lie between the St. Lawrence and New England can best supply our factory towns with hay, oats, barley, cattle, horses, and potatoes in exchange for the products of New England. England has ever held her colonies with tenacity, but her American provinces have now grown to man's estate; she has abandoned her colonial system, and draws her pine and spruce chiefly from Norway; she gives her colonists no priority in her markets. They have few interests in common with her; for the last decade their trade has been chiefly with us, and not with each other. Nova Scotia is commercial; New Brunswick is devoted to shipbuilding and lumber; Canada and Prince Edward Island are agricultural. While they might easily enter as States into our Republic, they are not homogeneous, and Nova Scotia and New Brunswick would be powerless in Canada. At the present moment Great Britain incurs an annual expense of four or five millions sterling to protect them from the Fenians, and derives from their trade no equivalent for the outlay. As members of our Union they would partake of a coasting-trade we cannot concede to British subjects, and enjoy the free trade of a continent. If our debt is larger than theirs, our wealth, population, and resources are proportionate to our interest. The possession of the provinces weakens Great Britain; it would add to the strength and commerce of our Union. It would bring to us an amount of shipping which would compensate for two thirds of our losses by the war. In the century which expires in 1869 our population will have increased from two and a half millions to forty millions, or sixteen-

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fold. In another century, at this rate of increase, our population will exceed that of China and require the entire continent. We now hold Maine and Alaska, which overlap the territory of Great Britain, and we already require the forests and arable lands of British America.

"Nearly the whole British America, from Lake Superior to the Pacific, is now held by the Hudson Bay Company as a hunting-field, and yields it a revenue of \$275,000 only, or five per cent. less than the cost of Alaska. What a field is there found for Secretary Seward! Were British America annexed we should require no barriers or custom-houses from Quebec to Sitka, and should save in the revenue we now lose by smuggling and custom-house expenses the interest of twice the cost of Alaska. Is not the acquisition of British America and the admission of the provinces as States of our Union the true solution of our questions with Great Britain? Were the provinces members of our Union we should at once relinquish the intercolonial railway through the wilds of New Brunswick and complete the European and American line from Halifax and Louisbourg to Bangor, and thus reduce to six days the run from the Cove of Cork to Boston, and reach Japan in four weeks from London. We should at once deepen the canals of the St. Lawrence, make a ship-canal around Niagara, carry the navigable waters of the St. Lawrence into Lake Champlain, and join hand in hand with the people of the provinces in opening the railway from Lake Superior to the Red River of the North and the forks of the Missouri. Thus should we open to commerce the great wheat-fields of the Assiniboin, Saskatchewan, and Peace rivers, where the elk and buffalo of the plains now resort to calve and winter.

"A ton of sugar is now carried from Boston to Chicago, via Ogdenburg, for six dollars, and may be taken for the same rate to the head of Lake Superior; with a direct railway finished to the Red river wheat may at this rate be taken from the valley of the Saskatchewan to Boston or New York for twenty-five cents a bushel. The prolific West requires new avenues to the sea-board, and the cheapest route is by propellers to the foot of Lake Ontario, and thence by rail to the sea-shore.

"Under the census of 1860 our annual yield of Indian corn was returned at eight hundred and thirty-six million bushels, while wheat was comparatively deficient—actually less by one third than the yield of France, as it was but one hundred and seventy-two million bushels in 1859, the year preceeding the census. It gave us, however, seventeen million bushels in grain and flour for exportation in 1860. Since 1859 the high price of flour has stimulated production; new farms have been opened, and new railways built in Iowa, Wisconsin, and Minnesota, and the culture of wheat has become more profitable than the gold mines in California; and this year, with a propitious season, our crop of wheat is rated at nearly three hundred million bushels, which should give a surplus of one hundred million bushels for exportation. Nor have we yet reached the maximum of production. The land and climate of Minnesota, on the route of the North Pacific, the valleys of the Red river of the North, the Assiniboin and Saskatchewan rivers are adapted to winter wheat, and give larger and surer crops than Ohio or Illinois. A short railway of two hundred and fifty miles from the head of Lake Superior to the Red River, which may be built for half the money paid out in dividends at Boston on the 1st of July, would open to commerce those valleys, and permit the delivery of their wheat at a freight of thirty cents a bushel in Boston. In the rich valleys and on the fertile hillsides of California wheat yields, without fertilizers, more than fifty bushels to the acre; and a single man, with the aid of improved mechanism—reapers, drums, and threshers—raises five thousand bushels. There ten farmers, or one farmer with nine assistants, can load a ship of a thousand tons with wheat costing the farmer but twenty-five cents per bushel; and, at one time last spring, there were one hundred and fifty ships on their way from San Francisco to the Atlantic ports, laden with seven million bushels of wheat, the only check to production being a deficiency of ships, and the circuit by Cape Horn, which allows a ship to make but one voyage to the year. Were a canal cut through the isthmus each ship could make two voyages in a year, and with the screw each ship could make five voyages, in place of two, each season to New York. So large is the area fit for wheat fields in California and Oregon, that, after reserving ample space for vineyards and sheep-walks, which nearly equal the culture of wheat in importance, twenty thousand men—actually less than the emigration of a single year—could produce there annually a hundred million bushels, on three thousand square miles, near navigable waters, and load two thousand ships of one thousand tons with wheat. One fourth of these ships might be built annually on the coasts of California, Oregon, the Straits of Fuca and Alaska; for there the towering pines and cedars stand waiting for the shipwrights on the very sea-shore, and the first freight of wheat would suffice to pay one third of the cost of construction.

"A nation like ours, with a front on each ocean, and such resources, should, by due concessions and subsidies, set the shipwright in motion and should connect the two oceans."

This nation, Mr. Speaker, cannot go backward; neither can she stand still, if she would, either in her defense of liberty or in her grand material enterprises. Her only way is forward and upward! The American people have suf-

fered for principle, and learned how good a thing it is to make sacrifices in the line of duty. Let us stand fast by the faith born of such experience, remembering that we lead the nations in the march of civilization. Above our heads burns the star of empire! Our fathers' God still encamps with us. His Providence, like a pillar of light, leads the way. The nation is brought squarely face to face with the doctrine of the proposed constitutional amendment. We cannot do otherwise than accept the issue. To falter on this question is alike false to our fathers and treacherous to our children. Let the Republic grow until she fills the continent; but let her support and guarantee be the common love and the common sacrifice of all her citizens, native and adopted, white and black, Americans all, with equal voice and equal protection. Peace unbroken will then reign in all our borders, and the eternal blessing succeed all our efforts for material and commercial growth. To-day we are a new people, born of sacrifice and baptized in blood. Master and slave, years of indolence and vice, paltry counseling of our fears, and a cowardly lack of faith in truth and right, are all of the past. Let us catch the quickening spirit of the new dispensation and resolutely go forward to the material conquest of this glorious continent of ours, and the establishing of freedom among mankind.

"Ring out the old, ring in the new;
Ring out the false, ring in the true!
"Ring out false pride in place and blood,
The civic slander and the spite;
Ring in the love of truth and right;
Ring in the common love of good!
"Ring out old shapes of foul disease,
Ring out the narrowing lust of gold,
Ring out the thousand wars of old,
Ring in the thousand years of peace!
"Ring in the valiant man and free,
The larger heart, the kindlier hand;
Ring out the darkness of the land;
Ring in the Christ that is to be!"

In Dresden there is an iron egg, the history of which is something like this: a young prince sent this iron egg to a lady to whom he was betrothed. She received it, held it in her hand, and looked at it with disdain. In her indignation that he should send her such a gift she cast it to the earth. When it touched the ground a spring, cunningly hidden in the egg, opened, and a silver yolk rolled out. She touched a secret spring in the yolk and a golden chicken was revealed. She touched a spring in the chicken and a ruby crown was found within. She touched a spring in the crown and within it was a diamond marriage-ring. The great God in his mystery threw down to us an iron egg. It was rusted with tears and clotted with blood. We took it in our hands and looked at it. We lifted our eyes to Heaven and said, "Great Father, what broods of devils may be hatched from this?" but as we let it fall a spring was touched and a silver yolk rolled out that spread like a broad shield of patriotism all over the land in the days that followed the dismantling of Sumter. When the spring was touched again there came out, not a single golden chicken, but a glorious brood of them—Ellsworth, Banks, Burnside, Hooker, Foot, Siegel, Shields, Logan, Meade, McPherson, Sheridan, Sherman, Grant. Then we found each a spring, and when we touched the spring we found within each a ruby for a crown. Shields gave us Winchester; Logan, Donelson; McPherson, Vicksburg; Sheridan, Five Forks; Sherman, the Carolinas; Farragut gave us New Orleans and Mobile; Grant, the noblest Roman of them all, gave us the Republic. When all these rubies were gathered we put them in a crown, and in the crown there was a spring. We touched it, and within was the diamond ring of Union, unbroken still! And with God's help we have placed it on the nation's finger, and she shall wear it evermore. Grant's election is a grand augury of the nation's future peace, prosperity, and perpetuity. GOD SAVE THE REPUBLIC!

Railroad from Washington to New York.

REMARKS OF HON. S. M. CULLOM,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

February 9, 1869.

The House having under consideration the bill (H. R. No. 621) to authorize the building of a military and postal railway from Washington, District of Columbia, to the city of New York—

Mr. CULLOM said:

Mr. SPEAKER: The bill before the House proposes to authorize the building of a military and postal railroad from this city to New York. It proposes to charter a company to be called the New York and Washington Railway Company, which shall have perpetual succession; which shall have power in the name of and on behalf of the United States to survey, locate, lay out, construct, equip, maintain, operate, use, collect tolls upon, and enjoy a continuous line of railway of one or more tracks between the political capital of the nation and the great commercial city of the nation. It does not propose that the Government of the United States shall appropriate any money to accomplish this great object. I believe I may say that there is no exact precedent for this proposed legislation. The Government has never yet done exactly what is proposed now to be done by the passage of this bill. It has appropriated money for internal improvements of one kind and another from the beginning of the Government, but has never undertaken to charter railroad companies. There have been millions of dollars appropriated by the Government for the improvement of harbors, for deepening channels of rivers, and for building post roads in different parts of the country. Such appropriations, so far as rivers and harbors are concerned, are made annually by the Government, and the difficulty is not that anybody questions our right to make such appropriations, but it is that we cannot make them large enough to satisfy the demands of commerce. Until the necessity for it seemed to pass away appropriations were made annually for the building of post roads all over the country in the different States, and the roads were built by the Government and the money spent under its own direction and control.

Mr. Speaker, I find an old document, a report made by one Colonel Abert, who was at the head of the Bureau of Topographical Engineers, the report being made in response to a resolution of the Senate, which gives a statement of all the appropriations made by Congress for the construction and repairs of roads, harbors and fortifications, improvement of rivers, &c., in the States and Territories for the years mentioned in the report. This report shows, I think very conclusively, that the people and Government in those days believed that it was the constitutional right of the Government to do substantially what seemed to be necessary to be done for the protection of the Government and the advantage of the people. From 1806 to 1845 over seventeen million dollars were appropriated for these general improvements, and a very considerable share of it was for making roads: not railroads, but dirt and gravel roads. About two millions was spent in making what is known as the Cumberland road through and in the States of Maryland, Pennsylvania, and Virginia; over two millions appropriated for the State of Ohio; over one million for the road in Indiana, and \$750,000 for the road in my own State. These appropriations were made by Congress, running through a series of years from 1806 to 1845, and received the approval of Presidents Jefferson, Madison, Monroe, J. Q. Adams, Jackson, and Van Buren. The system of internal improvement which was then carried on by the Government was supported by the strongest men of the nation, among whom were Clay, Webster, and Calhoun. The question

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of building railroads through different States was never made, because the people of those days were not building railroads; they relied upon other means of commerce, such as wagon-roads, rivers, and canals; but when a common road seemed to be needed for postal purposes or for business purposes in any State or different States Congress appropriated the money and it was built.

Now, the question is whether there is any real difference in principle between the exercise of a power by the Government in appropriating money and building a dirt road through different States, or deepening or cleaning out the channel of rivers running through different States and doing what we now propose by passing this bill. The actual thing done then and what is proposed to be done now is different, but in my judgment the principle authorizing the two is the same. If what the Government did then was constitutional, what is proposed now is also. There were a good many men in the Congress of the nation and out of it who thought that the action of Congress in appropriating money and building the Cumberland road was unconstitutional. They denounced the measure as such; but the road was needed, and the people generally and the States were anxious for Government aid. The people of the country were scattered and poor, and the Government lent a helping hand and went forward constructing roads and making such national improvements as the growth and commerce of the country required.

Times have changed. States have become rich; railroad monopolies have become strong, powerful, and States and Congresses are almost ready to bow at their bidding. What is the result? It is that the people are oppressed by railroad charges; the business commerce of the country bound down by a want of capacity of railroads to carry on the commerce, and there seems to be no relief either in the States or in the national Government. Other charters are refused in State Legislatures for reasons which to the members, while they may not be good, are sufficient, and here we are met with the argument that we have no constitutional power to pass a bill allowing a company to build a railroad through the States. The Constitution is not broad enough to enable the General Government to break down monopolies which are an oppression upon the people, because, as is argued, you cannot cross a State line without interfering with the peculiar and reserved rights of the States.

States may erect barriers or walls around themselves and say, "Thus far shall thou come and no further, except upon our terms;" and the result is, that any man who seeks to come from the extremity of the Republic to this capital or to go to the commercial capital must be subject to extravagant tolls all along the journey. Mr. Speaker, is this to be the policy and solution of the constitutional doctrine touching the power of the Government? I do not believe it is. I am not anxious to blot out State lines or State rights, or to make this a consolidated Government, as it is charged that the friends of this bill are. I am for neither of these things. I am for holding each, the State and national Governments, in their proper position and relation to each other. They should each have all the rights given them by the Constitution. I believe, too, in the doctrine that "there is no power in the General Government but that which is expressly granted or which is impliable from an express grant." I think this is a sound position upon the question; and taking this position, the next question is, does the Constitution expressly or by implication allow the passage of this bill? If neither, then we ought not to pass it.

The Constitution says that—

"Congress shall have power to regulate commerce with foreign nations and among the several States; To establish post offices and post roads; To pay the debts and provide for the common defense and general welfare of the United States."

If Congress has power to pass this bill at all it must be done under one or all of the provisions quoted. None of them in so many words gives the power; do they or either of them, by implication? "Congress shall have power to regulate commerce with foreign nations and among the several States." How? is the next question that every man would ask. What did the makers of the Constitution mean when they put that clause in the Constitution? Did they mean that the General Government should stand by and watch the movements of the people of the different States in the great commercial enterprises of the country, and give a little gentle advice as to one scheme and another as the people went forward, the Government discouraging one enterprise and encouraging another? Was it to be confined, as some gentlemen argue, to the regulation of bridges over navigable streams; or if a State or corporation created by a State obstruct the passage of citizens of one State over the soil of another by absolute blockade or prohibition, that then Congress should have the power to remove the obstruction or prevent it? Or did the men who made the Constitution mean to give the General Government the power to regulate commerce among the States by building great public highways—railways, if you please—to serve as post roads and military roads, and as an actual means of commerce among the States, when in the judgment of Congress they seemed necessary? If Congress has the power to remove an obstruction to the passage of citizens or goods from one State to another, has it not the power to authorize the building a road through the State without its consent? If a State has not the power to maintain an obstruction to commerce, she surely has not the power to prevent the Government passing over her domain without the State's consent.

Gentlemen opposed to this bill upon the ground that we have no constitutional power to pass it admit that the Government has the power to remove an obstruction. The clause of the Constitution which I have quoted was put there, in my judgment, for the very purpose of protecting the people, without regard to State lines, in the enjoyment of free commerce and trade, untrammelled by assumed State rights or State usurpations. It was that the power should be retained in the Government, so that State lines should not be permitted to become State barriers under State authority, and the energy and industry of the people broken down. It was to enable the General Government, at any time when it might be deemed necessary, to open a way from one extremity of the country to the other for the benefit of the people.

If the Congress has not the power to pass this bill, and the doctrine of the gentlemen who oppose it is correct, then, sir, it rests in the say so of States whether the people of one State shall cross the line and go into another. This is State rights, and, in my judgment, as pernicious as the State rights which brought on the late war.

It is the same doctrine in fact, but applied to a specific subject. I shall never vote for or favor any such doctrine. I shall never support a doctrine which carried to its legal and logical consequences places it in the power of the States east of my own to prevent the people of Illinois from reaching the eastern seaboard except upon the terms satisfactory to those States; and, sir, I may say the same of those west between Illinois and the Pacific. They have the right to go east, west, north, or south, and the Constitution will not tolerate any State in setting itself up as a dictator of the terms upon which the people of Illinois shall be allowed to pass.

The people of Illinois have the right to go to the great commercial metropolis of the nation with their products unobstructed without asking Indiana, Ohio, or New York. And, sir, men need not tell me that the Constitution is not

broad enough to clear out of the way all hindrances, and authorize, if you please, a great military and postal railroad from the West to the East upon which could be borne the people and their products. It is charged that we desire to break down the State governments and assume control of all the domestic affairs of the States. No such thing. We claim no more authority for the Government now than was claimed for it in its earlier history. I am for breaking down all attempted usurpations by the States, and allowing them to exercise all the authority that was granted them by the fathers in the days when all the institutions of the country were new.

For many years before the late war the States gradually claimed greater and greater powers under the Constitution, until it became the theory of a large portion of the people of the country that the States were members of the Union with power to withdraw from it at will, and that the General Government had no power under the Constitution to prevent it. This doctrine was instilled into the minds of the people of the South generally, until finally it culminated in a war against the Union, the result of which, I trust, has settled the question that there can be no such thing as peaceable secession in this country.

Now, sir, the doctrine of State rights crops out in another form, and we are told that Congress has no power under the Constitution to open up channels of commerce for postal or military or other purposes through the States, and that these are matters belonging exclusively to the States, to be regulated by them as they please. I will not say that it is an attempt to give life again to the doctrine that inspired rebellion and that we supposed had perished when the nation triumphed over treason in the late war; but, sir, while rebels are hopeful that the lost cause will yet be made a living cause, I think the Government should be very slow to declare by legislative action that it rests with the States to say whether the means of commerce demanded by the necessities of the people shall or shall not be granted.

Gentlemen argue that the exercise of this power by the Government will result in adding largely to the already overgrown lobby around this Capitol. There is some force in this argument. I appreciate the force of it. Legislative lobbies have got to be fearful here already; so they are in the States. It seems that there is no subject of legislation now in any of our legislative bodies that is not watched by scheming men who are determined to secure some special advantage therefrom. All the important legislation here that affects directly or indirectly the financial interests of the people is followed by gangs of manipulators calling themselves committees, perhaps three quarters of whom have no interest whatever in the general welfare of the people, but who are seeking to shape legislation to suit their particular or special interest. This state of things is to be deplored. It is to be hoped that it will not continue in such fearful proportions much longer. But, sir, much as I deprecate any action that would possibly result in any increase of the lobby, I shall not be turned from what I deem my duty to the people by such a suggestion.

The State which I have the honor in part to represent occupies a noble position in the Valley of the Mississippi. She is a long distance from this capital; she is far distant from the Atlantic sea-board; she is further from the Pacific. Many States border upon the great Mississippi river between her southern boundary and the mouth of that great river. That great State, sir, shall never be made subservient to the whims and fancied rights of the States lying by her side, either upon the east, west, or south. The Constitution of the country is broad enough to enable the Government to open the way in any direction that her people may desire to go if the States around her interpose

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objection, and my votes here shall be in favor of the principle establishing the right. Mr. Speaker, I would like to have more time that I might quote from the great men of earlier times upon this important subject, but I see my time has expired.

Suffrage Constitutional Amendment.

SPEECH OF HON. J. R. DOOLITTLE,

OF WISCONSIN,

IN THE SENATE OF THE UNITED STATES,

February 6, 1869.

The Senate having under consideration the Joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States—

Mr. DOOLITTLE said:

Mr. PRESIDENT: I look upon this proposed amendment as one which goes to the foundation of our system of government.

We have State governments and we have a Federal Government. The citizen owes allegiance to both. He may be guilty of treason against both.

Neither of these governments is endowed with absolute sovereignty. Before the Constitution absolute sovereignty belonged to the States, but under the Constitution they have only a limited sovereignty. The States are still sovereign, except so far as they have parted with sovereignty under the Constitution, and the Federal Government is sovereign just so far as and no further than the Constitution has clothed it with sovereignty. Ours is a composite system, simple in theory, and yet sometimes most difficult in practice. This very divided empire of ours, by which a part of the sovereign powers of government are given to the Federal Government, while the great mass of sovereign powers is reserved to the States each for itself, independent of all others, is that very thing which distinguishes our system from every other which has appeared upon earth. It was in this very thing that our ancestors believed, and we have been taught to believe that they made a great advance in the science of human government.

Each State for itself must exercise the great mass of sovereign powers as each State must for itself be the bulwark and defense of the great mass of their rights and their liberties, while to the Federal Government must be delegated certain definite and specified sovereign powers necessary to preserve the peace at home and secure us against danger from abroad. There is, therefore, such a thing as State sovereignty, and there is such a thing as Federal sovereignty. Among the other nations of the earth the thirty-seven States united are one nation, not by a league or copartnership or compact to be dissolved at pleasure, but by a constitution of government indissoluble forever; while among themselves under the Constitution for the defense of the great mass of our rights and liberties, and as to all powers not delegated to the Federal Government, they are thirty-seven free and independent States—*E pluribus unum*: though many we are one. These are the fundamental ideas upon which our system rests.

Now, Mr. President, these two ideas—first, that we are many, and second, that we are one—have presided over our system in every period of its history. They were there in the beginning; I may say from before the beginning. If you go to the Convention which formed our Constitution these ideas were there. There is where they first struggled for the mastery. Like two spiritual forces, each had its representative men in that convention. Some favored centralization and giving enlarged powers to the Federal Government; others in the Convention would restrict the powers of this Government to a very few subjects. After a struggle the Constitution was at length formed, and after a still more powerful struggle in the States

before the people the Constitution was adopted. It was to a considerable extent the result of compromise between these two conflicting ideas, each of which must be modified by the other. Hamilton, in that day, was the representative of centralization—of that party who desired to make a strong central government; while, on the other side, Jefferson, perhaps, more than any other, may be regarded as the true representative of those who desired to restrict the powers of this Government and to reserve the great mass of powers to the several States, while Madison, nearly midway between them, neither inclined to the one extreme nor to the other, was perhaps more than any other man the father of the Constitution. His counsel, his advice, his propositions from time to time prevailed, which resulted at last in that great compromise between State sovereignty and Federal sovereignty which our Constitution is, and under which we have lived, and I trust in God we shall still live, and our children after us, to the remotest generations.

But, Mr. President, from the imperfection of human language it is impossible for any man, however gifted, to define the powers of the Government so clearly that no doubt whatever may be permitted to exist. To define the precise line of demarcation between the powers granted and the powers reserved is a most difficult task—to mark in language the precise point where the powers of the State end, and the power of the Federal Government begins. But there are some powers so clearly defined that no man in his senses can be mistaken. Upon this great question, whether the power of the States over the question of suffrage is reserved to them or conferred upon the Federal Government by the Constitution, no sane man can doubt. And, sir, the wisdom of still reserving it to the States is so undoubted that even Mr. Hamilton, the representative of centralization, the incarnation of Federalism, was compelled to say that to put into the Constitution of the United States such a power in this Government to control the question of suffrage and elections in the States would be an engine calculated to destroy the governments of the States.

Mr. President, I do not make this statement at random. I have before me the language of Mr. Hamilton, in the fifty-ninth number of the *Federalist*, in which he puts this very case:

"Suppose an article had been introduced into the Constitution empowering the United States to regulate elections for the States, would any man have hesitated to condemn it both as an unwarrantable transposition of power and as a premeditated engine for the destruction of the State governments?"

And yet your proposed amendment does all that. Mr. President, it says that suffrage shall not be restricted on account of race, color, or previous condition, and that Congress shall have power to enforce it by appropriate legislation. Sir, the power to enforce it of necessity implies power over the elections of the States. In order to give to the colored man of the States the right to vote at the elections in the States, to secure to his vote a fair count, and to make sure that if his vote be counted and determine the result that the person elected shall have the office, will draw to this Government the power to control the elections themselves. It is impossible to separate the two. But one authority can decide the result of an election. It must be the State authority or the Federal authority. As it reaches all elections, if the Federal authority is supreme, the State authority must succumb in all elections to Federal control.

The power which Congress must exercise to carry this into effect will call upon Congress to appoint judges at the election-polls; to send officers to attend the elections to secure order; to count the votes and secure the votes of colored men in determining the result—in short, to control the elections. If your constitutional provision is nothing more nor less than a declaration of opinion without the power to enforce it by Congress, it goes for nothing. Necessarily

the power to enforce it must go with it, and if that goes with it where is to be the end? How many officers of this Government must be sent to the States to take charge of their elections and to see that these people are admitted to the right to vote?

To force negro suffrage upon the South you have maintained a large standing Army at millions and tens of millions expense. How much will it cost you to force it upon the North? I say, Mr. President, that even Hamilton, strongly as he urged the establishment of a Federal Government with almost absolute powers, shrank back from this proposition as an engine for the utter destruction of the State governments. Mr. Story, too, one of the ablest commentators upon the Constitution—the judge I believe at whose feet the honorable Senator from Massachusetts [Mr. SUMNER] was instructed like Paul at the feet of Gamaliel—Mr. Justice Story, though everybody knows he was inclined to Federalism, and inclined to a strong Government here, denounced this proposition in language equally strong as Hamilton himself. He declared "it would be deemed a flagrant violation of the principle upon which the Government is based, that it would be an unwarrantable transfer of power indicating a premeditated design to destroy the State governments." And yet his disciple is one of the greatest advocates for the exercise of this power by the Government of the United States. He sees, or thinks he sees in the Constitution as it is, a power to pass laws on the subject of suffrage in the States, although his great teacher, Judge Story, maintained that the attempt to put such a provision in the Constitution would show a premeditated design to destroy the State governments.

Mr. President, I maintain in the first place that the right to fix the qualifications of voters is essential to a republican form of government, and that any State which has not the right to fix and determine for itself who shall vote and who shall not vote ceases to be republican, for it loses the power to govern itself. If Congress can determine who shall vote in Indiana, Indiana no longer governs herself. If Illinois can determine who shall vote in Indiana, it is not the people of Indiana who govern themselves, but it is the people of Illinois who govern Indiana.

It cannot be too often repeated that it is absolutely essential to republican government that the State for itself shall have the power to fix the qualification of its voters. That clause in the Constitution to which the honorable Senator from Massachusetts so often appeals, "that the United States shall guaranty to each State a republican form of government," is in direct conflict with the proposed amendment, because republican government is self-government, and there can be no self-government in a State if any outside State or any other power above the control of the State can take away from the States the power to determine for themselves who shall exercise the right of suffrage in the States; for those who vote govern the State, and if an outside power determines who shall vote in a State that power governs the State. This is a proposition not to amend, but to revolutionize. It is not in the way of improving and upholding, but in the way of upturning the foundations of the system, and of destroying the very spirit which gives it life, the very ideas of which it was born, upon which it has lived, and without which our republican institutions in a country so vast and so diversified as ours cannot survive.

Why, suppose that a proposition were brought in here by the honorable Senator from Massachusetts, or some other Senator, in these times which tend so strongly to imperialism to strike out the word "republican" in this guarantee clause and insert "monarchical," and thus make the Constitution declare that the United States shall guaranty to every State a "monarchical" form of government, would that be

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an amendment to the Constitution of the United States? I ask Senators is that amendment? No, sir! No! it is revolution. It is striking at its very life; and precisely so, in this attempt by this Government to take to itself control over the suffrage of the States, this Government is striking at the life of republican institutions within the States themselves. Ay, Mr. President, as Hamilton and Story declared, it is a premeditated engine to destroy the State governments.

Mr. President, I maintain that it is essential to the liberty of the individual within the State that the State shall be unrestricted in its power; that it shall govern itself, and in order to govern itself it must determine for itself who shall vote and who shall not vote, for it is in this voting power that Government resides. If the State of Kansas, for instance, chooses to bestow the right of suffrage upon the women of the State, it is a thing which belongs to the State of Kansas to decide for itself; and I agree with what was read from the speech of the honorable Senator from Kansas [Mr. POMEROY] by the honorable Senator from Maryland [Mr. VICKERS] yesterday where he said that he, as a citizen of Kansas, would never consent to have the Congress of the United States, or any other power, determine for the State of Kansas what should be the qualifications of her voters. He maintained then that it belonged to the State as a sovereign State, as a State to which is reserved and ought forever to be reserved all the powers not granted to the Federal Government, that it was essential to the existence of the State that it should have this power to decide for itself.

Mr. President, unless we can resist this tendency towards centralization which the war has awakened, and which is hurrying us on with a velocity and a momentum which makes every honest lover of his country tremble for the coming future, while the revolutionists, fanatics, and madmen of our time, like "fools, rush in where angels fear to tread," and all unconscious of impending danger are leaping and shouting with maniac joy—I repeat, unless we can resist and overcome this tendency to centralization and imperialism the days of our republican institutions are already numbered.

Sir, if the powers of the States, one after another, are to be absorbed here the liberties of the citizen are gone. I have already said the great mass of our liberties are defended, not by act of Congress, but by the laws of the States under which we live. What defends my life as a citizen of Wisconsin? Not the laws of Congress, but the laws of Wisconsin. What defends my person against assault? Not the laws of Congress, but the laws of Wisconsin. What defends my reputation? Not the laws enacted here, but the laws of Wisconsin. What defends my family, my wife, my children, my home, all my nearest and dearest rights? What defends all my property against trespass, theft, or robbery? Not the laws of Congress; no, sir, no; but the laws of the State of Wisconsin. Sir, unless we can revive among our people more love for the States, more respect for the rights of the States, not outside the Constitution, but under the Constitution; if we cannot resist this centralization, which is just as much at war with the Constitution as was secession itself, and which is fast sweeping us into that maelstrom of imperialism in which all other republics have been destroyed, our liberties are gone! What the honorable Senator from Oregon [Mr. WILLIAMS] said perhaps will be true of us, that we are to follow in the course which other nations heretofore have pursued; that as in Greece, in Rome, in France, under the cry of universal suffrage and universal liberty and equality before the law, all liberty of the citizen will go down; imperialism will be established, and the general, the *imperator*, which was but the name of the general in the days of Rome, will become the actual sovereign. The forms of republican government may

remain; but with power centralized here the tyranny of factious majorities, controlled by secret caucus, will become so odious and despised that the people will prefer the rule of a Cromwell to the rule of Parliament, and will sustain some successful chieftain as master of the Government, like Cromwell, Napoleon, or Caesar.

Mr. President, the support of the State governments in all their rights as the most competent administrations for our domestic concerns and the surest bulwark against anti-republican tendencies, and on the other hand the preservation of the General Government in its whole constitutional vigor as the sheet-anchor of our peace at home and our safety abroad, are the fundamental ideas upon which our institutions rest, and by cherishing and maintaining which these institutions alone can survive.

Mr. President, I wish now to call attention to some two or three facts in the history of the party now in power bearing upon this precise question—the power of the States and the rights of the States. The Republican party was organized in 1854, growing out of the repeal of the Missouri compromise. Congress, in an evil hour, listened to the suggestion to enter upon that most destructive measure which, in my judgment, has been the cause of much of that through which we have passed. The Republican party organized at Pittsburg, Pennsylvania, in 1854, and in its address and resolutions it expressly declared that—

"The maintenance inviolate of the rights of the States is essential to that balance of power on which the perfection and endurance of our political fabric depend."

It admitted in the very hour of its birth that this balance of power between the two ideas to which I have called attention not only existed, but was essential to the perfection and endurance of our system.

Again, when that party met in convention in 1856, when it first placed in nomination a candidate for the Presidency, it again pledged itself "to support the Federal Constitution, the rights of the States, and the Union of the States."

The Republican convention at Chicago in 1860, which nominated Mr. Lincoln the first time, in its platform repeated these memorable words:

"The maintenance inviolate of the rights of the States is essential to that balance of power on which the perfection and endurance of our political fabric depend."

The Union of the States by the Constitution and the rights of the States under it was the battle-cry of the Republican party under which I helped fight its battles and win its victories. The Republican party in its origin and in all its national conventions, until 1868, in thunder tones always proclaimed the equal rights of the States and all the States in the Union.

We come now to the convention of 1868. Their convention at Chicago declared that while, growing out of the war and its necessities, they will force universal negro suffrage upon the States of the South, yet the question of suffrage in the loyal States properly belongs to them. The Senator from Indiana [Mr. MORTON] says that means this, nothing more and nothing less: the loyal States shall control suffrage until, by an amendment to the Constitution, we can take it away. Sir, the resolution declares no such thing. It declares for a principle, a principle which was born with the Government, a principle essential to the life of the Government, namely, that loyal States properly control the question of suffrage; a principle which was present when the Republican party was born; a principle which was loudly proclaimed in every national convention of that party, that the rights of the States—and among them the right of a State to control its suffrage and its elections—were just as essential to be preserved as the rights

of the General Government. This declaration, made in 1868, has no such narrow and deceptive meaning as the Senator from Indiana now gives to it, namely: the people of the loyal States shall control suffrage for themselves until we, the Republican party, can change the Constitution and take that power away, and then force universal negro suffrage upon them against their will. The language is clear and definite:

"The question of suffrage in all the loyal States properly belongs to the people of those States."

Mr. President, what do the words mean? Let us practically illustrate them. Take the State of Connecticut, for instance. When this platform was read in the State of Connecticut did it mean, and was it intended to mean, that the people of that State should have the power to control their own suffrage and elections until the people of Massachusetts, New Hampshire, Vermont, and Rhode Island should vote to take it away? Is that what it means? Take New York. When this platform was read all over that State, declaring that it properly belongs to the people for themselves, in the loyal States, to fix the qualifications of suffrage, did it mean that the people of that State should properly exercise that right until other States thought proper to take it away? And so in Ohio, Indiana, Illinois, Kentucky, Delaware, and Pennsylvania. Is it a fair construction of that resolution that the States of Connecticut, New York, Pennsylvania, Ohio, Indiana, Illinois, Kentucky, and Delaware shall properly control the question of suffrage until States which have been reconstructed by military power and forced to accept negro suffrage at the point of the bayonet, joining with other States, will have sufficient numbers to change the Constitution of the United States and force negro suffrage down the throats of States containing fifteen millions of loyal people against their will? Is that what that resolution meant? Who can with serious face say that it meant that negro suffrage should be forced upon the greatest and most populous States of the North, and States which contain a majority of the loyal people who put down the rebellion, by the carpet-bag States, as they are sometimes called, of the South? No, sir; it meant no such thing. The people understood it to mean, and understood you to say and to pledge yourselves to them when you passed this resolution, that while from war necessities you were forcing negro suffrage upon the people of the South at the point of the bayonet you left the question to each loyal State for itself; you left the question to the free determination of its own people, whether or not negro suffrage should be adopted.

There is one other thing which I beg leave to mention. It is said—and because of the success of the party in power I suppose the country will accept it as an accomplished fact—that the fourteenth constitutional amendment is adopted. Do you not remember, sir, that in the reconstruction of all the States of the South you forced upon those States that constitutional amendment? At the South it was carried by force of arms; in the North, pressed by party necessity. That constitutional amendment expressly provides that this very question of suffrage shall be left to the people of the States, each State acting independently for itself. Your constitutional amendment is hardly cold; it has hardly been adopted, hardly proclaimed as a part of the Constitution of the land; it is yet as warm as the resolution which you made at Chicago, in which you declared that the people of the States of the North should for themselves control the question of suffrage. Now, sir, how does this thing appear? What a spectacle do you present? The States of the South by force of arms were brought to its adoption; the States of the North, by party necessity, by a combination of the votes of these States just reconstructed by arms, and the votes of other States dominated by Radical partisan

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majorities. You propose to undo the work just completed in the adoption of a constitutional amendment, expressly leaving the question of suffrage to the action of each State for itself and to all the States in the Union, and in violation of the pledge of your platform to force upon the loyal States, whose constitutions forbid it, universal suffrage against their will, as you have lately forced it upon the States of the South at the point of the bayonet. Sir, it is against good faith; it is against the spirit which made the Constitution, and which alone can preserve it.

Suffrage Constitutional Amendment.

REMARKS OF HON. H. WILSON,
OF MASSACHUSETTS,

IN THE SENATE OF THE UNITED STATES,

February 8, 1869.

The Senate having under consideration the joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States—

Mr. WILSON said:

Mr. PRESIDENT: It will be fourteen years to-morrow since I stood at the Vice President's desk, took the oath, and entered upon the duties of a Senator of the United States. These fourteen years have been crowded and eventful years. Ideas, principles, and policies have grappled and contended for the mastery. The Senate has been divided into two distinctly defined classes of public men. The one class has been the persistent friends of a liberal, progressive, and Christian civilization; the other class has been the sturdy champions of a brutal, degrading, and perishing barbarism. By speeches and votes, by acts and declared opinions these two classes of statesmen have made enduring records, by which the present age and the coming ages will interpret their motives, weigh their judgments, and pronounce irreversible verdicts upon their public characters.

You and I, Mr. President, have witnessed this struggle. We have listened to the words of Senators who during these crowded years have contended in this Chamber for the triumph of their ideas, principles, and policies. You and I, sir, have seen the friends of the country and of the rights of man give votes and heard them utter words that have been applauded by earth and blest of Heaven. Misapprehended, misrepresented, and maligned, we have seen them move right on from conflict to conflict, from victory to victory, till they have won triumph for the country, for popular liberty, for human elevation and development, the memory of which their children and their children's children will proudly cherish. In the ages yet to be the record of their achievements, traced upon the historic page, will be read by the champions of popular liberty with beaming eye and bounding pulse. The misconceptions, born of interests, passions, and prejudices will perish in the lights of the future; and these men, who have been faithful to country and true to liberty, will take their places in men's memories beside the faithful and true of other ages and other lands. While history shall record, in letters of light, for the study and admiration of aftertimes the words and deeds of patriotism, liberty, and humanity of the men who have never wavered in their fidelity in the stern trials through which their country has passed and is passing, it will be fortunate for their opponents and assailants, in this Chamber and out of it, if their posterity—those who bear their names and inherit their blood—shall be as silent as are the descendants of the men who opposed the Declaration of Independence and reviled the heroes of our revolutionary age. If the wild utterances and guilty deeds of the champions of slavery and whatever pertains to it shall live in the records of these times, if their words and acts shall be remembered at

all, their children and their children's children may seek to hide the shame of such an ancestry. Men who, in the lights of this age in America that flash upon us from battle-fields and patriot's graves, continue to champion the lost causes of slavery, caste, and human inequality are certain, while living or when dead, to meet the doom of men who in other ages and in other lands have disowned, scoffed, and reviled the sublime creed of human equality and brotherhood.

Sir, it is now past six o'clock in the morning—a continuous session of more than eighteen hours. For more than seventeen hours the ear of the Senate has been wearied and pained with anti-republican, inhuman, and unchristian utterances, with the oft-repeated warnings, prophecies, and predictions, with petty technicalities, and carping criticisms. The majority in this Chamber, in the House, and in the country, too, have been arraigned, assailed, and denounced, their ideas, principles, and policies misrepresented, and their motives questioned. Sir, will our assailants never forget anything nor learn anything? Will they never see themselves as others see them? Year after year they have continuously and vehemently, as grand historic questions touching the interests of the country and the rights of our countrymen have arisen to be grappled with and solved, blurted into our unwilling ears these same warnings, prophecies, and predictions, their unreasoning prejudices and passionate declamations. Time and events, which test all things, have brought discomfiture to their cause and made their illogical and ambitious rhetoric seem to be but weak and impotent drivel.

In spite of the discomfitures of the past, the champions of slavery and of the ideas, principles, and policies pertaining to it are again doing battle for their perishing cause. Again, sir, we are arraigned, again misrepresented, again denounced. Why are we again thus misrepresented, arraigned, and denounced? We, the friends of human rights, simply propose to submit to our countrymen an amendment of the Constitution of our country to secure the priceless boon of suffrage to citizens of the United States to whom the right to vote and be voted for is denied by the constitutions and laws of some of the States. This effort to remove the disabilities of the emancipated victims of the perished slave systems, to clothe them with power to maintain the dignity of manhood and the honor and rights of citizenship, spring from our love of freedom, our sense of justice, our reverence for human nature, and our recognition of the fatherhood of God and the brotherhood of man. This effort, sanctified by patriotism, liberty, justice, and humanity, is stigmatized in this Chamber as a mere partisan movement. Who make it a partisan movement? The men who are actuated by an imperative sense of duty, or the men who instinctively seize the occasion to arouse the unreasoning passions of race and caste and the prejudices of ignorance and hate? We are content to leave to our country, to the present age, and to future ages, the question of partisanship raised by the opponents of this beneficent measure. This is not the first time that those who denounce this amendment as partisan have stigmatized great, patriotic, and healing measures as partisan. Did they not denounce the great measures for the suppression of the rebellion as partisan measures? Did they not denounce the immortal proclamation of emancipation as a partisan proclamation? Did they not denounce the thirteenth article of the amendments of the Constitution, by which slavery was made impossible in Christian America, as a partisan amendment? Did they not denounce the fourteenth article of the amendments to the Constitution, by which the citizenship and the civil rights of the emancipated race were forever assured, as a mere partisan affair? Yes, sir; every blow we have struck in defense of the Constitution and the Union, of the liberties of

the people, the rights, privileges, and elevation of the poor and lowly, have been branded as partisan by passionate, vehement, and unreasoning partisanship.

Mr. HOWARD. So was the Constitution itself.

Mr. WILSON. Yes, sir, the Constitution, when it came from the hands of its illustrious framers, was denounced by a narrow, contracted, mole-eyed spirit of sectionalism, local attachment and feeling, as centralization, by which the rights of the States were to be absorbed and the liberties of the people destroyed. So, in our age, the thirteenth article for emancipation, by which the fetters of slavery were riven; the fourteenth article, by which the emancipated bondmen were made citizens and clothed with civil rights, and this proposed amendment, denying to States the power to withhold suffrage on account of race, color, or previous condition of servitude, have been, and are denounced as at war with the fundamental law of the land, the reserved rights of the States, and the liberties of the citizen.

It is, indeed, painful to listen, as we have listened during this sitting of the Senate, to the utterance of sentiments so inhuman and unchristian, sentiments so dishonoring to human nature. Sir, we have just been told by the Senator from Minnesota, [Mr. Norton,] who was once with us, but never of us, that the negro, no matter what may be his wealth, his intelligence, or his personal character, is doomed to be excluded from the society of the fashionable and respectable. The hod-carrier, he tells us, may hope to amass wealth, to ride in his carriage, to be received into fashionable society, to dine others and be dined himself. He can hope, too, he tells us, that his children may be cultured and refined; but the black man is without hope for himself and his children. Fashionable society, carriages, and dinners! Surely these are mighty themes for the consideration of American statesmen. Because frivolity and fashion put their ban upon the black man, be his character ever so pure or his intelligence ever so great, statesmen in this Christian land of republican institutions must deny to him civil and political rights and privileges. Because social life has put and continues to put its brand of exclusion upon the black man, it is therefore the duty of statesmanship to maintain by class legislation the abhorrent doctrine of caste in this Christian Republic. This is the argument, the logic, the position of Senators. This argument, this logic, this position insults reason, outrages humanity, and dishonors the civilization of the age. Sir, it is your duty and my duty, and the duty of any Senator of the United States, to enforce and maintain the liberties, rights, and privileges of every citizen of the United States. The poorer he is the greater is our obligation; the more society averts its face from him, the more God bids us to stand by, shield and protect him. Sir, I am grateful to know that during these fourteen years you and I have given no votes and uttered no words in this Chamber to degrade or dishonor our brother man. We have given no votes here we would recall; many of the friends around us have given no votes and made no speeches they would recall. However much we may be stained or scarred by sins we hope to go to our final account without the fear of finding recorded against us the crime of having betrayed the cause of the weak, the poor, or the lowly. Whatever may be our failing, our sins of omission or commission, we hope that the oppressed and smitten children with skins not colored like our own will not, before the bar of Almighty God, arraign or reproach us.

To the Senator who tells us society is forever closed against the black man, and therefore the ballot-box should be, I say that I know black men of culture and character who are received into society that it would be an honor for him to enter. I know gentlemen and ladies

HO. OF REPS.

Railroad from Washington to New York—Mr. Miller.

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of culture and refinement—gentlemen and ladies who have been received into the most cultivated circles of Europe and America, and who honor that society quite as much as they are honored by it, whose houses are open to that noble specimen of physical, intellectual, and moral power, Frederick Douglas, a gentleman who is every inch a man. I assure the Senator from Minnesota that I

"Enter on my list of friends"

Frederick Douglas, and feel honored by his friendship. The cordial reception given by the Vice President-elect and his bride at one of their receptions, so thronged by noble men and women, was honorable alike to Mr. COLFAX and the great Republican party that made him Vice President. As I witnessed that manly greeting I felt it was but the dawn of a better era, when intellectual and moral excellence would conquer the prejudices of class and caste.

Honorable Senators have grown weary in reminding us that it would be a breach of our plighted faith to submit to the State Legislatures this amendment to the Constitution to secure to American citizens the right to vote and to be voted for. They tell us we were pledged by our national convention of 1868; that we were committed to the doctrine that the right to regulate the suffrage properly belonged to the loyal States. So the earlier Republican national conventions proclaimed that slavery in the States was a local institution, for which the people of each State only were responsible. But that declaration did not stand in the way of the proclamation of emancipation, did not stand in the way of the thirteenth article of the amendments of the Constitution, did not stand in the way of that series of aggressive measures by which slavery was extirpated in the States. Slavery struck at the life of the nation, and the Republican party throttled its mortal foe. The Republican party in the national convention of 1868 pronounced the guarantee by Congress of equal suffrage of all loyal men at the South as demanded by every consideration of public safety, gratitude, and of justice, and determined that it should be maintained. That declaration unreservedly committed the Republican party to the safety and justice of equal suffrage. The declaration that the suffrage in the loyal States properly belonged to the people of those States meant this, no more, no less: that under the Constitution it belonged to the people of each of the loyal States to regulate suffrage therein. I am told that that portion of the resolution was carried by one majority in the committee on resolutions. That construction of the Constitution was not concurred in by great masses of the Republican party; but no one has a right to say that it committed Congress against submitting to the State Legislatures an equal suffrage amendment. Congress is certainly free to submit the amendment, and the State Legislatures are certainly free to adopt such an amendment. The Republican party by its acts and declared opinions is fully committed to the doctrine of the equality of rights and privileges of the citizens of the United States; and its consistency demands that it shall seize every opportune occasion to make the Constitution and laws of the country in harmony with its sublime creed. The march of events, the needs of the country, clear conception of public duty, all impel to action. Better far that political organizations and public men should be right with the lights of to-day than consistent with the errors of yesterday.

Senators accuse us of being actuated by partisanship, by the love of power, and the hope of retaining power; yet they never tire of reminding us that the people have in several States pronounced against equal suffrage and will do so again. I took occasion early in the debate to express the opinion that in the series of measures for the extirpation of slavery and the elevation and enfranchisement of the black

race the Republican party had lost at least a quarter of a million of voters. In every great battle of the last eight years the timid, the weak faltered, fell back or slunk away into the ranks of the enemy. Yes, sir; while we have been struggling often against fearful odds, timed men, weak men, and bad men, too, following the examples of timid men, weak men, and bad men, in all the great struggles for the rights of human nature, have broken from our advancing ranks and fallen back to the rear or gone over to the enemy, thus giving to the foe the strength they had pledged to us. But we have gone on prospering, and we shall go on prospering in spite of treacheries on the right hand and on the left. The timid may chide us, the weak reproach us, and the bad malign us, but we shall strive on, for in struggling to secure and protect the rights of others we assure our own.

To the enemies of equal rights, whether they be its life-long foes or recruits from our ranks, I say your shafts now, as in the past, may annoy us, but they cannot penetrate the panoply with which our chosen and avowed policy invests us. The country knows and the world knows your history and our history, where you now are and where we are, what you are and what we are. The friends of free institutions the wide world over recognize the glorious fact that the far-reaching, comprehensive, and crowning deed of emancipation in America was the beneficent work of the Republican party. They recognize the fact, too, that in the great work of emancipation democracy and conservatism had no part; that they were, and now are, the deadliest foes of the African race on the face of the earth. Everywhere the sympathies of the liberal and progressive men are with us. The confidence of the humane, the generous, and the just are with us. By striving to lift up and hold up the feeble and dependent, the smitten sons and daughters of sorrow and misfortune, we strengthen ourselves. That law of our being applies alike to individuals and organizations. Years of devotion to the oppressed have placed the Republican party of the United States on a plane so lofty and in a position so strong as not to be successfully assaulted by foes who have chosen their ground so far below.

Several amendments have been submitted. As we are all anxious to secure the adoption of one that shall be the most perfect in form, I propose this amendment:

No discrimination shall be made in any State among the citizens of the United States in the exercise of the elective franchise, or in the right to hold office on account of race, color, nativity, property, education, or creed.

This amendment is comprehensive, just, and, therefore, strong. It secures the right to vote and the right to hold office to men of African descent, and it embraces others, against whom tests are made in some of the States. In Rhode Island naturalized citizens cannot vote unless they are the possessors of property. In New Hampshire the Catholic cannot hold office by the constitution, though the people of that State, believing that constitutions were made for man, and not man for constitutions, do sometimes elect Catholics to office. In Massachusetts an educational test is demanded, although it has become, through a sense of justice among the people, almost a dead letter. This amendment appeals alike to the friends of the colored race and to other citizens of the United States. It allows any State to try, if it chooses, the experiment of woman suffrage. If this amendment shall be adopted, as I trust it will, it will be strong before the people, and will, I am confident, be sanctioned by the votes of three fourths of the State Legislatures.

Sir, my colleague has prepared a bill to secure equal suffrage. I shall vote for it if it is presented as an amendment to this bill, or in any other way in which it may be presented. But some of the ablest statesmen and most eminent

jurists in and out of Congress question the constitutional authority to enact such a law. A portion, perhaps a large majority, of the Republicans of the country entertain serious doubts of the right to secure equal suffrage by congressional legislation. In this state of the public mind I am for submitting a constitutional amendment to the States and putting forth our full strength to secure its adoption. Let us fling ourselves into the contest with that dauntless resolution that crowns conflict with victory.

Railroad from Washington to New York.

REMARKS OF HON. G. F. MILLER,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

February 9, 1869,

On the bill (H. R. No. 621) to authorize the building of a military and postal road from Washington, District of Columbia, to the city of New York.

Mr. MILLER. Mr. Speaker, the bill now under consideration, which, as reported by the Committee on Railroads and Canals, contains sixteen sections, is to incorporate a company to locate and construct a railroad from Washington city, in the District of Columbia, to the city of New York, with one or more tracks, with a capital of \$10,000,000, and shall consist of one hundred thousand shares of \$100 each. The bill also provides that the owners of lands through which said road may be located shall be compensated, and if the parties cannot agree as to the amount of compensation a mode is provided by which the damages can be ascertained. It also makes it incumbent upon the company to provide safe and convenient passenger and sleeping cars, and limits the amount of fare to be charged passengers, and also limits the amount to be charged on freight. Upon the whole, the bill is so framed as to protect the public from imposition and to insure a speedy transit between said cities, and to convey the United States mails with dispatch. I will not, Mr. Speaker, enter into an elaborate discussion of this bill, but will briefly notice a few leading features involved, and the first I shall notice is, has Congress power to pass such a law? If not, then it will be unnecessary to consider the importance of the proposed enterprise.

The eighth section of the first article of the Constitution of the United States provides that Congress shall have power to—

"Provide for the common defense and general welfare of the United States."

This, I hold, gives to Congress, in a military point of view, ample power to provide for defense of the Government by having railroads or other improvements constructed through the several States to convey, when need requires, troops and munitions of war, and not have to depend solely upon local roads for that purpose. During the late rebellion we saw the great necessity of such a road, especially between Washington and Baltimore. When the capital of the nation was menaced on every hand by a strong rebel force we had but one railroad, and that belonging to a company little disposed to accommodate; so that the safety of the nation demands an additional avenue for transportation, which is provided for by the bill now being considered; and yet I am sorry to find it opposed on this floor by gentlemen who argue that inasmuch as the war is ended and we are not likely to have another soon, therefore there is no necessity, in a military point of view, for the proposed improvement. What a fallacy! Are we to wait until a war is again upon us before any preparation is made for transportation so as to protect the capital of the nation? Are we to be content with but one road leading to the seat of Government, and that controlled by a corporation that is wielding its influence to prevent com-

petition and keep down a rival road? I would ask, Mr. Speaker, can we, the Representatives of the people, face our constituents and say that we opposed the construction of a great thoroughfare that might do much in an emergency to save the life of the nation and protect the national Treasury?

Sir, it is time we should protect the national honor, and not let a branch road now running between this city and Baltimore have the entire control and power to impose upon the Government. We also need the proposed improvement as a postal road. The Constitution gives Congress also the right "to establish post offices and post roads." We are aware of the vast quantity of mail matter to be carried from Washington to the city of New York, and that it is every year increasing at a rapid rate, and for its transportation a road of the kind proposed is necessary; and as Congress clearly has the power, why should it withhold the granting of the charter? But there is an additional reason why this bill should pass, and that is in a commercial point of view, in case Congress has the power. By reference to the eighth section of article one of the Constitution of the United States it will be seen that Congress shall have power "to regulate commerce with foreign nations and among the several States and with the Indian tribes." Thus it will be seen that Congress has the right of regulating commerce, not only with foreign nations, but "among the several States;" and I would ask how is this right to be exercised except by providing for public improvements for the transportation of commerce? This clause of the Constitution has received a judicial construction showing the power to regulate trade among the several States. I refer, first, to the case of *Gibbons vs. Ogden*, in 9 Wheaton's Reports of Decisions of the Supreme Court of the United States, commencing on page 1. Chief Justice Marshall, who delivered the opinion of the court in that case, says on page 190, speaking in regard to navigation:

"All America understands and has uniformly understood the word 'commerce' to comprehend navigation. It was so understood and must have been so understood when the Constitution was framed. The power over commerce, including navigation, was one of the primary objects for which the people of America adopted their Government, and must have been contemplated in forming it. The Convention must have used the word in that sense, because all have understood it in that sense, and the attempt to restrict it comes too late."

On page 194 of same case the learned judge says:

"The subject to which the power is next applied is to commerce 'among the several States.' The word 'among' means intermingled with. A thing which is among others is intermingled with them. Commerce among the States cannot stop at the external boundary line of each State, but may be introduced into the interior."

Also, on page 196 of same case, in speaking of commerce among States, he says:

"They either join each other, in which case they are separated by a mathematical line, or they are remote from each other, in which case other States lie between them. What is commerce 'among' them, and how is it to be conducted? Can a trading expedition between two adjoining States commence and terminate outside of each? And if the trading intercourse be between two States remote from each other, must it not commence in one, terminate in another, and probably pass through a third?"

On same page the learned judge further remarks:

"What is this power? It is the power to regulate, that is, to prescribe the rule by which commerce is to be governed. This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are presented in the Constitution."

And finally, on page 197 of same case, said judge in the opinion continues to say:

"If, as has always been understood, the sovereignty of Congress, though limited to specified objects, is plenary as to those objects, the power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single Government having in its constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States."

In 3 Wallace's Reports, 713, *Gilman vs. Philadelphia*, in which Justice Swayne delivered the opinion, it is held that—

"The power to regulate commerce comprehends the control for that purpose, and to the extent necessary, of all the navigable waters of the United States which are accessible, and includes necessarily the power to prevent any obstructions to the navigation."

And in 6 McLean's Reports, 237, *Jolly vs. Terre Haute Draw-Bridge Company*, it is laid down that—

"The power to regulate commerce gives the General Government jurisdiction over navigable streams so far as may be necessary for commercial purposes."

From the above authorities it will be seen that the construction given to the Constitution of the United States by the highest tribunal of the country gives Congress a clear right to regulate commerce among the States. But it may be said that the authorities cited mainly refer to navigable streams. It will be remembered that at the adoption of the Constitution we had to depend mainly upon navigation for our commerce, as our railroads, which have done so much for our commerce, are of recent origin; but in the case of *Gray vs. Clinton Bridge*, to be found in 16 American Law Register, commencing on page 149, in an opinion delivered by Justice Miller, one of the judges of the Supreme Court of the United States, it is held that the power given by the Constitution to Congress to regulate commerce is as applicable to railroads as navigable streams. The learned judge, in same case, says:

"Under the power to regulate commerce Congress may legalize a bridge erected by a railroad company over a navigable river."

And also, that—

"Railroads which are parts of lines of interstate communication are equally subject to the regulation of Congress as are steamboats."

There can be no doubt, Mr. Speaker, of the constitutional power of Congress to regulate commerce among the several States, whether conveyed on water or railroads; and I am somewhat surprised to hear any lawyer on this floor doubt such authority, which to me is perfectly plain by the language of the Constitution without calling in the aid of decisions of our highest courts for its interpretation. It is evident that Congress possesses the constitutional power to pass this bill, and the next question to consider is, whether such a road is necessary in a commercial point of view? I hold that it is. It would be strange indeed, Mr. Speaker, if only one railroad was necessary to lead to the capital of a nation for the immense travel and large amount of products necessarily to be conveyed. We have here a city of upward of eighty thousand of a population dependent mainly upon one railroad, which can exact exorbitant prices; hence the reason why it is so expensive to live in Washington. But we are told that the present railroad can accommodate the traveling public, and that there is no occasion for any other at this time, as it may injure the one now in operation. This is certainly a strange argument against public improvements, that the public must be oppressed for fear another road might interfere with the profits of a great corporation that for years has controlled the transportation to this city. Sir, as statesmen we are not to take such a narrow view. It might as well be said we should allow but so many stores in a city or town, as if more were allowed it might diminish the profits of those now in operation. Competition is the life of business, and ought to be encouraged. As so much has been said about the present railroad accommodation to Washington city, I will mention a fact that is well known to the traveling public, and that is the inconveniences and delay at Baltimore. Passengers to Washington over the Pennsylvania railroad, and Philadelphia and Erie railroad by way of the Northern Central road, cannot check their baggage further than Baltimore, and are there taxed to have their persons and baggage conveyed from one depot to another, and

besides are delayed several hours. Whose fault is this? Certainly not either the Pennsylvania, Philadelphia and Erie, or Northern Central railway; for it is well known that they are the most accommodating roads of the country. Then it must be the fault of those having charge of the Baltimore and Ohio railroad. To all other important places arrangements are made by which baggage can be checked through, but to the capital of the nation this has been denied. I would ask how long are these inconveniences to be endured? I presume, Mr. Speaker, until we get another road constructed over which passengers and freight can pass without change or delay. I trust, Mr. Speaker, this bill may pass, and that our capital may be more convenient of access.

Railroad from Washington to New York.

SPEECH OF HON. AUSTIN BLAIR,

OF MICHIGAN,

IN THE HOUSE OF REPRESENTATIVES,

February 9, 1869.

The House having under consideration the bill (H. R. No. 621) to authorize the building of a military and postal railway from Washington, District of Columbia, to the city of New York—

Mr. BLAIR said:

Mr. SPEAKER: I am indebted to the gentleman from New York for five minutes, in which to express briefly my ardent desire for the passage of this bill. A great, and I think it may be said a crying, evil has induced the bringing of this proposition before Congress session after session for a good while. I believe the time has arrived when the measure ought to pass, and when Congress is about ready to pass it. I said it was an evil. The eloquent gentleman from Pennsylvania, [Mr. KELLEY,] in the conclusion of his speech, was obliged to confess that. But he, for the first time since I have been in the habit of hearing him here, is troubled with constitutional scruples. I have not before observed the gentleman from Pennsylvania to be troubled so much with these scruples as he seems to be upon this subject. He has been one of those who have been wont to declare that this is a nation with powers ample to assert its dignity and its rights as a nation. And if anybody has gone as far as the furthest, I think the eloquent gentleman from Pennsylvania has been disposed to do so. But now he says this is a doubtful constitutional power. I shall not, more than he, stop to discuss that question here. I am willing to leave it, when it arises, to the courts of the country. But I do not believe this is in the slightest degree a doubtful power. That it has not been exercised heretofore is certainly true, for there has not seemed to be a demand for it. And that it is new makes it strike the minds of gentlemen with, perhaps, a little surprise. But in the Constitution there is a broad power to regulate commerce between the States of the Union. How? That is left to the discretion of Congress, as has been held by the courts over and over again. Whatever will minister directly or by fair inference to that object is within the power of Congress, and Congress must of necessity be the judge in this regard. Now, across this great national highway between the capital of the nation, this metropolitan city where the political power of the nation resides, and the great city where the financial power of the country has its center, there lie two States that forbid any competition with their railroad lines. These States will neither build competing lines nor allow their citizens to do so. They have shut up the way from Washington to New York and will open it to no one.

The gentleman speaks to us about monopolies. Why, sir, is there any worse monopoly than this? Let a man travel from New York to Washington a few times, and he will find as

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he goes that there is a monopoly there that not only has a grinding power in its hands, but is insolent and overbearing to a degree that can hardly be met with elsewhere. They have no disposition to accommodate the public. They keep up prices to a degree far beyond what other corporations are charging, so far as I know. They are disposed to make out of this monopoly every dollar that it is possible for them to gather from the pockets of those who are compelled to pass over the road.

There is the State of New Jersey, substantially supporting its government, so I am informed and believe, by the collection of subsidies that we are all obliged to pay for the privilege of passing over her soil. Shall we longer allow this to continue? And if we shall not, as I believe will be the decision of this House, then what are we to do? The only way, in my judgment, is to create another line and give to some other company the power to go across Maryland and New Jersey, and thus create a wholesome competition. This is a most reasonable and necessary power and will be exercised, not in the interests of monopoly, but in direct hostility to a most unjust and exclusive monopoly already existing.

Gentlemen who oppose the passage of this bill seem to take for granted that every exercise of the powers of the national Government must be in the interests of monopoly and oppression, while the States may be safely intrusted with unlimited discretion. It is to be observed that this is eminently a national route. It passes through four States, and, departing from this District, terminates in a fifth. To admit the right of one of these States to bar the way against all comers, while she stands on her border taking toll of every being and everything that crosses that line, is to confess our inability to do the most necessary thing for the common interest of the whole people. If the power of taxation involves the power of destruction, then a State may upon a given line utterly destroy the whole commerce and business of the country, unless a remedy can be found in Congress. But it has been argued here that the interests of the people of the States may be safely trusted to prevent such a result. Unfortunately for this argument the very evil which this bill is intended to remedy proves its unsoundness. The State of New Jersey finds it largely for her interest to levy black mail upon all the travel and business which pass over this great line of railroad, and she remains stubbornly deaf to all the demands of reciprocity and good neighborhood. Can it be possible that the nation is powerless to prevent this? Are the States of this Union so many independent sovereignties, which are at liberty to build impassable barriers against the people of the whole country unless they will pay tribute to such monopolies as the cupidity or hostility of the States may require? I shall not give my assent to so mischievous, not to say absurd, a proposition.

I am not surprised to see gentlemen on the other side of the House unite to raise the cry of State rights against this bill. They live in the ideas of fifty years ago. We cannot convince them that the world moves. If we tell them that the power to regulate commerce between the States is the power to build trans-state railways; that commerce abandons the lakes and the rivers, and even the ocean itself, and speeds across the continent upon the iron rail, the Democratic party only stares at us. The magnetic telegraph itself can only give it a spasm as it feebly croaks State rights. If a great nation demands national highways for the encouragement of its industries and the development of its resources, no matter how great the necessity, it must yield to every State the right to veto the project. And thus local jealousies, private greed, and ignorant stupidity must be allowed to defeat the most necessary and beneficial measures. My own State is most deeply interested in this question. Surrounded by lakes upon all sides

except the south, the great body of her productions and travel must seek an outlet through other States. If these States may at will close up the way by oppressive taxation, our situation is most unfortunate. And I insist that the only security for cheap and speedy transportation must be looked for in the power of Congress to open the way for trade and that intercourse which is a part of trade by annulling repressive State laws or by providing national highways over which the people of all the States may pass upon equal terms. We shall look in vain for any other adequate regulation of the commerce between the States.

If the time allowed me would permit it I should look a little carefully into those interpretations of the Constitution which have been relied upon to maintain the right of the States lying across the line of the proposed railroad to continue the odious monopoly which they have established. But that may not be, and I only say that they constitute a part of a vicious jurisprudence which grew up under the baleful influence of an exaggerated notion of State rights, which finally led those maintaining it to deny to the national Government all rights whatsoever. These interpretations, let us hope, have passed away with the occasion for them, and that hereafter the Constitution may be read in the light of a vigorous common sense, as if it were intended to build up and not to destroy the nation.

With these views of the constitutional authority of Congress over the subject it only remains to consider whether its exercise is now expedient. That the abuse in this instance is great and requires a speedy abatement in some form is not denied. But we are told that to enter upon this system of internal improvement is a most dangerous experiment; that the power is subject to great abuses, and we had better keep clear of the matter altogether. It is true that the power may be improvidently exercised as every other power of Government may be, and in this respect it does not differ from any other; but this does not afford a reason for refusing to perform an act which is clearly proper and necessary; nor is it to be presumed that Congress will act unwisely and in hostility to the public good.

We have been solemnly warned in this debate both from Maryland and Pennsylvania that the passage of this bill will bring down upon Congress the terrible lobby from thirty States, and the whole legislation of the country will be corrupted. Sir, I am not alarmed at this lobby if it shall come, nor do I believe in the danger of its coming. Most of the States already have upon their statute-books free railroad laws, and so far are they from being frightened lest too many may be built that they are stimulating these enterprises to the utmost of their power. There is no danger from the lobby when there are no subsidies, and the virtue of Congress does not need to sound an alarm before the temptation is offered. If the Legislatures of Pennsylvania and Maryland have been able to withstand the terrible lobby while voting special privileges, then I will trust the virtue of Congress while it goes about to destroy those monopolies.

It is difficult to believe that the House will be much moved by this appeal to its supposed weakness, or that it will refuse to exercise a most useful and necessary power in the present case because it is possible that the same power may be abused in some other case. But the gentleman from Pennsylvania is also alarmed lest the company chartered by this bill shall conceive the dangerous design of building its road and running its engines through the middle of his beloved Philadelphia and upon streets at a different grade from that established by the corporation, and in fact smashing up a sidewalk beyond all hope of repair. These be fearful dangers no doubt, but I am sure he will escape them, considering that the company will be obliged to pay roundly

for all the property it takes and all the damage it does. And then, sir, the gentleman from Maryland [Mr. PHELPS] is greatly troubled in a somewhat opposite direction. He evidently fears—and I think we all share in that fear—that the time will speedily come when cars will run past Baltimore by steam. Farewell then, sir, to the charming omnibus line; farewell to the great horse teams which, with the crack of the whip and the sound of a tin horn, take us at the rate of two miles an hour through the metropolis of Maryland with a cheery "Gee-up" and "Gee-ho!" I think we shall reconcile ourselves to this change at Baltimore. It will be some compensation that we shall no longer see women and children, the aged, the halt, and the blind tumbled out of the cars coming in from the Northwest at all times of night and day and in all weather, and delivered over to the howling gang to whom they are compelled to intrust themselves in passing through the Monumental City.

Mr. Speaker, the spirit of American enterprise refuses longer to be bound by these vexatious restrictions upon the speed and comfort of travel. If the States will not furnish the highways required by the people the country calls upon the national Congress to supply the defect, and we shall not long refuse to respond to the call. Let us pass this bill and put upon record our determination to remove out of the way every obstruction placed across the great avenues of commerce and business, whether by State monopolies or otherwise.

Frauds against the Choctaw Indians.

SPEECH OF HON. SIDNEY CLARKE,

OF KANSAS,

IN THE HOUSE OF REPRESENTATIVES,

February 10, 1869,

On the claim of Heald and Wright against the Choctaw Indians.

Mr. CLARKE, of Kansas. Mr. Speaker, in order to bring this question to the consideration of the House, I will state as briefly as possible the facts in the case. Joseph G. Heald was licensed to trade with the Choctaws in the spring of 1848. In 1858, with a view to retiring, he sold an interest in his store to his two clerks—F. E. Williams and L. B. Dow—and turning over the active management to them, went to live in Massachusetts. In the spring of 1861, the partnership with Williams and Dow having expired, Mr. Heald returned from Massachusetts to take charge of the partnership effects, which belonged almost exclusively to him, the interest of Williams and Dow having been purchased with notes which are still unpaid. In April, 1862, Mr. Heald went back to his residence in Massachusetts.

After the close of the war, on his way to the Indian country to look after his buildings and other property, he heard Commissioner Cooley state to the Choctaws and other tribes who had been hostile that under their treaties and the law of July 5, 1862, these different nations had forfeited and lost all their rights to lands and annuities, but that the President did not wish to take advantage of the forfeiture. It occurred to Mr. Heald that if the Government was willing to restore as a matter of favor lands and annuities to Indians who had forfeited them by acts of hostility it would of course be willing to secure simple justice to its own loyal citizens trading among such Indians under the special protection of a license.

He therefore presented a statement of his claims to Commissioner Cooley at the Indian office, and was referred by him to the Choctaw delegation then in Washington, with the assurance that whatever arrangement they might make for the payment of his claims would be satisfactory to the Department. The claims

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thus referred to the delegates were under the following heads:

1. For sixty-two bales of cotton taken by the Choctaws.....	\$5,580 00
2. For mill property taken by the Choctaws.....	3,923 00
3. For advances to the Choctaw treasurer before the war.....	5,290 76
4. For protested draft on E. W. Lehman & Brother.....	40,943 42
5. For sums due from individual Indians.....	34,551 62
Total.....	\$90,288 80

To explain these claims fully as they appeared to the delegates it is necessary to say something of the character of Mr. Heald and of his business. Instead of confining himself to the mere buying and selling of goods it appears that he had taken a good deal of pains to induce the Choctaws to work; had built mills and thus encouraged them to raise wheat; had put up "gins," and distributed cottonseed gratuitously, thereby getting them into the way of raising cotton. He had also contributed largely in various ways toward their schools, had himself built and started a neighborhood school near his store, and had made advances for the schools supported by the nation, some of which advances, amounting to several thousand dollars in gold, were repaid in Confederate paper, now on hand, and of course thoroughly worthless. In his business transactions he had so conducted himself as to secure the implicit confidence of the Indians, and had never had any difficulty or misunderstanding whatever in the settlement of any accounts. All this was well known to the delegates. Two of them had grown up near his store. Of these two one had been treasurer, had kept his money in and conducted his business through Heald's store. He knew that just such advances as are embraced in the claims under the third head had been made while he was treasurer, knew the parties to whom the payments had been made, and also knew that a large sum was actually due to Heald for such advances.

So, too, as to the individual accounts. Heald was unable to give the items, as most of his books had been destroyed, but he furnished the names of two hundred and thirty-two debtors with the balance due from each. The delegates, Page and Riley, and the secretary, Le Flore, knew every one of these names, and knew generally that the parties were indebted to Heald. They did not know the precise amount, but they knew that Heald was not the man to claim what was not justly due him. And it is a remarkable fact that not a single doubt has been cast upon any one of the two hundred and thirty-two items composing the aggregate of \$34,551 62, or upon any one of thirty items which made up the sum of \$5,290 76 for advances to the treasurer. The attacks upon the claim have been confined to the items for the cotton and the mill property taken by the Choctaws and for the protested draft. The whole amount of \$34,551 62 for individual debts was not indeed allowed, but it was reduced in this way: some of the accounts, amounting to \$10,000, the delegates said could not be collected. The collection of the remaining \$24,551 62 they said would be expensive, and they insisted that \$10,000 should be allowed the Choctaw nation for collecting \$24,500, thus reducing the allowance for individual accounts to \$14,551 62. The charge for advances to the treasurer was allowed by the delegates in full. Its correctness has never been disputed. The claim for cotton was for forty-eight bales and a quantity of unbaled lint and seed-cotton, estimated at fourteen bales more, in all sixty-two bales left at the gin by Mr. Heald in 1862 and taken by the Choctaws during the following winter. The mill property was in charge of an engineer, who left the country in the spring of 1863 to save his life, which had been repeatedly threatened. Before leaving he attempted to sell the engine, mills, gin, &c., but was

prevented by the Choctaw authorities, who took possession of the entire mill property and used it for their own benefit until it was captured by General Blunt, of the Union Army. The claim is for the actual value of the property lost in consequence of the seizure by the Choctaws.

The charge of \$40,943 42 for the protested draft had its origin in an effort made by the agents of the Choctaw nation to realize in the Indian country the value of certain gold deposited for the nation in St. Louis, on the 24th of August, 1861, for which a certificate had been given, payable twelve months after date, with six per cent. interest on the sum deposited, which was \$33,018 89. The certificate had been transferred to E. W. Lehman & Brother, of Philadelphia.

Sampson Folsom states in his letter to the Committee on Indian Affairs that he was specially employed to get this money transferred to the Choctaw country. About the same time Major Heald had a large amount of Confederate paper which he had been compelled to receive in payment for goods, and which he was desirous of converting into funds available in the North, whither he was anxious to transfer his effects. His former partner, Williams, purchased for him Folsom's draft on Lehman and Brother, paying therefor the face of the certificates, namely:

Certificates.....	\$33,018 89
With interest from August, 1861, to June, 1862.....	1,649 87
Increasing the sum due in gold to.....	34,668 76
To which he added fifty per cent. premium.....	17,334 38

Making the aggregate paid in Confederate notes.....\$52,003 14

The Confederate money, it is admitted, was paid by Williams, and it is also admitted that it was applied at the same rate to the payment of the debts of the nation, its creditors receiving three dollars in Confederate for two in gold. General Pike, one of the creditors, states that he himself was paid at that rate with paper which came from Heald through Williams.

The draft thus purchased was on the 6th of September, 1862, protested for non-payment, and when put in suit a few days afterward the defense set up by Lehman was that he had received the certificates upon which the draft was drawn from his former partner, Johnson, in payment for Lehman's interest in certain partnership property held by and sold to Johnson at Memphis; that Lehman regarded the gold for which the certificates were given as his own property, and had disposed of it accordingly six months before the sale to Williams of Folsom's draft.

The suit against Lehman was still pending, awaiting evidence to rebut Lehman's allegations, when Major Heald's claims were submitted to the Choctaw delegates. Two of them stated that to their personal knowledge Johnson, the former partner of Lehman, had paid the Choctaws full value for the certificates, thereby establishing for Lehman a perfect defense by verifying his statements which Major Heald had regarded as false and fraudulent until the fact of the payment by Johnson, since admitted by Messrs. Folsom and Battice, was made known to him by the delegates.

The claims thus set forth, as presented to the delegates, were of a twofold character, national and individual.

The first four classes, namely—

1. For cotton.....	\$5,580 00
2. For mill property.....	3,923 00
3. For advances to the treasurer.....	5,290 76
4. For protested draft on Lehman.....	40,943 42

\$55,737 18

were all claims on the nation as a body.

The fifth class was of an individual character, namely:

"5. For balances due from individuals, \$34,551 62"—swelling the aggregate claims to \$90,288 80.

The correctness of this aggregate the delegates, after two months examination of the papers, did not dispute. The only objection raised was to the individual accounts, which, as before stated, were cut down not because they were not justly due, but by striking out \$10,000 for bad debts and charging \$10,000 more for collecting the residue.

It also appears that the delegates did not wish the alteration discussed in the Senate. They did not want it known at that particular time, when a treaty highly favorable to them was under consideration, that their people had been engaged during the war in seizing the mills and the cotton of loyal citizens, licensed to trade among them, or that their government officers had been guilty of any such swindling as was involved in the double sale of the draft for gold. They therefore agreed to allow the claim, less the \$20,000 deducted as above shown from the private accounts, and thereby reduced to \$70,288 80, which they requested Commissioner Cooley to provide for in the treaty. Instead of doing so, he prepared the fiftieth article as it now stands, adding \$20,000 for Reuben Wright, and requiring the whole to be examined by commissioners who were authorized to investigate other claims, which if allowed were to be paid out of the \$90,000 provided for Heald and Wright. Against the injustice of admitting others to share in what was justly due to them, Heald and Wright protested, and appealed to the Senate for redress. To give them an opportunity to be heard the ratification of the treaty was suspended.

The Choctaws and their advisers, unwilling for various reasons to risk any debate in the Senate, appealed to Heald and Wright to withdraw their opposition, and Commissioner Cooley joined in the appeal. It was urged that there were no other claimants who could justly participate in the \$90,000 provided by the fiftieth article; that Heald and Wright were the only loyal citizens of the United States who were licensed traders in the Choctaw country, and were consequently the only persons who could claim under that article. Major Heald had objected that it was hard to require him to procure proof in the Choctaw country of the items of his accounts against individuals in the absence of his account books, which had been destroyed during the war, leaving him barely a memorandum of names and amounts due. To this Commissioner Cooley replied that the Choctaw delegates were intelligent men, understood the matter thoroughly, and that their testimony as to the correctness of the claim would be sufficient.

Heald and Wright consequently withdrew their opposition. The treaty was ratified; commissioners were appointed; the claims were examined in this city, and, as the claimants supposed, the case was closed. It was reopened, however, at Fort Smith, in Arkansas, fifteen miles from Major Heald's former trading post. Four attorneys appeared for the Choctaws. No evidence was produced against Wright. That against Heald was confined to the charges for cotton and for mill property. It was not denied that cotton belonging to Major Heald had been taken by the Choctaws. The only question was as to the amount, and whether the Choctaws were properly responsible for it. Witnesses were produced who swore that instead of forty-eight there were only thirty-two bales at the gin; that of the thirty-two only thirteen were taken by the Choctaws, and that the capture and distribution were ordered by the rebel General Hindman, who, it was contended, was alone responsible.

On the other hand, a freedman who had been many years in Major Heald's employment as miller, swore positively under rigorous cross-examination to the number of bales and to the distribution of the whole. Some four or five other freedmen had previously made affidavits to the same effect. There was no sufficient

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proof that the distribution was ordered by Hindman, and if it was it does not alter the fact that the Choctaws really took and had the benefit of Major Heald's cotton without paying for it. The facts previously stated as to the mill property were fully established before the commissioners, the only opposing evidence offered being that a certain part of the property, now in possession of the quartermaster's department, had actually been restored to Major Heald, (which was shown to be untrue,) at Fort Smith, by the person who then held it for the quartermaster. After hearing all the testimony offered by the Choctaw attorneys at Fort Smith the case was again closed, as the claimant thought finally. But it was opened once more at Boggy Depot in the Choctaw nation, to admit testimony showing that the money paid by Williams for the draft on Lehman was used in aid of the rebellion, which was effectually disproved, not only by Williams himself, but also by Folsom and Battice, who had shown conclusively that the whole amount went to pay Choctaw national debts incurred before the war.

During all these attacks at Fort Smith, at Boggy Depot, and in this city, it is to be noted that not one syllable is said against the justice of Mr. Heald's accounts against individuals or for advances to the Choctaw treasurer, though one of the attorneys who appeared against him at Fort Smith, Campbell Le Flore, as secretary to the delegation at Washington, had examined every figure and was familiar with every name. Another attorney, John M. Nail, was the auditor upon whose drafts the advances to the treasurer were made. And still another attorney, Tandy Walker, lived in sight of Mr. Heald's storehouse, knew all about his business, and was the identical rebel officer who had seized his mills.

It is also to be noted that no allegation has been made affecting Mr. Heald's integrity. Folsom and Battice do, indeed, in sweeping terms denounce the claims of Heald and Wright as unjust, illegal, and fraudulent, but they do not point to a single act of either Heald or Wright, or to a single item in their accounts, as fraudulent in its character. They say that fraudulent means were used in the matter of the protested draft, not, however, by or in behalf of Heald, but in effecting the sale to Johnson, by which Heald was fraudulently prevented from getting his money. And it should be borne in mind that the delegates who first agreed to pay these claims have uniformly insisted upon the correctness of their course, and that the nation was bound in good faith to comply with their engagements. One of them, Allen Wright, has since been elected principal chief, which office he now holds. Two of the others have since the treaty been elected to the council of which they are now members. Moreover, the late chief, who witnessed the treaty and is now a delegate representing the Choctaws in this city, has never taken any part against the payment of the Heald and Wright claims, but on the contrary united with his codelegate, Israel Folsom, in requesting the Secretary of the Interior to provide for their payment. In a word, the only opposition to these claims comes from parties who are to receive one half of all they can save by reducing the payments of Heald and Wright below the awards of the commissioners.

No attack has been made upon the items composing Mr. Wright's claim, which was examined and admitted by the delegates after Mr. Cooley had made provision for it in the treaty. The only charge now made against him affects his loyalty. It is specifically alleged that he furnished supplies to the company of David Harkins, a Choctaw captain in the rebel service. But it appears that Harkins was indicted, with his brothers Clay and Loring Harkins and three others, in the United States district court before the war, for murdering in the most brutal manner a white man living a few miles from Mr. Wright's store. The par-

ties only escaped hanging by obtaining from President Buchanan an order for a *nolle prosequi* based upon a certain construction of the treaty of 1855 touching the jurisdiction of the United States courts in such cases. The same band during the war butchered a boy on Wright's premises inside of his store-yard. They had frequently threatened to kill Wright himself, and a material point in his case grew out of the manner in which he had been treated by Harkins; and it is a fair inference that it was to avoid any discussion in the Senate of such facts and of the killing of a freedman left in charge of Wright's cattle in the Choctaw country that the Choctaw delegates so readily agreed to pay Wright's claims.

I have thus plainly stated, Mr. Speaker, the material facts in this case. There can be no reasonable doubt but what the sum of \$90,000 is justly due to Heald and Wright from the Choctaw nation. There is no question but what the late treaty specifically provides for the payment of this sum; and in full view of all the facts and after a protracted and laborious examination of the whole subject, I do not hesitate to say that the appearance of Folsom and Battice as the attorneys of the Choctaws and under agreement that they are to receive one half of the money due Heald and Wright if they can defeat its payment before a committee of this House is utterly undefensible, shameless, and dishonest, and ought to be rebuked by the prompt action of Congress in the passage of the resolution reported by the committee.

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SPEECH OF HON. W. SAULSBURY,

OF DELAWARE,

IN THE SENATE OF THE UNITED STATES,

February 8, 1869.

The Senate having under consideration the joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States—

Mr. SAULSBURY said:

Mr. PRESIDENT: In approaching the discussion of this question I feel embarrassed by the importance and magnitude of the subject. It is presented by its friends in the name of and as a proposed amendment to the Constitution of the United States. It is no such thing within the proper meaning of the term "amendment" as used in the Constitution. It is a change, an alteration of the Constitution of the United States. It is more: it is a subversion of the Constitution and Government of the United States, and it is a subversion of the constitutions and governments of all the States composing the Federal Union. It is revolutionary in its character. It is such a subversion of the Constitution and Government of the United States, and of the constitutions and governments of the States as, if proposed by two thirds of Congress and ratified by three fourths of the States, will have no valid obligatory force upon any State of this Union which refuses to ratify it.

Sir, in considering a proposed amendment to the Constitution of the United States in reference to any matter whatever, however comparatively unimportant, it is necessary and proper that its consideration should be approached with great wisdom and caution. The example of the framers of the Constitution should be imitated by us; we should gather wisdom and instruction from that example. The men who framed that instrument were great men, learned men, learned in all the learning of the past. They knew the history of the rise, decline, and fall of the many Governments which had preceded them; and they assembled for the purpose of forming a Government by which civil liberty regulated by law should be for all time secured to them and their posterity. They had been subjects residing in separate colonies dependent upon a foreign Power. They had

achieved their independence of that foreign Power while united under Articles of Confederation for the common benefit of all of them. And here, sir, I will remark that such was the love of the framers of the Constitution for the independence of their separate and distinct communities or States, that in those Articles of Confederation they secured, as they supposed forever, to themselves all the principles of independent government which have ever been claimed by any wise legislator as embodied in the doctrine of State rights. That confederation, by the very terms of its articles, was to be a perpetual confederation or union; and to show that the rights of these distinct communities or States were not to be subject to the absolute control of Congress under them, I will cite the second of these articles. State rights, if they had not their origin in the Articles of Confederation, were secured by the Articles of Confederation; and he who now derides and scoffs at the doctrine of State rights is ignorant of the history of his country or willfully perverts the theory of this Government from its earliest foundation. Article two of the Articles of Confederation reads:

"Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction and right which is not by this confederation expressly delegated to the United States in Congress assembled."

This was the doctrine held by the fathers in the year 1777, when these articles were entered into. Having achieved their independence and having lived some ten or eleven years under these Articles of Confederation and enjoyed their benefits, but finding that they were not adequate to all the emergencies of the States respectively or of the States united, these wise men, these great men, these giants in intellect, in learning and in wisdom, in comparison to whom the legislators and the public men of the present day are but "pigmies perched on Alps," met in convention, and how did they meet? Did they go there at the bidding of some great, central, consolidated power, to receive its commands and to execute its behests? No, sir; they went as ambassadors from sovereign, independent States. They went with power delegated from political communities who exercised sovereign rights, who had secured by the Articles of Confederation that sovereignty to themselves and their posterity forever. Where was the man then in any State who scoffed at the doctrine of State rights? Where was the man so bold as in the face of the community in which he lived to say that his State was not a sovereign State, that his State was not an independent State? Where was the man then who said that it was in the power of any association of States, either under the Articles of Confederation under which they lived or under any form of government that might be proposed which would meet with general favor, to deprive the States of this sovereignty and independence?

What, sir, did these great men do? But, perhaps, I am presumptuous in my utterances in view of the vast learning of the present day; this progressive age, when political science is learned from newspapers and lectures, when the teachings of the fathers have almost ceased to be studied, and when it is the boast of the mere politician to say that such a Constitution as was framed by the fathers and such principles of governments were recognized by them to be salutary and wise would do for them, but that we live in a new era, in a progressive age, that we have learned something, that the world has become more enlightened, and that the legislators and so-called statesmen of the present day carry heads as the special depositories of all that is wise in the science of government and every other science! Sir, they assembled; and did they act hastily, rashly, when they met to propose changes and alterations in the existing Articles of Confederation or to establish a new Constitution; did they agree upon such Constitution hastily; did they say that its wisdom was so manifest, so plain, that it commended

itself to the judgment of everybody, and that they must have a night session to hurry it through? No, sir; they proceeded cautiously, wisely. They were men raised up by the Almighty to form organic laws for political society; they were men specially raised up by the Almighty to lay the foundations of empire and to secure to the people of this western world forever the priceless boon of civil liberty regulated by law. That was the object of their high mission, and they applied themselves to the discharge of its duties free from any partisan bias, free from any selfish object, uninfluenced by any other motive than that of the good of the whole country.

They had their differences in reference to the nature and character of the government which should be established. Various plans were submitted to the Convention for the consideration of its members. While there was no one who denied that under the Articles of Confederation each State was sovereign and independent, some thought it would be better to create a new government possessing stronger powers, more comprehensive powers, but none questioned that the States whose representatives were there assembled were sovereign and independent.

I cite these facts because they have relevancy to the question now before the Senate. They go to the nature and character and foundation of the Federal Union as it exists under the Constitution of the United States. Some proposed that a national Government should be established, with a national Legislature, a national Executive, and a national judiciary—a strong centralized Government, whose supreme authority in reference to almost all subjects should be recognized and obeyed from one extent of the country to the other, and within whose keeping should rest the rights of the people of the States. What was the action of the fathers upon that question? Did they mean to establish a national Government? Did they mean to establish a national Legislature? Did they mean to establish a national judiciary? If they had so meant, they would have established them. What did they do? Why, sir, the proposition to establish a national Government, with a national Legislature, a national executive, and a national judiciary, was solemnly voted down in that Convention; the words were stricken out of the plan, and it was then, after long, cautious, and wise deliberation, determined upon by them to establish a Federal Union; and that there might be no mistake in reference to the nature and character of that Federal Union, of the powers to be possessed by the Federal Government and the powers to be enjoyed by the States, they reduced their agreement and bond of union to writing, solemnly signed it, and sent it forth to whom? To the people of the United States? Not at all, sir; because they did not know that there was any people of the United States.

There was then no people of the United States, and in its strict and legitimate sense there is no people of the United States to-day, any further than you may call the inhabitants of this country the people of the United States, because they are the people of the States united. In that sense they are the people of the United States, but in no other legitimate and proper sense. They are the people of the several States united together under one common form of government, with very limited and delegated powers. They did not send it forth to the people of what you call the United States for their ratification. Those men were not in the habit of sending forth organic laws to the great mass of people inhabiting a vast country to be considered in a great Democratic assemblage of unlimited numbers and determined by a unanimous or majority vote of the assembled multitude. The example of the inhabitants of ancient Poland, among whom no law could be enacted but by the unanimous voice of the people, did not

commend itself to their judgment. They submitted the organic law framed by them for the common government of the confederated States of the Union to those States respectively—an organic law which, in the language of Mr. Madison, did not so much confer new powers on the Union as it strengthened and invigorated those already possessed by the Union. "Truth is," says he, Federalist No. 39:

"That the great principles of the Constitution proposed by the Convention may be considered less as absolutely new than as the expansion of principles which are found in the Articles of Confederation."

And, sir, the very form of the submission of the Constitution for ratification indicates most clearly and shows most conclusively the nature and character of the Constitution itself. It was framed, not by representatives elected by the whole people of the United States, nor was it framed by delegates appointed by the several States according to population; but it was framed by delegates appointed by the several States, each State having an equal vote upon all its provisions. There is the sovereignty of the States indicated; there is the independence of the States indicated, recognized in the very formation of the Federal Constitution, and while the fathers lived recognized by every act of legislation and every act of amendment of the Constitution.

It was submitted not to the people of the United States, nor to the people of the States; it was submitted to independent, sovereign States, and it was ratified not by the people of the United States, but it was ratified by the several States; and so the form of ratification of every State of that instrument appears of record. My own State, then fewer in population than now, was the first to accept it as the bond of union between the States. She was one of the thirteen that gave the opportunity to these new States to come in and enjoy with her the blessings of a common Federal union; and now, although they have outstripped her in the race of States and outnumbered her in population, and are more extensive in domain, these new States, which were then a howling wilderness, the native domain of the buffalo and the wild animals which roved in their forests—and of these new States one, the youngest of them all—comes and proposes to fasten upon my State and other States, against their will, an amendment, as it is called, to the Constitution of the United States which subverts her government, destroys her sovereignty and her independence; makes her a mere creature to do the will and bidding of a so-called Federal Congress. Modesty, sir, if nothing else, should have kept the State of Nevada, extensive in domain, few in population, a political baby in its swaddling clothes, from coming into the Senate of the United States and attempting to force upon the States which gave Nevada the only right she has to be heard in this Hall, laws and constitutional amendments not only repugnant to the wishes of their people, but destructive of their rights of self-government.

Sir, the fathers framed no national Government. The term "national Government" is of comparatively modern origin. It required the illumination of more modern times to apply to a Federal Union the term "nationality." I suppose, Mr. President, if there were any three men in the United States who understood the true nature and character of the Government meant to be established by the Constitution of the United States those men were Madison, Hamilton, and Jay. Their expositions of it in the Federalist are cited by all parties in this Chamber, and are recognized, in theory at least, however disregarded in practice, as the clearest and most authoritative expositions of the text. And what was the doctrine of these men in respect to the nature and character of our Government, Federal and State? Did they hold that the Federal Government was a sovereign power; that its authority was unlimited, and that the States were created by it,

derived their authority from it, and could exercise none except by its permission? Nay, verily. "We have seen," says Mr. Madison in the number of the Federalist already cited:

"That in the new Government, as in the old, the general powers are limited, and that the States in all unenumerated cases are left to the enjoyment of their sovereign and independent jurisdiction."

They held that the authority conferred by the States upon the Federal Government was supreme within the legitimate exercise and operation of that authority, and that the authority of the State governments was sovereign and independent in all matters and in reference to all subjects within their jurisdiction. They nowhere claim for the Federal Government in any one or all of its departments united the possession of sovereign power. Sovereign power is inherent, original, self-existent, and incapable of limitation. Supreme power may be derivative, limited to the objects of its exercise, and by rules established by a superior or sovereign for its exercise.

The States by the adoption of the Constitution created the Federal Government, and in this exercise of their joint sovereign powers limited its authority or derivative power from them to enumerated subjects, and made this derivative power in its just exercise supreme over any attempt to exercise authority in reference to any of these subjects by any other power. But the reserved power or authority of the States is supreme over any attempt to exercise authority in reference to subjects and powers reserved to the States, and within their sovereign and independent jurisdiction. It is a remarkable fact, indicating their precision of language and caution in the use of words, as well as thorough knowledge of the character of our complex system of government, and one which I recommend to the calm and deliberate reflection of those advocating the sovereignty, absolute sovereignty of the Federal Government, that there the earliest and most authoritative expositors of the Constitution nowhere and on no occasion apply the term sovereign to the definition of the powers of that Government, and so frequently employ that term to the State governments.

It may be said because I honestly hold these opinions, and give utterance to them, that I am disloyal; for it is now claimed that any one who believes in the doctrine of State rights is disloyal. It may be said that I am not thoroughly and at heart attached to the Federal Union. Sir, I do not justify my loyalty. I enter into no defense in reference to my attachment to the Federal Union. Harlots can prate of virtue, and men who are sapping the foundations of their Government and plotting its destruction may prate of loyalty. Let such men defend their loyalty and their love of the Union. It becomes not one who has taken his lessons in reference to the nature and character of the Government under which he lives from the teachings of the men who made it.

I say that the fathers held that the Constitution of the United States did not establish a national Government, and was not a national Constitution, and had not the features of a national Constitution in the sense in which that term is now so generally applied.

I will not take up the time of the Senate by reading extensively from the Federalist on that subject; but in one number, written by Mr. Madison, in which he was commending the Constitution to the people for their adoption, he expresses the opinion that it is neither national nor Federal in all respects, but that it is partly Federal and partly national; but nowhere does he say that it confers sovereign power upon the Federal Government. I submit, however, that even in the comparatively unimportant relations in which it is considered by him as partaking of the character of national, it is strictly Federal. He considers the character of the Government first in relation to "the foundation on which it is to be established," "the assent

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and ratification by the people; not as individuals composing one entire nation, but as composing the distinct and independent States to which they respectively belong." In this respect he declares the Government to be Federal, and not national. The second relation he considers is the "sources from which the ordinary powers of government are to be derived." "The House of Representatives," he says, "will derive its powers from the people of America, and the people will be represented in the same proportion and on the same principle as they are in the Legislature of a particular State. So far the Government is national, and not Federal." Instead of saying that the "House of Representatives will derive its powers from the people of America," it would have been more accurate to have said that the "House of Representatives will derive its powers from the Constitution," and "shall be composed of members chosen every second year," not by "the people of America," but "by the people of the several States," as the Constitution declares, article one, section two. "So far the Government is Federal, and not national."

Without reading from the opinions of Mr. Madison further, I resume my own argument to show that the Government established by the Constitution is Federal, and not national. The composition of the Senate establishes, so far, the correctness of this principle. Article one, section three, provides that "the Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six years, and each Senator shall have one vote." The mode of electing the President of the United States is also evidence of the Federal character of the Government. Section one of article two provides that he shall be elected as follows:

"Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in Congress."

In case the election of a President shall devolve upon the House of Representatives, "the votes shall be taken by States, the representation from each State having one vote." If the character of the General Government be considered in relation to the extent of its powers, it is Federal and not national:

"The idea of a national Government involves in it not only an authority over the individual citizen, but an indefinite supremacy over all persons and things so far as they are objects of lawful government. Among a people consolidated into one nation this supremacy is completely vested in the national Legislature. Among communities united for particular purposes, it is vested partly in the general and partly in the municipal Legislatures. In the former case all local authorities are subordinate to the supreme, and may be controlled, directed, or abolished by it at pleasure. In the latter the local or municipal authorities form distinct and independent portions of the supremacy, no more subject within their respective spheres to the general authority than the general authority is subject to them within its own sphere. In this relation the proposed government cannot be deemed a national one, since its jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects."—*Federalist*, No. 39.

I admit that in the operation of its powers, in declaring peace and war, in regulating commerce, in levying taxes, and in coining money, it presents characteristics of a national Government, but not characteristics peculiar to a national Government, a Federal Government. A confederated Government or distinct Government, united by a league, the feeblest of all Governments, may possess the same powers by compact and operate those powers not only on the same subjects, but in the same manner and to the same extent.

The manner of amending the Constitution further establishes the fact that the Government created by it is Federal and not national.

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to the Constitution; or, on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes as part of this Constitution when ratified."

Not by three fourths of the people; but—
"by the Legislatures of three fourths of the several States or by conventions of three fourths thereof, as the one or the other mode of ratification may be proposed by the Convention."—*Article 5 of Amendments to the Constitution.*

From this review of the formation of the Constitution we learn the character of the Government established by it. That Government is a Federal, not national. It is composed of three departments: the executive, judicial, and legislative. Each of these departments is limited as to its powers by the express provisions of the Constitution. The powers of the General Government are delegated, not original. The powers of the States are original, not delegated. To the States respectively or to the people are reserved all powers not delegated by the Constitution to the United States, nor prohibited by it to the States. Congress, therefore, can do no act unless the power authorizing the act to be done is delegated by the Constitution to be exercised by Congress.

This is a principle of law which has received a favorable judicial determination, and which is not questioned and cannot be questioned, that the powers of Congress are not sovereign, but limited and governed by the express delegation contained in the Constitution; whereas a State Legislature can do anything that it is not restrained from doing by the constitution of the State.

Mr. President, the power to propose this amendment is claimed to reside in Congress, because in the article providing for an amendment of the Constitution it is declared two thirds of Congress may propose, and three fourths of the State Legislatures may ratify, any amendment. Let us consider the soundness of this proposition. In construing that article of the Constitution of the United States which provides for its amendment we are bound to look at the objects and purposes which the framers of the Constitution had in view when they incorporated that provision in the Constitution, what it was that they contemplated could and might be done under that provision of the Constitution. It does not follow that because the power to propose amendments to the Constitution is secured to two thirds of Congress, and the ratification provided for by three fourths of the States, therefore, under the pretense of amending the Constitution, two thirds of Congress and three fourths of the States may incorporate into that instrument any provision which they may arbitrarily choose to incorporate into it. If so, you make two thirds of Congress and three fourths of the States absolutely sovereign, and all sovereignty under this Federal Government would then reside in two thirds of Congress and three fourths of the States. But mark you, sir, the States, in the Articles of Confederation, reserved to themselves severally and respectively sovereignty and independence, and retain under the Constitution, according to Mr. Madison, a residuary and inviolable sovereignty over all objects over which they have not delegated power to the United States. Did they ever part with these attributes? If they have ever surrendered their sovereignty and independence you will find that surrender in the existing Constitution of the United States. Now, show me, sir, in the Constitution of the United States when, where, and how that surrender has been made. If they have not surrendered them—and it is incumbent on you to show that surrender if it exists—they are reserved by an express provision of the Constitution to the States respectively or to the people.

The object of the formation of the Constitution being the establishment of a common Federal Government of limited and well defined powers by compact, agreement, or Constitution between or created by independent and sovereign States, and that compact having been entered into or that Constitution having been made by independent and sovereign States, and there having been no surrender of that inde-

pendence or sovereignty; the States remain by express reservation in the Federal Constitution independent and sovereign States. The object, then, of the formation of the Constitution being union between sovereign and independent States, with the power of amending the bond of union between them, the Constitution, that power of amendment must be considered in reference to the rights of the parties forming the Constitution and in reference and solely in reference to objects common to all its members; and when you go beyond an amendment of that character, and propose a measure subversive of the rights of any one of the members entering into the Federal Union under this Constitution you become revolutionists, your so-called amendment ceases to be an amendment, and becomes the exercise of absolute and tyrannical power. Sir, had you attempted it in the days of the fathers they would so have treated it, and the fields of these United States, if it had become necessary, would have been reddened with blood; not blood so causelessly and so needlessly shed as that which has been recently shed in the struggle for political power, but blood shed in vindication of the solemn, essential, inherent rights of sovereign communities; blood shed in vindication of their reserved rights of independence and sovereignty; and for such a patriotic vindication of their rights they would have had the sympathy of the wise, the good, and the brave in all times, for the love of freedom and of liberty, regulated by law, has ever animated the hearts and nerved the arms, excited the hopes and inspired to deeds of high emprise the noble and the great.

Is that disloyalty? The world says that Hampden was a noble patriot, but Charles I. and some of those who surrounded him denounced him as disloyal and a traitor. You, sir, have talked of the glorious deeds of Hampden. Orators and statesmen have spoken his praise, and of how nobly he vindicated civil liberty against the exercise of tyrannic power. What did he say, sir? In his only recorded speech he declares this as a test of loyalty:

"To deny obedience to a king commanding anything against God's true worship and religion, against the ancient and fundamental laws of the land, and endeavoring to perform them, is a good subject."

How different from the test definition of loyalty applied of late in the free Republic of the United States! To resist the king when infringing the fundamental law, says Hampden, whose merits as a patriot you have lauded, and whose character is the admiration of the world wherever civil liberty has a votary or human freedom has a lover, is a test of true loyalty. And yet, sir, when the late President of the United States, by his own will and of his own motion, suspended that great guarantee of civil liberty and human freedom, the writ of *habeas corpus*, and when members of this body or citizens of the United States devoted to the fundamental law of the land questioned his authority to do so, this Chamber and the Representative Hall, and the columns of a vitiated and polluted press—these which should have been vindicators of the rights of the citizens and of civil liberty—rang with denunciations of them as disloyal, and willing pens were given to the disreputable task of attempting to show that under the Constitution of the United States the President had the right to suspend the writ of *habeas corpus*. What did you do? What did the self-styled loyal men, many of whom profited by the profession of loyalty, afterward do as evincing their true opinion upon that question? They brought a bill into Congress and passed it, authorizing the President to suspend the privilege of the writ of *habeas corpus*, and also a bill to indemnify the President and others for acts done under presidential suspension of the writ. The inconsistency in this regard was only equalled by your inconsistency in reference to another measure. President Lincoln assumed and presumed by proclamation to

abolish slavery throughout the United States, which you said was all right and a legal exercise of power. It was right as a war measure, and necessary, and slavery was therefore abolished. Then, to show whether you thought so or not, you subsequently proposed an amendment to the Constitution abolishing slavery, and you sent it to the southern States, and you said to those States, "If you will only adopt it you shall come back into the Union." What did you want them to adopt it for if slavery was already abolished throughout the United States? And yet to question Mr. Lincoln's power and authority to abolish slavery by proclamation at one time was evidence of disloyalty. You questioned it yourselves. I am sorry that my personal friends, but my political opponents, should have ceased to be loyal and become, like the rest of us, publicans and sinners. You ceased to thank God that you were not like other people, even as these poor Democrats, but laying aside your loyalty you came and joined us and undertook to do over again and cause to be done over again that which you said had been effectually done before.

I do not refer to this subject for the purpose of reviving any discussion upon the subject of slavery, but to stir up the pure minds of my political opponents by way of remembrance, and to show them that though at one time they were sincere saints, like the Pharisee who went up and thanked God he was not like other people; they lapsed from their pious state of political virtue and became like the publicans and other sinners.

Sir, I might cite numerous examples in the history of the world to show that the votaries of civil liberty in all ages entertained the same opinion of the rights of the citizen to resist arbitrary power that Hampden did. Sir John Elliot, one of the greatest orators that ever lived in England, and who suffered imprisonment and died in imprisonment because of his devotion to liberty under a charge of disloyalty to the king, refused to vote supplies for the armies of his country when that country was engaged in a foreign war until a redress of grievances should be granted by the king at home. You have read with enchantment the words of that noble patriot; you have regarded him as one of the noblest spirits, the manifestation of whose genius ever flashed athwart the world; you have held him up to the admiration of your people, and yet he would not vote supplies for the support of the army of his country, though engaged in a foreign war, unless the king should cease to violate Magna Charta and grant the request contained in a petition for the redress of grievances.

Sir Robert Philips, another able and distinguished orator and patriot of the days of Charles I, for declaring that civil liberty under Magna Charta was the birthright of the subject, was seized in his own house, dragged away to prison, incarcerated like a felon, and there languished and the wife of his bosom denied the sight of him; and all because he was disloyal, and disloyal because he held that the British subject had rights secured to him by the provisions of Magna Charta. The officer chief in command under Charles I wrote to his wife that his heart was not in the cause; that there were many occasions to get rid of the king's service, if it was not for what he called "grinning honor." He knew that Charles was warring upon liberty; he knew that Charles was warring upon the British constitution, and yet he wore the commission of an officer, and he could not, as he said, draw his sword in any other cause. Mistaken notion! A sword stained in an unjust cause is not an honorable sword by whoever worn if that war is against the liberties of one's country, and it requires no punctilio of honor to enable even the most gallant and patriotic officer to refuse to wear it in such a cause. Admiral Vernon, though engaged in the service of Charles, had not, as Clarendon confesses,

his heart in the struggle; and why? Because it was an attempt by tyrannic power to crush out the liberties of the English people.

I cite these examples, illustrious in the history of that country from whose people we are descended, as examples to show that the entertaining of honest principles and views in reference to the constitution of one's country and the rights of the people under it, although those views may not harmonize with but are antagonistic to the views and opinions of the majority in power and those who exercise the functions of government, is consistent with the greatest devotion and love of country, and, instead of being an evidence of disloyalty, is an evidence of the highest and greatest loyalty.

But, sir, why go back to English history for illustrations? Simply to show you the views entertained by the lovers of freedom and liberty there. I will not raise that dark veil which is spread over your own political transgressions. I shall not attempt to summon up before you the tears of heartbroken wives so copiously shed over the incarceration of innocent husbands because they dared, in the exercise of the intellect which God Almighty gave them, honestly to protest against your usurpations of power in the past. I will not unlock the doors of your bastilles and show you where innocent men have suffered unjustly that party might triumph, for no offense but the honest exercise of their judgment in reference to the Constitution and rights of the people of the country. Would that oblivion might cover the past, and the historian's pen might become powerless when he attempts to record your enormities as a political organization. For the credit, the honor, and the future glory of my country, that the rising youth from generation to generation might look upon the pages of that history and find no tarnish or spot of blemish, I would that forgetfulness might come over the human mind, even though the example might be profitable as one of warning, that this nineteenth century, which you boast is a century of such enlightenment and such progress in the science of government and in the spread of the principles of civil liberty, had furnished the worst example of modern times of the oppression of a free people for opinions honestly entertained and honestly expressed.

But, sir, I come back to my proposition that two thirds of the Congress of the United States and three fourths of the States have not, when the true character of that Constitution is considered and the purposes and objects for which it was formed are considered, the right to incorporate this provision into it and make it a part of the fundamental law. That question depends upon this: what is the legitimate exercise of the power of amendment as proposed by two thirds of the Congress and ratified by three fourths of the States? I maintain that to determine your authority and the authority of three fourths of the States in this regard, the nature and character of the government must be considered, and are essential elements in the consideration of the question. I assert that anything that is destructive of the nature of that Government or of the rights of the parties to it, the States, which are expressly reserved by the Constitution, is not an amendment, but a subversion of the Constitution.

I maintain that there are limitations upon the power of amendment growing out of the nature and character of the Government originally established by the Constitution, and that any alteration or change in the essential nature and character of the Federal Government and of the government of the States is not an amendment within the meaning of the Constitution, but lawless revolution, and that counter revolution may, if necessary to prevent it, be resorted to by the disagreeing States, and that forcible resistance on their part will be justifiable, legally and morally, and that such resistance by

the people of those States may become the evidence of the most exalted and noblest patriotism.

An amendment is something which may be done to perfect the Constitution so as to enable the Federal Government to exercise more easily and more advantageously to the people of the States the powers granted by the Constitution to the Federal Government. Any amendment which is not confined to this specific purpose is not an amendment to the Constitution of the United States, but is a subversion of the Constitution. Take this amendment; view it in the light of the Government of the United States as established by the Federal Constitution, and see whether it is necessary in order to enable the Federal Government to exercise more easily or with greater advantage to the people of the several States the powers conferred upon the Federal Government by the Constitution. As I have said, the Federal Government established by that instrument was one of limited delegated powers, confined principally to questions relating to our interests with foreign countries, the regulation of commerce, the coinage of money, and the power of taxation. This is the doctrine laid down by the Federalist. To the States were reserved all authority and power necessary for their internal government and their absolute independence in respect to all questions pertaining to that internal government. That is not only the doctrine of the Federalist, but it was the doctrine of the Supreme Court of the United States, and was the doctrine of all political parties until every man in the country became a lawyer and every mountebank a statesman.

What does this amendment propose? Does it propose to leave the Government of the United States to the exercise only of what were properly and legitimately considered Federal powers—powers which could be properly exercised for the benefit of the different States composing the Union, and which do not interfere with any of the rights of the States to local self-government? No, sir. It proposes that three fourths of the States may not only destroy their own State governments, but that they may destroy the State governments of the remaining fourth. I say "destroy;" I mean "destroy;" I mean destruction; I mean annihilation of the States. It proposes to make this Federal Government, which was designed to be, and which is nothing else under the Constitution but a common agency for the States, a great sovereign power, exercising all authority, not only of Federal, but of State legislation. That Government, the Government of the United States, which is not sovereign and never was a sovereign power, is to be made an absolute sovereignty among the nations of the earth; and the States that made it are to be by the exercise of its authority deprived of all their rights of self-government.

I know that according to the modern newspaper learning on the science of government, according to those luminous views and logical enunciations of the principles of the science of government which we hear on the lecture boards from white and black assembled together by strong-minded women and weak-minded men, women in breeches and men in petticoats, this will be considered a heresy; it will be considered disloyalty. Well, sir, I have one consolation. There are but very few newspapers that I read, and as for public lectures upon the science of government I never listen to them. I never went up to Boston to learn the principles of government or of civil liberty. I have consulted the writings of the able statesmen of New England of our revolutionary period, and of their immediate successors; but I have not afflicted myself by listening to the babbling of her modern empirics in statesmanship. I do not think that these questions are to be determined by the vote of a town meet-

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ing. A knowledge of these principles can only be acquired by long study, by observation, and by wise reflection upon the teachings of human experience.

I said that this Government was not a sovereign power in the true sense of that term. Why do I say so? It is a creature. It was created. There is something greater than it; and who are the parties greater than it? The States. They made it; and they can unmake it, and not by revolutions either. By the exercise of constitutional authority and power the States can make it, although it was intended, like the Union formed under the Articles of Confederation, to be perpetual. The States not only made it, but can unmake it. Can that which is a mere creature be greater and sovereign over its creator? Can that which can be destroyed by another power be greater than the power which can destroy it?

Some of my friends here smile. I do not know whether it is with amusement, or whether they are wondering at my boldness.

Mr. THAYER. Amusement.

Mr. SAULSBURY. Let us see whether it may become a matter of instruction to my honorable friend [Mr. THAYER] rather than of amusement. I do not presume to instruct; but if he is amused at this doctrine, which implies that he doubts it, let us notice it for a moment. I say the States made the Constitution under which only the Government exists. He cannot successfully controvert that position, because it was ratified by the States. The answer sometimes suggested is, "Oh, well, take up the Constitution, look at the preamble, and you will find it reads, 'We the people of the United States, do ordain and establish this Constitution for the United States of America.'" Therefore it was the people of the United States, the whole body of the people, who did ordain and establish the Constitution. Let me call the attention of my honorable friend to a historic fact. When that Constitution had been agreed upon by the Convention, and had been submitted to a committee on revision and style, not to alter the substance, but simply to consider the style and arrange its provisions under appropriate heads, how did that preamble stand? It stood thus: "We, the people of the States of Massachusetts, New Hampshire, Rhode Island Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, do ordain and establish this Constitution for the United States of America." That is the way the draft stood as it was agreed upon, and if you will read the historic records of the times you will find the fact to be so.

Then, when it was simply submitted to the committee on revision and style for arrangement, to shorten the phraseology, and for no other purpose, they inserted the words "We, the people of the United States," which they intended to bear, and which legitimately bear no other construction than "We, the people of the States of Massachusetts, Rhode Island, Plantations, Connecticut, New York, &c., united, do ordain and establish this Constitution." That is the historic fact; and your Constitution was no more ratified by all the people of the United States than it was ratified by the people of England or France. There was a reason for this change of phraseology of the preamble, as the historians of the Constitution will tell you. The Constitution provided that when ratified by nine States it should be the Constitution of those States. The committee on revision and style found that New York, Virginia, North Carolina, Rhode Island, or some other State might not, as those States did not for a time afterward, ratify that instrument, and might never do it. It would not, therefore, be proper to put into the preamble "We, the people of these States"—naming them; but they put into it its equivalent, "We,

the people of the United States"—meaning the people of the States which should unite under that form of government. It was ratified by the States. If it was adopted by the people of the United States what became of New York, Virginia, North Carolina, and Rhode Island? It was a Constitution in force and operative without their assent for a long while. Rhode Island resolutely refused her assent to the Constitution for a considerable period of time. Was there any attempt to force her in? There is an answer to your whole doctrine that the ratification was by the people. If the Constitution was ordained and established by the people of the United States it was a Constitution obligatory upon the four States named before they ratified it.

I also assert that the States can destroy the Federal Government which you assert to be sovereign, peaceably, effectually, and forever, and that the Federal Government, and those claiming to exercise authority under it, could not rightfully resist the exercise of this power of destruction. And how? By the most simple means. Let but a majority of the States refuse to be represented in Congress by Senators and Representatives and the Federal Government falls into ruins and its pretended sovereignty vanishes—a sovereignty not having within itself a sustaining principle of self-existence, but dependent in its essential nature and by the very law of its being upon the will of others, its creators, which can rightfully become its destroyers.

Now, Mr. President, this amendment proposes to change essentially the nature and the character of the Federal Government. In the exercise of the authority which is delegated by it, and under the provision that Congress may enforce it by appropriate legislation, you can absorb all the independence of the State governments, all control over their own State institutions; you can deprive them of every vestige of State authority, and make them absolutely dependent upon the will of Congress. I submit this question, Mr. President, to you and to the Senate: if two thirds of Congress were to propose an amendment and three fourths of the States were to ratify it, to blot out the State of Rhode Island, and the State of Delaware, two of the smallest States in the Union, could you legitimately do so? Would it be a legitimate exercise of the power of amendment to destroy the members composing the Federal Union, to destroy the parties to the Federal Union? I presume that that will not be contended as possible.

What is the difference when two thirds of the Senate propose and three fourths of the States ratify what they call an amendment, which deprives the States of Delaware and Rhode Island of the exercise of authority within their own limits? Your amendment declares that there shall be no distinction in reference to the right to vote or the right to hold office within the States, not only of voting for Federal officers and to hold offices created by the Federal Government, but to vote within the States for officers created by the State, including Governor, members of the Legislature, and every possible officer that exists under State law.

It is a perfectly legitimate mode of testing the soundness of a principle by carrying it out to its logical conclusions. If you have the authority to say who shall vote in a State you have the authority to say who shall not vote in a State. If you have the authority to say who shall not vote in a State, you have the authority to say that no one shall vote in a State. If you have authority to say who shall hold office within a State, you have authority to say that no one shall hold office within a State. If you have that authority, you have the authority to say what shall be the law of that State; how that law shall be enacted; by whom the functions of government shall be exercised. If you can do that, you can go to the hub of the universe, the modern Athens,

from whence comes all this modern illumination, and send some one of the wise men from the East to my State to do all the voting and hold all the offices. If you have this power, you may establish a test of political orthodoxy, and you may even make it as a test of the right to vote and to hold office that the voter or person to be entitled to hold office shall swear that he does now most thoroughly believe, and never in his life has questioned, not only the equality of the negro with the white man and his equal right to civil and political privileges, but that he is a little better than the white man, and exclusively entitled to vote and hold office. You can do anything; you can do everything. You can appoint members of the Legislature, if you choose to permit a State to have a Legislature, to make laws to govern me and my people. Do I know that you would not do it? I am afraid to trust you. Confidence, said a British statesman, is a plant of slow growth in aged bosoms; and it is a plant of slow growth in the bosoms of some men who are not very aged, especially when they take into consideration the arbitrary exercise of powers by your party for the last eight years. If you can do these things under a miscalled amendment to the Constitution, by the same means you can abolish all the powers of the State governments and govern the people directly in every respect by congressional legislation. You can establish a congressional despotism upon the ruins of free constitutional government.

Now, sir, I defy any man to show me what single authority any State of this Union would possess if your proposed constitutional amendment is adopted and it be recognized as a legitimate exercise of power in two thirds of Congress proposing and three fourths of the States adopting it. You went a great way when you passed your famous civil-rights bill; but this is an annihilation of the State governments, depriving them of the right to do anything for the government of their own people, for the protection of life, liberty, or property. Why, sir, in the estimation of the party in power, this is a Government of wonderful, almost unbounded power. In fact, it is a Federal Government, as established by the fathers, with but few, and very few powers. Are the people of my State or of your State, and were they meant to be made by the Constitution, dependent upon Federal power, Federal authority, or Federal legislation for their protection in any of their rights of life, liberty, or property?

Mr. President, from earliest childhood I was taught to revere the union of these States, and to love it with all the ardor and affection which youth could show to any object. I had heard the old men speak of what the fathers dared and what they did to achieve independence, and how patriotically they acted in the formation of the Government which secured to every man the right to sit in perfect security under his vine and fig tree and enjoy all the blessings of civil liberty. I had heard them tell how the people of the Colonies had been oppressed by the mother country; how denying to them a voice in the legislation of the country they taxed them for the support of a Government obnoxious to them. As I advanced in years I read in the history, not only of my own country, but of foreign countries, how the love of civil liberty had animated the hearts and nerved the arms of the brave and the good in all nations and in all ages of the world; and how men dared to face every danger and to die upon the field of battle that they might leave a heritage of liberty and of freedom to their children. As I advanced in years I heard the noblest spirits of my own land, gathering inspiration from the mighty theme, tell of the noble struggles of the fathers, of their wisdom in council and their valor in battle, that their descendants, under the protec-

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tion of that noble flag which was borne on every breeze, over every sea, and in every land, might gather together and rejoice in the heritage bequeathed to them by noble sires. I heard them tell how the poor, friendless boy, with none to guide and direct his steps, under the free genius of American institutions could rise by honest effort and well-doing to fill the highest position under the Government. My youthful heart bounded with joy at the thought that this land was not only mine, but the heritage of countless thousands, and to be the heritage of countless millions throughout the infinite coming ages. My devotion to it did not die when madness, having its origin in fanaticism, led to that fatal struggle which, if this legislation is submitted to, will have been the cause of the loss of all the inestimable privileges and rights of which we vainly supposed that we and our posterity would be possessed forever.

To snatch from the profaning hands of those who would bear away this covenant of our political ark into the possession of the Philistines I come here to-day to attempt to show, although I cannot hope to convince this body, that they have not, under the power to amend the Constitution, the authority to propose this amendment, because in its exercise it would lead to the destruction of the governments which framed the Constitution and the rights of the people secured and meant to be secured by the Constitution. Sir, after you adopt this amendment, if you are disposed to carry it out to its full extent under that provision which gives you the right by appropriate legislation to enforce it, what is there that any State of this Union can do? You take away the power of determining who shall vote and the power of determining who shall hold office within the States, and you leave nothing of the State governments except their ruins. Under the exercise of the power to carry this amendment into execution by appropriate legislation what cannot you do? You can send your soldiery into my State to see who shall vote; surround the polls in time of peace in that State, as you did in time of war, by armed soldiery, and make me walk under crossed bayonets to deposit my ballot, to say whom I should like to be Governor of my State, and who to make laws for my government and the protection of my life, liberty, and property.

Suppose that some man whose whole soul is filled with modern loyalty imagines that one of Afric's tribe has not been allowed to vote, and he bases an accusation against the authorities of the State of Delaware that the denial of his right to vote was on account of race, color, or previous condition of servitude. By "appropriate" legislation—a word not defined in the instrument, but leaving its legitimate and proper meaning to be determined by each particular head in this Senate Chamber and in the House of Representatives—you send your soldiery there, arrest the State authorities, and subject them to punishment at the will of irresponsible power. One of your loyal men says that the judges of election are not impartial; we must have honest judges. By appropriate legislation you can appoint them. Another says that the return to be made of the votes cast will not be truthfully made by these judges; you must appoint a board of canvassers to make the return. You can do this by sending your military, by the application of test-oaths, by fine and imprisonment, or by any instrumentality which you in your wisdom may think "appropriate." What remnant of State authority is there left? If you can determine all these things, you can determine that we shall have no election; and knowing from your own observation that the honorable Senator from Nevada [Mr. SREWART] is not only good at law-making, but most excellent at constitution-making, you may appoint him to go down there and make laws for us and make a constitution for us. Sir, our constitution was made

by our fathers, and our laws have been enacted by men in whom we have confidence politically and morally; and we would say to all whom you might send there, "*Procul, procul este profani.*"

Mr. President, if Congress by a two-thirds vote can propose this amendment, and if three fourths of the States can ratify it so as to make it binding upon the people of my State and the other States, you can go further, and you can blot out the existence of the States. When you have blotted out two or more than two thirds of the remaining members of Congress may propose to three fourths of the remainder of the States an amendment to blot out, destroy four or five other States, and the same process of proposing amendments and ratifying them may finally reduce your thirty-seven States to four or five or two or three. You can go further. If you can properly propose this amendment—and it is within the competency of three fourths of the States to ratify it—you can propose an amendment to the Constitution to abolish the office of President of the United States, the judiciary of the United States, and the Congress of the United States, and provide for an emperor with absolute power. What would the framers of the Constitution and the men who lived in the days subsequent to our revolutionary struggle and up to a very recent date have thought of a proposition of that kind? What would the framers of the Constitution have thought of it, had it been proposed in the Convention which framed the Constitution? They would have thought of it just as they would of this proposition, that it was a thing not worthy to be entertained, and it would not have been entertained for one single moment. If you can exercise this power in reference to the right of voting and holding office in the States you can exercise it in reference to any subject-matter whatever, even to the subversion of the form of our confederated Union or union of States, and create an absolute despotism at will in its stead.

Sir, if you as a lawyer, or any lawyer in this body, in the discharge of the duties of your or his profession, should have submitted to you an instrument of writing, say articles of co-partnership, in which there was a provision that two thirds of the members might propose and three fourths ratify alterations to the articles of agreement, and it were stated to you that three fourths had turned out of the copartnership one of the copartners and appropriated to their own use the property of the partner so deprived of the benefits of the copartnership, would you say that could be rightfully and legally done? That is, in principle, just what you are doing now.

Mr. President, what are to be the effects of this amendment if adopted? I speak now not in reference to the rights of the States, but of some interests which gentlemen on this floor and members of the Republican party are supposed to have deeply at heart. I have stated that the consideration of a constitutional amendment ought to be approached with great caution and wisdom. You have a large public debt. If I cannot appeal to your understandings and your love of liberty and the rights of the States, I propose for a moment to appeal to your interests. You have a large public debt; your rich bondholders sit back and give their money to elect Presidents and to control elections; you say that you are going to pay that debt, at least my distinguished friend from New Jersey [Mr. FRELINGHUYSEN] said in a speech that you could pay it in twenty-one years; only wait, wait, wait a little longer. By this amendment what class of people is it that you are making voters? Already repudiation has been whispered in some quarters. Are you calling to the exercise of the elective franchise prudent, wise, discreet men, who are governed by a sense of honor? Are you not putting the ballot into the hands of half a million of ignorant, uneducated men, who

know nothing of honor with reference to your obligations? Take warning, sir. If the standard of repudiation is ever raised you will find in this very class of voters the first to rally round it. I have no knowledge on the subject. I judge them as I would judge other men situated in like circumstances.

What is to be the effect upon society? You give them the right to vote and to hold office, not only under the Federal Government, but in the States. What will be the result? You are either lifting them to the political platform of your own race, or you are dragging yourselves down to theirs. It is in vain, Mr. President, to speak of bestowing equal political rights upon a class of men and then withholding from them those social privileges which, I suppose, will soon come to be considered social rights, where they are equal in every respect. I will not at length cite to you the examples of the nations of the earth who have tried this experiment. History has but one voice upon that subject, and that is the degradation and degeneration of what was the superior race, and not the elevation of what was the inferior race. Sir, with nations and peoples it is as true as with individuals, that "the voice of destiny is in the blood of descent."

History furnishes no example of a hybrid or mixed race that has ever manifested wisdom in council or efficiency in action. Not only the highest, but even a respectable civilization, is unattainable by such a race. The experiment of the civil, political, and social equalization of distinct, of superior, and inferior races, although not so extensively, persistently, and thoroughly attempted as by you, has nevertheless to some extent been made by other people, and invariably such attempt has resulted in the degradation of the superior race to the condition of the inferior, instead of the elevation of the inferior to the condition of the superior race. The descendants of the proud and courtly Spaniard in Mexico can boast, if such can be a cause of self gratulation, that he can embrace those of essentially inferior races with whom he mingles as friends and brothers while exhibiting to the world in his own person and character an example of frightful and loathsome degeneracy arising from the practical operation of a theory repugnant to the instincts of nature, violative of its law, and of the inexorable rule and immutable economy of Heaven. "Equality before the law" has resulted in equality in disregard of law, producing its legitimate fruits of equality in crime, in ignorance, and barbarism. The changes in government and rulers in the mis-called republic of Mexico during the forty years of its existence are equal to those years of continual strife and anarchy, and no intelligent mind can assign other cause of that strife and anarchy than the attempted equalization "before the law" of essentially unequal races. Inhabiting an extensive and one of the finest portions of the world, rich in all the elements and resources of mineral and productive wealth, the people of Mexico have shown themselves incapable of self-government—objects of such solicitude to the more civilized nations of the world as may lead to the establishment over them of an uninvited protectorate in the interest not only of civilization but humanity.

After the abolition of slavery in some or most of the West India islands, the Governments of Central America, for the purpose of increasing their population and thereby developing the resources of their country, invited the then recently emancipated slaves to immigrate to Central America, promising "equality before the law," the right to "vote and hold office, without distinction of race, color, or previous condition of servitude." The invitation was accepted. The emancipated slaves flocked to the land whose fundamental law was equality—political, civil, and social. The Central American Governments faithfully redeemed their promise, and an opportunity was afforded the

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nations to witness the results in practice of a theory so beautiful in idea. A negro was elevated to the responsible office of chief justice; and when some fourteen years ago, during what is known as Walker's war, a minister accredited from this country to Central America entered upon the discharge of the duties of his mission, he was honored by an official and social call by the learned, distinguished, and sable chief justice. Unable to solve a question which seemed to possess but greatly to trouble his mind, he propounded it to the American minister in the following form: "Mr. Minister, I should like to know what in your opinion will become of the peoples when the populations is all gone?" I commend this illustration of practical "equality before the law, without distinction of race, color, or previous condition of servitude," to the sober reflection, if of such they are capable, of those who by this measure madly essay the same experiment in this country, where the essential and inherent inequality of races has been so universally recognized and so thoroughly evidenced, and where that inequality is much greater than among any other people inhabiting the globe.

Mr. President, I have thus briefly, but more extensively than I had intended to do, discussed the views of this question which seemed most important to me. I had hoped that before the Senate was called upon to vote on this question we should have heard some reasons assigned for its adoption. I have been disappointed in that hope. Scarcely any one has deigned to give us a reason why the measure should be adopted. I know my honorable friend from New Jersey, in the few brief remarks which he made, said that it had been discussed before the people fully and the people understood it; but some of us had not the benefit of hearing what those cogent reasons were which had convinced the people of the necessity and the propriety of this measure.

The people of New Jersey were not convinced; the people of Kansas were not convinced; the people of Michigan were not convinced; and there is but one State where the people have been convinced, and they were only convinced because negro suffrage was put upon the ticket with General Grant at the head, and it was not allowed to be voted upon as a separate proposition. I know of no people of any State, therefore, that has been convinced of the propriety of this amendment, or of the adoption of its principle by the people of any State.

Mr. President, this question of amending the Constitution of the United States as proposed never was made before the people of any State. Striking out the word "white" in the constitution of some of the States as an act of the people themselves in relation to their own State constitutions had been considered and decided upon and rejected; but when you announced in your platform that the people of what you termed the loyal States should decide this question for themselves you never dared, in any speech that I ever saw reported made by any of your orators, to say that you would appeal to the people of three fourths of the States to determine that question, not only for themselves, but for the people of the States who were opposed to it. No, sir; had you done so I doubt not, notwithstanding you took General Grant for your candidate for President, and as the only hope of your political salvation, and would not have taken him if you had thought there was salvation anywhere this side of the grave for you as a political organization without him—although you took him, you would have been defeated, and most disastrously defeated; and I have a right to presume that you so think now, or you would agree to submit this amendment either to Legislatures or conventions hereafter to be chosen by the people of the respective States.

You are acting in the same mode that you

acted with the southern people. You have secured Legislatures you think in sufficient numbers to ratify it; and although it is so unpopular with the people, although the people of the country are so opposed to it, that according to the statement made by the Senator from Massachusetts [Mr. Wilson] there is not a square mile in the United States where the doctrine is not unpopular, you undertake to force it upon an unwilling people to whom it is obnoxious and odious. What right have you to force a measure upon an unwilling people? If this measure be as unpopular as its friends confess it is, admit it is, what right have you to propose it? Who made you the guardians of the people? They are your masters. I trust in God, after you have exercised this last tyrannical, despotic act, they will show you that while you may

"Play such fantastic tricks before high heaven
As make the angels weep,"

yet they have the power to review your action and hurl you from political power as willful violators of sacred trusts unwittingly confided to you.

Sir, the Senator from Nevada, who has this resolution in charge, declined to enter into any elaborate discussion of its principles, or to enlighten us with the reasons which were so manifest to him and so apparent to everybody else why it should be adopted. He tells us that he declines to enter into the discussion because its reasons are so plain, so palpable; and he winds up by saying it is the crowning act of the measures of the Republican party during the last eight years.

Mr. President, it is true it is the crowning act, a fitting crowning act, to the measures of the Republican party during the last eight years. What have been those acts? I do not propose to enter into a detailed enumeration of all the acts of this party during the period selected by the Senator from Nevada, and to consider them in connection with this, the crowning act of them all. I do not wish to occupy the time of the Senate with enumerating the transgressions of that political organization. I will express my opinion of it in the language of Holy Writ, and that is that "from the crown of its head to the soles of its feet there is naught but wounds, bruises, and putrifying sores. Your sins have been sins of commission and sins of omission. You have done the things which you ought not to have done, and you have left undone the thing you ought to have done, and there is no health in you." And now, before I leave you, I will only express for you the same kind feeling which the judge always expresses to the murderer when he has concluded the sentence of execution against him, "May God Almighty have mercy on your souls," ye murderers of my country's Constitution.

Mr. NYE. I should like to ask a question of the Senator. It is, if when the judge says that, he does not generally stop.

Mr. SAULSBURY. I cannot hear the Senator's question, but when I conclude, if he will raise his voice so that I may hear I shall be very happy to give some attention to so good-natured a gentleman.

Mr. NYE. That is generally the last that is said, is it not?

Mr. SAULSBURY. Mr. President, I will reply to the Senator's question by relating one of his own anecdotes—he is full of them. He stated that on one occasion some one saw a man beating a dead skunk with a club. The man beating it was a Universalist. His neighbor remonstrated with him for beating the skunk, as it was dead. Said he, "You are a Universalist; you do not believe in a state of future rewards and punishments; you ought, therefore, not to beat the skunk after he is dead." "Well," said the man who was beating it, "that is my faith in general, but in reference to this particular skunk I think it deserves pun-

ishment after death." [Laughter.] So in reference to this political party. [Laughter.] Although sentence may have been passed and prayer offered, it is not dead yet, [continued laughter;] but if it was dead it is a political skunk that needs punishment after death.

Mr. NYE. I should like to ask the Senator from Delaware if the other party is not dead? If it is not, it ought to be. [Laughter.]

Mr. SAULSBURY. No, Mr. President, it lives, and you saw last summer its manifestations of life, and you were compelled to nominate as your candidate for president a man who always professed to be a Democrat, and whom you hoped might carry you through the last presidential election on his military record. You were afraid to take a man that had ever voted your ticket or been identified with your party, and you nominated a Democrat simply because you thought you could elect him on a good war record and could not elect one of your patriotic citizens who preached war but did not fight.

Mr. President, I said that I accepted it as true that this was a fit crowning act to the measures of the Republican party during the last eight years. Measures may be either by enactment or measures adopted in action and evidenced by action. The Republican party has two records of its measures, one expressed in writing in the form of legislative enactments, and one evidenced by its action. Sir, I will enter into no history of the origin of the late struggle. I content myself with saying that it was precipitated by the fanaticism, intolerance, and obstinacy of the Republican party, and might have been avoided by the exercise of wisdom, patriotism, and justice by those representing it in the Congress of the United States. What did you do after the inauguration of war? Without authority of law, as a party you suspended by presidential proclamation that guarantee of civil liberty and the constitutional rights of the people, the writ of *habeas corpus*. Instead of suspending it, if necessary to be suspended, directly yourselves, you undertook to delegate authority to suspend that writ to another, to the President of the United States; and hundreds and thousands of innocent men have lain in bastilles and suffered from this exercise of tyrannical power which you authorized. Seized suddenly with a love for the negro, you established for his benefit a great Freedmen's Bureau and taxed the white people of this country millions and millions of dollars every year to support him in idleness. Without enumerating all your misdeeds, you passed what you called the civil-rights bill, which invaded every State of this Union, and divested the courts of the States of the power of determining questions relating to the rights of property, life, and liberty within their own States in certain cases; so that in the cases contemplated by your bill the Federal courts could not only try title to lands, titles to or the possession of land, but also usurp the administration of the criminal law, and oust the State courts of their jurisdiction of the criminal law within the States. That was one great stab that you gave to the constitutional rights of the people of the States. I will not argue the questions involved in the miscalled civil-rights bill now. I argued them fully when that measure was before the Senate.

You have wantonly violated every provision of every article of the thirteen amendments designed to protect the citizen in his rights of life, liberty, and property.

Finally, passing over many of your legislative enactments, which, in my judgment, were flagrantly unconstitutional, you dissolved the Union; you annihilated nine or ten States; you destroyed the right of property within these States; you let loose upon the community, if your reconstruction measures were constitutional, the assassin and the murderer to roam and destroy life at will, subject only to the authority of Ulysses S. Grant. In those States

you dissolved society, you arbitrarily loosed the bands of society, and sent forth the inhabitants of those States houseless and homeless in a state of nature, vagabonds and wanderers, with a license to all to kill and murder them without the possibility of judicial conviction and punishment of the crime committed.

Sir, gentlemen here from the South may doubt this, but if your reconstruction measures were constitutional at the time they were adopted, and when the representatives of the South had not seats on this floor, I say that no man in any of those States which were not recognized by these acts as in the Union owned a foot of land or any article of property of any character or description whatever. You established a military despotism over nine or ten States greater in extent than England and France and Austria combined, and over eight millions people; and now you propose this as a crowning act of all your measures in the past—an act, an amendment, which leaves unenfranchised thousands of the white race, and only enfranchises the negro. Yes, sir; it fitly crowns them all. There is no star in that crown. It is black, horrible, hideous. It is the crown of despotism over the other States of this Union and over the people inhabiting them. It is an attempt to do in the States that never assumed to secede what you did by the adoption of your reconstruction measures—to destroy the State governments and to subvert the liberties of their people. Should it be a subject of rejoicing to the honorable gentleman from Nevada? Sir, it is a measure which, if adopted, will send a thrill of horror through the soul, and fill with sadness, gloom, and despondency the heart of every lover of the Constitution of his country and the constitution and independence of his State in this broad land. No longer can we as Americans boast of our freedom, no longer can we invite to our shores the oppressed of foreign climes; for then the freedom of our fathers will have disappeared; in the place of a free and happy Government the wings of despotism will overshadow us all.

To justify any amendment of the Constitution these facts must be made to appear:

1. Authority to make it.
2. Necessity of its being made, arising from evils suffered from its not having been made.
3. That these evils would not exist if the amendment should be made, and that those evils are greater than would result from the making of the amendment.
4. That society and government would be improved by its being made.

I admit that two thirds of Congress and three fourths of the States are, under the Constitution, the judges of the necessity of amendments; but their judgment is not to be exercised arbitrarily, but must be founded upon an honest conviction that amendment is necessary. Apply the four tests of justification which I have suggested to the resolution under consideration, and what honest man can give it his support? It may be within the range of possibility that such a man can be found, but he who accords to such a one honesty of purpose must do so from the charitable conviction that he is intellectually, inherently, and essentially weak.

Mr. President, this proposition has its origin in the supposed necessity of party, not in the necessity of good or wise government. This is so manifest from the uniform action of Congress in relation to kindred subjects, as well as to the proposition itself, that no artifice can conceal the fact, and no denial of it is worthy of credit.

Sir, I protest against the passage of this resolution. I protest against it in the name of the Constitution of the United States of America. I protest against it in the name of the constitution of my State. I protest against it in the name of civil liberty, which is dear and should be dear to the heart of every American

citizen. I protest against it in the names of our departed heroes and sages. Were it given, sir, to the wise men who framed the Constitution to look down from the heights above upon their descendants in these Halls of Congress, and could it be possible that sadness could be known in heaven, they would shed bitter tears of anguish over the action of those who are engaged in destroying that which they fondly hoped might exist forever. Pause, Mr. President. Pause, Senators. The destruction of the Federal Union, the destruction of the State governments, the destruction of civil liberty are to be the consequences of your inconsiderate action.

Suffrage Constitutional Amendment.

SPEECH OF HON. J. A. BAYARD,

OF DELAWARE,

IN THE UNITED STATES SENATE,

February 6, 1869.

The Senate having under consideration the joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States—

Mr. BAYARD said:

Mr. PRESIDENT: Without a hope that any argument of mine will avail to prevent the adoption of the pending amendment, yet I owe the duty to the people of my State and to my country to protest against its adoption in any of its forms as not only subversive of our system of government, but also irretrievably disastrous to the peace, prosperity, and happiness of the whole country.

The amendment now proposed to the Federal Constitution, if adopted, not only effects its particular object, to confer the franchise of suffrage upon an inferior race, but, in effect, it subverts the system of government organized by our ancestors, and converts a confederated Republic into an elective despotism. Universal suffrage, the hobby of the day, gives no security for the preservation of civil liberty; and the imperial Government of France, with its six million majority, affords ample illustration of the inefficiency of such a remedy to secure liberty against the aggressions of power. The legitimate object of all government is the greatest good of the whole people, but it does not follow that this object can be attained and secured by vesting political power in every member of the community. I am aware that this is generally assumed, but I have yet to hear any rational and convincing argument in its support. Admitting, fully as I do, that the just basis of all government is "the consent of the governed," yet like all general propositions it is subject to exceptions, and is in fact but a sound political maxim, dependent for its practical application upon the condition of the country and the community to which it is applied.

I am also aware that in characterizing this Federal Government of ours as a confederated Republic I subject myself to the charge made about a year ago by the honorable Senator from Missouri [Mr. DRAKE] of libeling the Constitution of my country. I will not say what our Government now is, but that by those who organized and framed it it was intended to be a confederated Republic I can entertain no doubt.

Mr. President, on former occasions I have given my views of the structure of the Federal Government, and they remain unaltered. I was never an extreme State-rights man, but have always believed that the States had rights. I shall not now attempt to repeat or defend the views I then urged as to the character and structure of the Government. It is sufficient for the present to rebut the charge of the honorable Senator from Missouri, made in his speech on the 6th of February, 1868, which I have before me, by authorities which he will scarcely controvert, which the Senate certainly

must respect, and which I am sure will have a preponderating weight with the people of the United States. The language of the honorable Senator in that speech was:

"Mr. President, there are millions in this land who have heard of the Union all their lives, and yet cannot intelligently answer the simple question, what is the Union. Other millions there are who have from the cradle been taught to regard it as anything but what it is, and will answer that it is a confederacy. I hear it libeled sometimes on this floor by being so called."

Mr. President, if in error at least I have high authority for the alleged heresy of considering the Government of this country a confederated Republic, and I beg leave to refer to it for the purpose of sustaining my opinion. When the Government of the United States was organized in the year 1789, after the inaugural address of George Washington, the first Senate of the United States, composed in part of men who had framed the Constitution they were then about to set in motion, ordered that the Vice President should sign an address adopted unanimously in reply to the inaugural address of George Washington. I quote its exact language at its conclusion:

"We beg you to be assured that the Senate will at all times coöperate in every measure which may strengthen the Union, conduce to the happiness, and perpetuate the liberties of this great confederated Republic."

You will find the address at length in the annals of Congress 1789-91, page 32. In the answer to this address by the "Father of his Country" he attributes the same character to the Government. He expressed his happiness in the conviction "that the Senate will at all times coöperate in every measure which may tend to the welfare of this confederated Republic." (Annals of Congress, same volume, page 38.)

I trust, therefore, I may be pardoned, or at least exculpated, from the charge of heresy when I characterize this Government as a confederated Republic.

Sir, all governments may be divided into governments of will and governments of law, and, in my judgment, a government of law is alone a free government—a government of liberty. A government of mere will, whether it be the will of a single despot, of an oligarchy, or of a majority of numbers, is equally a despotism; and, in my belief, the most remorseless and tyrannical of all despotisms is that which exists by the *unrestricted* will of a majority of numbers. The reason for this is obvious. A single despot would be restrained in his tyranny from the fact that by its oppressive exercise, the physical force of the community being against him, he would hazard the continuance of his power. The same restraint would operate upon an oligarchy; but the majority of numbers implies physical force, and with its will *unrestricted* there is no security against the most unrelenting despotism.

Montesquieu, perhaps the most philosophical of all writers upon public law, tells us that no government can be a free government unless its powers are subdivided and confided to different depositories; and the "Federalist" thus characterizes a government of mere will:

"The accumulation of all powers, legislative, executive, and judicial, in the same hands, whether of one, a few, or the many, and whether hereditary, self-appointed, or elective, may be justly pronounced the very definition of tyranny."—No. 47, p. 373, *Hamilton's edition*.

The State of Massachusetts has embodied this principle in her constitution with great distinctness:

"In the government of this Commonwealth the legislative department shall never exercise the executive and judicial powers, nor either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judiciary shall never exercise the legislative and executive powers, or either of them; to the end that it may be a government of laws, and not a government of men."

The principle of this division of powers is that from the tendency in man of unrestricted will to tyranny, "the limitation of power," wherever confided, is essential to the perma-

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nence of free government. The severance of these general powers of government into legislative, executive, and judicial, intrusted to different bodies, is but "a limitation of power," and except for the purpose of this limitation all the powers of government might as well be confided to one and the same body.

This limitation of power has existed in England since the revolution of 1688, and been rigidly adhered to, notwithstanding the omnipotence of her Parliament. It has been embodied in the constitution of every State of this Union, not perhaps as distinctly in some as in that of Massachusetts; and it is, with some modifications, embodied also in the Federal Constitution.

But, Mr. President, this is but one limitation, and in this confederated Government of ours, as established by our ancestors, there is a still more important limitation of power. It is limited by its decentralization. Decentralization is the leading political principle of the common law; and whatever may be the defects of the common law otherwise, it has been the mother of freedom all over the world. In this Federal Government of ours it cannot be doubted that all laws within the scope of its authority are paramount; but the Constitution which created it makes it a Government of specially delegated powers, and reserves all residuary powers beyond those which are enumerated, and such as are necessary and proper to carry into execution the enumerated powers, to the States and the people of the States.

Among those residuary powers which are thus reserved to the States, beyond all question the control over the franchise and trust of suffrage has from the origin of the Government been exercised by them exclusively until now. The Federal Government in the past has neither attempted to usurp the power as within the limits of the Constitution, nor has it been yielded by the States or their people. Its retention by the States is more important as a limitation of power than even the division of powers among three coördinate departments of the Government. Whenever under any pretext, whether by the name of universal suffrage, impartial suffrage, or uniform suffrage, the control over this franchise is yielded by the people to the Federal Government I shall lose all faith in the preservation of the liberties of the country, for civil liberty cannot be maintained under a centralized elective despotism.

The Government will become consolidated and the limitation upon its power by the people of the States will exist but nominally. The sole security for the decentralization of power rests in the control of suffrage by the people of the respective States, and it has always been hitherto maintained from the origin of the Government.

Now, the proposition is made by some to take away this power altogether, by others to restrict the States in their control over suffrage for a particular purpose. Sir, let this amendment be adopted in any of its forms and the States will have no more real power in this Government than the *pie poudre* courts in England. They will stand but as "the shade of a name." When this barrier against consolidation is broken down or overleaped, construction will concentrate all power in the Federal Government and leave the States standing to it solely in the relation of counties. Such was not the intention of those who organized the Federal Constitution. Such is not, in my judgment, the true mode in which the liberties of this country can be preserved. One illustration of the usurpation of power by construction, if the control over the elective franchise is surrendered by the people to the Federal Government, will suffice, though there are many more which might be stated did I not fear to overtask my own strength and tax the patience of the Senate. It shows how readily construction may usurp the powers reserved to the States, and take from them all control over even the

soil within their respective boundaries against their consent.

The honorable Senator from Ohio [Mr. SHERMAN] has already proposed, though the Senate has not yet sanctioned it, to wrench from the States the power of eminent domain and vest in the Federal Government the authority to construct railroads and canals and artificial works all through the States without their consent. Other instances might be given; but the past history of the world and the commonest knowledge of man's nature should teach us that whatever their form, in all governments, the tendency of power is toward its own increase, until ultimately it ends in despotism. If this amendment shall be adopted the honorable Senator will succeed, and one power after another will be usurped by the Federal Government until all are absorbed when it attains control over the right of suffrage, which alone constitutes a real limitation upon Federal power. We shall become a single consolidated republic, which is but another name for an elective despotism. If I am right in my view, of the correctness of which I have the most profound conviction, that only by the decentralization of power can civil liberty and a government of laws be permanently preserved, then you are taking a long stride toward the destruction of the liberties of this country when you take from the States the control of the elective franchise.

I have already stated that I am not an extreme advocate of State rights, and would freely concede to the Federal Government all the powers requisite for the purposes for which it was organized. But I believe that the States have reserved rights, and are necessary parts of our composite system of government. If you look through the debates in the different State conventions, or even the short notes of the debates in the Federal Convention, you will find that the idea throughout, both on the part of those who opposed and those who sustained the Constitution, was that the States were, in the language of a delegate from Connecticut, "the pillars upon which the system rests." I propose to read a short extract from the argument made in the Pennsylvania convention by one of the most practical and able members of the Federal Convention which framed our Constitution, Judge Wilson. His speech was an elaborate one, carefully prepared; because, having been a member of the Federal Convention and having been one of those most active in forming the Constitution, he necessarily had to develop in the convention of his own State the grounds and reasons upon which that Constitution had been framed and the necessity for its ratification by his own State. At page 427 of the second volume of Elliot's Debates I find in that speech this language used by him:

"The United States may adopt any one of four different systems. They may become consolidated into one government, in which the separate existence of the States shall be entirely absorbed. They may reject any plan of union or association, and act as separate and unconnected States. They may form two or more confederacies. They may unite in one federal republic. Which of these systems ought to have been formed by the Convention? To support with vigor a single government over the whole extent of the United States would demand a system of the most unqualified and the most unremitted despotism. Such a number of separate States, contiguous in situation, unconnected and disunited in government, would be at one time the prey of foreign force, foreign influence, and foreign intrigue; at another, the victims of mutual rage, rancor, and revenge. Neither of these systems found advocates in the late Convention."

Sir, in that language is embodied my views of the Federal Constitution. If it is to be consolidated into a single government over the whole Union, usurping all powers, then I hold, with Mr. Wilson, that it would become an unqualified and unremitted despotism. I am as sincerely opposed to severance as any man, but I am also opposed to the consolidation of all powers in a single government, and believe that the amendment now proposed to the Con-

stitution, if adopted, removes the last barrier which secures to the States a single right as against the Federal Government.

Nor must it be forgotten that the extent of our country has been doubled since the Government was organized under the Constitution and this exposition of its structure made by Judge Wilson. A despotism may be established, but it could not long be maintained over a country with such an area as ours, inhabited by so intelligent a people as those by which it is now occupied. I am perfectly aware that whatever may be their benefits in a commercial sense, the telegraph and the railroad have extended the area through which a despotic government is practicable, but not sufficiently to maintain one over a country so extensive as ours, inhabited by such a population.

But a despotism once permitted can only be overthrown by revolution and civil wars, and the demoralization of the people would be the necessary result, ending in sectional divisions and subsequent wars, until from exhaustion we settled down into many nationalities. To avoid so deplorable a result I would adhere to the limitation of powers embodied in the Constitution, and restrict the Federal Government, existing as it does over separate distinct communities which are semi-sovereignities, to the exercise of those delegated powers which are necessary and proper to effect the objects for which it was organized. Among those objects neither uniformity nor universality of suffrage was contemplated, but the franchise and trust was left to the people of the States, who better understand their own condition and the character of their respective populations than the people and representatives of other States possibly can.

For these general reasons, Mr. President, which I will not pause further to elaborate, I am opposed to the adoption of the proposed amendment in all its forms, apart from the particular object which is intended to be effected by its adoption. Before I proceed with my objections to that particular object, let me call the attention of the Senate to a point which has been presented by several other Senators, and been much discussed—I mean to the question of good faith to the people involved in the attempt to adopt this amendment at the present session of Congress, with a view of submitting it to the existing State Legislatures for ratification, without any question having been made as to its propriety before the people of the respective States when the members of those Legislatures were elected.

In the resolutions of what is generally known as the Chicago platform there is contained a declaration of principles by the party there represented, not only in support of its candidate for the Presidency of the United States, but also as presenting the questions which that party advocated in its struggle for the purpose of retaining its majority in Congress. I will read, although it has been read before, the second resolution:

"The guarantee by Congress of equal suffrage to the loyal men of the South was demanded by every consideration of public safety, of gratitude, and of justice, and must be maintained."

I do not propose to controvert that portion of the resolution now, however objectionable I may deem it in many respects. The resolution then continues thus:

"While the question of suffrage in all the loyal States properly belongs to the people of those States."

Sir, I suppose that when the Representatives of the dominant party made this specific declaration of their principles to the people of the United States and to the people of the respective States they intended the words to be understood in their natural import; and how is it possibly consistent with good faith to the people when they have enunciated in their declaration of principles that the question of suffrage properly belongs in the loyal States, to the people of those States, for the same party

at this session of Congress, after having succeeded in carrying the election, to now force through a Congress antecedently elected an amendment of the Federal Constitution by which the people of those States to which it has declared the control over suffrage properly belongs will be deprived of that control, and then by the submission of such an amendment for ratification, not to conventions, but to Legislatures elected under this professed principle of State control over suffrage to attempt to secure its ratification by the agency of party spirit, though it abrogates the constitutions of at least ten States, many of which elected their Legislatures on the faith of the principles thus declared by the dominant party? Sir, no ingenuity, no special pleading can excuse or palliate such political perfidy. We cannot be told that the people would not understand from this explicit declaration of party principles made by the Republican party at Chicago that the party neither contemplated or intended to deprive the people of the loyal States in any mode whatever of a right which it declared properly to belong to them. No sane man can attach any different import to the language of this second resolution, and by no subterfuge can its plain import be explained away. The people could not fear that even the Republican party could be guilty of the political atrocity of depriving them of a right which it had so solemnly declared properly belonged to them. Would that party have dared to go before the people of the United States with all the personal popularity of their candidate, on such an issue as is embodied in the pending amendment? The declaration is explicit, and the attempts made to interpret away its plain meaning, contrary to the natural import of the words, makes the platform but an act of duplicity and evasion. There is no escape from the alternative; either, taking language in its ordinary meaning, it is an explicit declaration that the question of suffrage belongs properly to the people of the States, in the loyal States, or it is an evasion, and they did not dare to present the question to the people. Yet a Congress elected anterior to the late political contest propose now to pass an amendment abrogating the constitutions of ten States of the Union, and submit that amendment for ratification, not to conventions of the States, but to Legislatures elected without reference to any such issue, and after a formal and explicit declaration by the successful party that no such measure was contemplated.

Mr. President, is this good faith to the people, or is it supposed that their perceptions are so dull that the duplicity will not be appreciated, or have the dominant party so little respect for public opinion as to suppose that the people will submit without a murmur to so palpable a fraud and so great a defiance to their will? Is it not, sir, such an act as in the controversies of individuals in courts of justice would be held to be an estoppel *in pais* because in fraud of the declaration of the party? Is there a necessity for its passage at this session? If this Government is a Government founded upon the will of the people, is it not a dangerous and hazardous experiment, is it not wrong in itself, to attempt to change the organic law of ten States of this Union without ever having submitted the question to the people for decision? That is all embodied in any one of these proposed amendments if they are to be submitted to existing State Legislatures.

Sir, I could make no better—no, not so good—an argument against this proposition as that which the honorable Senator from Indiana [Mr. MORRIS] made, unwittingly, perhaps, on another constitutional amendment introduced by the honorable Senator from Pennsylvania [Mr. BUCKALEW] two days before this discussion commenced. The amendment proposed by the honorable Senator from Pennsylvania related to the mode in which electors of President and Vice President are to be elected,

and its object was to prevent the Legislature from forestalling the will of the people by the choice of electors who would cast the vote of the State for a candidate against the will of the people of the State. It was considered a defect in the Constitution. It was referred to a committee; and the honorable Senator from Indiana [Mr. MORRIS] reported it back with some amendments, but as it stands now that is the object of the amendment. I will read, as the remarks are very short, what the Senator from Indiana said, that the Senate may see how strong the argument is, not for the purpose of showing inconsistency on the part of the honorable Senator from Indiana—that is of small moment—but because his argument, where his mind was unbiased by party feeling or party objects, on the same principle is clear and conclusive, and more than a sufficient answer to his subsequent pressure of this amendment two days afterward. This is the language:

"It is proposed by this amendment that the people of each State shall appoint the electors, and that the Congress may determine the manner in which these electors shall be appointed. The effect of this amendment is to take away from the Legislatures of the several States the great power which they now have, and which may under certain circumstances be a most dangerous power, and which might bring on civil war and revolution where a Legislature, finding itself in a minority, and unwilling that the people of the State shall vote directly for President and Vice President, may, as it has the power now, repeal the law by which the people can vote at all for these officers and select electors who shall cast the vote of that State. In the desperation of party and in the contingencies of politics such a great power as this should not be left to the Legislature of any State; and while we are engaged in the business of amending the Constitution we should now provide that the people of the several States shall themselves appoint these electors, and that the powers shall not be left in the hands of the Legislatures."

Does not the principle vindicated in these remarks apply with more force in reference to a proposition to submit this amendment to Legislatures elected without reference to any discussion upon it? If this Congress had at its first session reported by a committee in favor of such an amendment as is now proposed, and the propriety of its adoption had been a question before the people of the States, you might without breach of faith, when you had succeeded in that election, have adopted the amendment and submitted it to existing Legislatures elected with a full knowledge on the part of the people that such a question was to be passed upon by them. But you did not do that. Whatever may have been your individual opinions there was no report of a committee, no attempted action of the Senate to deprive the States of their control over the right of suffrage before the presidential election. I do not speak of the reconstruction laws, which are based, in regard to ten States, on totally different grounds.

Well, sir, unless it be indeed true that the possession of power by the election of a President of the United States for the brief term of four years, with the offices that are held and appointed under him, is of more importance to the people of this country than the fact that their State constitutions, organized by themselves, shall not be abrogated by the Federal Government through the means of Legislatures elected upon different issues, upon what principle is it consistent with the doctrines of the Senator from Indiana that this amendment can be properly referred to existing Legislatures of the States?

If it be true that the Legislature of a State ought not to possess the power to take away from the people of the State the right to vote directly for President, beyond all question it is equally true and far more important that it should not be in the power of the Legislature of a State to alter the constitution of the State without the consent of its people. Yet that is the operation of this amendment if confided to existing Legislatures. A proposition like this submitted to any Legislature would necessarily have to be passed upon by the people of the State if submitted in the State Legislature

to alter their own constitution. By the organic law of at least ten of the loyal States of this Union the right of suffrage to an inferior race is denied; suffrage is confined to the white race. This amendment proposes to abrogate the constitutions of ten States in this particular, and it proposes to do this through the medium of Legislatures who have not been elected by the people since any such question was made before them.

Sir, the argument of the honorable Senator from Indiana in reference to the election of President I believe to be sound, and I accede to it entirely. My only doubt is whether it would not be better to carry the change so far as to provide that the candidate for President and Vice President should be voted for directly without the instrumentality of electors, which is a mere form. I accede to the principle contained in that speech, but the principle applies with far more force to this amendment, and any attempt to obtain its ratification so as to embody it in the Federal Constitution by means of State Legislatures elected anterior to the question being made. When I speak of the question being made I mean an amendment having been reported favorably in the Senate and becoming a matter of known party declaration and party support.

Is it not also true, Mr. President, that within the past twenty years the people of many States have considered and decided on this question of granting suffrage to an inferior race? Within a few years the grant of suffrage to the black race has been before the people, and in many States in which the Republican party had and still have a majority it has been refused by the people. In Pennsylvania the party have not ventured to make the issue. I think I am not mistaken in saying that though the proposition was made to submit such a question about a year ago to the people of Pennsylvania for an alteration of their State constitution, it received but thirteen votes in the Republican Legislature of that State, and could not be made a question of party. Why? Because they well knew that the sentiment of their people was against any such change in their constitution. In the State of New York, within a few years past, the people have refused to change the modified form in which the franchise is there allowed to the black race. Within a few years the experiment has been tried in Ohio, and though the Republican party succeeded in electing their Governor, the proposition was rejected by a majority of near fifty thousand. In Kansas it was rejected by a large majority, and in Michigan also. The franchise of suffrage is denied to the black race by the constitution of Illinois and by the constitution of Indiana, and yet it is proposed, without any appeal to the people, who are the source of power in this country, to abrogate the constitutions of those States by the influence of party spirit acting upon Legislatures who were elected by the people for other purposes and on other issues, with an assurance from the successful party that the control over suffrage properly belonged to them alone within their own States.

Mr. President, it is probable that this amendment in some form will pass by two thirds of both Houses. It may be—I do not know—that the overswaying and perverting influence of party spirit may tempt the Legislatures of three fourths of the States, in defiance of the will of their constituents, to ratify and adopt it as part of the Federal Constitution. But Senators and members of State Legislatures should pause in their action and reflect that however much they may be devoted to the object to be attained by this amendment that this is a Government founded on the will of the people, and that they are acting as representatives. Sir, there is a Nemesis in all human affairs; and deception and broken faith, whether with the people at large or between man and man, will always sooner or later meet its just punishment.

Mr. President, I should not have cared to

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make, indeed I should have abstained from any remarks in reference to this amendment, could I have had the assurance that the Senate would submit this amendment, when proposed, to conventions of the people in the several States. The Constitution provides for both modes of ratification. If the people of three-fourths of the States of this Union with this amendment fairly before them shall, by the election of delegates favorable to its ratification, determine to yield control over suffrage to the Federal Government, of course it must be submitted to. It will in that event be submitted to. But the effect may be very different if you over-rule the will of the people in the States through the agency of party spirit operating upon Legislatures elected without reference to the question.

If, as the honorable Senator from Indiana [Mr. MORTON] has declared in reference to the selection of electors of President by the Legislature, that the power should be taken from them by a change in the Constitution, because it is a dangerous power from the possible contingency that "the desperation of party" might tempt the Legislature to elect a President against the will of the people, "which might bring on civil war and revolution," is there not more reason to fear that if "the desperation of party" tempts the Legislatures of the large States to abrogate a vital provision of their State constitutions against the will of its people the hazard of civil war and revolution will be much greater? It requires no change in the Federal Constitution to avoid such a result. You may under the Constitution submit this amendment fairly to the people, or you may seek to adopt it in defiance of their will. I may be told that it has not been usual; that the precedents show that previous amendments of the Constitution have not been referred to conventions. Sir, the Constitution was ratified by conventions. It is also true that up to within the last few years, since civil war has so much demoralized us, of all the amendments proposed to the Constitution not one was intended or did in any respect deprive the States of any right secured to them under the Constitution. Most of them were assented to generally, and many were made conditions in the conventions of some of the States that ratified the Constitution. The subsequent amendments related merely to the organization of the Federal Government without touching the relative powers of the Federal and State Governments.

But this amendment proposes to change the relations of the States to the Federal Government. It changes our system of government, and deprives the people of the States of the last remnant of their control over the Federal Government; and for this reason, if none other, it should be submitted for ratification to conventions in the several States as the Constitution itself was. The change is so vital that it ought to be sanctioned by the people with a full knowledge of its effect, and not by their representatives elected for other purposes. In changes under the authority of the States all alterations are on principle submitted to a direct vote of the people; and if peace and tranquillity is desirable, the same direct sanction should be given to this momentous change. I cannot agree with the honorable Senator from Pennsylvania that the slight cost of such conventions, when the magnitude of the alteration is considered, should prevent its submission for ratification in that mode, and no other plausible reason has been given for preferring a ratification by the Legislatures.

A strong reason in favor of this mode of submission is, that if ratified by the direct action and with the free consent of the people of three-fourths of the States there will be cheerful and entire submission by those who believe the change it is intended to effect unwise and prejudicial; but if it is forced upon an unwilling people by means of Legislatures elected without reference to its adoption, so far from producing peace or union or union sentiment

in support of the Government, it will lead to irritation from the degradation of the franchise of suffrage, hasten the conflict of races, and be one means by which the free Government under which the people have so prospered will be disorganized and ultimately overthrown. Can it be possible that one motive for this course of action is so to degrade the suffrage as to prepare the way for an elective despotism? I have heard such preferences for despotism expressed by individuals, but I am loath to believe that such a motive can actuate any Senator of the United States.

I hope, therefore, Mr. President, that the amendment proposed by the honorable Senator from Connecticut [Mr. DIXON] will be adopted; and if so, I shall care but little whether the amendment so modified is passed or rejected by Congress. I am perfectly willing to abide the deliberate judgment of the people of the States of this Union if the amendment is submitted to their decision in conventions in the several States; but if that is refused you cannot decline accepting the amendment proposed by the honorable Senator from Pennsylvania, unless you desire and intend by the influence of party spirit to force the suffrage of an inferior race upon the people regardless of their will and your duty to them as their representatives.

I proceed now with my objections to the particular object this amendment seeks to effect. I have never been able to accede to the dogma that suffrage is a natural right, or that universal suffrage is essential or even conducive to permanent free government. It cannot exist in a state of nature; and when men form themselves into communities the governments they adopt must of necessity depend upon the condition and capacity of those over whom they are to be organized. I concede fully the soundness of the maxim that the just basis of all government is "the consent of the governed;" but in fact there never has been such specific consent given by each individual in the organization of any government, and there is no natural right violated when it is denied. A government may be organized on this maxim, and yet numbers subject to its control have no part and no voice in its organization. The frailty of humanity and the tendency of power to corruption forbid its deposit in the hands of a single individual and his posterity, or in the hands of a few, for in either case this corrupting tendency of power would end in tyranny and be used at the expense of the happiness and welfare of the community.

The powers of Government, therefore, are most safely for the benefit of all intrusted to the people at large. But this general truth, like all other general propositions, must be modified in practice, and is subject to exceptions. As to the exercise of the franchise and trust of suffrage there are many exceptions; they vary in the different States of this Union. Idiots and lunatics in all States are excepted from incapacity; felons as a punishment for their crime. There is residence also required, for the obvious reason that to vote with an approximation to intelligence the voter must have had an opportunity to become acquainted with the condition and habits of the community in which the franchise is to be exercised, and also to acquire some knowledge of the character and general standing of those who may be candidates for office. The length of residence required varies in different States, and the people of each State can best determine that for themselves. In some the prepayment of taxes is requisite. Although that exists in my own State I have always been opposed to such a qualification, and have endeavored to have it modified, because the prepayment of taxes has a tendency toward corruption, which is the growing vice of our country. But that, also, is a question for the people of the States and not a question for the General Government.

In a few States there is what is called an

educational franchise. It is made a prerequisite to the exercise of the franchise that the voter shall be able to read the Constitution of the United States or of the State or some other paper, and to write his name. I should never object to any State adopting such a franchise if such is the will of her people, for the right properly belongs to them to regulate suffrage within their own State, though I should be entirely opposed to the adoption of such a qualification of the franchise in the State of Delaware; because though I have no doubt that the training of the people is necessary to enable them to sustain self-government I do not believe that merely teaching a man to read and write is such a training as specially fits him for the exercise of the elective franchise.

Moral culture, which depends mainly upon the mother, is far more effective and far more important in securing an intelligent performance of this trust of suffrage. The great principle of the common law to which I have already adverted, of decentralizing power, is the surest basis of self-government by the people, and indeed essential to the maintenance of their capacity for self-government. The institutions of the common law all tend to the decentralization of power. They require that all local business shall be transacted by the inhabitants of the locality. Trace them as you will—overseers of the poor, juries, grand juries, levy courts, and all county organizations—you find that its institutions all aid in training and instructing the people in habits of self-government. It was such training that formed the habits of the people of this country, implanted in them the love and the appreciation of civil liberty, and enabled them to sustain self-government and maintain a government of laws, in contradistinction to a government of will, when they threw off their political allegiance to Great Britain and declared their independence. Centralize the powers of Government now and degrade the suffrage, and the people will lose their capacity for self-government, and one or more despotisms establish their ascendancy, and thus all security of the citizen against the aggressions of power, essential for the preservation of free government, will cease beyond recovery.

Beyond the minor exceptions which I have stated to the maxim that the just basis of all government is "the consent of the governed" there are three general exceptions—age, sex, and race. I have said that I do not consider uniform or universal suffrage is any security for the preservation of freedom, and have given you an illustration which I think conclusive as to its inefficiency for that purpose. I might add, as bearing upon the exception of race, that the historian, in speaking of the Roman empire, tells us "the Romans desired to be all equal; they were leveled by the equality of Asiatic bondage."

First, as to age. If suffrage were a natural right you would find it very difficult to justify the exclusion of boys of sixteen or eighteen, for in general they have quite sufficient mental capacity for its exercise. Indeed, were it a natural right any child old enough to be sworn and give evidence in a court of justice might claim it.

But the right is restrained universally throughout this country. Nay, the age is fixed arbitrarily at twenty-one, founded no doubt upon the principle that the human passions develop more rapidly than the intellectual and the reflecting powers, and that the control over the passions is not sufficient under the age of twenty-one to trust men with the exercise of the franchise. The result would be personal conflicts and riots at elections becoming so general that to avoid anarchy the people would accept despotism. There are boys of eighteen who might be safely intrusted with suffrage, but no tribunal could be possibly organized to determine fairly on the individual exceptions. The question of boyhood suffrage has not, however,

yet become a hobby, and it is useless to discuss this exception further. To use the slang of the day, the community has not yet been educated up to the idea because some boys of eighteen may have more intellect and self-control than the average men of forty, and be quite competent to exercise the franchise of voting, that therefore all boys of eighteen ought to enjoy the franchise. But in this age of progress, according to the ideas of the honorable Senator from Indiana, [Mr. Morton,] no prediction can be made as to when this question will seriously arise. He has told you that the Democratic party is not a party of progress. Mr. President, I shall not attempt to defend all the measures of the Democratic party even during the period of my own public life. It has often erred, but it has been eminently a party of progress. That honorable Senator should recollect that there are two kinds of progress, and that progress down hill is much more easy and rapid than progress upward. To the "*facilis descensus avari*," exemplified in the headlong career of the Republican party, the Democratic party has been opposed. Whether that opposition can yet save the country and preserve civil liberty rests with the people to determine.

The next exception is that of sex. I will not argue this question either with communists or socialists, nor with the woman's rights party, because the folly of this species of fanaticism, though it has made great progress lately, is not sufficiently widespread to need an elaborate refutation. The general objections may, however, be stated. Inordinate vanity and the love of notoriety may have tempted some women to unsex themselves, both in their dress and their pursuits; but woman's heart and the instincts of maternity will keep her true to the greatest of her duties in life, the culture and formation of the character of her offspring, the implanting of that second nature, which can only be done early in life, which influences and controls the happiness and welfare not only of her own generation, but that of her posterity. No higher or holier duty could be imposed upon humanity; and this duty rightfully performed is enough to occupy the head and the heart of any human being. There may be exceptional cases of individual women resembling men more than their own sex in their mental and moral organization, who thirst after direct power and revel in notoriety. They must be great women. My answer to them is, I have seen it somewhere written that there are three orders of great men, the worshipers of power, the worshipers of fame, but, for the last and greatest, those who are content with happiness in the performance of duty, history inscribes no tablet. Surely a wise woman should be content to be enrolled in this last and greatest order. Let it not be supposed, Mr. President, in stating these objections to female suffrage, that I mean to characterize the sex as inferior to man. In their combined mental and moral organization I hold them to be quite our equals, if not our superiors. But there is a difference in the physical, mental, and moral structure of the sexes which fits them for the performance of different duties, and the pursuit of different avocations. Sir, it would perhaps be well for the country if duties were a little more considered, as well as so-called rights.

If I desired an illustration of the fallacy of the idea that the ballot, as it is called, is essential for the purpose of protection, I should select the condition of woman in this country. I feel proud and gratified that in this, our own America, there is a chivalrous devotion to the sex which has been equaled in no other age or country. I yield to none in my deference to the sex, and desire to secure and protect woman in all her rights; but suffrage is not a right, but a trust and a franchise.

Can there, Mr. President, be a doubt that the possession of the franchise of suffrage is entirely unnecessary for the protection of woman in all her rights? Has not the observa-

tion and memory of every Senator satisfied him that in controversies between man and woman in this country, whether in courts of justice or elsewhere, the general sympathy and the bias is always, though she has no vote, with the woman, and not unfrequently even at the expense of justice, such and so great is her influence? Sir, with all my deference for the sex, I believe there is truth in the advice supposed in one of the "imaginary conversations," to have been given by Roger Ascham to Lady Jane Grey, that "women, like the plants of the woods, derive their sweetness and tenderness from the shade." In my belief, if the sex is dragged down into the political arena, the coarse and selfish, and too often brutal struggle for place and power and spoils, will impair its influence and demoralize woman's nature, and that deference which now exists, and her real influence over man will gradually but certainly fade and be lost, and with that loss we shall, as a people, retrograde in civilization.

The third exception, Mr. President, to the general proposition that the consent of the governed is the just basis of government is that of race. On a former occasion I submitted my views in reference to the relation of the races, and I do not propose now to repeat them; but I hold it to be a truth and a fact uncontradicted by history that where two races of men exist in the same country in large relative numbers so dissimilar in organization as to prevent the fusion of races, equality of political power can only end in the conflict of races. I am unwilling to suppose that there are many members of this body who contemplate social equality and the fusion of races. If there be such I will not pause now to answer them beyond referring to the condition of Mexico with her sixteen different crosses of the Indian, negro, and European. The experiment of self-government with such a population has been tried there, and what has been the result? One revolution has followed another, and one military despotism another, until a country with high natural advantages and great sources of wealth has sunk into a state of insignificance and chronic anarchy, and advancement in civilization has become impossible from the insecurity of protection for either life, person, or property. Elevated as the people of this country now are, social fusion with an inferior race will be followed by the same results to our posterity.

Our own Indians afford another illustration. Numerous as they were at the first landing of the white man, they have perished before his onward pathway, and though humanity may earnestly desire to prevent their ultimate destruction, it cannot be doubtful that to confer upon them political power would only hasten that destruction, and it is at least questionable whether they can be preserved under any circumstances from extinction in contact with so dissimilar and so superior a race. This exception does not depend, however, upon the mere inferiority of races, though I believe the race to which you now propose to yield political power is an inferior race.

But, sir, take a case of races nearly if not quite equal. The Saracens or Moors invaded Spain in the commencement of the eighth century. They overrun and conquered nine tenths of that country. They were the equals if not the superiors in point of civilization to the Gothic nation which had been established there. Nine tenths of the country became subject to their sway, and those who resisted it were driven into the mountainous country of the Asturias. The two races were too dissimilar for fusion, and from that time the conflict of races went on for seven centuries, with all sorts of atrocities perpetrated upon both sides, until ultimately the superior race, in military capacity at least, triumphed in the struggle, and when they did the Moors or Saracens were driven bodily and *en masse* out of Spain. That is one of the lessons of history as to the certain conflict of races within the same country in the struggle for political power.

Senators are aware that we have in one portion of the country—in California and may have in Oregon—the effete civilization of the Chinese. They are not yet citizens of the United States, but the professed principle of this amendment authorizes, sanctions, and demands their admission to political power, and when that power is granted to them the conflict of races on your Pacific coast becomes inevitable. The Senator from Oregon desires to avoid this. The Senators from California solace themselves under the delusion that the Chinese are not and will not become citizens. They will yet find that the injury they are so willing to inflict upon the people of other States in regard to a different race will recoil upon their own constituents, for by the operation of this amendment, if adopted, and on its principle, the Chinese will be entitled to become, and will become, citizens and voters. They have a higher grade of intelligence than the negro. They have more capacity for persistent labor than the negro, and when they exist in sufficiently large numbers to aspire to political power you will have the conflict of the Asiatic and Caucasian races in California, and perhaps in Oregon. The relations between the Chinese and Americans in California is but another instance of the antagonism of race in the struggle for power. If I am correctly informed, in California the Chinaman is not even admitted as a witness in their courts of justice, except, perhaps, in special cases, and much less will the people of that State suffer political power to be conferred upon such a population against their consent without resistance.

Let me suggest another case. Is any man so little conversant with the characteristics of humanity as to believe that if England were to grant political power to the Hindoo race, which is also an effete civilization, or to even one tenth part of their number, she could hold India two years? Do you suppose the conflict of races would not arise? Sir, the instinct of race is the primary law of nature. Call it prejudice, if you please, but it is ineradicable except by fusion. The Roman lawyers gave to it its proper name. They tell us that the primary law of nature "consists of those instincts which are common to all animals, such as natural affection and the like." You may war against this law of nature, but such legislation will produce but confusion and bloodshed. This amendment is intended to confer political power on an inferior race, and if adopted will cause the antagonism of races to culminate in conflict where the two races exist in such numbers as to affect the social status of the community. Color alone does not constitute the diversity of race between the negro and the Caucasian. The organic difference, though not so obvious, is greater and more permanent.

I will state briefly the results of my own reading and personal observation in regard to the characteristics of the two races.

The negro is more animal than the white race, indolent, but kindly tempered, though when the animal passions are aroused they are less within his control. Wherever he exists in large numbers among the whites as a freeman the negro seeks and sometimes monopolizes those employments which, though precarious, are most highly paid in proportion to the labor and do not require persistent exertion, such as barbers, wood-sawyers, porters, and the like. Improvident by nature, the cases are exceptional in which the desire and capacity for acquisition are developed. In crossing with the white races the intellectual capacity of the offspring is quickened, but the moral nature usually degenerates, and though the mixed race is not absolutely hybrid, the power of reproduction is materially diminished and the duration of life shortened. Doubtless there are exceptional instances of this inferior race who possess more than the average capacity of the white race, but no tribunal could be organized to decide upon the excep-

HO. OF REPS.

Unequal Distribution of Employes, &c.—Mr. Shanks.

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tions more safely than in the case of boys under twenty-one. In fact as a race they are children all their lives, and require both protection and control.

Such have been the results of my own observation and my reading in regard to the characteristics of the two races; and yet I have no unkind feelings toward the African race, though I would deny to them political power for their own benefit as well as ours. In the course of a long life I never had the slightest collision with any individual of that race, and I certainly have protected many of them from oppression and wrong, and if I know my own heart, have no feelings in relation to the race other than those of kindness and a desire for their protection and welfare. Neither I nor any of my kith or kin have held slaves or had any interest in the question of slavery since my boyhood. I have, however, stood in a position where I have had an opportunity, unbiased by any interest whatever, to observe the relation of races, and such is the result of my observation. If there be one opinion on which I have a more decided conviction than any other it is that if political power is conferred upon this inferior race the conflict of races sooner or later will be inevitable. I hope earnestly that it may never come in my day; but when it does come, the primary law of nature, the affinity of race will assert itself, and the inferior race will perish in the collision. For their sake, therefore, as well as for the prosperity and happiness of my country, I must resist this partisan attempt to retain power by means of forcing upon the country, against the sense of the people of at least ten States of the Union, a race of inferior organization as their political equals.

Sir, I have already told you that if you will refer this amendment to the people of the States in their conventions, or if, as the Senator from Pennsylvania proposes, you will submit it for ratification to Legislatures to be elected after it has been proposed by Congress, and the people ratify your action, it must be submitted to without hesitation, whatever may be the views of its opponents of the injurious and destructive effect of its adoption.

But, Mr. President, if this amendment is to be passed in any of its proposed forms at the present session of Congress, and is to be referred to existing Legislatures who have been elected by the people of the States without reference to this question, and without the slightest intimation that such an amendment was contemplated by the Republican party, the result may be very different. Nothing can lead to its ratification by the Legislatures of many of the States without first taking the sense of their people, except the overswaying and perverting influence of party spirit. It will be a dangerous experiment to make upon the patience of the country to force through an amendment to the Federal Constitution which abrogates the constitutions of at least ten States of the Union against the consent of their people by the faithless betrayal of trust by their representatives. Though this great wrong may be perpetrated those faithless representatives both here and in the State Legislatures may yet find that "it is the last drop in the cup which will cause the waters of bitterness to overflow."

Unequal Distribution of Employes of the Government.

REMARKS OF HON. J. P. C. SHANKS,
OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,
February 13, 1869.

The House being in Committee of the Whole on the state of the Union—

Mr. SHANKS said:

Mr. CHAIRMAN: I take this occasion to put upon the record, for the benefit of the members

of the House, a subject of some importance to the House and the country. It is that of the unequal distribution of the number and rank of the employes of the Government. In a great Republic like this the benefits as well as the burdens of the Government should as near as possible be divided equally among the people. I find, by examination of the Blue Book of 1867, that in eight Departments—the Interior, War, Treasury, Navy, State, Agricultural, Attorney General's, and Post Office—there are employed in this city four thousand three hundred and ninety-four clerks. I take none of those holding higher positions and I take none holding lower positions than of clerks. I include no heads of bureaus, many of whom are also from this District. Of those four thousand three hundred and ninety-four clerks, I find the District of Columbia furnishes directly one thousand one hundred and fifteen; and while that is true, there is a

large number credited to different States who absolutely live in the District of Columbia and vote here.

The District of Columbia, in addition to having this number of clerks, has the day laborers and almost all the messengers in the Departments I have named and the employes for all the other public works, offices, and places located here. In the eight Departments named some of the States have but one clerk, some two, three, four, five, six, seven, and so on, the highest number of any one of them being New York, which has seven hundred and ninety; but that is a large State. The following table shows the inequality that exists, and I call special attention to it. This District furnishes over one fourth of the Government clerks in employ in the capital, of whom a large number are grossly disloyal; but aside from their want of loyalty the thing is unjust to the people:

Inequality of numbers of Government civil employes in the Departments at Washington.

States and Territories.	Interior.	Treasury.	Navy.	War.	State.	Attorney General.	Post Office.	Agricultural.	Totals.
Maine.....	14	74	4	17	-	-	2	-	111
New Hampshire.....	11	62	1	11	-	-	-	1	86
Vermont.....	15	53	-	20	-	-	6	-	94
Massachusetts.....	10	118	7	57	1	11	-	-	204
New York.....	72	350	8	113	19	24	2	2	730
Rhode Island.....	5	12	1	4	1	1	1	1	25
Connecticut.....	12	49	6	12	-	-	-	-	81
Pennsylvania.....	61	267	6	98	1	3	14	16	466
New Jersey.....	13	53	-	13	-	-	3	4	86
Delaware.....	4	13	-	2	-	-	3	-	22
Maryland.....	30	122	1	31	-	-	21	7	212
Ohio.....	49	143	-	36	-	1	13	1	245
Indiana.....	20	58	-	7	-	-	1	2	88
Illinois.....	39	78	1	15	-	-	4	1	138
Michigan.....	20	52	1	12	-	-	2	2	89
Wisconsin.....	13	46	4	16	-	-	7	2	88
Minnesota.....	11	19	-	3	-	-	3	1	37
Iowa.....	15	35	-	8	-	-	3	1	65
Kansas.....	5	11	-	6	-	-	-	-	22
Florida.....	-	2	-	-	-	-	1	-	3
Arkansas.....	1	3	-	-	-	-	-	-	4
Missouri.....	4	23	-	2	-	-	4	1	34
Texas.....	2	2	-	-	-	-	-	-	4
Kentucky.....	9	21	1	3	3	-	2	1	40
Tennessee.....	12	14	2	1	-	1	2	-	32
Louisiana.....	2	4	-	-	-	-	-	-	6
Georgia.....	2	4	-	-	-	-	-	-	6
Alabama.....	-	4	-	1	-	-	-	-	5
South Carolina.....	-	3	-	1	-	-	-	-	4
North Carolina.....	3	1	-	-	-	-	-	-	4
West Virginia.....	5	10	-	1	-	-	2	1	19
California.....	6	14	-	5	-	-	-	-	25
Virginia.....	16	60	3	20	2	-	12	3	116
Nebraska.....	3	4	-	-	-	-	-	-	7
Nevada.....	1	3	-	-	-	-	-	-	4
Oregon.....	3	4	-	-	-	-	-	-	7
Mississippi.....	-	2	-	-	-	-	-	-	2
Arizona.....	-	1	-	-	-	-	-	-	1
Colorado.....	1	2	-	-	-	-	1	-	4
Utah.....	1	-	-	-	-	-	-	-	1
New Mexico.....	1	-	-	-	-	-	-	-	1
Dakota.....	-	-	-	-	-	-	-	-	-
Montana.....	-	-	-	-	-	-	-	-	-
Washington Territory.....	1	-	-	-	-	-	-	-	1
District of Columbia.....	147	586	21	234	12	3	63	49	3,279 1,115 4,394

The District has all the day laborers in these and all other public employments, and almost all the messengers. In addition to the above showing, there are some accredited to the Army; these are generally employed in the War Department. There are of these two hundred and four there, and some twenty in other Departments.

I think that this matter is one of very great importance to the people of the country, because from these offices, if equally represented from the various districts and Territories, employes would go out to and correspond with the people of the different parts of the country, giving information touching what is going on in the Departments and in the capital, thus keeping up a healthy channel of communication between the Government and people, as valuable and faithful as though it went out from this House. A few days ago I introduced a bill, No. 1711, which may be found on the files, on this subject, which I insert in my re-

marks, and to which I also ask the especial attention of members. The system of selecting cadets for the Military Academy at West Point and midshipmen for the Naval School at Annapolis is from the congressional districts, so as to equalize the representation and benefits of those beneficiary public schools, and there is no reason why the same justice should not be extended to the Government employes here. Of course, the employments through the country must be made where most convenient, and have in them no national representative character, or position. The more channels of communication that we can open between the Gov-

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ernment and people the better for the Republic, and the safer are the people from combinations here.

Our common-school systems and other educational resources have prepared every district with qualified persons for any of these trusts, and justice and the public interest demand that they be afforded, with their fellow-citizens, an equal opportunity to exercise their talents and acquaint themselves with the Government, and in turn acquaint the people with the condition of affairs here. The following is the bill:

bill (H. R. No. 1711) to distribute the number and rank of Government employes among the several districts and Territories.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That after the passage of this act it shall be the duty of the Secretaries of State, War, Navy, Treasury, and Interior, the Postmaster and Attorney General, Commissioner of Agriculture, Superintendent of Public Buildings and Grounds, and the officers of the House and Senate, to severally cause to be made alphabetical lists of all the employes in their respective Departments or forces, and to correct the same as changes shall be made, and to keep said lists in their several offices, respectively, subject to inspection.

Sec. 2. *And be it further enacted,* That said lists shall contain the name, rank, and pay of the employes of the respective Departments or forces, date of employment, and residence, giving town, county, State, or Territory, designating those who have served in the Army or Navy of the United States.

Sec. 3. *And be it further enacted,* That the several congressional districts, organized Territories, and the District of Columbia shall be entitled to equal numbers and ranks of employes in the said several Departments and forces. No district or Territory shall have more than one of any rank until every district and Territory, as herein provided for, shall have at least one of the same rank; and all appointments in said Departments and forces hereafter shall be to equalize the number and rank of employes as above provided for; said equalization of numbers and rank of employes from the several districts and Territories aforesaid shall be made by the 4th day of March, 1871: *Provided,* That nothing herein contained shall be construed to regulate the employment and service of day laborers, and boys under the age of sixteen years.

I wish to call the attention of Congress to this matter now, because I think it is due to the people that I should do so. I have sought this opportunity to-day to put these few remarks on record, so that the attention of members may be drawn to the subject when it shall be brought before the House for action.

Question of Privilege.

SPEECH OF HON. S. SHELLABARGER,
OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,
February 11, 1869.

The House having under consideration the resolutions that the House protest against the counting of the vote of Georgia by order of the Vice President *pro tempore*—

Mr. SHELLABARGER said:

MR. SPEAKER: I desire to state that in all that I shall say I shall accord most sincerely and fully to every gentleman upon the floor all that integrity of purpose and desire fairly and properly to dispose of the important matter now before the House which I claim for myself. It is not wonderful, sir, that we have fallen into doubt and trouble about this matter, so new, so undefined, and one in which we are to so great an extent unaided by precedent furnishing to us a guide. I shall aim at making my utterances to-day practical and as intelligible as my feeble abilities will enable me to. The resolution the gentleman from Massachusetts has submitted for our approval reads as follows:

The House protests that the counting of the vote of Georgia by the order of the Vice President *pro tempore* was a gross act of oppression and an invasion of the privileges of the House.

Profoundly as I regret that occurrence, and deeply as I feel the wrong which the resolution does, I shall consider, calmly if I can, the justice of it. I shall do that by first assuming what I understand to be the position of the distinguished gentleman from Massachusetts, [Mr.

BUTLER,] who introduces the resolution, that both the twenty-second joint rule of the date of February 6, 1865, and also the concurrent resolution of the two Houses of the date of February 6, 1869, are alike unconstitutional, alike without legal significance and force, and, to adopt his words, equivalent to waste paper. From this stand-point of the gentleman from Massachusetts I proceed to consider the resolution which he has seen fit to introduce.

Mr. BUTLER, of Massachusetts. The gentleman will permit me to say that in the language to which he refers I was not characterizing the joint rule, but the concurrent resolution recently adopted.

Mr. SHELLABARGER. Mr. Speaker. I understood the gentleman to characterize the joint rule of 1865 as unconstitutional also. In the morning Chronicle he is reported as using these words:

"Think of it a moment, gentlemen! Suppose at the next election the House of Representatives is one way and the Senate is another. Under that joint rule, if it is constitutional and operative, the House can say 'We will not have the Republican votes counted,' and the Senate can say 'We will not have the Democratic votes counted,' and there is an end to presidential elections."

Let me now bring together some very familiar things, but things which dispose of this resolution. Let it first be remarked and kept in mind that the Constitution provides that the Legislatures of the several States shall fix the manner of choosing the electors. In the next place Congress is authorized by the Constitution to fix the time of casting the vote of the presidential electors. The language is—

"Congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States."

Next I beg that the purposes and importance of this provision of the Constitution shall be kept in mind. It requires that the day of voting in the several States shall be the same. With reference to the importance of this constitutional provision Justice Story, in his commentaries, uses this language:

"The propriety of this power would seem to be almost self-evident. Every reason of public policy and convenience seems in favor of fixing a time of giving the electoral votes, and that it should be the same throughout the Union. Such a measure is calculated to repress political intrigues and speculations by rendering a combination among the electoral colleges as to their votes, if not utterly impracticable, at least very difficult, and thus secures the people against those ready expedients which corruption never fails to employ to accomplish its designs."

Next I invite the attention of the House to the legislation of Congress, carrying into effect and providing for the things covered by these provisions of the Constitution. The act of Congress of 1792 fixes the time, in accordance with the constitutional requirement, upon the same day throughout the Union. The fifth section of that act provides, in substance, the same thing that it provided in the terms of the twelfth amendment itself, and I shall presently read it.

It will be seen that this act of 1792 furnishes no additional guide for the counting of the electoral votes beyond what the Constitution furnishes.

I shall now proceed to consider the resolution before the House as if there was no twenty-second rule nor any concurrent resolution of this Congress upon the subject; and I am inquiring whether the resolution ought to be passed, assuming that we have no other guide than the guides furnished us by the statute and the Constitution. That article of the Constitution, Mr. Speaker, in so far as it relates to the matter now before the House, provides for that matter in these words:

"The President of the Senate shall, in the presence of the Senate and the House of Representatives, open all the certificates; and the votes shall then be counted."

That is the light the Constitution gives us on the subject as to how the count shall be made, and by whom it shall be made. The thing, it will be observed, to be done in express terms by the President of the Senate, is to open

the certificates. The count is to be made then, but by whom is not expressly stated.

Now, Mr. Speaker, I go to the difficulty that exists in the Constitution itself, which has brought upon the Government again and again, at least three times over, the same experience which we encountered here yesterday, an experience regretted at its first occurrence with the most intense feeling of anxiety and alarm by all the country, and pointed to as an indication of weakness and of danger in the very framework and structure of your Government. To that danger Mr. Story points in exceedingly suggestive words, to which I will now call the attention of the House. He says:

"In the original plan as well as in the amendment no provision is made for the discussion or the decision of any questions which may arise as to the regularity and authenticity of the returns of the electoral votes"—

The very difficulty we on yesterday, under circumstances so painful, were brought again to encounter. He proceeds:

"Or the right of the persons who gave the votes or the manner or circumstances in which they ought to be counted. It seems to have been taken for granted that no question could ever arise upon the subject, and that nothing more was necessary than to open the certificates which were produced in the presence of both Houses, and to count the names and numbers returned. Yet it is easily to be conceived that very delicate and interesting inquiries may occur, fit to be debated and decided by some deliberative body. In fact a question did occur upon the counting of the votes for the Presidency in 1821 upon the reelection of Mr. Monroe, whether the vote of the State of Missouri should be counted; but as the count would make no difference in the choice, and the declaration was made of his reelection, the Senate immediately withdrew, and the jurisdiction, as well as the course of proceeding in a case of real controversy, was left in a most embarrassing situation."

Then follow these words: "Another defect in the Constitution is," &c.; indicating that the learned commentator regarded this as one of the defects of the Constitution. I call attention to this uncertainty and defect in the Constitution for the two purposes: first, of reminding gentlemen of the high and commanding duty which the existence of this uncertainty and infirmity in the Constitution imposes upon us, and that in dealing with this matter of the electoral vote the utmost forbearance, wisdom, and moderation in our conduct is required, and that violence, excitement, and precipitate or erroneous action here may overthrow the Government itself; second, I allude to this uncertainty in the Constitution to show that the action of the President of the Senate denounced by this resolution was, in a matter where it does not become us nor the gentleman from Massachusetts to be over-confident of his being right, and where language or resolutions of denunciation are exceedingly inopportune, unworthy, and dangerous.

Mr. Speaker, this brings me now to the first and elementary proposition in the poor argument I am about to submit; and it is this, that whatever infirmity there may be in the Constitution in this regard, that infirmity does not go to the extent of leaving everything uncertain, but that there are at least two things made certain, mandatory, and conclusive upon Congress in the terms which the Constitution employs. One of these is that the President of the Senate and nobody else can be authorized either by an act of Congress or by concurrent resolution or otherwise to open the votes. That must be done by the President of the Senate. So in words says the Constitution. The other thing made absolutely certain is that when that thing is done, called in the Constitution "be counted" occurs, then and there there must be present together in one presence, along with the President of the Senate, the two Houses of Congress, and that nothing which in the sense of the Constitution amounts to a counting can occur except in that presence. This is a presence made up of three constituent elements, namely, a President of the Senate, a Senate, and a House of Representatives. So that nothing that amounts to a "counting" can occur, whoever it is that may be permitted to make it, no refusal

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to count, no agreement to count, nothing that comes to a count can, by any rules or contrivance, be made to occur except in that presence and body or convention made up of the three elements I have named, to wit, a President of the Senate, a Senate, and a House of Representatives. Thus far, Mr. Speaker, there is no room for doubt or debate.

Now, sir, what conclusion does that bring us to? To this: first, that there can be no authority given by law or otherwise, resolution or otherwise, that a count shall be made up by the separate constituencies, acting as distinct or separate bodies, that make up the convention in whose presence a count is to be made. It follows from this inevitably that no concurrent or joint resolution, no act of Congress, can be law which shall resolve these elements making up the convention that makes the constitutional count, and which sends them to make the count in their separate Chambers as separate bodies. It is therefore exactly impossible that this provision of the Constitution can be made by the aid of any concurrent resolution or rule, or even act of Congress, to permit either the Senate or the House or the President of the Senate to separate and go to themselves and by themselves adopt any form of order or decision which shall render it impossible for the joint convention when reassembled to count any one of the States.

Next, Mr. Speaker, I come to the question who it is in the convention that makes the count; and I here venture to state this as a proposition which I stand upon, with an unaffected deference to the opinions of other gentlemen, and yet I state it with very great confidence, that that count, in the absence of legislation upon the subject, is to be made by the President of the Senate. Why? First, Mr. Speaker, because that seems to be the natural sense of the Constitution. It provides that the opening shall be by the President himself. It provides simply that it shall be done in a particular presence, not giving any office or duties to that presence of the Senate and House of Representatives, except that they shall be present. It does assign a particular duty to the President of the Senate in opening the votes, and there it stops, it is true; but taken in connection it seems natural to me that it should be supposed that he is to do the counting.

I know the difficulty that we will encounter from this position, that it gives very great power to the President of the Senate; but it will be seen that there are difficulties whichever way we turn—difficulties pointed out by Justice Story in the language which I have read to the House. The danger of giving the power to reject the votes to either or both Houses, in at least some views, is even greater than in giving it to the President of the Senate, because by rejecting the votes the Senate and House can throw, by their own act, the election of the President into the House and of the Vice President into the Senate.

Another reason why I think it probable that under the present state of the legislation upon this subject, and in the absence of the twenty-second joint rule, or if it be invalid, the President of the Senate is to make the count in the presence of the Senate and House of Representatives, is that the act of Congress of 1792 so indicates. This act is older than the twelfth amendment itself—for that twelfth amendment was brought into existence by reason of the difficulty that occurred at the election by the House of Representatives of Mr. Jefferson in 1801, as is stated in Story's Commentaries, section fourteen hundred and sixty-six. The fifth section of that act of 1792 provides—

"That Congress shall be in session on the second Wednesday in February, 1793, and on the second Wednesday in February succeeding every meeting of the electors, and the said certificates, or so many of them as shall have been received, shall then be opened, the votes counted, and the persons who shall fill the offices of President and Vice President ascertained and declared agreeably to the Constitution."

The use that I make of this section is simply that it will be seen here that the statute declares that certain things shall be done. One is that the votes shall be opened; another is that they shall be counted. The Constitution says who shall do the opening, and therefore we are not in doubt about that. But that statute connects the opening and counting together, seemingly making it the act of one and the same instrumentality. But as we know that one of these acts—the opening—must, by the Constitution, be the act of the President of the Senate, and as the statute seems to require the person who does that to do the counting also, it thereby seems to indicate that the President of the Senate counts the votes. This is of course an argument not conclusive; it is only persuasive. But now I turn to another authority, which is more than persuasive in the absence of higher law. I turn to that man who is recognized by us all as one of the masters, not only of our American law, our constitutional law, but of the civilized world's common and international law; I allude to Chancellor Kent. In his commentaries on this part of the Constitution he uses this language:

"The President of the Senate on the second Wednesday in February succeeding every meeting of the electors, in the presence of both Houses of Congress, opens all the certificates, and the votes are then to be counted. The Constitution does not expressly declare by whom the votes are to be counted and the result declared. In the case of questionable votes and a closely contested election, this power may be all important; and, I presume, in the absence of all legislative provisions on the subject that the President of the Senate counts the votes and determines the result, and that the two Houses are present only as spectators to witness the fairness and accuracy of the transaction, and to act only if no choice be made by the electors."

There, sir, for the purposes of my argument to-day I leave this proposition. It is a proposition that commends itself to my own judgment as a sound one, one vindicated by the most illustrious private opinions that are obtainable in this country. The use I shall make of that proposition will appear more fully as I proceed. It is sufficient for me to say here that if Chancellor Kent be indeed not mistaken, and if the President of the Senate "in the absence of all legislative provision on the subject"—and I am now assuming that the twenty-second rule is invalid, because it deprives, as would seem, everybody of all power to count any State if either the Senate or House should by its separate vote refuse to count it—then, instead of the President of the Senate having been guilty of "an act of oppression and an invasion of the privileges of this House," it was an invasion of the powers and solemn duties of that officer for this House by its separate vote to attempt to compel him not to set down the vote of Georgia in the way he did set it down, provided that way was not evidently "unfair" or dishonest.

Let us go now to consider the consequences which will logically be absolutely inevitable from holding that a separate vote of this House shall be permitted to estop both the President of the Senate and the Senate, and the joint convention of President of the Senate, the Senate, and the House, each, all, and either, from ever setting aside the decision of this House that Georgia should not be counted. For, mark you, that if the President of the Senate has grossly oppressed and invaded the privileges of this House, it has been done by denying this House the privilege of refusing by its separate vote to reject the vote of a State for President. Suppose that each House separately may proceed to ascertain and decide upon the counting or not counting of the vote of any State, what consequences will follow from it? They have been in part stated already by the gentleman from Massachusetts [Mr. BUTLER] in what I have already quoted in vindication of the position that he takes, that it will enable the Senate or the House, either and each, to defeat the election absolutely and in every case of any President, and this for partisan or for

worse than partisan purposes. That is so evident that to state it is to prove it. Indeed, the gentleman from Massachusetts, who proposes this most severe and extraordinary censure, has exclaimed himself more than I can exclaim against the frightful consequences which would come from permitting one or either House of Congress to get by itself and there, in separate session, by the *per capita* vote of its individual members, without debate, vote out the decision of the people of any and every State in selecting the Chief Magistrate of the Republic.

This, then, Mr. Speaker, brings us to again direct attention to the logical and startling consequences of our here declaring that the President of the Senate has been guilty of an act of usurpation and outrage. Outrage in refusing to do what? In refusing to permit the House of Representatives by its own separate vote to defeat (if the case had been, as it might be, of that sort) the election of a President at all; and that is an exceedingly possible case, and one that could have readily occurred at the time of the count of Mr. Clay's last vote for the Presidency. And when the privileges of the House are declared by this resolution to have been invaded, it is material for us to know what those privileges so invaded are. The privilege invaded is the very one the supposed existence of which the gentleman from Massachusetts himself denounced as one of the most fearful suppositions that could be conceived. The power of the House which has been invaded is that power which would enable this House to elect every President, or else to defeat the election of every one. This is the only power that the House has sought to exercise. The act of oppression is in refusing not to obey the separate order of this House, by counting Georgia's vote in the way it was.

Mr. HIGBY. Will the gentleman yield to me for a question?

Mr. SHELLABARGER. Not now; after I have concluded my remarks I will yield to the gentleman for a question if I have time.

Now, I agree, therefore, with what I understood was most earnestly said by the gentleman from Massachusetts himself, that the House has not the power to determine by itself whether the vote of any State shall or shall not be counted; and therefore no power of this House or privilege of this House has been invaded, for no such power did in fact exist. I do not allude, in all I have or shall say, to what was done by the President of the Senate in the matter of not entertaining the gentleman's appeal, because the resolution does not allude to or complain of that, but of counting Georgia in the way it was counted. The mistake of the President was in not ruling the gentleman's objection to counting Georgia to be out of order when it was made. It was clearly his duty, under the concurrent resolution of the 6th of this month, to have done that at the time the objection was made, because then it was known that the vote of Georgia did not change the result, and it was therefore known that that resolution required Georgia to be set down in the specific manner pointed out by the concurrent resolution. But the fact that he did not rule it out of order then and did order the Senate to retire, and the fact that the Senate sustained what the President had declared in convention, when the gentleman made the objection, that he was inclined to hold the Houses to their own rule as to what should be done about Georgia, and the fact that the Senate went out, and the fact that it voted the objection to be out of order, and the fact that the President, on the return of the Senate, said that the Senate had voted the objection to be not in order—I say these facts all put together or taken separately did not add to or take from the power and duty of the President of the Senate to decide, at any and all times, that as Georgia's vote did not change the result it should be entered according to the command of our

concurrent resolution. The error of the President was one committed on the invitation of the gentleman from Massachusetts in permitting the Senate to withdraw; but that took away no power given by the concurrent resolution. But this is aside from the question. I consider that the counting of Georgia was an invasion of the privileges of the House. There is another consideration which makes the danger of holding that the separate vote of this House can defeat the power of the President and the joint convention of the two Houses to count any one of the States so clear that it will strike us as does the sunlight at noonday. It is this: this House, if it have the power by rejecting the vote of a State, may throw the election of the President into its own body, for it goes into the House of Representatives whenever no candidate shall have received the votes of a majority of all the electors appointed. It will enable the House to take away from a candidate really having a majority of the electoral votes the votes of a single State or of several States, thus reducing his vote below a majority; and in that way you give to the House the power to turn into its own body in every case the election of the Chief Magistrate. It is only necessary to call attention to such a consequence and its resulting danger to make it absolutely appalling, and drive us with one common instinct and consent from it. The idea that it could have been the intention of the framers of the Constitution to so frame it that this House alone should have the power in every case not only to defeat the choice of the entire nation in the election of the highest and most powerful magistrate of the nation, and that they should be invited to do so by a bribe put into the Constitution rewarding the House for this defeat of the people's will, by giving to it the selection of that magistrate, is so preposterous and shocking as that it is incapable of argument. And yet if any privilege of this House has been invaded, as the gentleman's resolution says, then it is this privilege of the House to do that identical and monstrous thing!

Mr. BUTLER, of Massachusetts. The House itself, according to the gentleman's own authority, may defeat the election by withdrawing from the convention and not returning.

Mr. SHELLABARGER. It may be well enough for me to say right here, in reply to the suggestion of the gentleman from Massachusetts, what I meant to say in another place. He is shrewd and learned and knows how to put things. But, while he is all that, he also knows right well how useless and impotent, when we are discussing with intelligent men, is the supposition of extreme and unassailable cases. The case that the gentlemen suppose, that the House has the right to retire and break up the joint convention, is simply to suppose the case of blank, unmitigated revolution; is to suppose an act done in defiance of the plain, express provision of the Constitution, for it commands that the House shall meet with the Senate and its President, and that then, in this presence, the vote shall be counted. To suppose that the House would leave, break up the convention, and defeat the election, is to suppose that the Representatives of all the people have decided to overthrow their Government. It would be shorter and equally sensible to suppose that the people had refused entirely to vote, or that no electoral college had been created, or any other thing that would bring the Government to an end. The gentleman, of course, sees how different the case he supposes is from the case his position in the argument supposes, namely, that the framers of the Constitution deliberately put it into the Constitution that the House of Representatives alone should have power to defeat the people's election of their President and then elect one themselves!

If the true interpretation of the twenty-second joint rule is that no vote shall be counted until both Houses, by separate votes, concur in de-

ciding that it shall be, then it is plainly void as in conflict with that provision of the Constitution which requires in so many words that every act that enters into and makes a counting of the votes shall be in the presence of the two Houses—"the votes shall then be counted."

What I have now said results in this, that if the gentleman be right in declaring our own concurrent resolution of the 6th of February, 1869, unconstitutional, and not a justification of what the President of the Senate did, then his resolution is not aided by its abrogation, because it is impossible to hold that this House had the privilege by its separate vote, in its separate Hall and out of the presence of the Senate and its President, to count or to refuse to count Georgia. The House having no such privilege to be violated, the President of the Senate did not violate it. And yet this is the only privilege of this House which the gentleman's resolution says the President of the Senate violated. I surely cannot be mistaken in this, sir. If I am not, the President is entitled to his country's gratitude—and mark it, sir, he will receive it—for delivering his country from the peril into which we had fallen.

Now, that brings me to an inquiry in regard to what occurred yesterday. We did take a separate vote here in the House upon the question of receiving the vote of the State of Georgia. Against receiving that vote the great body of this House, including myself, voted. How came we to do that, it may be asked, if this was not, as I have argued, a constitutional method of the exercise of this House's power (granting it has some) of counting the vote of Georgia? The answer to that is to be found in two considerations. In the first place there was no other privilege left to the members of this House to vote at all except the privilege of voting in the separate meetings of the two bodies. Whether it would have been wiser for a member of this House who did not regard as constitutional that provision of the twenty-second joint rule which separated the two Houses and compelled the members, if they voted at all, to vote alone in separate bodies to have remained silent, or whether it was better for each to vote according to his convictions of what he ought to do if in a convention of the two Houses, is a question upon which I do not propose now to enter. It is sufficient for the purpose of this case to say that the votes which were cast in the House were such votes as we ought to cast in convention, if we had been permitted to vote there at all, a privilege which we did not have. Whether we erred in casting the vote or not, I need not debate. To have been silent would have, as things were compelled to be conducted if the twenty-second rule were enforced, resulted in forever preventing the count or rejection in any way of Georgia, and thus it would have defeated the determination and official announcement of the election of the President of the United States.

I wish now to inquire for a moment whether the vote of Georgia is one which ought to have been counted by any body under any circumstances. Sir, I maintain that if it be not the law, as Kent says it is, in the absence of legislation, that the President of the joint convention shall do the counting; and if, on the other hand, it be true that the joint body in convention counts the vote, then the vote of yesterday was a proper vote, had it been cast in convention. And this is the true defense of the vote cast by the House yesterday. Why do I say that it was the vote that we ought to have cast? I will put a single case to show that it is impossible that there should not be the power to do, in some way what we attempted yesterday to do touching Georgia, to wit, to exclude the vote for one of the reasons assigned in the objections of the gentleman from Massachusetts.

I have already read the provision of the Constitution that authorizes the State Legisla-

tures to prescribe the manner of choosing electors. Now, the State of Ohio has prescribed, under this provision of the Constitution, that the choosing of the presidential electors shall be by a popular vote. Suppose that there had been sent up to us from Ohio a certificate showing upon its face that the electors were chosen by the Legislature of Ohio, now in session, and that we had been asked to count that vote. Is there a gentleman on either side of the House who will say, that in this matter of counting, we could not, or that somebody could not (whoever may have the power to count) reject such a vote sent from Ohio? Everybody will say it is impossible that we should be required to count such a vote, which on its face is shown to be one that in law has no significance. The power must exist somewhere to reject such a vote. And here, sir, I affirm, once for all, that the thing into which the power that can count this vote is permitted to look in deciding whether a vote shall be counted is the same into which, under similar law, all canvassing officers can look, namely, whether the papers which they inspect, being genuine and legally certified and executed, show that such an election was held or vote given as is authorized by law, and duly show its result.

Now, how was the case we voted on yesterday? I have already shown from Justice Story the reason why the Constitution has wisely required that the vote in each State should be cast "on the same day throughout the Union." By the same authority I show that this is a matter of substance, and not merely directory; that it goes to the very question whether there has been an election of electors. It shows it to be of identically the same substance that these electors should vote on the day prescribed for the holding of their election as it is that the people of the State should vote for these electors on the day the law says they shall cast their votes. This act of the electors is not a ministerial act. Their minds are open and free to make the choice they want to make on the day fixed by law for that choice, and they have a right when they meet in the capitals of our respective States to cast their votes for whom they please as President, if the person voted for has the constitutional qualifications, and if they do not take both the President and the Vice President from the State in which the electors reside. The act of the electors in casting their votes is therefore an election; and if the vote be cast on the wrong day, it is just as mischievous, just as fatal with regard to the validity of their action as if the people had met on the wrong day to exercise their choice. I think we all agree about that. Hence I hold that I and my fellow-Republicans voted rightly yesterday so far as regards the merits of the question; for I maintain that we did not have the privilege of voting—if we had the right to vote at all, if the whole right with regard to counting the vote be not in the President of the joint convention—we did not have the privilege of voting, under the operation of the twenty-second joint rule, in the way we ought to have had that privilege. Hence there can be no question but that our votes in the House were right so far as the merits of the question upon which we cast them are concerned. Whether it would have been better for us to have remained silent I have already alluded to as fully as I care to do. There, sir, I leave that.

Now, what is the application of this whole question, assuming that these rules are invalid? It is (and I commend this to the attention of the gentleman who introduces this resolution) that if the President of the Senate had the power to count the votes then clearly we were invading his rights and privileges in attempting in any way to control that count except to see that it was "fair," to here adopt the word of Chancellor Kent.

Mr. BUTLER, of Massachusetts. How are we going to do that?

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Question of Privilege—Mr. Shellabarger.

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Mr. SHELLABARGER. Well, the gentleman may go for the answer to his question to Justice Story. The gentleman cannot defeat the argument by showing that there may be defects in the Constitution as to how we are to ascertain that, or a *casus omissus*, as was said yesterday by the Speaker. I answer further that we can prescribe rules by which shall be secured an honest and legal exercise of whatever powers and discretions we possess in making this count by whomsoever that power may be possessed and exercised; and it is because we have this power that I affirm as the next proposition in my argument that the concurrent resolution which we passed on the 6th of February is not unconstitutional, but was binding on the President of the Senate.

It is unlike the concurrent resolution of 1865, because that breaks the convention into two bodies and separates them for the purpose of doing that separately which can only be done in a joint convention. And it does not permit them to review or decide in joint convention what it requires to be voted on and decided in separate votes of the two Houses. This one of 1869 does none of these things. It does not dissolve the convention. It does not require any separate vote of the two Houses. It does not permit the rejection of the vote of any State. It simply provides that if the vote of Georgia does not change the result then that vote shall be set down in a particular way. What does the gentleman find unconstitutional in that, pray? Does the Constitution prescribe how the vote of a State shall be set down (either after it is rejected or counted) upon the official records of that count or on the Journals? Has the Constitution prescribed how we shall make up formally the record of the count? Why, the gentleman with his great learning will still "fail to come to time" on a question like that. The Constitution has left the power in Congress to prescribe the rules under which that count shall be made and how it shall be set down. The resolution that we passed the other day does not really provide for the receiving or rejecting of the vote of Georgia in the substantial sense of the words of the Constitution, "shall be counted." It simply says it shall be entered according to a certain form of statement; and that is what the gentleman says is unconstitutional. It would be clearly unconstitutional if it undertook to count the vote of Georgia in or out. It assumes to do no such thing, but it only says that if it shall be immaterial to the result of the election whether the vote of that State be "counted" or not, then, for a prescribed reason, it need not be decided by the convention whether the vote is a legal one or not a legal one, and that it shall without any decision of that question be entered of record in a prescribed form. This resolution is not therefore amenable to the criticism that it undertakes to count the vote of a State before that vote is opened or known. Now, notice just what that resolution is, what brings it into operation, and what it accomplishes when brought into operation.

Mr. Speaker, it is the failure to be thorough, discriminating, and accurate as to this last thing that produces the confusion of debate and of conclusions and of our conduct in the fearful and sadly painful emergency we have just passed through. Let us carefully consider these. First and all the time it must be kept in mind that this resolution was by its express terms to have no effect whatever, was not to be at all in force, nor to be a law to anybody as to the count of Georgia nor any State except in a certain specified contingency. That contingency must be found to have happened before the concurrent resolution became in any sense a law for the guidance of any one. That contingency was, that the same persons would be elected by the votes of the other States whether the vote of Georgia were valid or invalid, counted or not counted. In other words, the resolution only went into force when and after it had, by the

count of the other States, been ascertained and decided that the "count" of the vote of Georgia—decision of the validity or invalidity of her vote—was absolutely immaterial and unnecessary to the ascertainment of the result. When that conclusion was reached that the vote of Georgia was immaterial to the result, and that its validity was not necessary to be decided in order to know with the same certainty who was elected as would be attained after it was decided, then, and only then, the concurrent resolution went into force and play. Thus far there is plainly no possible room for doubt or dispute.

After this point had been reached which brought the resolution into play I implore members to tell me what practical good could come out of deciding whether the vote of Georgia was legal or illegal? If there be no such practical good to come from that decision, then I ask does the Constitution or the law compel us to do a vain thing when the doing of it may result in infinite mischief? Surely not. The law never requires a vain thing as a condition precedent to the attainment of great and substantial ends which the same law provides for and secures. If it did the whole law would be vain, vicious, and absurd.

Now, Mr. Speaker, when this immateriality of Georgia's vote had been so ascertained and determined, and our concurrent resolution was thereby brought into force and play, what was its force, what did it do? First, it authorized the President of the Senate to decide and pronounce those to be elected President and Vice President whom the other States had elected and who were elected whether Georgia's vote were valid or invalid, counted or uncounted. Now, sir, suppose this official decision and announcement of who is elected cannot be announced unless and until after it has been officially decided by the convention how Georgia voted, and suppose the returns of Georgia's vote were lost or destroyed so that the convention could neither know nor count her vote—and, sir, this is far from an extreme or impossible supposition—then, sir, would it be unconstitutional or illegal to decide or proclaim who is elected? Must we, then, march into revolution and the Government's overthrow just because that vain and impossible thing, the count of Georgia, has not been done? Who will venture to affirm such a thing. Who will not exclaim that the result of the great people's choice can be legally ascertained and proclaimed though Georgia is not counted? If so, I pray you to tell me whether a concurrent resolution directing that this decision and announcement of the result, without the count of the lost vote of Georgia, would be either unconstitutional or render the ascertainment and announcement of the result illegal? It would not; and therefore that requirement of this resolution, that the President of the Senate should decide and declare who was elected without regard to Georgia's vote, is valid and binding on that President. But this resolution, in the event that brought it into play, required another thing, namely, that the record should state how the vote would stand with Georgia counted and also uncounted. Is that way of making up the record unconstitutional? Why, Mr. Speaker, as I have already said, the proposition is so absolutely and self-evidently absurd that I can make the absurdity no plainer by my poor powers of argument, and I will leave that to those having powers adequate to the task.

Sir, the concurrent resolution was valid, and became a law to the convention and its president as to what they should do provided the objection made by the gentleman from Massachusetts was not one which took Georgia's vote out of its operation, and compelled the convention to pass upon it as not being that specific objection to her vote which is named in the resolution's preamble, and the only one which the resolution authorized the convention to omit to decide. This is claimed to be the

case, and that because the gentleman assigned other fatal objections to Georgia's vote besides that one in the preamble, as to whether she was such a State as could vote, therefore the resolution did not excuse the convention from deciding this additional objection, and therefore these must be decided as required by the twenty-second joint rule. And we are told that if this be not so then every objection to Georgia's vote, however evidently fatal to its validity, would be by this concurrent resolution shielded from the convention's investigation and the vote be permitted to go unchallenged, though on its very face shown to be absolutely worthless and void. Why, Mr. Speaker, this position may be ingenious, but it is far more vicious than ingenious. Look at it. First it admits that it could legally, and did in fact, order the vote to be set down in a particular way and its validity not to be passed upon, and that the result of the election should be decided by the "counting" body, because one fatal objection to its validity probably existed to Georgia's vote, but it denies that the resolution ought to, did, or could order the same thing to be done, though two fatal objections should be found to the vote! Surely this cannot be. The resolution does not require the convention to admit or count the vote of Georgia if, on its inspection, the convention found it fatally defective. No such thing. But it does require that because there is probably one fatal objection known to exist at the passage of the resolution and before the vote is opened, which objection the convention and Congress cannot well pass upon before or in the convention, therefore the validity of that vote shall for this reason not be passed upon at all, however many other fatal objections to it may be found, unless its validity be found material to the determination of the result of the election.

The known difficulty of deciding the validity of Georgia's vote, which is named in the preamble, brought the resolution into existence, and the difficulty and impropriety of deciding that, if the decision was immaterial to the result, was reason why in express terms the resolution ordered the President to do precisely what he did do, and did in the very words of the resolution; and it, for this reason, required this of him, however many other objections there might be to the vote of Georgia. It made no exceptions. It made no exceptions in its terms by saying that if there were found other objections to Georgia's vote than that named in its preamble, then the President should not obey its orders. On the contrary, it did state one case in which he should not deem it in force or obey it, namely, if it did change the result. Then he was not to regard it, and by its express and unmistakable terms that was the only event in which he was not to regard it. Now, gentlemen say that there were other cases in which he was not to regard it, namely, if somebody should suggest some other objection to it. And for not disregarding this express letter of the rule we ourselves made for him, and for which the gentleman himself voted, he is to be by us the author of the rule denounced as our oppressor and the invader of our rights. He obeyed us not in spirit merely, but to the very letter—word for word, syllable by syllable, and letter by letter, he followed out and obeyed our law—saved the Republic from an appalling danger, and for that we are called upon to brand and blast him with our denunciations!

Mr. Speaker, the power of the President of the Senate to do what he did do was complete. [Here the hammer fell.]

Mr. WOODWARD obtained the floor.

Mr. SCOFIELD. I ask unanimous consent that the gentleman from Ohio may have further time.

The SPEAKER *pro tempore*. Is there objection?

Mr. BUTLER, of Massachusetts. As I gave

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the gentleman all of his time, I ask that I may have the same amount of time to reply to him.

Mr. BENJAMIN. I object.

Mr. SCOFIELD. I rise to a question of order. The gentleman from Ohio was not speaking in the time of the gentleman from Massachusetts. The floor was assigned to him independently. I ask if he has had his hour?

The SPEAKER *pro tempore*. The gentleman from Ohio was speaking in his own time; but he had ten minutes last night, which he gave to the Speaker, and has had fifty minutes this morning.

Mr. SHELLABARGER. All I wish is to conclude my remarks by saying that in the election of Mr. Monroe, in 1821, the same concurrent resolution passed by us on the 8th of February was introduced by Mr. Clay, from a joint committee of the two Houses, into the House of Representatives, and was adopted for the guidance of the two Houses. These were its words:

"Resolved, That if any objection be made to the State of Missouri and the counting or omitting to count, which shall not essentially change the result of the election, in that case they shall be reported by the President of the Senate in the following manner: Were the votes of Missouri to be counted the result would be for A B for President of the United States, — votes; if not counted for A B as President of the United States, — votes; but in either event A B is elected President of the United States; and in the same manner for Vice President."

This was adopted—yeas 90, nays 67. After its adoption the two Houses came together, the President of the Senate passed to the tellers the opened votes of the States. When Missouri's was reached Mr. Livermore, of New Hampshire, objected to its count. A motion by a Senator was made, which prevailed, that the Senate retire to its Chamber, which it did. The House was called to order, and Mr. Floyd moved that Missouri's vote be counted. A long debate arose on that in the House, in which Mr. Clay used these words: "The two Houses ought not to have separated until they had consummated what had been stipulated for." Mr. Floyd's resolution was laid on the table, on Mr. Clay's motion, by a vote of 103 yeas. A message was sent to the Senate that the House is now ready to receive the Senate for the purpose of continuing the enumeration of the votes. The Senate appeared. The President of the Senate, in the presence of both Houses, opened and handed the tellers the vote of Missouri, which was read and registered, and then the tellers made and handed to the President the compared lists of the votes of all the States, and the President, "in pursuance of the resolution" of Mr. Clay, "adopted by the two Houses," proceeded to announce the vote and had got so far as to declare that Monroe, of Virginia, had a majority of the votes for President, and Tompkins, of New York, for Vice President, but had not declared who was elected when Floyd addressed the Chair demanding to know if Missouri had been counted; and thereupon great disorder arose. Randolph also addressed the Chair. The President decided everything out of order; the only business being at that present time that prescribed by the rule of the morning. There was murmur at this decision, but the President proceeded to announce who was elected; and then, on motion of a Senator, the Senate retired while Mr. Randolph was addressing the joint convention.

I refer to it for the purpose of saying that we have the authority of the distinguished names connected with the introduction and passage of that resolution for saying that the concurrent resolution of the 8th of February is constitutional, and the action of the President yesterday is sanctioned by precedent.

Mr. WOODWARD. The gentleman says that everything that occurred yesterday occurred in 1821. Did such a vote of the House as occurred yesterday occur then?

Mr. SHELLABARGER. Not such a vote as that of yesterday, but just such a setting down of the vote of Missouri in a hypothetical

way—in the way in which Georgia was to be set down, and in which it was set down yesterday—did occur in the election of Mr. Monroe, and every other step in the case.

Mr. WOODWARD. But the House did not in that instance refuse to count the vote, as they did in this instance.

Mr. SHELLABARGER. There was then no such concurrent resolution as is now contained in the twenty-second rule. The whole thing was conducted under such a concurrent resolution as we passed on the 6th of this month.

National Currency.

SPEECH OF HON. R. P. BUCKLAND,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

February 13, 1869.

The House having under consideration the bill (S. No. 440) supplementary to an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864—

Mr. BUCKLAND said:

Mr. SPEAKER: I rise principally for the purpose of opposing the amendment of the majority of the Committee on Banking and Currency to the fourth section of the pending bill. I am not entirely satisfied with that section as it came from the Senate, but I think it is better and more just than the amendment proposed by the committee.

It is not necessary to consider at this time what were the circumstances leading to the establishment of the national banks. Whatever may have been the inducements to grant these exclusive privileges, the system has been established by law for nearly six years, and these national banks have enjoyed during that time the exclusive privilege of issuing paper money and making profit thereby. The Government of the United States are under no obligations to them at all, for they have been more than compensated in profits for all the aid rendered by them to the Government. Nor have they any claim on the ground of a subsisting contract, because the laws under which they are organized provided that they may at any time be altered, amended or repealed. It is a question only of public policy and of justice to the people of all the States as to how the Government shall distribute these exclusive and profitable privileges.

The chairman of the Committee on Banking and Currency [Mr. POMEROY] stated in his remarks that the capitalists of New York and of the eastern States came forward in times of great trouble and uncertainty and loaned to the Government their capital to carry on the war and to sustain its credit. He also told us that these banks were organized for this purpose. Now, Mr. Speaker, is not the simple truth just this, that these capitalists, when the Government was in distress for money, came to it and said that if it would pass a law by which they could make a profit of from ten to fifty per cent. on the use of their money they would organize under that law and take the bonds of the United States? But admit all that is claimed by the chairman of the committee, and all others representing this great interest, what has been the result? Why, sir, the result has been that from the organization of these banks down to the present day they have made from ten to fifty per cent. per annum profit on their investments; and I am told some of them more than fifty per cent. per annum. I say, therefore, that this question is not to be settled upon any consideration that it is a hardship to the States having more than their just proportion of this banking circulation to require them to surrender a small part of the excess. It is not a hardship at all. We are met at the threshold with this objection, but

I contend that we are bound to do equal justice to the people of all the States. No set of men who have enjoyed these privileges under the law for four or five years have the right to come here now and say that they must be continued in the enjoyment of more than their proportion of the profits of issuing paper money because they have been permitted to do so heretofore.

The first law authorizing national banks, passed in 1863, required \$150,000,000 of the circulation to be "apportioned to associations in the States, in the District of Columbia, and the Territories according to representative population, and the remainder by the Secretary of the Treasury among associations formed in the several States, in the District of Columbia, and in the Territories, having due regard to existing banking capital, resource, and business of such State, District, and Territory." But on the 3d of June, 1864, the national banking law was enacted, leaving this provision out. On the 3d of March, 1865, the provision was restored and remains in force; but before it was restored the States of Massachusetts, Rhode Island, Connecticut, and New York had absorbed more than one half of the entire circulation authorized for all the States, thereby preventing other States from obtaining their due proportion in accordance with that provision. They still retain it, and I presume will not willingly relinquish the profits they are making thereby, however unjust this inequality may be to the people of the other States. I have prepared a table from the last report of the Comptroller of the Currency, showing the number of national banks in each of the States, the District of Columbia, and the Territories, and the circulation in each in October last. Also, the number of Representatives in Congress from each State, to indicate the representative population which, in my opinion, is the only just basis for the apportionment of the national banking circulation among the States:

States.	Number of banks.	Number of Representatives.	National bank circulation.
Maine.....	61	5	\$7,510,066
New Hampshire.....	40	3	4,281,695
Vermont.....	40	3	5,737,560
Massachusetts.....	207	10	57,084,649
Rhode Island.....	62	2	12,491,480
Connecticut.....	81	4	17,443,793
New York.....	299	31	68,853,726
Pennsylvania.....	197	24	38,772,102
Maryland.....	32	5	8,904,800
Delaware.....	11	1	1,198,825
District of Columbia.....	4	-	1,137,700
Virginia.....	18	-	2,146,670
West Virginia.....	15	3	1,988,550
Ohio.....	133	19	18,410,425
Indiana.....	68	11	11,018,735
Illinois.....	83	14	9,648,150
Michigan.....	42	6	3,826,455
Wisconsin.....	34	6	2,541,410
Iowa.....	44	6	3,252,228
Minnesota.....	15	2	1,476,800
Kansas.....	5	1	341,000
Missouri.....	18	9	4,129,310
Kentucky.....	15	9	2,338,620
Tennessee.....	12	8	1,204,755
Louisiana.....	2	5	1,131,415
Mississippi.....	2	-	64,035
Nebraska.....	4	1	170,000
Colorado.....	3	-	254,000
Georgia.....	8	7	1,234,000
North Carolina.....	6	7	316,000
South Carolina.....	3	4	135,000
Alabama.....	2	4	304,000
Nevada.....	1	1	131,700
Oregon.....	1	1	88,500
Texas.....	4	-	407,535
Arkansas.....	2	3	179,500
Utah.....	1	-	135,000
Montana.....	1	-	36,000
Idaho.....	1	-	63,500
	1,629		\$299,866,565

By reference to this table it appears that Massachusetts, with only ten of the two hun-

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dred and forty-two Representatives, has now \$57,084,640, more than one sixth of the entire national bank circulation; and Massachusetts, Rhode Island, Connecticut, and New York, with only forty-seven Representatives, have \$155,873,639, more than one half of the entire amount. These four States have more bank circulation than all the rest of the States, Territories, and the District of Columbia put together. Massachusetts has more circulation than Ohio, Indiana, Illinois, Michigan, Wisconsin, Iowa, Minnesota, Kansas, Nebraska, and Missouri; and yet Massachusetts has only ten Representatives, while the other States named have seventy five. Connecticut, with only six Representatives, has \$17,443,793, and Rhode Island, with only two Representatives, has \$12,491,480; Maine, New Hampshire, Vermont, Pennsylvania, and Maryland have an excess over their proportion according to population, but not near so great an excess.

Now, Mr. Speaker, I do not desire to find fault with Massachusetts or New York, or any other State, or to do them injustice; but I do say that if this banking system is to remain in force the people of the West will demand that they have their share of its benefits, and the people of the South will also make the same demand; and, sir, they have a right to demand it. Because certain fortunate people of these eastern States have already laid up princely fortunes out of this business, is that any reason why they should continue to do so to the exclusion of the people of the other States? I think not. I contend that the privilege of using the credit of the United States for making money should be distributed among the people of all the States as nearly equal as possible, and if the national bank currency is to be limited to \$300,000,000 it should be distributed not according to property, but according to population, provided the population of the several States desire this proportion. Because the people in certain portions of the country have more capital than in others is no reason why they should have more of these facilities than the less wealthy people of other States. On the contrary, the fact that the people of some of the States have less wealth than in others is a very good reason why this Government should legislate to better their condition.

But the proposition of the majority of the committee is to cut down all the banks for the purpose of obtaining the desired amount to be distributed in the southern States. It proposes to raze the circulation of all the banks in the same proportion, in the States which now have less than their proper share of the circulation as well as in those which have a large excess, even in those which now have the least.

Mr. Speaker, I claim that the population of the western States require more circulation *per capita* than that of the eastern States, which are more densely populated. The business of the eastern cities, New York and Boston, is done by checks, handling comparatively little currency. It is simply a transfer of the credit of one man upon the books of the banks to the credit of another man by checks. But in the country, where a large portion of the people reside remote from banks, business is not and cannot be done in that way. There mechanics and farmers must have currency to carry in their pockets wherever they go. But, however that may be, what I claim this Congress ought to do now is to provide whatever circulating medium these destitute States need by taking it from those States which have an excess over their proportion, leaving the banks in those States which have no excess undisturbed. We ought not to take bank circulation from Indiana, Ohio, and Illinois for the purpose of distributing it in other States so long as there is so large a disproportion of this circulation in Massachusetts, Connecticut, Rhode Island, and New York.

Mr. Speaker, all exclusive privileges sooner or later become odious to the people. I do

not believe that this national banking system, upon the present exclusive plan, will exist or can exist many years, for the reason that the people see that a few men in every town and city are building up fortunes out of a privilege which they themselves are denied. Unless Congress enacts a free banking law which shall be open to all who can furnish the necessary securities, or corrects the present unequal distribution of the bank currency, sooner or later this national banking system will go by the board. If, therefore, it is desirable to perpetuate the system, Congress must show a disposition to do justice to all the people, and not confine the greater share of its benefits to four or five States in great disproportion to their population. In my judgment, the time is not far distant when the people will demand a free banking system or the substitution of United States currency for all bank paper. But that is a question which it is not now my purpose to discuss. The country is not now in a condition to warrant the attempt to make any great change in the system or quantity of the currency. The most that we can or ought to do now is to remedy the defects in the present law, and confer the benefits of the present national bank system upon all parts of the country as equally as circumstances will permit.

Mr. Speaker, if the settlement of this question depended upon my judgment I would first determine how much of this circulating medium it is necessary to provide for the present wants of the southern and western States, which have much below their proportional amount; and when I had ascertained that, I would take it from the States which have an excess in proportion to the amount of that excess. But the principle upon which this amendment of the committee proceeds is to keep up the disproportion between the West and the East in the distribution of the circulation hereafter. I do not think it would be good policy to cut down that disproportion all at once; but if you want \$20,000,000 this year to supply the just demands of the South and West, take it from the States which have more than they ought to have, and give it to the States which need it; and if you want \$20,000,000 next year for the same purpose, take it from the States which then have more than belongs to them and give it to those which have less, and keep doing so until you have fairly distributed the \$300,000,000 among all the States according to their population and needs. When you have done that you will have accomplished the next best thing to a free banking law, and the only thing that will satisfy the people of the States and prevent their demanding a free banking law or the abolition of national banks altogether. I think in this respect the bill of the Senate is much better than the amendment proposed by the Committee on Banking and Currency, for this reason: that it takes from the banks which have a larger circulation than their proportional amount, according to the law of 1865, and gives it to those States which have now less than five dollars per inhabitant. There would be, I think, two hundred and forty-two Representatives in Congress were all the States represented, who represent the population of the several States as it was in 1860. The growing western States at this time have a much larger population than in 1860; but if we take the representative population of 1860 as a basis for apportioning the banking circulation of \$300,000,000 we will find it to give a little less than \$1,250,000 to each Representative in Congress from the several States.

I think it would be fair to take ten, fifteen, or twenty millions, or whatever is necessary at this time to distribute to States which are in want of circulation from the States having a larger amount of circulation than \$1,250,000 for each Representative in Congress. Certainly the eastern States cannot in justice object to that, because the population of all the western

States has much more largely increased than that of the eastern States since the census of 1860. If we take that as the basis it will indicate that Congress intends in the future to distribute these privileges among the people of the several States according to their numbers, and not according to their wealth. I object to all legislation which has a tendency to make the rich richer and the poor poorer. I think the people of these States will demand a more equal distribution of the national bank currency, because \$300,000,000 is not sufficient to supply all who desire to go into the banking business. Therefore if you would continue that limit you must distribute that amount not according to capital, but according to population, in order to satisfy the people that the national banking system is not being maintained mainly for the benefit of the large capitalists.

Mr. Speaker, I propose an amendment to the Senate bill which if adopted will require the \$20,000,000 for distribution to States having a less national banking circulation than five dollars per inhabitant to be withdrawn *pro rata* from banks in States having an excess of national bank circulating notes over one million two hundred and fifty thousand dollars to each Representative in Congress. This is better than the Senate plan, for the reason that the law of 1865 is very indefinite and uncertain as to the apportionment of \$150,000,000 of the circulation. My amendment will make the law so plain that it can be understood by everybody, and will leave nothing to the discretion or favoritism of the Secretary of the Treasury. The experience of the past warns us to make suitable precautionary provisions for the future.

Mr. Speaker, there is one provision in the amendment proposed by the committee which I approve, and hope it will be adopted. I allude to the proviso that no association shall have an amount of circulating notes exceeding \$1,000,000; and every association having a larger amount shall, as soon as practicable, withdraw from circulation and return to the Comptroller of the Currency to be canceled all its circulating notes in excess of that amount. One million is as much as any one association ought to be allowed to have. In the city of New York there are five banks which have over \$14,000,000. One of these, the National Bank of Commerce, has \$6,000,000. In the city of Boston two banks have about \$3,000,000. Reducing these banks to \$1,000,000 each will withdraw about \$10,000,000, one half of the amount required by the Senate bill. I think it would be good policy and just to take the balance of the \$20,000,000 from the banks which have over \$5,000,000 of circulating notes in the States having an excess in proportion to their representative population. By this means the circulation in these States will be left more equitably distributed. The excess of circulation in these States is mostly absorbed by mammoth banks in the cities, whereas the business of the cities requires less proportional circulation than the country. New York city has about \$30,000,000, and all the rest of the State \$38,000,000. The city of Boston has about \$26,000,000, and all the rest of the State of Massachusetts about \$31,000,000. Before the war, under the State bank system, New York city had less than \$7,000,000 of bank circulation, which proves conclusively that the New York city banks can surrender a large amount of their present circulation without at all affecting the business interests of the city. The city banks do not need much circulation to enable them to do a profitable business. Their deposits are large; whereas the deposits of the country banks are comparatively small, and they rely more upon the profits of their circulating notes. The concentrated money influence of New York city has become too great for the good of the country, and the disproportionate amount of the national bank currency which the banks of that city have has done much to produce that evil. The proper

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distribution of the national bank currency among the several States and Territories will have a tendency to correct the evil. The bill of the Senate will not give Ohio any additional bank circulation, but the amendment of the committee will take from that State between two and three million dollars without returning any, whereas Ohio has now at least \$5,000,000 less than her ratable proportion. I cannot therefore consent to any decrease.

I desire to say a few words in reply to some remarks made by gentlemen here in regard to requiring banks that propose to go into liquidation to substitute greenbacks for their circulation. It has been claimed by the gentleman from Illinois [Mr. INGERSOLL] and others that it would enable the banks to tie up hundreds of millions of dollars of currency. For the life of me I cannot see how the gentleman could have got such an idea into his head.

Mr. INGERSOLL. I can tell the gentleman very easily; because it is correct.

Mr. BUCKLAND. When the banks substitute greenbacks for their circulation the greenbacks become so much money in the Treasury. It is not destroyed, but may be paid out the same as any other money in the Treasury. And the effect is contrary to what the gentleman supposes; it is to give the Government the benefit of the circulation of the national banks, substituting greenbacks until it is redeemed, without interest, and the use of the greenbacks paid into the Treasury for the redemption of the national banking circulation until that circulation is presented for redemption. And if it is not presented for five or ten years so much the better for the Government.

Mr. INGERSOLL. There is no provision in the bill which authorizes the Treasurer of the United States or the Secretary of the Treasury or the Government to use the greenbacks thus deposited as a fund from which to redeem the national banking currency.

Mr. BUCKLAND. No new law is required for that purpose. If it is paid into the Treasury, it is money to be used like any other money in the Treasury. The gentleman is mistaken as to the law as it now stands, and as to the provisions of the bill upon that subject. The law as it now stands and the bill require the banks to pay into the Treasury an amount of lawful money of the United States equal to the amount of their outstanding circulating notes and requires the Treasurer to redeem these outstanding notes when presented, but does not require him to keep the identical money paid in by the banks for the purpose of the redemption. He may redeem them with any money in the Treasury at the time they are presented. Therefore, the statement that the banks can, under the provisions of the law or the bill, tie up millions or any amount of the United States currency is not well founded. The Treasurer can pay it out as fast as received; and as fast as the bank currency is redeemed an equal amount may be issued to other banks.

Reduction of the Army.

SPEECH OF HON. J. A. GARFIELD,
OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,
February 9, 1869.

The House being in the Committee of the Whole on the state of the Union on the bill (H. R. No. 803) making appropriations for the support of the Army for the year ending June 30, 1870—

Mr. GARFIELD said:

Mr. CHAIRMAN: I desire to state to the committee as briefly as I can the substance of the amendment offered by the Committee on Military Affairs, and to call the attention of the House to the questions involved in the proposed reduction of the Army; and as the amendment is likely to meet with some oppo-

sition, I shall be greatly obliged if I can have the attention of the committee while I state the conclusions and recommendations of the Committee on Military Affairs, and the grounds of their action.

I wish, in the outset, to say that the committee share, to the fullest extent, in the general desire and determination of this House to reduce expenditures in every department of the Government, and they believe that the extent to which retrenchment ought to be carried should be limited only by the necessities of the public service and the efficiency of the several Departments of our Government. Retrenchment unwisely made is wastefulness. It is not economy alone that should be considered in reorganizing the Army. The committee have proceeded, and I shall proceed upon the supposition that the question has been settled by Congress that we are to maintain an Army of such size and organization as Congress and the people are willing to support with their means, and will be proud of as a worthy and valuable department of the Government. When the Army is properly organized, when it is not too large, when it is well officered and well disciplined, it ought to be the pride of every American citizen; it ought to be an institution that we desire to protect. And it is the duty of this House so to adjust, regulate, and limit its organization, that we shall not need to make it the object of every-day attack, but that we may defend it here while it defends the country and maintains the national honor. It appears to me, therefore, Mr. Chairman, that the preliminary and primary inquiry is, how large an Army do we need? When we have settled that, we should next apply all the reduction and retrenchment consistent with the national honor and with the efficiency of the Army we determine to maintain. To these considerations I invite the attention of the committee.

In order to understand the situation, I beg leave to call the attention of the committee to the size of our Army as now authorized by law, and then what it is in fact. The Army, as it stood before the war, was admitted on all hands to be the smallest organization consistent with the public safety in time of peace as affairs then stood. We had in 1860 an Army of 11,848 enlisted men and 1,083 commissioned officers. In July, 1866, not quite three years ago, Congress discussed very fully what should be its future Army, and after long debate in both Houses, passed the law of July 28, 1866, fixing the military peace establishment. That law authorized five regiments of artillery, ten of cavalry, and forty-five of infantry, and fixed the staff departments as they are now organized. The minimum strength and the maximum strength of a regiment of each arm of the service was fixed so that the Army might contain 80,370 enlisted men as the maximum, while the minimum strength was 47,270 enlisted men. Whether it should be in fact the larger or the smaller number or any intermediate number was left to the wisdom and discretion of the President of the United States. This law of July, 1866, was the last legislative utterance of the people of the United States through their Congress in regard to their peace establishment, and by that utterance it was determined that we would have an Army of about 3,200 commissioned officers, and from 47,000 to 80,000 enlisted men. The President used the discretion given him by this law, and I will show how he has used it. The law was passed in July, 1866. The new Army organized in accordance with this law, amounted in 1867 to 54,641 men, not quite half way up to the maximum, but nearly 10,000 above the minimum. One year later, as shown by the Army Register of 1868, the Army had been allowed to run down to 52,948 men. That was the force in August, 1868. I ought to mention, in passing, that while General Grant was Secretary of War *ad interim* he cut off from the Army and the War Department nearly eighteen thousand civil

employés, persons who were employed by the Government but not mustered into the military service. As the necessity of a military police in the late rebel States diminished, the rank and file of the Army has been allowed to decrease by not filling it by enlistments, until on the 1st day of January, 1869, a little more than five weeks ago, the full strength of the Army was 38,575 enlisted men, and a few less than 3,000 commissioned officers.

The Army is now below the minimum. The law has not been construed as requiring it to be kept up to the minimum, though, perhaps, strict construction would require the President to recruit it up to 47,270; and he can to-day order it increased to 80,000 men. Such being the law now, the question is how much lower shall we fix the legislative limit to the size of our Army? In the first place, the Committee on Military Affairs have not thought it wise to depart from the policy of the Government, which has not been changed during almost half a century that while we do not need to keep in time of peace an Army sufficient for a time of war, yet we ought, in time of peace, to keep alive and in vigorous growth a knowledge of military science and habits of military discipline, and maintain such an organization as can be readily expanded and placed upon a war footing whenever the necessity for it shall arise.

In looking over the debates and historical reviews that followed the war of 1812 I have noticed it was conceded on all hands that the Army had been allowed to run down to so low a point in its organization that when the war came on the country found itself with an organization insufficient to be expanded into an Army on a war footing; and the Secretary of War, a few years after that war ended, said in an official report to Congress that the losses and expenses resulting from this insufficient organization during the first year or two of the war were vastly greater than the expense that would have been incurred in maintaining an army large enough to be readily expanded to a war basis. For this purpose how much larger is our Army now than it ought to be.

Aside from this question we must consider our present situation in regard to Indian hostilities. Last session the Committee on Military Affairs recommended a small reduction in the cavalry arm of the service. At this time they do not report any reduction of the cavalry, for the reason that in the Indian war now in progress and in Indian wars generally cavalry is the main reliance.

Our officers in command say that infantry can be of but little value in actual Indian fighting, especially in the winter time. And in order to meet the necessities of the case, the Secretary of War has raised in Kansas, and has been employing for the last five or six months, a volunteer regiment of cavalry to serve against the Indians; the cavalry of the Army being insufficient for that purpose. So long, therefore, as we find it necessary to employ volunteer cavalry to assist in this Indian war, the committee did not feel themselves justified in reporting a reduction of that arm of the service.

We have now nearly the same artillery organization that we had before the war. In 1860 we had then four regiments of artillery. There was an increase of one regiment made by the act of 1866. And it must be remembered that since the passage of that law we have greatly extended our coast, that we have added an empire to the Republic. At the present time, as the records of the War Department show, we have a chain of fortified posts along our coast extending from Eastport to Sitka mounting three thousand two hundred and fifty coast guns, and at the present day we have not enough enlisted men in the artillery to enable us to put two men to each gun. These fortifications are a part of the defensive policy of the United States. If they must not be manned,

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they must at least be taken care of, and the force that takes care of them should form the military police of our coasts to enforce the collection of revenue, and, if need be, to enforce the respect of all who approach our shores.

The committee considered the number of posts now occupied by the Army, the number of our fortified works, the number of our coast guns now in place, and have not thought themselves justified in reducing the present force of artillery.

Mr. BUTLER, of Massachusetts. Did it not appear before the committee that with the exception of Fortress Monroe there is not an artilleryman at a single fort?

Mr. GARFIELD. It did not.

Mr. BUTLER, of Massachusetts. I mean light artillery.

Mr. GARFIELD. When the gentleman puts a question about artillery, and after I have answered it, throws in the word "light," it throws a new light on the question, and it is quite a different thing. The light artillery is organized for field service, and not for permanent fortifications.

Mr. LOGAN. I would like to ask the gentleman a question for information, inasmuch as I have not given the subject much consideration. I would like the chairman of the Committee on Military Affairs [Mr. GARFIELD] to inform the House whether in time of peace there is any necessity for having at each of our forts enough men to man each gun, as if we were in a state of war? In other words, is there any necessity for any more men than may be required to keep the guns and carriages and necessary implements in order?

Mr. GARFIELD. I quite agree with the gentleman from Illinois [Mr. LOGAN] that we do not need in time of peace a sufficient force to man all our guns, as would be required in time of war; nor do I hold that it is necessary even to man all guns that we have. But I regard it a proper policy for the Government to occupy and keep in good order such of our coast defenses as are necessary for the protection of the coast and which may be vitally important to us in case of foreign war.

Passing over several points which may properly be considered when we discuss the details of the bill, I pass now to the infantry. In making their recommendations on this subject the Committee on Military Affairs do not forget that the Secretary of War and the General-in-Chief of the Army at the opening of this session were very decided in their recommendations that there be no legislation at present requiring the reduction of the Army, and that the condition of our affairs would not allow a more rapid reduction than was going on by the expiration of terms of enlistment. Still the committee, anxious to do everything consistent with safety in the way of the reduction of expenditures, have proposed in this bill the cutting down of fifteen infantry regiments by consolidation, so that instead of forty-five regiments, as now authorized by law, there shall hereafter be but thirty. We believe that the work of restoration of the late rebel States has so far progressed and the more pacific prospects of the South under the incoming Administration will warrant us in making this measure of reduction in the line of the Army. The consolidation and ultimate reduction of the number of officers and enlisted men of fifteen regiments will result in a reduction of expenses of about ten million dollars per annum.

But the Committee on Military Affairs have raised a question which, in their judgment, is even more important to the country and the Army than a specific reduction of numbers; and that question is whether we cannot in some departments of the Army make an organic reduction so that the work of the Army may be performed by a smaller number of officers than we now employ? Entertaining views on this subject which we desired to test by the expe-

rience of men who had been long in the service, the committee have called before them during the last three weeks a number of distinguished officers and examined them, and have preserved a phonographic report of their testimony. We called officers of the highest rank accessible to us, except the General-in-Chief of the Army; and officers representing the various staff departments of the Army. The results of our investigation will be shortly laid before the House for its information; and I desire to say here that I know of no documents relating to the Army and the various parts of its organization so valuable as this testimony. By these examinations the committee have reached some conclusions which I desire to state.

We have found that during the late war, and indeed for many years, there has been a tendency in the Army—a natural one, perhaps—to aggregate force here in Washington. There has been a tendency to build up separate staff departments distinct from the rest of the Army, and to increase the number and rank of the officers in each department; and we observe generally that the increase in numbers has been toward the head rather than toward the foot of the organization. The development of the Army during the last forty years has been in the direction of multiplying bureaus, and increasing the number and rank of officers in each.

Mr. BUTLER, of Massachusetts. What new military bureaus have been created?

Mr. GARFIELD. Several of the staff departments were created in 1818. The Bureau of Military Justice was created since the war began, and the inspectors have been separated from the Adjutant General's department more than they were before.

We found on examination that our staff corps differed widely from that of the leading armies of the world. In the French army, for instance—probably the most perfectly organized in the world—there is one great staff organization that supplies the army with adjutant generals, inspectors, aides-de-camp, and other like officers; and another charged with the supply of the army. Thus the duties of one staff corps related to the *personnel*, the other to the *material* of the army. Yet we have now in our army not less than ten distinct staff organizations, with a constant tendency to increase in numbers and rank. Before the war only one officer in all the staff corps held the rank of brigadier general; now there are at the head of these corps nine brigadier generals, besides a chief of staff of the Army of the same rank. The chief surgeon of the Army has become a brigadier general; the chief paymaster, the Adjutant General, the Judge Advocate, the chief commissary, the chief of ordnance and of engineers have all become brigadier generals. We have now nineteen brigadier generals in the Army, as authorized by law. The committee inquired how far we might go in consolidating and reducing these staff organizations without diminishing the efficiency of the service.

Our attention was particularly directed to the departments which furnish supplies; particularly the quartermaster, commissary, and pay departments. There appears to be no natural division between the duties of these departments, and we saw no reason in the nature of the case why one man should buy oats and another man belonging to another department should buy flour. We saw no particular reason why there should be one department for clothing the Army and another for feeding the Army.

We found, what was of more consequence, that these departments conflict in many practical points in such a way as to increase the expenditure unnecessarily. In the first place, the commissary department purchases all the supplies that make up the rations of the Army. An officer is stationed in New York, for ex-

ample, as purchasing Commissary. He buys the rations, but the moment he has purchased them, they pass out of his hands, and the quartermaster's department becomes responsible for their transportation to the distant points where the Army may be stationed, when they are taken by an officer detailed from the line and distributed to the troops. This officer performs at the same time the duties of commissary and quartermaster. The work begins with the commissary department, is transferred to the quartermaster's department, and finally ends with the commissary department, where the rations are issued. When they reach the troops we find the two departments united in one, yet the accounts are kept distinct. The same officer issues rations and clothing and other supplies, keeps one clerk to make out quartermaster's papers to go up to Washington to the head of that department, and usually at the same time keeps another clerk and another set of books and sends another set of papers through another channel to the head of the commissary department in Washington.

Now, it is the natural and laudable desire of an honest commissary to cut down the expenses and disbursements of money in his department to the lowest point possible. He will therefore incline to buy where he can buy cheapest; but when the quartermaster transports these supplies to the troops the total cost may be far more than if they had been bought nearer the place of consumption, where they would cost a little more but would require less transportation. Now, if these two departments were united, purchasing officers, being responsible also for the transportation, would make purchases with a view to economy not only in the purchase but in the transportation also.

Again, I call attention to the pay department. As now organized I have no doubt that our funds are disbursed with as much safety and honesty as those of any country in the world. But consider how the work is done. The country is divided into pay districts, with headquarters in each, at which a force of paymasters is stationed. When troops are to be paid at a distant post, a paymaster starts from his headquarters with a box of money. The quartermaster's department furnishes him transportation, and the commander of the troops gives him a military escort to the place where the payment is to be made. He must be thus escorted from post to post, and finally be escorted and transported back to his headquarters with his surplus funds, if he have any. As the practice is to pay the troops once in two months, this operation must be repeated six times a year with all its cost of mileage and escort, while at the same time, in all these pay districts, there is a complete organization of commissaries and another complete and separate organization of quartermasters, charged with the disbursement of public money and the custody of public property.

If the duty of paying the troops were placed in the hands of these officers, the cost of transport and export would be avoided, and the officers, being always on duty with the troops, could make the payment much more promptly and regularly than it is now done.

It is in evidence before the committee that many of the troops at distant posts are paid but once in six months, and in some instances not so often. It also appears that at all these posts an officer detailed from the line performs both the duty of commissary and quartermaster; and if, as we propose in the pending amendment, this officer should be required to give bonds, as now required of disbursing officers in the quartermaster's department, they can pay the troops in addition to their duties without any additional cost to the Government. Considering, therefore, the nature of the duties of these three departments, that they are in many respects duplicates of each other, and considering also the fact that in some other countries all these functions are performed by

one department, the Committee on Military Affairs were of the opinion that the consolidation of the three might safely be made. But they were not willing to recommend so radical a change in the organization of the Army on their own judgment alone; they called to their aid officers whose professional duties enabled them to speak from practical knowledge.

It is due to the distinguished officers at the head of the several staff departments to state that most of them were opposed to the proposed consolidation. And I ought to say that during the late war these departments performed the duties severally devolved upon them with great efficiency. I do not doubt that our Army was better fed and clothed and more bountifully supplied than any army in modern times; and it was paid as promptly as the state of the Treasury would permit. Great praise is due to the men who organized and managed the vast machinery by which the supplies were furnished. But I have no doubt that a staff organization less divided and less independent in its subdivision might have supplied the Army equally well and much more economically. I hope soon to lay all the testimony before the House, but in the short time now at my command I can do little more than refer to it. I will, however, place on record a few passages which exhibit the opinion of some officers who testified on the point I am now discussing.

The following, from the Secretary of War, exhibits his opinion on the subject:

"WASHINGTON, D. C., February 3, 1869.

"General John M. Schofield, Secretary of War, examined by Mr. GARFIELD:

Question. State whether in your judgment the interests of the public service would be promoted or otherwise by the consolidation of the quartermaster's, commissary's and paymaster's departments; whether in your opinion such consolidation would be practical or economical?

Answer. I have no doubt of the practicability of consolidating these three departments, and I think it would promote efficiency of administration. How much it would conduce to economy is a matter which could hardly be decided except by actual experiment. Efficiency of administration will necessarily be promoted by unity of action. The various duties of the three supply departments of the Army are very intimately connected in their administration, and no inconvenience, I think, would result from uniting them in one administrative department. Economy of administration will result at least to this extent, that at points where the division now exists it necessarily happens that an officer has sometimes less labor to perform in his own department than he is able to do, and yet for the management of the three branches of supply an officer for each must be stationed there. If consolidated the labor of two or more of these departments might very well be performed by the same officer."

In General McDowell's testimony he gives the origin and history of the several staff departments of the Army, and sketches the process by which the work of division has gone steadily on for half a century. From the organization of the Government under the Constitution down to 1812, the supplies of the Army were not furnished by the War Department at all, but by the Secretary of the Treasury. The pay department was not a distinct organization as it now is until 1819. After further exhibiting the history of these departments, General McDowell said:

"The committee will now see to what extent these supply departments have hitherto been consolidated. As to their being now formally united, I am of the opinion that the quartermaster's and subsistence departments should not be distinct, but that they should be merged into a single department. I think for several reasons the service would be benefited by having a single instead of two such departments."

Question. State your reasons for that opinion.
Answer. When the rations of subsistence are purchased by the subsistence department, and are to be sent to the military posts, or to troops, for issue in the field, they pass out of the hands of that department into those of the quartermaster's department, which then becomes responsible for them till they reach their destination, where they are received by an officer of some regiment not an officer of either department, but doing duty in both. As an acting assistant quartermaster he receives the stores from the contractors or the Government trains, as the case may be, and then, as an acting assistant commissary of subsistence, he cares for and issues them to the troops, and accounts for their issue or expenditure. He has two sets of employes, one for each depart-

ment; two sets of extra duty men and two sets of clerks; makes out two sets of reports and accounts, and has two lines of accountability and is under two superiors; all of which is unnecessarily cumbersome, complicated, and expensive.

"Then the officers of the commissary department, as such, are naturally anxious the expenditures from the appropriations made by Congress for this department should be kept down, as far as possible, to the minimum. Their tendency is therefore to make these purchases at the lowest rate. But the cost to the United States of the subsistence is not only the prime cost, but in addition thereto the cost of transport to the place of consumption. This latter item is paid by the quartermaster's department, and is not unfrequently greater than the first cost paid by the subsistence department. The quartermaster is just as anxious to keep down his expenditure as the commissary, and hence the two are, or there is a tendency for them to be, at variance, which would not be the case if they were in one and the same department. The tendency now is for each department to look after itself, and it requires some common head to see that the service does not suffer.

Question. Does not the department commander have some supervision?

Answer. If the department commander looks very closely into the subject, the service will not suffer. If he should overlook it it would. It is, however, a needless strain on him to have to reconcile these corps differences. Then the double orders and instructions of the two chiefs to the single officer doing the double duty frequently results in his making at the same post two contracts for the same article under different instructions from two persons. For instance, under one to contract for hay in the quartermaster's department for the mules, and in the other for hay for the beef cattle of the commissary department, and has to keep his hay stocks apart and account for them separately.

Question. State at what point the practicable operations of the two departments divide?

Answer. Beginning at the post one man does the two duties under the direction of two different officers, or of the same officer in two capacities at department headquarters.

"I have had the double duty done by the same officer for the department of the Pacific, then extending from the forty-ninth parallel to Sonora and including with Utah the whole country west of the Rocky mountains, and it went more smoothly than with two. The officer said he would rather do the two duties than have the trouble of having it done by another in conjunction with himself; that with an additional clerk the duty could be done under one officer at department and division headquarters better than under two acting independently of and not always in harmony with each other.

Question. Do you speak of geographical departments?

Answer. Yes. Papers would come to me as department commander concerning some loss or damage of stores which would have to pass back and forward between the two departments, when it should be disposed of by one. There is nothing in the nature of things why the officer who buys the oats for the horses should not buy the beans for the men. It is, as you see, only lately, and it seems to me from originally personal reasons, not now existing, that we had an entire department for the sole purpose of purchasing food. It is not the case in either of the large military establishments of England or France.

Question. (by Mr. DODGE.) Have you not frequently seen trouble arise between the commissary and the quartermaster in relation to the storage of supplies, one furnishing the storage and the other the supplies?

Answer. I have known them disagree about it. The commissary who uses the warehouse is not concerned for its rent, and is not held back as the quartermaster is, who pays it. If there were but the one service no such questions could arise. But now the subsistence department is responsible for what is inside the house and the quartermaster for the house itself and for the persons to take care of it."

It will be seen by this testimony that this officer has successfully consolidated the two departments in his late command on the Pacific coast, and thus proved its practicability. The gentleman from Illinois near me [Mr. LOGAN] suggests that he would like some evidence from an officer who had himself performed both duties. I am glad to be able to furnish just such evidence as he asks for. It is the testimony of General Rufus Ingalls, one of the most distinguished officers in the quartermaster's department, whose services as chief quartermaster of the Army of the Potomac during the war has become an illustrious part of our history. I quote from his testimony:

"By the Chairman:

Question. The committee desires to know your opinion as to the propriety of merging the commissary, the quartermaster's, and the pay department into one department; and in case whether in your judgment you believe it can be safely done what would be the appropriate means of reaching such a result?

Answer. I have never digested any particular plan; but I have always been of the opinion that the

quartermaster's and subsistence departments at least could be merged, with a less number of officers than are now in the two departments; and I have been of the opinion that the pay department could be merged also into the other two, calling it, for instance, a bureau of disbursements and supplies; and that the troops could be paid oftener; or if the law be not changed on that subject, could be paid with infinitely more regularity under that system than they are now. The quartermaster's department is charged with the purchase and transportation of all supplies not particularly designated as subsistence supplies. Nineteen twentieths, and probably more, of all the supplies (so far as the number of articles is concerned) that are purchased are purchased by the quartermaster's department. There are comparatively very few articles of supplies that are purchased by the commissary department; but when these articles are purchased in large quantities at the principal markets they are there turned over generally in bulk to the quartermaster's department. We have to perform all the transportation; we have to take up these commissary supplies and transport them to the different points and keep transporting them until they finally disappear in the stomach of the soldier. The commissary department has little else to do except to purchase them, and that can be done on sample. What I mean to say is this: that if a thousand barrels of pork are to be sent to the Army in Texas from New York city, and if I have to transport them, I can select a time for doing so. If one officer had charge of the purchase and of the transportation the thing could be done with much more economy in transportation than now. The subsistence department, for instance, might state that this thousand barrels of pork were needed in great haste, so that I would have to send them by steamship instead of sending them by sailing vessels. I have been put, in the course of my service, to a good deal of inconvenience and extra expense on that account, from being compelled to transport subsistence in a way and at a time when it could have been done a great deal more conveniently and less expensively if I had had my own way about it, and if I had had the purchasing as well as the sending. If a requisition is made on me for the transportation of supplies of that kind, not of my own department, it is not generally left optional with me as to the manner and time of sending. The requisition is generally of a peremptory character, and I am called on to execute it because the department making it is presumed to know its wants better than myself.

Question. As a matter of fact are there not now a large number of officers who perform both functions?

Answer. When it comes to the troops that is the case. The great mass of the duties are performed by officers generally who are acting as commissaries and quartermasters, and that person is, ten to one, a young lieutenant who is performing both duties in conjunction with the troops.

Question. In performing both duties does he keep separate accounts?

Answer. Of course.

Question. And has separate clerks?

Answer. He ought to have. The papers in both are sufficiently voluminous to make it necessary, and the accounts are kept just as separately as though two officers were performing the duties, because they go to different heads here in Washington.

Question. Would it simplify the mode of keeping accounts if one officer had to do the whole and send the accounts through to one head?

Answer. It would, undoubtedly; but the present mode of rendering accounts would have to be modified to suit that. For instance, in the quartermaster's department we have our own forms which are prescribed by regulations having the force of law, and which we have to follow. If the subsistence department were merged in that of the quartermaster's all that would have to be done would be to place their articles on the quartermaster's papers and account for them in the same manner that we do now for oats and hay and paints, and infinite variety of materials. It probably would not add more than ten or twelve additional columns to the property returns.

Question. Did I understand you to say that of all the purchases made for supplying the Army nineteen twentieths of the number of articles are made by the quartermaster's department?

Answer. It would be better to say that a very great proportion of them is made by the quartermaster's department. In my opinion it amounts to ninety-nine per cent.; but that may be an over estimate. The articles bought in the subsistence department are specified, and are very few.

Question. Suppose Congress were to declare that hereafter all the duties now discharged by the commissary department should be discharged by the quartermaster's department, do you know any practical difficulty in the way of transferring all the accounts and purchases over to the quartermaster's department?

Answer. I do not. On the other hand, the subsistence department might make the same remark.

Question. You know of no practical objection?

Answer. No, sir. In my own experience of more than twenty years, whenever I have had the privilege of doing it, I have assumed the duties of the subsistence department at the large depots. I did it in Oregon for years. I was the commissary there of the whole coast north of San Francisco, which is now the department of the Columbia. I was commissary and quartermaster there at a very large depot.

Question. Suppose the two departments were consolidated, what per cent. of reduction of official

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force, clerical force, and civil employes could be made?

Answer. One third, I should say. I mean, add the number of officers of the two departments together, and then one third might be struck off—one third of the whole number. On Colonel Steptoe's overland march across the continent in 1854 and 1855, which was about as good a test as could be brought, I was quartermaster, commissary, and paymaster for the whole year and a half. We started from Leavenworth, where the command was organized, and marched to Benicia and to Oregon. We were a year and a half in making the march. We wintered in Salt Lake City. I had the authority of the Secretary of War to draw on the Paymaster General for moneys to pay the troops, and I had also his authority to act in the subsistence department and to draw drafts for the necessary purchases, so that with that command I acted in the three capacities for that length of time. It was no extra trouble. I hardly had an extra clerk. I certainly had no additional officers. The command was not large, but it gave me an opportunity of seeing how easily the duties of the three departments can be performed by the same person.

Question. Suppose the three departments had been consolidated into one, and that you had only one set of returns to make, would not that have simplified the matter still more?

Answer. Oh, certainly. The commissary accounts are very simple any way, and the addition of ten or twelve articles more to my general property return would have given very little additional labor or responsibility. In the paymaster's department at that time there were only some three sets of vouchers: the payment to the officers, the payment to the troops, and the payment to the discharged soldiers. That would have been a matter that would have required very little time. If the law should prescribe that the troops shall be paid at the end of every two months the muster-roll would be handed to me and I could pay the troops in a couple of hours.

Question. Would this plan which you suggest require the existence of a military chest at headquarters?

Answer. No, sir. Under the present system all public moneys are deposited with the Treasurer, Assistant Treasurer, or public depositories. In that day it was not so, and we were permitted to deposit with substantial banks or to keep the money in safes. In Salt Lake City when I would want to pay the troops I would draw a draft on the pay department for the exact amount of the muster-roll, and any of the merchants there was only too glad to cash it. Sometimes I would get a premium, which I would take up on my papers belonging to the Government; never a discount, because that is not permissible in any event. I had no difficulty at all.

By Mr. WASHBURN:

Question. And the further from headquarters the greater the premium, is it not?

Answer. Yes. In New Mexico, Salt Lake City, and those places, a Government check was precisely what the merchants wanted, and they would be always glad to give a premium for it. When I got through to San Francisco I had some checks cashed at a very considerable premium by General Sherman, who was at that time a banker in San Francisco. There is no difficulty about this thing. When you are authorized by the Treasury to draw there is no difficulty about raising money. You can do that in Texas or anywhere in the country.

Question. Do I understand you that at nearly all the posts you can get checks cashed?

Answer. There may be some posts where it would be troublesome—in Arizona, for instance; but I have been there and have found no trouble about it. Traders and settlers and that sort of people get around military establishments, and it is always very easy for a disbursing officer to raise any amount of money he may need. I have never found any difficulty of that sort, and I have served probably at more remote stations than any other officer of the staff.

It will be seen from this that General Ingalls actually performed, for a long period, the duties of these three departments, and declares that there is no practical difficulty in the way of consolidating them into one. I should quote from the testimony of General Hancock were it before me, but I will only say that he fully concurs with those I have quoted, and another officer, (General Ihrie,) who has long been in the pay department, not only confirms these views, but long ago presented the draft of a bill for the consolidation of the three departments.

For these reasons, therefore, the committee believe that those three departments can be consolidated into one, and we have proposed a section for that purpose which will reduce the number of officers very considerably. There are at present in those three departments one hundred and eighty-seven commissioned officers.

We have proposed a supply department of one hundred and fifteen officers, making a reduction of sixty-eight; and we believe that all the duties now performed by the three depart-

ments can ultimately be performed as well as by the present organizations. Indeed, we think it can be better done.

The committee, however, do not believe it possible to determine beforehand the precise extent to which the reduction in the number of officers can safely go, and they have placed the execution of this law in the hands of the President, giving him such discretion that the service may not suffer by a sudden and violent breaking up of the present organization.

Before the reduction is completed he will have time and opportunity to communicate with Congress on the subject, and to recommend any change that he may deem necessary. But we have proposed this measure of reduction as the mark to be aimed at.

Mr. BUTLER, of Massachusetts. As the gentleman has reached a period, I desire to put a question to him. He says this cuts off sixty-eight officers. What does he do with them?

Mr. GARFIELD. I reserve all I have to say on that subject to a later point, for I have not finished what I desire to say with regard to the consolidation.

Mr. LOGAN. I desire to say a word at this point, because I agree with the gentleman in reference to consolidation, and I expect he is more conversant with the matter than I am. I do not suppose the House will take my testimony, for the reason that gentlemen who are called before the Military Committee are generally men of high distinction as military officers; but I will say to the chairman that when I was a boy I was commissary and quartermaster of a regiment, and performed all the duties with one clerk, and my accounts here show that I did not owe the Government a cent. I performed all the duties for two years. That was in 1848.

Mr. GARFIELD. I am very glad my friend has alluded to that, for he has called my attention to a point I was about to omit, and I think it will have great weight with members of the House. At each of the posts, of which there are many hundreds, there must be an officer to issue rations and supplies to the troops. That officer, in ninety-nine cases in one hundred, performs the duties of quartermaster and commissary, so that the duty of issuing the supplies of these two departments to the troops is now actually performed by one officer, and what the committee recommend is that we continue the union all the way up to Washington.

I desire to call attention for a moment—for I see that my time is rapidly passing—to the next recommendation for consolidation made in this amendment. We have an ordnance department, separate and distinct, which has been steadily growing until at last it really has an independent army under its control. There are now one thousand enlisted men in the military service who receive their orders only from the ordnance department. They are not a part of the Army under the command of its generals, but under the command of a staff corps at Washington. No department commander commands them. General Grant does not command them. They receive their orders from the ordnance department alone, unless the President empowers some other officer to give them orders.

Now, what is the business of this ordnance department? It is to select the models, and to manufacture and distribute arms and ammunition for the use of the Army. The men who use the artillery have nothing to say in regard to the guns or ammunition they shall use. It would appear to be only just that the scientific men who understand all that belongs to the specialty of artillery should have something to say about the weapons they are to use.

The testimony of General McDowell on this point is so full and satisfactory that I quote a passage from it in place of any further discussion:

Question. What is your opinion as to the pro-

priety of consolidating the artillery and the ordnance department?

Answer. If you had asked the question as to whether a corps could not have been constituted that would do these two services better than the present two organizations, I should say yes.

Question. Give your reason for this?

Answer. We have now a body of officers (artillerists) who have no lot or part in the devise or manufacture of the artillery and munitions they use, and a body of officers (ordnance corps) who do not use, or whose duty it is not to use the guns and projectiles and munitions they make. This, it is true, applies but in a far less degree to the other arms of the service; but in the artillery good should come of there being a closer connection between the theory and practice of the art than exists. In both the English and the French service the ordnance and artillery, such as is the latter with us, form one corps.

Question. Were they ever so in our service?

Answer. In the Mexican war General Scott used the ordnance officers in the service of his siege artillery. They also served in the light battery, and I find we have had an ordnance department in which officers of artillery were on duty at arsenals. We had no light artillery at that time, nothing but heavy guns on the sea-board fortifications. We did not have light artillery until 1833. There are many inconveniences in having the ordnance and artillery distinct, but it has also its good side. There is a good deal to be said in favor of it.

Question. Has this question been debated in the Army?

Answer. Yes, to a considerable extent. The artillery mostly desire it, but the ordnance oppose the consolidation. They command their own arsenals and report only to their chief in Washington; they have their appropriations, and construct all their own buildings, and the consequence is you see the ordnance establishments very much better than any other part of the service. They have a very strong esprit de corps, and would dislike very much to see themselves merged into any other branch. The difficulties I see in the way are more of a personal nature than anything else. You get considerable advantage in keeping a man on some special subject.

The committee, therefore, recommend that the ordnance corps be abolished, and that the officers and troops connected with it be transferred to the artillery, and that a reduction be made to the extent of sixteen officers.

I intend also to move an amendment that the signal corps be consolidated with the engineer department. We should keep alive the knowledge of signaling in the Army, and make it a part of the instruction at the Military Academy; but we need no more force than is necessary for this purpose. I ought to say, before leaving this subject, that the committee were impressed with the necessity of a reform in the staff department beyond what legislation can accomplish. There is, in nearly all of them, a tendency to independence, which goes far toward destroying that unity of command and authority which should always be possessed by commanders. The adjutant general's department, for example, whose duties should be strictly confined to records, orders, and correspondence, has charge of the recruiting service and commands thousands of troops. A general commanding a geographical department has no control over recruits or recruiting stations; no control or supervision of arsenals or depots of provisions, nor of the officers in charge of them; nor has he any right to command an officer of engineers to perform any duty whatever without special authority from the President. It appeared in the evidence before the committee that in one instance during the war a captain of engineers protested against the right of the major general commanding the department in which he was stationed to order him to inspect a fortification with a view to putting it in a better state of defense; and the protest was sustained at Washington. In that case, however, the captain was justified by one of the Articles of War. But most of these evils have grown up by almost imperceptible degrees as matters of custom, and need only executive action to correct them.

There are several other points in the bill of the committee which I will notice briefly in passing. We propose not to abolish brevets altogether, but to regulate them in the future, so that they shall be conferred only in time of war for actual service in the face of the enemy; and that the precedence in rank and command conferred by brevet by the Articles of War

shall be taken away. I will not stop to discuss this now, because it has already passed the House and has gone to the Senate.

We propose also to extend the term of enlistment in the future from three to five years. This will give us more efficient soldiers, and at less expense. We also propose to reduce the number of non-commissioned officers, and to muster out fourteen of the bands now authorized by law. I now call attention to the mode of reduction proposed in this bill. The Committee on Military Affairs believed that the House desired the transfer of the Indian Bureau to the War Department. They therefore put a provision in this bill for that purpose, in hopes that it might be allowed to remain. If that had been done, nearly six hundred civil officers, Indian agents, and employés of the Government in the Indian service, whose total salaries amount to nearly half a million dollars a year, could have been dispensed with and their places supplied by officers of the Army. That provision has been stricken out of the bill on a point of order made by the gentleman from Massachusetts, [Mr. BUTLER.] Therefore one of the features of the bill as reported from the committee, which would have provided for the employment of officers which might be rendered supernumerary by the operation of this bill, has been changed by the action of the House, and it rests with the House to say what further change shall now be made in consequence of this change.

But the Committee on Military Affairs have so prepared the bill that the mode of disposing of officers rendered supernumerary by this act is in one section; and if the House choose to make a different disposition of them, it can be done by changing that one section. The settlement of the question involved in that section will require no change in the other sections of the bill. Let it be remembered that the reduction proposed is prospective, not necessarily immediate, for it is placed in the hands of the President to make the reduction as rapidly as the necessities of the public service will permit. It is not certain, therefore, that any officer now in the service will be rendered supernumerary by the President's administration of this law, though they may be; but it is certain that this law will before very long bring the Army down to a much smaller organization than the present one. The committee have proposed that the reduction shall be made in two ways. First, that no further promotions shall be made in any grade until the aggregate of all the officers of that grade shall fall below the number provided for by this bill; and, second, that no further new appointments of officers from without and no further enlistments of private soldiers shall be made until the Army has been reduced below the limit required by this bill.

I will discuss the merits of this proposition briefly, and appeal to the House to decide upon its justice and propriety. And first, what is the principle on which the Government has hitherto acted? I believe I am entirely justified by history when I say that the principle of this section is the settled rule of the Government in regard to the Army, the Navy, and the Marine corps, and has been the rule for nearly half a century. I do not say that the rule has never been otherwise, but I say there have been but few if any exceptions to it in our recent history; but the military, naval, and marine peace establishments are not reduced by musters out, except for personal cause.

I do not take the ground that merely because a man is in the military service we are to make him forever an officer, nor that he is better than other people; but I do maintain that this section is based on a rule long maintained by the Government, and it has at least this ground of defense, that when men go into the military peace establishment they do so in view of all the conditions of that service. They agree to take a salary far less, in many instances, than the salaries they might

obtain in civil life because of the compensating considerations connected with the service; these for example: that if they become disabled in the line of duty they are under the protection of the pension laws; that if they grow old in faithful service they are entitled to be retired with a small fixed salary for life, and if they die in the line of their duty their families will enjoy the benefit of the pension laws. On those conditions, with those prospects before them, men have for many years been entering the military peace establishment and accepting banishment in the western wilderness. It may be that the principle is not a sound one; it may be that our fathers settled it unwisely; it may be that our policy in regard to both the Army and the Navy has been wrong; but I appeal to the fact that this is the settled principle; and with this understanding of the case, men have accepted and are holding commissions in the peace establishment. The Committee on Military Affairs have thought it wise to follow the old rule, to stand by the established precedents, and they have reported accordingly.

Let me state another view of the case. Suppose we should at once muster out these officers; what would follow? In six months there would occur in the new army fifty or sixty vacancies, and in the course of a year at least one hundred. How will you fill these vacancies? You must either reappoint these men with less rank than they held before, or you must appoint new and untried men to fill their places, when, if you had waited a short time, the reduction would be accomplished, the necessity of new appointments obviated, experienced officers retained in the Army, and no express or implied obligations broken. I will not place this proposition on so low a ground as that we propose to keep them in the Army merely for the purpose of feeding them. I will not insult them by putting them in the attitude of beggars. They can afford to suffer wrong from us much better than we can afford to inflict on them. But, sir, they are at this very time employed in important, perilous duties. We are in the midst of an Indian war; and a large portion of our Army is still required in the South to maintain the public peace. When faithful officers in the unreconstructed States are bearing the reproaches and scorn of unrepentant rebels, and suffering in the name of the Republic the indignity of those who hate it, their position will be a most wretched one, if to the contempt of their enemies should now be added the neglect and injustice of their friends. For one, I am not willing, either by speech or by silence, to give any countenance to such treatment of the officers of the Army as they received in this House a few days since, when the member from New York city [Mr. WOON] used this language concerning the officers of the Army:

"Our avenues and streets are filled with generals and major generals and captains and colonels drawing full pay, while the poor tax-payer is overburdened with unnecessary taxation, wrong from him for the purpose of supporting these idle vagabonds who are so well paid and do nothing."

It may become him, who never had any sympathy with the Army when it was engaged in putting down the rebellion waged by his friends, to call them "vagabonds," but it does not become this House to indorse by its action so unworthy a sentiment. I beg gentlemen not to forget that both the Secretary of War and the General-in-Chief of the Army declare that we ought not to make any immediate reduction of the Army. But the Military Committee think we ought to provide for a prospective reduction, and they have framed their bill with the view of making that prospective reduction as rapid as the necessities of the service will permit; but even if it keep a few officers more than are absolutely necessary the committee believe it just to stand by the old rule which has been followed for so many years.

And now let me sum up in brief the results

of this bill. It does not command an instant reduction and mustering out of officers and enlisted men; but it does command the President to proceed with the reduction as rapidly as in his judgment the necessities of the service will permit, and to proceed with that reduction until it reaches the limit fixed by Congress. What is that limit? We propose to provide that there shall be a reduction of fifteen regiments of infantry, and that hereafter no enlistments shall be made until all the regiments shall have fallen below the minimum now authorized by law. According to this reduction the President will not be allowed to keep in the Army at any time more than about thirty thousand men. It may be less; it cannot be more. By the consolidation of the staff departments as reported in this bill we provide for a reduction of six hundred and thirty-eight commissioned officers. There are now not quite three thousand. It will be a reduction of nearly one fourth of the total number of commissioned officers. It proposes to abolish the offices of General and Lieutenant General on the occurrence of the first vacancy in each, and to reduce the number of major generals to four, and of brigadier generals to six. I am aware that many personal considerations enter into this feature of the bill. I need not say how willing the committee would be to confer the honor of promotion to the higher positions of General and lieutenant generals upon some of the distinguished and deserving officers now holding the commission of major general. We yield to none in admiration and gratitude for their distinguished services; but we believe the two positions referred to were created as special marks of personal favor, and were not intended by Congress as permanent grades in the Army, though the language of the statutes appears to make them such.

Now, Mr. Speaker, in the few minutes left me I desire to call the attention of the House and the country to the history of the relation which Congress has sustained to the Army. The past is specially instructive on this subject. What writer of history does not know and regret the fact that our revolutionary fathers stained the noble record of their early legislation by the manner in which they treated the Army of the Revolution after the war of independence had closed. No man can read the history of that transaction without the most painful regret. But, sir, though there may have been no justification, yet there was an excuse for their conduct which we cannot plead to day. They lived not far removed from the days of military usurpation. They remembered Cromwell. They remembered the times when a standing army was dangerous to liberty; and so great was their love of liberty that in that sacred name they neglected, cruelly neglected, the noble army which made liberty possible on this continent. A volume of history, which I hold in my hand, portrays the dismissal of that heroic army after the battle for liberty had been fought and won. It is Greene's Historical View of the American Revolution, and I take the liberty of quoting a passage from page 238:

"To the officers Congress, after much discussion and delays that savored equally of impolicy and ingratitude, had voted half pay for life. It is painful to think of the long opposition to the claims of men who, besides risking their lives in battle and their health in the hardships of camp, were necessarily cut off during their most vigorous years from every other method of providing for themselves or their families. To some minds the Army seems always to have presented itself as an object of apprehension. In strengthening it against the enemy they were still disturbed by the fear of strengthening it against the people; forgetting that the men who composed it came directly from the body of citizens, and must sooner or later return to it, they feared that the ties by which long settlement would bind them to their officers might prove stronger than the ties by which they were bound to their families. History troubled them with visions of Cæsar and Cromwells, and like too many who misapply her lessons they failed to see how utterly unlike were the 'thirteen colonies' to the dregs of Romulus or the England of Charles the First. They erred where sensible men daily err, by applying to one class of circumstances the principles which they have deduced from a class radically different."

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"It was in a great measure this feeling, combined with a morbid attachment to State rights, or rather an imperfect conception of the vital importance of a real Union, that delayed the formation of an army for the war till the moment for forming it cheaply and readily was passed. It was this feeling which, under the plausible show of strengthening the dependence of the Army upon Congress, kept the officers in much feverish anxiety about the rules of promotion. It was this feeling which led John Adams to talk seriously about an annual appointment of generals, and both the Adamases to draw nigh to Gates as a man who, in some impossible contingency, was to be set up against Washington.

"It is not surprising, therefore, that to minds tinged with these suspicions the idea of half pay for life should seem fraught with serious danger, or that the men who entertained them should have opposed, as an invasion of popular rights, what in the light of impartial history seems a mere act of justice. It was not till the terrible winter of Valley Forge had been passed through, and when Washington saw himself upon the point of losing many of his best and most experienced officers, that a promise of half pay for seven years to all who should serve through the war was wrung from a reluctant Congress. It took two years more of urgent exhortation and stern experience to overcome the last scruples and secure a vote of half pay for life." * * * "On the 3d November, 1783, the army was disbanded. There was no formal leave-taking. Each regiment, each company, went as it chose. Men who had stood side by side in battle, who had shared the same tent in summer and same hut in winter, parted, never to meet again. Some still had homes, and therefore definite hopes. But hundreds knew not whither to go. Their four months' pay, the only part of their country's indebtedness which they had received, was not sufficient to buy them food and shelter long, even when it had not been necessarily pledged before it came into their hands. They had lost the habits of domestic life, as they had long foregone its comforts. Strong men were seen weeping like children; men who had borne cold and hunger in winter camps and faced death on the battle-field shrunk from this new form of trial. For a few days the streets and taverns were crowded. For weeks soldiers were to be seen on every road or lingering bewildered about public places like men who were at a loss what to do with themselves. There were no ovations for them as they came back toll-worn before their time to the places which had once known them; no ringing of bells, no eager opening of hospitable doors. The country was tired of the war, tired of the sound of fife and drum, anxious to get back to sowing and reaping, to buying and selling, to town meetings and general elections." * *

"Political ambition looked for advancement nearer home." * * * "It was long before the country awoke to a consciousness of its ingratitude to these brave men."

Many years later one of the noblest speeches that Daniel Webster ever pronounced was in advocating the passage of a law to do tardy justice by granting pensions to the survivors of the Revolution. After the war of 1812, the size of the Army, the tenure of office in it, and the mode of reduction were again the subject of discussion. The same points which are now made in debate were urged then; and after an able and protracted debate the peace establishment was so adjusted as to avoid almost wholly the muster-out of deserving officers. In 1820, during this debate, the Secretary of War made a report to Congress, in which he set forth the principles which have finally become the settled policy of the Government. The subject was so ably handled that I cannot do better than quote a few sentences setting forth the principles on which the Army should be organized in time of peace. The Secretary says:

"To give such an organization [a peace establishment] the leading principles in its formation ought to be, that at the commencement of hostilities there should be nothing either to new model or create. The only difference, consequently, between the peace and the war formation of the Army ought to be in the increased magnitude of the latter, and the only change in passing from the former to the latter should consist in giving to the augmentation which will then be necessary."

"The next principle to be observed is, that the organization ought to be such as to induce in time of peace citizens of adequate talents and respectability of character to enter and remain in the military service of the country, so that the Government may have officers at its command who to the requisite experience would add the public confidence. The correctness of this principle can scarcely be doubted, for surely if it is worth having an Army at all it is worth having it well commanded."

"Every prudent individual, in selecting his course of life, must be governed, making some allowance for natural disposition, essentially by the reward which attends the various pursuits open to him. Under our free institutions every one is left free to make his selection, and most of the pursuits of life, followed with industry and skill, lead to opulence and respectability. The profession of arms, in the well-established state of things which exists among us, has no reward but what is attached to it by law, and if that should be inferior to other professions it would be idle to suppose individuals possessed of the necessary talents and character would be induced to enter it. A mere sense of duty ought not and cannot be safely relied on. It supposes that individuals would be actuated by a stronger sense of duty toward the Government than the latter toward them."

"No position connected with the organization of the peace establishment is susceptible of being more rigidly proved than that the proportion of its officers to the rank and file ought to be greater than in a war establishment. It results immediately from a position the truth of which cannot be fairly doubted, and which I have attempted to illustrate in the preliminary remarks, that the leading object of a regular army in time of peace ought to be to enable the country to meet with honor and safety, particularly at the commencement of the war, the dangers incident to that state; to effect this object, as far as practicable, the peace organization ought, as has been shown, to be such that in passing to a state of war there should be nothing either to new model or to create, and that the difference between that and the war organization ought to be simply in the greater magnitude of the latter." * * *

"Economy is certainly a very high political virtue, intimately connected with the power and the public virtue of the community. In military operations, which, under the best management, are so expensive, it is of the utmost importance; but by no propriety of language can that arrangement be called economical which, in order that our military establishment in peace should be rather less expensive, would, regardless of the purposes for which it ought to be maintained, render it unfit to meet the dangers incident to a state of war."

I am content to stand by this doctrine; and guided by it, the Committee on Military Affairs have tried to accomplish two things: to provide for a very large reduction of the expense of the Army, and at the same time to preserve the efficiency and spirit of its organization.

Reduction of the Army.

SPEECH OF HON. B. F. BUTLER,

OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

February 17, 1869.

The House being in the Committee of the Whole on the state of the Union on the bill (H. R. No. 803) making appropriations for the support of the Army for the year ending June 30, 1870—

Mr. BUTLER, of Massachusetts, said:

Mr. CHAIRMAN: Before I proceed I ask that the Clerk now read my substitute for the pending amendment, as modified by me.

The Clerk read as follows:

SEC. — *And be it further enacted*, That the office of General of the Army shall continue until the 4th of March, 1869, and no longer.

SEC. — *And be it further enacted*, That the office of Lieutenant General of the Army shall continue until a vacancy shall occur in the same, and no longer; and on the occurrence of such vacancy, all laws and parts of laws creating said office are repealed.

SEC. — *And be it further enacted*, That commissions by brevet shall be conferred only for distinguished and meritorious conduct and important service in the presence of the enemy, and within one year after the same are rendered, and shall bear date from the particular action or service for which the officer was brevetted, and all brevet rank shall be honorary only, giving neither precedence in rank or pay.

SEC. — *And be it further enacted*, That after the 1st day of July, 1869, there shall be only three major generals; and the President shall, within ten days preceding said date, select, without regard to seniority, the three major generals to remain in commission; and the others shall be mustered out of the service of the United States on said date.

SEC. — *And be it further enacted*, That after the 1st day of July, 1869, there shall be only six brigadier generals, including the chief of staff of the Army, who is hereby retained in office; and the President shall, within ten days preceding said date, select, without regard to seniority, the six brigadier generals to remain in commission, and the others shall be mustered out of the service of the United States on said date.

SEC. — *And be it further enacted*, That the offices of Adjutant General, Quartermaster General, Commissary General of Subsistence, chief of ordnance, chief of engineers, Paymaster General, Surgeon General, Judge Advocate General, shall be filled by the appointment or assignment of an officer who shall have the rank and pay of a colonel.

SEC. — *And be it further enacted*, That the present incumbents may continue in the offices mentioned in the foregoing sections at the rank and pay above mentioned; and upon the passage of this act all offi-

cers of the staff departments or corps of the Army shall have the rank, pay, and grade of infantry officers next below that fixed for such officers by the act entitled "An act to increase and fix the military peace establishment of the United States," approved July 23, 1866, except when actually serving in the field in war, when the pay shall be that of a mounted officer. That the whole number of officers serving in the above-named staff departments and corps shall be reduced one half, in each grade, the officers retained to be selected by the President as hereinafter provided; and those not selected to be retained shall be mustered out on the 1st day of July next.

SEC. — *And be it further enacted*, That the pay of the officers of the Army shall be as follows: the pay of Lieutenant General shall be \$12,000 a year; the pay of major general shall be \$7,500; the pay of brigadier general shall be \$5,000; the pay of colonel shall be \$3,500; the pay of lieutenant colonel shall be \$2,750; the pay of major shall be \$2,500; the pay of captain, mounted, shall be \$2,000; the pay of captain, not mounted, shall be \$1,800; the pay of adjutant shall be \$1,800; the pay of regimental quartermaster shall be \$1,800; the pay of first lieutenant, mounted, shall be \$1,600; the pay of first lieutenant, not mounted, shall be \$1,500; the pay of second lieutenant, mounted, shall be \$1,500; the pay of second lieutenant, not mounted, shall be \$1,400; the pay of chaplain shall be \$1,200; the pay of aide-de-camp to major general shall be \$200 per annum in addition to pay of his rank; the pay of aide-de-camp to brigadier general shall be \$150 per annum in addition to pay of his rank; the pay of acting assistant commissary shall be \$100 in addition to pay of his rank; and these sums shall be in full of all commutation of quarters, fuel, forage, servants' wages, and clothing, longevity rations, and all allowances of every name and nature whatever, and shall be paid monthly by the paymaster. *Provided*, That when any officer shall travel under orders, and shall not be furnished transportation by the quartermaster's department, or on a conveyance belonging to or chartered by the United States, he shall be allowed ten cents per mile, and no more, for each mile actually by him traveled under such order, distances to be calculated according to the nearest post routes; and no payment shall be made to any officer except by a paymaster of the Army. Officers retired from active service not on account of disability from wounds received in battle shall receive forty per cent. of the pay given by this act to the highest regimental or staff rank held by such officer at the time of retirement. Officers retired from active service from disability from wounds received in battle shall receive seventy-five per cent. of the pay given by this act to the highest regimental or staff rank held by such officer at the time such wounds were received. Retired officers assigned to duty by the President according to their rank shall receive while so assigned and employed full pay of the grade upon which they have been retired; but no retired officer shall be assigned to any duty other than court-martial while any officer not so retired is unassigned to duty according to his rank.

SEC. — *And be it further enacted*, That hereafter the line of the Army shall consist of twenty-four regiments of infantry, three regiments of which shall be of the Veteran Reserve corps and four of colored troops; six regiments of cavalry, two of which shall be colored troops; and three regiments of artillery; said regiments to have the same organization as now provided by law.

SEC. — *And be it further enacted*, That the Secretary of War shall forthwith proceed to consolidate the regiments now in service in accordance with the provisions of this act. He shall prepare lists of all regimental and staff officers of each grade now in service, keeping the three arms of the service distinct as well as the several staff corps; and the President shall select therefrom, in proportion to the numbers in the several grades, the number required to fill said regiments from each arm, selecting for the command of colored troops only officers who served in the war in command of such troops, in the manner following, that is to say: he shall cause to assemble at a council of officers composed of three general officers, one of whom shall be a major general and one of whom shall have entered the Army during the late war from civil life; three officers of infantry, two of whom shall have entered the Army during the war from civil life and one of whom shall have been an officer of colored troops; two officers of cavalry, one of whom shall have entered the Army during the war from civil life; two officers of the medical department; one officer of the Adjutant General's department; one officer of the engineer department; one officer of the ordnance department; one officer of the quartermaster's department; one officer of the subsistence department, and one officer of the pay department, who shall have entered the Army during the war from civil life: all of whom shall be selected for high character, intelligence, discretion, justice, patriotism, professional ability, and services during the war, and who being thus selected shall be retained in the service; and it shall be the duty of the council to inquire into and consider the capacity, character, record of services, and fitness to be continued in the military service of every officer below the grade of general who may be in the Army at the time of the passage of this act. And the council shall for this purpose be furnished with all information, papers, documents, records, and evidence they may require from the War Department; and the council shall furnish a report of their conclusions to the Secretary of War, with their reasons therefor, and shall keep a record of their votes in the case of each officer, except that the name of the officer voting need not be recorded. When the report of a

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majority of two thirds of the council is in favor of any officer he shall thereupon be reported and be placed upon the list from which selections are to be made by the President of officers to be retained in the service; but in case of any officer not so reported by the council, then he shall be summoned before the council, by order, for examination into his moral, mental, and physical qualifications, and shall be allowed full and reasonable opportunity for explanation and defense, and may produce testimony to meet any objection or charges, if any there be, of which he shall be informed, all of which shall be submitted in writing, and the testimony taken under oath; and the board, at its discretion, may summon any witness who shall have given such testimony for further examination, and the case shall then be again examined and reported upon by the board; but when it shall appear to the council on examination of any officer that he has not been employed on active duty in the field during any part of the late war, it shall be the duty of the council to inquire specially into the reason for such officer not being so employed; and any officer whose absence from active field service during the war shall be found by a majority of the council to have been on account of the wish or application of such officer to be assigned to duty elsewhere than at the front, from any cause whatever, he shall not be reported to be put upon the list from which officers to serve in the Army shall be selected. And from the list so reported the President shall select the regimental and company officers in the regiments hereby authorized, giving to those officers who entered the Army from civil life during the war and were promoted or appointed for gallantry and good conduct an equal number with those who had served in the Army before the war, so that said officers may be selected from those who have performed active and meritorious services in the field in the war of the rebellion in preference to others; and the officers of the staff corps or department shall be likewise selected from said list, but without regard to service in the field.

Sec. — And be it further enacted, That all the bands now in the service organized under the provisions of section seven of an act entitled "An act to increase and fix the military peace establishment of the United States," approved July 28, 1866, except the band at the Military Academy, shall be honorably discharged without delay, and shall receive full pay and allowance to the date of such discharge.

Sec. — And be it further enacted, That the President is hereby authorized and directed, so soon as the necessities of the service will allow, to order the muster-out of enlisted men until the total number, the proper proportions of the different arms of the service being preserved, shall be reduced to twenty-five thousand; and until such reduction is reached no further enlistments shall be made; and thereafter there shall be no more than twenty-five thousand enlisted men at any one time without special authority of Congress: *Provided*, That all men enlisted for any special corps other than above mentioned, such as ordnance or engineer soldiers, shall be disbanded, and, at the election of enlisted men, be recruited into the line of the Army.

Sec. — And be it further enacted, That the organization of the Bureau of Military Justice shall hereafter consist of one Judge Advocate General, with the rank and pay of a colonel; one assistant judge advocate general, with the rank and pay of a lieutenant colonel; four assistant judge advocates general, with the rank and pay of a major; and all promotions and appointments hereafter made in said bureau shall be in accordance with the provisions of this section.

Sec. — And be it further enacted, That the office of military storekeeper is hereby abolished. The place may be filled by a retired officer of the Army.

Sec. — And be it further enacted, That the medical staff of the Army shall not be increased by surgeons hired by contract or otherwise, so that the whole number of medical officers shall not be beyond one for every one hundred and fifty men.

Sec. — And be it further enacted, That this act shall take effect on the 4th day of March, 1869; and all acts and parts of acts inconsistent with the provisions of this act in any manner whatever are hereby repealed.

Mr. BUTLER, of Massachusetts. This House, Mr. Chairman, has been engaged for days in considering the question whether a few thousand dollars may be saved to the tax-payers of the country. The propositions to which I now call your attention are to save many million dollars, if I mistake not, and this subject has received very considerable and careful attention from me and from those who have aided me in examining it. These propositions, if carried out, will reduce our Army to twenty-five thousand men—twenty-four regiments of infantry, three of artillery, and four of cavalry, fully equipped and fully officered, and so far as the staff departments are concerned, with a staff larger than that of the army of Great Britain, and yet save more than thirty million dollars in the current expenses of the Army.

When I addressed the House a few days ago upon this subject I stated that I thought we might save from thirteen million to fifteen million dollars. My statistics had not then been

completed; and I own that I was astonished at the amount of expenditures which I found upon further comparison were called for by the Army. At the same time it is very clear that we do not want more than twenty-five thousand men. We will want no army in the South after the 4th day of March next. An event will then happen which will be more potent for peace than soldiers in every village and hamlet. It will then be understood that all disorder and riot and murder must cease. And it cannot be that to meet the few thousand Indians in the field—perhaps I ought to say hundreds of Indians—we will need more than twenty-five thousand effective men. We had, at the time my statistics were prepared, about forty-two thousand men and officers; not, it is true, in the field, but on the rolls. The current expenses of the Army last year—current expenses, mark you, leaving out everything in the way of back pay, bounty, pension, &c.—the current expenses were \$68,000,000. We have staff officers in greater number and in greater rank than the staff of any army in the world.

That you may get precisely the number of staff officers allow me to present the following table which shows the number of staff officers in the Army in 1867-68:

Table showing number and rank of General and Staff Officers in the Army, 1867-68.

General Officers.	
General.....	1
Lieutenant General.....	1
Major generals.....	5
Brigadier generals.....	17
Total.....	24

Adjutant Generals.	
Brigadier general.....	1
Colonels.....	2
Lieutenant colonels.....	4
Majors.....	13
Total.....	20

Inspector Generals.	
Colonels.....	4
Lieutenant colonels.....	2
Majors.....	3
Total.....	9

Judge Advocate General.	
Brigadier general.....	1
Colonels.....	1
Majors.....	9
Total.....	11

Signal Officer.	
Colonel.....	1
Total.....	1

Chief of Staff of General of the Army.	
Brigadier general.....	1
Total.....	1

Quartermaster's Department.	
Brigadier general.....	1
Colonels.....	6
Lieutenant colonels.....	10
Majors.....	15
Captains.....	44
Total.....	76

Military Storekeepers.	
Military storekeepers.....	10
Total.....	10

Subsistence Department.	
Brigadier general.....	1
Colonels.....	2
Lieutenant colonels.....	2
Majors.....	8
Captains.....	16
Total.....	29

Medical Department.	
Brigadier general.....	1
Colonel.....	1
Lieutenant colonels.....	5
Majors.....	60
Captains.....	71
First lieutenants.....	36
Total.....	174

Medical Storekeepers.	
Medical storekeepers.....	4
Total.....	4

Pay Department.	
Brigadier general.....	1
Colonels.....	2
Lieutenant colonels.....	2
Majors.....	39
Total.....	64

Corps of Engineers.	
Brigadier general.....	1
Colonels.....	9
Lieutenant colonels.....	12
Majors.....	24
Captains.....	30
First lieutenant.....	26
Second lieutenants.....	8
Total.....	107

Ordnance Department.	
Brigadier general.....	1
Colonels.....	3
Lieutenant colonels.....	4
Majors.....	10
Captains.....	20
First lieutenants.....	16
Second lieutenants.....	10
Total.....	64

Military Storekeepers.	
Military storekeepers.....	15
Total.....	15

Recapitulation.	
Generals.....	17
Aids.....	43
Adjutant generals.....	20
Inspector generals.....	9
Judge advocate generals.....	11
Signal officer.....	1
Chief of staff.....	1
Quartermasters.....	76
Military storekeepers.....	31
Commissaries of subsistence.....	28
Medical department.....	174
Medical storekeepers.....	4
Pay department.....	64
Corps of engineers.....	107
Ordnance department.....	64
Total.....	651

or one staff or general officer to each thirty-eight men in an Army of twenty-five thousand men.

So that we have a total of 615 officers, or one general officer to every 38 men in an army of 25,000 men. That is independent of the line officers—colonels, lieutenant colonels, majors, captains, and lieutenants, which amount to about 2,500 more. Beside these are in addition 321 contract surgeons, hired for the Army, and 459 hospital stewards, at a salary of thirty dollars per month, at a cost of \$165,240, and thirty chaplains.

These figures may be summed up in these words: we have now 60 regiments amounting in the aggregate to 39,000 men, making about 650 men to a regiment, giving 33 line officers to a regiment; one general officer for every 20 men. Adding staff officers to the general officers, we have an officer to every 15 men; adding the 331 contract surgeons, we have an officer to every 12 men. And we have the singular spectacle of an officer of the medical staff to every 76 men. As there should not be more than about one or two sick men to every 76, we have about one medical officer to every sick man. If we suppose the Army reduced, as proposed, to 25,000 men, we have a medical officer, either active or retired, to every 48 men; and a staff or general officer, active or retired, to every 38 men. Adding the regimental officers, we have of officers, either active or retired, 2,963, or one to every 23 men, not including 30 chaplains and 459 hospital stewards at \$30 a month beside rations, at an aggregate expense of more than \$165,204 for pay only. Thus we have a medical department costing for pay alone \$936,573 84. In other words, for an Army of 39,000 it costs \$25 a man to pay the doctor's bill, saying nothing of the medicine and the hospital stores, rations, and accommodations. And these figures cannot be successfully disputed.

Alarmed at their numbers I looked to see what was the cost of paying these officers, and I found it to be most enormous. I desire every gentleman to follow me with care, because I hope to do no injustice to the officers or men of the Army. I hold in my hand a table show-

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ing the cost for pay alone of the officers of the Army and clerks of the War Department and their contingent expenses for the fiscal year 1867-68:

Pay of officers and clerks of the Army.

A statement showing the total amount of expenditures of the War Department for salaries of the officers and clerks of its various branches and officers of the Army, including commutation of quarters, fuel, forage, servants' wages and clothing, longevity rations, and all allowances; and also the expense of printing for the Army for the year 1867-68:

Secretary's office.....	\$59,410 00
Adjutant General's office.....	346,174 50
Inspector General's office.....	37,560 00
Quartermaster's department.....	2,177,456 66
Subsistence department.....	154,615 50
Bureau of Military Justice.....	56,645 00
Chief signal officer.....	8,262 00
Medical department.....	1,189,247 34
Pay department.....	576,994 50
General officers.....	183,997 50
Ordnance.....	306,428 50
Engineers.....	385,214 50
Freedmen's Bureau.....	840,641 94
Aqueduct.....	11,837 50
Chaplains.....	57,888 00
Public buildings.....	52,793 00
Police and Military Academy.....	81,281 80
Printing.....	167,203 16
Cavalry officers.....	1,187,700 00
Artillery officers.....	866,362 50
Infantry officers.....	3,638,814 00
Total.....	\$12,386,527 90

But of this vast expense of more than twelve million dollars it will be seen that the Freedmen's Bureau costs only for pay \$840,000. It will be observed that the grand total is the almost incredible sum for pay only of \$12,386,527 90.

Now, Mr. Chairman, finding this to be the condition of expenditure, I was led to examine of what items this pay consists. I asked my friends on the Military Committee what was the pay of officers of the Army, and not one of them could tell me. I asked in the Secretary's office what it was, and no one could tell me. I asked in the Paymaster General's office, and no one could tell me. I asked in the Quartermaster General's office, and no one could tell me. I asked everywhere, and no one could tell me until I got to the Treasury, and there my question is at last answered by putting together many items in different bureaus. Why was this? Because the pay of an officer of the Army is made up of so many different allowances and perquisites paid him by so many different persons that no one officer can tell what the pay of another may be. I sometimes doubt whether any officer can rightly tell what his own pay is. In the Treasury at last I learned what was the pay of some of the officers of the Army. I did not examine into the pay of the General

of the Army, because my bill, the bill of the committee, and the bill ordered by the House to be reported last year, agree that this office should cease when it becomes vacant on the 4th of March next. I did not look into the pay of the Lieutenant General, item by item, because there is only one, and it cannot be a great matter in so large a sum total. But I will say that, depending on the duty and the place to which he is assigned, the pay of a Lieutenant General ranges from eighteen to twenty-two thousand dollars a year.

I hold in my hand an accurate list of the receipts of a major general of the Army during the last year, and I take one stationed at an average costly place, and one of the younger ones, because if stationed here, and if he were an older one, he would get one or two thousand dollars more per annum, as you will see when I read this list, composed of so many items and so many allowances, and so involved that I doubt, indeed, whether the major general himself, if asked, could not tell what was his pay. His pay proper is \$220 only a month; the rest is made up of allowances, as seen in the subjoined table, showing the pay and emoluments of a major general United States Army, headquarters at New York city, in 1868:

Payments made by the Paymaster's department.

Pay proper.....	\$220 00
For self for subsistence: thirty rations per day: commutation, thirty cents per ration, month of thirty days.....	270 00
For servants: four allowed, pay commuted at sixteen dollars per month.....	64 00
Clothing commuted at \$6 50 per month.....	26 00
Subsistence commuted at thirty cents, month of thirty days.....	36 00
Longevity rations, five: commutation per month of thirty days at thirty cents.....	45 00
Number of horses allowed, five.....	-
Total per month of thirty days.....	651 00
Total per month of thirty-one days.....	671 20
Aggregate per annum.....	\$7,890 50

Payments made by the Quartermaster's department.

For quarters, &c., nine rooms, at fifteen dollars, \$135 per month, or for the year..... \$1,620 00

Cords.

For fuel for self for the several months from September 1 to April 30, inclusive, eight months, at nine cords of merchantable hard wood, seventy-two cords, increased one quarter on account of latitude.....	90
Fuel for four servant's two thirds of a cord for the same period, five and one third cords, increased one quarter from the same cause.....	63
Fuel for the remaining four months one cord a month, for self.....	4
For servants for same period, 4-12 cords 12.....	14

Aggregate amount of fuel allowed for a year..... 102@12=1,224 00

Aggregate received from quartermaster's department.....	\$2,244 00
Add amount received from pay department as above.....	7,890 50

Aggregate, not including forage for five horses nor mileage.....	10,734 50
For forage.....	480 00

Aggregate when forage is commuted.....\$11,214 50

It will be observed that he has five longevity rations. Now, what do you suppose a longevity ration is? It is the theory of the Army that the older a man grows the more he eats. [Laughter.] If he has been in for five years he gets one longevity ration; that is a right to thirty cents per day as long as he lives; if for ten years, two; and if for fifteen, three longevity rations. When does the time of this longevity ration commence? The hour he enters West Point. One who has been in West Point for four years, then graduates and is in the Army one year, gets one longevity ration at thirty cents a day, and it goes on as long as he lives.

Now, this major general gets five longevity rations only; some officers have enough, as I will call attention to in a moment, to amount to nineteen hundred and eighty-five or two thousand dollars in one year. Besides he has an amount of fuel for one year of one hundred and two cords, which in the case of this officer was commuted at twelve dollars a cord, making \$1,224 for fuel. The aggregate of fuel, quarters, and forage received from the quartermaster's department is \$2,044. Add the amount received from the pay department \$7,840 50, and we have \$10,734 50. Aggregate not including forage for five horses and mileage, \$480; that makes \$11,214 50. And then he has ten cents a mile and his own and his servant's baggage carried for him besides whenever he moves. This is the pay and a portion of the allowances of a major general.

Now, I have a table, which I will not read, made up in the same way carefully, taking everything, and I find that a brigadier general, chief of the department, has \$7,606 50 if he is stationed at Washington; a colonel has \$4,392; a lieutenant colonel, \$3,826; a major, \$3,537; a mounted captain, \$2,725; a captain not mounted, \$2,605; a first lieutenant mounted, \$2,177; a first lieutenant not mounted, \$2,137; a second lieutenant mounted, \$2,177; a second lieutenant not mounted, \$2,077. So that a second lieutenant, just out of school, gets \$2,000 a year, and this is outside of his commutation for his forage, and outside of his allowance for travel.

Statement exhibiting the pay and emoluments of Army officers on duty in the different bureaus of the War Department at Washington, not including "longevity rations"—thirty cents per day for every five years' continuous service—nor forage for horses—eight dollars per month for each owned by them and kept in service not exceeding the number allowed—nor other emoluments for mileage when traveling on duty.

Grade of officer.	Payments made by the Paymaster's department.										
	Officer for self.			For servants.				No. of horses.	Total.		
	Proper.	No. of rations per day.	Commutation, 30 cents per ration, month 30 days.	No. of servants.	Pay commutation at \$16 00.	Clothing commutation at \$6 50.	Subsistence commutation, 30 cents per ration, month of 30 days.		Month of 30 days.	Month of 31 days.	Per annum.
Brigadier general, chief of department.....	\$124 00	24	\$216 00	3	\$48 00	\$19 50	\$27 00	4	\$434 50	\$442 60	\$5,254 50
Colonel, general staff and regimental.....	110 00	6	54 00	2	32 00	13 00	18 00	2	227 00	229 40	2,736 00
Lieutenant colonel.....	95 00	5	45 00	2	32 00	13 00	18 00	2	203 00	205 10	2,446 50
Major, general staff and regimental*.....	80 00	4	36 00	2	32 00	13 00	18 00	2	179 00	180 80	2,157 00
Captain, mounted.....	70 00	4	36 00	1	16 00	6 50	9 00	2	137 50	139 00	1,657 50
Captain, not mounted.....	60 00	4	36 00	1	16 00	6 50	9 00	2	127 50	129 00	1,537 50
First lieutenant, mounted.....	53 33 1/3	4	36 00	1	16 00	6 50	9 00	2	120 83 1/3	122 33 1/3	1,457 50
First lieutenant, not mounted.....	50 00	4	36 00	1	16 00	6 50	9 00	2	117 50	119 00	1,417 50
Second lieutenant, mounted.....	53 33 1/3	4	36 00	1	16 00	6 50	9 00	2	120 83 1/3	122 33 1/3	1,457 50
Second lieutenant, not mounted.....	45 00	4	36 00	1	16 00	6 50	9 00	2	112 50	114 00	1,337 50

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Mr. O'NEILL. During the war the Marine corps, owing to the wants and necessities of the service, was increased to three thousand men and a sufficient number of officers to command them. The corps still exists as it was organized then, and hence there is a brigadier general.

Mr. BUTLER, of Massachusetts. In my judgment the proposition should be to cut down that corps—although I have a high respect for the marines—to about eight hundred, or at the most twelve hundred men, which is a fair colonel's command.

Passing from this, however, I am only speaking of the number of brigadier generals that we should have in the Army. We have dwelt upon this part of the subject too long. The proposition is to reduce the number of brigadier generals to six, and to cut the chiefs of staff departments down to colonels. Now, there is this objection raised, and it is fair for the Army and for everybody else to say that in this country from the beginning there has always been a general at the head of the quartermaster's department. Sometimes that general was a major general; and that officer was the only brigadier general of the staff department before the war. All the rest of the chiefs of staff departments were colonels; some of them only colonels by brevet. But from October 1, 1776, there has always been either a major general or a brigadier general at the head of the quartermaster's department; and if gentlemen, out of respect to the traditions of the Army, still desire to retain a brigadier general at the head of that department I shall not have much difficulty in regard to it.

But passing from that, the next proposition—and here comes the struggle—is to cut down the staff of the Army one half. This staff is now as large as it was when we had all our armies in the field during the rebellion; I mean, of course, the Army staff proper, not the medical staff or the assistant adjutant general's or the paymaster's. Under the present circumstances, I think if we have a staff which is acknowledged to be sufficient for an army of fifty thousand men, it may be cut down one half when we reduce the Army to twenty-five thousand men. It is proposed, therefore, that the staff department shall be cut down one half in each grade, to be selected by the President in the manner hereafter to be stated. At this point will come the contest over this bill, and here is the first great departure I make from the bill of the Committee on Military Affairs. The bill of the Military Committee does not provide for the mustering out a single man or a single officer—not one. And if you pass it you will not thereby get rid of a man or an officer or save a dollar of expense.

My friend, the chairman of the Committee on Military Affairs, [Mr. GARFIELD,] says that by the bill of the committee the Army will be gradually reduced. I beg his pardon, not so. Under his bill it will be reduced only by the act of Almighty God and the vices of the officers, and in no other way. Every man or officer is left by it to remain in the Army until he dies or resigns.

That leads me to remark just here upon what is termed the consolidation of the supply departments. My friend from Ohio [Mr. GARFIELD] says that he has consolidated sixty-five officers out of the supply departments by consolidating the commissary and quartermaster's and pay departments into one. I agree that there is a consolidation provided for, but it is simply a consolidation of departments, leaving the officers now in them doing nothing and drawing full pay. Do I misstate the bill of the committee? If so, I am willing to be corrected.

Mr. GARFIELD. The gentleman does misstate it most decidedly.

Mr. BUTLER, of Massachusetts. Very well; how?

Mr. GARFIELD. The bill to which the gen-

tleman refers provides that the President of the United States shall, as rapidly as the public service will permit, proceed to consolidate the officers of those departments. It is presumed that so important and radical a change as that cannot be made in a day or even in a month, but it must be done gradually and carefully; and by the time it is fully accomplished we believe the gradual process of absorption will have reduced the number of officers.

Mr. BUTLER, of Massachusetts. I have heard the gentleman's explanation, and repeat what I said, I have not misstated his bill. Not one officer is cut off by his bill. That is to be done only by "absorption." And if the bill of the committee is to be passed I want to have the title of the bill changed so that it will read "A bill to reduce the Army by absorption." That is to say, not one of these officers is to be required to go out of the Army until he goes by death or resignation.

I propose to strike out of the six hundred and fifty-one officers of these staff departments one half of them. Out of the two departments proposed by the committee's bill to be consolidated I propose to take out ninety-one officers, while the bill of the committee proposes to take out sixty-five officers, when they are ready to go. Therefore I ask if I am not

right when I say that all the bill of the committee proposes to do is to let the President consolidate these departments, turn these officers out of the departments, but not out of the Army, leaving them nothing to do and drawing full pay.

The whole question resolves itself into this: shall we muster out the supernumerary officers of the Army? And, gentlemen of the House of Representatives, I look upon this as the most vital question which has ever come before this House; for if we cannot muster out the supernumerary officers of our Army, then, indeed, are our liberties placed at the footstool of the armed forces of the Republic.

What is the argument against mustering out these supernumerary officers? Why, sir, we are told that we must not muster out officers of the Army because they have made the Army a profession, because they have received a military education at the public expense, because they have pursued that profession almost from their boyhood, and it is not right to muster them out in their old age. Now, I want the attention of this House to a table showing some facts with reference to this argument, which I think members will be surprised to learn; and I refer for the verification of these facts to the official Register.

Table of the proportion of West Point officers in the Army.

Branch of service.	Total number of officers.	Officers from West Point.	Officers from civil life.	Percentage of officers from West Point.	Percentage of officers from civil life.	Percentage of West Point officers in all.
Cavalry.....	440	63	377	15	85	-
Artillery.....	365	141	194	42	58	-
Infantry.....	1489	171	1318	11½	88½	-
Field officers*.....	349	135	214	39	61	-
General officers.....	25	21	4	84	16	-
Army staff.....	681	207	474	30	70	-
Staff department proper.....	249	229	20	92	8	-
Total.....	3219	832	2387	-	-	26
* Field officers as follows:						
Cavalry.....	74	24	50	32	68	-
Artillery.....	49	24	25	50	50	-
Infantry.....	226	87	139	38	62	-
Total officers in cavalry, artillery, and infantry, field and staff.....	2264	375	1889	16½	83½	-

Thus it will be seen that in the cavalry the total number of officers is 440, of whom 63 are from West Point, 377 from civil life, only fifteen per cent. being from West Point. Now, sir, if these cavalry officers from West Point must not be turned out to be dependent upon their own resources, we had better pension them for life, and turn out the volunteer officers, the men who, like the rest of us, went into the Army, making it their profession only as we made it a profession, and who ought to be ready to go out as we went out. We shall thus save a great expense to the country. Of the artillery officers 194 are from civil life, and 141 from West Point, or about forty-two and a half per cent. of the whole number. The total number of infantry officers is 1,489, of whom 171, or eleven and a half per cent. only, are from West Point. Now, if we can get on in no other way, I, for one, am in favor of pensioning these 171 West Point officers, if that be necessary in order to get at the officers who have not made the Army a profession. Did these volunteer officers make the Army a profession any more than the volunteer soldiers? Many of these men went into the Army side by side with us; and they are no more entitled to continue therein for life than the rest of us. And it was the glory of this country that the volunteer army, without a murmur, suffered themselves to be mustered out; and many of them returning to civil life found their homes desolated, their old associations broken up, their business ruined, so that they were obliged, as it were, to start life anew. But we heard from them no murmur. And shall these, our com-

rades, who fought as well as we but no better; who suffered with us as much, and no more; who left their homes and their business as well as we did, and no more; and who are no better than we are, insist that they have made arms a profession, and are better than we are; and that, therefore, they who by grace and favor or by political influence or otherwise have been put into the Army shall remain a burden upon the country forever, when their services are no longer wanted?

Again, among the field officers, I find that of the whole number, 349, 135 are from West Point—thirty-nine per cent. Of the general officers, 25 in all, 21 are from West Point, and 4 only from civil life. Of the Army staff, numbering 681, 207 are from West Point and 474 from civil life, those from West Point being thirty and a half per cent. of the whole number. Of the staff department proper, however, embracing the Adjutant General's office, the engineer corps, &c., 249 officers in all, 229 are from West Point, and only 20 from civil life. Thus all the soft places in the Army are in possession of West Point, and they are naturally averse to giving them up.

It will be found that while of the cavalry officers fifteen per cent. are from West Point, while of the field officers thirty-two and a half per cent. are from West Point, in the artillery there is only forty-two per cent. You will find among the higher officers fifty and a half per cent., while in the infantry there is only eleven per cent. of West Point officers. Let the country mark these facts, and see if we need to expend \$30,000,000 needlessly upon these men.

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Therefore I say that the argument fails and comes to naught which says that we cannot reduce this force because these men have been bred to the profession of arms and have been brought up to it from boyhood.

How do I propose to reduce it? I have proposed to reduce the whole force in this way: there shall be a board of fifteen officers selected by the President in the way proposed in this bill. There shall be three generals, one from civil life; three infantry officers, one from civil life, and one commanding colored troops, and so on. There shall be a board of officers, which, when you reckon it up, of eight West Point officers and seven volunteer officers, detailed by the President for good conduct, soldierly qualities, and professional ability. Those men are to select the list of men out of which selections shall be made of those to be retained in the Army. The board selects who of all the men in the Army are worthy to be retained at all, and from that list the President shall select as many as are necessary to officer twenty-five thousand men with the proper staffs. There is one class of exception, and that is the men who are holding office in the Army and who occupied "soft places" during the war at their own request, or who refused to go into the field because they would not fight against their States and were put on mustering and commissary duty in the North, the men who took good care to keep in "soft places" all during the war at their own request. I have provided when that appears they shall be left out, and meritorious officers shall be selected in preference.

The next proposition in which I differ from the committee is in regard to the pay of the Army. I have fixed the pay of each grade of officers in this form, subject of course to the better judgment of the House: Lieutenant General to have \$12,900 a year, \$4,000 more than

the Speaker of this House and \$4,000 more than the Vice President; major general, \$7,500; brigadier general, \$5,000; colonel, \$3,500; lieutenant colonel, \$2,750; major, \$2,500; captain, mounted, \$2,000; captain, not mounted, \$1,800; adjutant, \$1,800; regimental quartermaster, \$1,800; first lieutenant, mounted, \$1,600; first lieutenant, not mounted, \$1,500; second lieutenant, mounted, \$1,500; second lieutenant, not mounted, \$1,400; chaplain, \$1,200; aid-de-camp to major general, \$200 in addition to pay of his rank; aid-de-camp to brigadier general, \$150 in addition to pay of his rank; acting assistant commissary, \$100 in addition to pay of his rank; and that these sums shall be in full of everything.

Then I provide that commutation for fuel, quarters, forage, rations, longevity rations, servants' clothing, pay, and rations, and everything of that sort in the way of allowances shall be done, ended, cease, be got rid of, cut off, and put a stop to. [Laughter.] I provide that that great abuse shall be finally brought to an end, if it is possible to be done by legislative act.

I have provided, however, when officers travel they shall have ten cents per mile, and that according to post routes. And there is a special provision that the paymaster shall alone pay the officers all they shall receive. Now he only pays the pay proper and rations and servants' allowances, while the quartermaster general's department pays commutation for quarters and fuel and forage. In some cases the commissary department pays him for his rations. As it is now it is next to impossible to tell how much an officer gets. I want to put a stop to all that.

If the pay and allowances provided in this bill can become law, and the supernumerary officers cut off, then we can make the saving shown in the following table:

they buy their food now at the wholesale price of the Government. When that privilege was proposed to be interfered with in the appropriation bill it was of so much consequence that the chairman of the Committee on Military Affairs raised a point of order upon it to strike out the provision. He wanted to save the right of buying rations to the officers. Now, what does it mean?

Mr. GARFIELD. The letter I had read from the Commissary General explained precisely that; as we had abolished the office of sutler and allowed officers of the Army in the commissary department to furnish sutlers' supplies, the gentleman's bill would cut off the allowance of any such supplies.

Mr. BUTLER, of Massachusetts. I am going to that. I understand it all thoroughly. The commissary department buys an ox at eight cents per pound, and it is slaughtered and cut up and the best pieces are sold to the officers at eight cents per pound, and these pieces go to their landlords, while the shin-bones and poor cuts go into the hospitals and quarters of the men, for which the United States pays the same price as the officers do for the best ones. That is what the tenderness about this privilege means, and the practice prevails everywhere.

It gives to the officers canned meats, preserved fruits, coffee, sugar, tea, and everything of that sort, bought at wholesale by the commissary and sold to the officers at the same price. Now, I agree that the abolition of this practice will not be a great saving to the Government, and perhaps I ought not to have spoken of it, but I do speak in behalf of the men. When you hear them grumbling about their rations it is not because the commissary has failed to buy good rations, but because they only get the inferior part of the rations which the United States pay for at the same price as for the best. Therefore we found the moment we struck at that little abuse a letter came to the chairman of the committee, saying "Look out for our rations." [Laughter.] "Take care that the privilege of buying them is not cut off. Take care of our preserved fruits, that we may not have to pay for them only the wholesale price."

Mr. ROSS. Does the gentleman know that officers on the plains draw coffee by the sack and sell it?

Mr. BUTLER, of Massachusetts. I do not know that fact. I am speaking of what can be done under the law. On the plains I suspect they are all pretty lawless. I am talking about what is done in Washington right under our noses, and there are men who know the fact that Army officers have paid their board bills to their landladies in whole or in part by selling the meat which they have thus obtained at the wholesale price. And there are members here who will confirm what I have said. Therefore I have endeavored in this bill to cut off all allowances which may grow into abuses, and substitute a salary only.

Mr. ELDRIDGE. Will the gentleman inform the House to whom he refers?

Mr. BUTLER, of Massachusetts. The officer or the member of the House?

Mr. ELDRIDGE. To what gentleman in the House does he refer?

Mr. BUTLER, of Massachusetts. He sits right before me. He stated this fact in the House the other day.

Mr. ELDRIDGE. Is he white or black? [Laughter.]

Mr. BUTLER, of Massachusetts. I have never seen a black officer do anything but his duty.

Now, sir, I have been speaking of the abuses that may be cut off only. I have but one or two other provisions to which I will call the attention of the committee. I have provided that hereafter the line of the Army shall consist of twenty-four regiments of infantry. I have also provided that three of them shall be the

Pay of officers and clerks of the Army as reduced, and the Army made by this bill.

Department.	Salaries of officers and clerks of the different branches of the War Department and of officers of the Army, including commutation of all sorts and all allowances, and the expense of printing for the Army for the years 1867-68.	Estimate of the salaries of officers and clerks if the number and pay of officers is reduced in accordance with the bill and the clerical force is continued as at present.	Estimate of salaries if the number and pay of officers is reduced in accordance with the bill and the number of clerks is reduced one half.
Secretary's office.....	\$59,410 00	\$59,410 00	\$33,705 00
Adjutant general's department.....	346,174 50	288,730 00	157,350 00
Inspector general's department.....	37,560 00	32,500 00	32,500 00
Quartermaster's department.....	2,177,456 66	1,945,615 16	1,010,532 58
Subsistence department.....	154,615 50	81,590 00	55,570 00
Bureau of Military Justice.....	56,645 00	26,650 00	21,450 00
Chief signal officers.....	8,262 00	7,178 00	5,339 00
Medical department.....	1,189,247 34	404,740 00	233,795 00
Pay department.....	576,994 50	447,550 00	253,150 00
General officers.....	183,997 50	47,500 00	47,500 00
Ordnance.....	396,428 50	126,620 00	92,810 00
Engineers.....	385,214 50	127,770 00	113,810 00
Public buildings.....	52,793 00	52,793 00	26,396 50
Military Academy.....	81,281 80	81,281 80	81,281 80
Chaplains.....	57,888 00	39,600 00	39,600 00
Aqueduct.....	11,837 50	11,837 50	5,918 75
Printing.....	167,203 16	167,203 16	83,601 58
Infantry.....	3,638,814 00	1,684,400 00	1,684,400 00
Cavalry.....	1,187,700 00	478,500 00	478,500 00
Artillery.....	866,362 50	346,050 00	346,050 00
Freedmen's Bureau.....	840,641 94	-	-
Total.....	\$12,386,527 00	\$6,437,518 62	\$4,958,260 21
Amount of reduction if pay and number of officers alone changed.....		\$5,929,009 28 or about 48 per cent.	
Amount of reduction if pay and number of officers and number of clerks reduced.....			\$7,428,267 69 or 60 per cent.

I will refer now to a matter merely to show how these allowances and privileges grow into abuses. In addition to what I have already stated, these officers also have the right to buy everything from the commissary department which they use as food, whether of necessity or luxury. When officers are in the field this priv-

ilege was allowed them to get what they wanted to eat from the commissary department at the contract price, because they could not buy their rations elsewhere than from the Government; but that practice has grown until it has got to this pass. It is carried into the cities and towns, and wherever there are commissary stores, and

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Veteran Reserve corps, and for this reason: that corps consists of wounded veteran officers and wounded veteran men, and they are just as fit and effective to guard the posts as any men on earth; and so long as we keep a man or an officer in it we at least save the pensions. Therefore I propose to keep these three regiments. They are as good to keep up military knowledge as any other men, as good for all purposes of guarding the arsenals as any other men.

I then propose that four of the twenty-four regiments shall be colored troops. Every man who has served in the Army with colored troops will agree with me that there were no more faithful sentinels, no better troops to maintain discipline and order, no more obedient men than the colored troops.

Again, I provide that there shall be three regiments of artillery. I have proposed to cut down the number of regiments of artillery, because the minimum number of a regiment is eleven hundred men. Their horses and equipments make this a very expensive arm indeed. One regiment of artillery costs more than four of infantry. And, as regards the cavalry, if you look at the quartermaster's report you will find an immense sum has been paid for cavalry horses last year. And the expenses of this arm are enormous. Therefore the cavalry should be cut down to the smallest possible number, and if you want cavalry for Indian wars, ask for volunteers on the plains. It may be said we cannot get volunteers there in time. Let me give you an instance of the difference between the moving of volunteers and that of regular troops.

At three o'clock on the 15th of April, 1861, an order was issued by Abraham Lincoln to Detroit, I think, for two companies of regular soldiers there in barracks to come here and defend the national capital. At the same time an order went to the State of Massachusetts for four regiments of militia, two of which were to go to Fortress Monroe and two were to come here. On the 19th of April one of those regiments was here; on the 20th of April two were in Fortress Monroe, and the fourth regiment had been intercepted at Baltimore, or it would have been here on the same day, but finding its passage obstructed on that day, it seized and held Annapolis, and opened a road between the capital and the loyal North. The regular troops got to Baltimore thirty days after.

Let me give you another illustration of the fact that during the war the regular Army sought out the "soft places." I take the data from the Army Register, and I challenge comparison with the volunteers. We say we owe much to the regular Army. There were good, brave men in the regular Army. There are now. I have in my mind now some officers from West Point in the regular Army, and more faithful, braver, more gallant men or more patriotic men never bore a sword; but I tell you, you will find that most of such men commanded volunteer troops, or else were on the staffs of volunteer generals, seeking to serve their country to the best of their ability when it was the post of danger and of honor. For let me state here, in face of this House and in face of the country, that in the three great armies of the Republic, in the last battles of the Republic under Grant and Sherman and Thomas, which brought the rebellion to a final close by the surrender of the forces of the rebellion, there was no regiment of regular infantry—not one, not one. They had all found places elsewhere soft, and the volunteers did the fighting at that day. I made this statement once before without contradiction, and I repeat it. Therefore I say that this country owes its glory, its grandeur, its life, to the volunteers who left the plow, the anvil, and the shop to defend their homes, their liberties, and the laws. And whenever we are told that we want an army, I point to the workshops, to the plow, and to the loom, and say, There are your soldiers, and the offi-

cers to lead them will come from those men who will be retired or mustered out by this bill.

The House is told by the chairman of the Committee on Military Affairs as an argument why we should not reduce the Army that the General-in-Chief of the Army says he does not desire its force shall be reduced. The General-in-Chief prepared his report nearly seven months ago, when there was the beginning of an Indian war. He has spoken to us on this subject in no other way since, except to say that there must be retrenchment and economy; and that that economy will be promoted by my amendment I have the evidence here in a short table:

Pay of the officers of the Army.

Salaries of officers and clerks of the War Department and officers of the Army, and expense of printing for the Army for 1863.....	\$12,386,527 90
Salaries of officers and clerks, if the number and pay of officers alone be reduced as proposed.....	6,457,518 62

Amount saved by bill of Mr. BUTLER.....

Salaries, if the number and pay of officers be reduced as proposed and the number of clerks be reduced one half,	\$4,958,280 21
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Amount saved.....

Expenses of the whole War Department.

Current expenses of the War Department for 1863.....	\$68,743,094 71
Estimated expenses of the Army reduced from 48,081 to 25,000 men.....	33,310,638 21

Amount of reduction in expenses.....

Percentage of reduction, fifty-one per cent.

The pay of officers of the Army, therefore, is \$12,000,000. If you pass this amendment it will cut down the pay of officers to \$6,457,000, making a saving of \$7,428,000 in the pay of officers alone, and almost \$200,000 more if you cut down the clerks one half. [Here the hammer fell.] May I ask for five minutes more? [Cries of "Yes!" "Yes!"]

Mr. SCOTFIELD. I ask unanimous consent that the gentleman be allowed to conclude his remarks, however long it may take. [Cries of "Agreed!" "Agreed!"]

No objection was made.

Mr. BUTLER, of Massachusetts. With many thanks to the committee for this courtesy, I desire to proceed for the reason that I have taken great pains to bring these facts to the attention of the House and the country.

Now then, sir, as I was saying, we can retrench \$7,000,000 in the pay of these officers alone, and still have officers enough in the service to organize and command twenty-four regiments of infantry, three of artillery, and four of cavalry, which, at the minimum rate, would give 25,000 men. I say further upon the question of economy that the current expenses of the Army for the year 1867 amounted to \$68,743,000. The estimated expenses of the Army reduced by this from 42,081 to 25,000 is \$33,210,638, or a saving of \$35,000,456 50. If the principle—the pay table of my amendment—is adopted and officers are mustered out and good officers are selected by the General of the Army and the President, you will have all this saving to the country. Let me say right here upon this question that last month's statement of the public debt shows an apparent increase of \$15,500,000 in a single month, and if any gentleman will take the trouble to look at that statement he will find that there is an actual increase of between six and eight millions for the past month, not taking in the payment of interest which might have been said to have accrued in the months preceding.

Therefore, while we are increasing our debt at the rate of \$6,000,000 a month, why should we not wait, why should we not spend time, why should we not examine and see if we cannot save \$35,000,000 in one lump and leave the Army still effective with 25,000 men?

* Or about forty-eight per cent.

† Or sixty per cent.

I am told that the General of the Army did not last fall desire the Army to be reduced. The last time he spoke to us he said he desired economy. Now, he himself is the best example of the fact that we do not require officers to be kept in the Army in order that we may have officers to lead our Army in time of war. He left the Army and retired to civil life, precisely as these officers we speak about mustering out should do and will do. When officers were needed the needs of the country found him and elevated him, step by step, upward and upward, until he has reached the highest pinnacle of power known on earth. He himself is an army in himself for the preservation of peace and good order. After the 4th of March next he will command peace with a single word. Does any one believe that for the next ten years at least there will be any fighting south of Mason and Dixon's line? No; or if the rebels there shall ever undertake to renew the fight we from the North will go down there as we did before, long before the officers of the regular Army get on their boots, and sweep them into the gulf. We know how to do it now.

Now, a few words upon this matter—the opinion of the General of the Army—in another point of view. While we ought to entertain the very highest respect for any opinion of the General of the Army, especially upon this subject, which is his specialty, and while I, for one, entertain the very highest respect for his opinion, yet I must remember, and members of the House will remember, that he can only speak to us through his reports, and hereafter only speak to us in the way known to the Constitution, to give us advice upon the state of the nation in messages to be addressed to the House and Senate, and not to be doled out through anybody's supposed private conversations with him. And when he gives us those opinions of his, and makes known to us his desires for the reduction of the expenses of the Government, they will be heeded by me with that respect and that honor and that loyalty that is due to him as the head of the nation, and with that cordial and earnest support that I propose to give him as the great head of the Republican party of the nation, whom they have been glad to honor with the place he has, and whom we shall be glad hereafter to honor, as we shall do, as he fills that place true to the principles that elected him, and carrying on the Government to higher and greater and more perfect command and benefit of the whole country, and raising the nation, step by step, in the future, as it will do under his guidance and the guidance of the Republican party, until the whole earth shall wonder at the glory thereof and tremble at a power which never, never will be used except in support of justice and of right.

Mr. NIBLACK. Do I understand the gentleman from Massachusetts [Mr. BUTLER] to commit himself to support General Grant for the Presidency in 1872?

Mr. BUTLER, of Massachusetts. If he is the best man for President in 1872, yes.

Mr. NIBLACK. That is not very definite.

Mr. BUTLER, of Massachusetts. We will find out whether he is the best man for the place before then. We think we have found it out now. At any rate we are going to try the experiment, no thanks to the gentleman from Indiana, [Mr. NIBLACK.] [Laughter.]

I now yield for a few minutes to my friend from Ohio, [Mr. SHELLABARGER.]

Mr. SHELLABARGER. Mr. Chairman, before the gentleman takes his seat I would like to make a statement or two, so that, if he thinks it worth while, we may have the benefit of his views with reference to the suggestions I propose to make. I see by the last report of the Secretary of War, dated November 24, 1868, that on the 30th of September last the force of the Army was forty-eight thousand and eighty-one men: and it was stated that by

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the 1st of January next it would be reduced to about forty-three thousand. I desire in this connection to refer to the singularly short annual report which General Grant has chosen to make, and to which the gentleman has alluded; and I wish to remind my friend that he is mistaken in saying that the last official recommendation from General Grant is seven months old. It bears date "Washington, November 24, 1868;" so that it is not quite three months since we had the last official statement from General Grant. Now, that statement contains a paragraph which has been once or twice brought to the attention of the committee during the present discussion, but which I will read again, as it is short. As this is about the whole of what the General of the Army chooses to say, (as his entire report is made up of two sentences, of which this is one,) we may infer that it is in his judgment important.

"While the Indian war continues, I do not deem any general legislation for the reduction of the Army advisable. The troops on the plains are all needed. Troops are still needed in the southern States; and further reduction can be made in the way already used, and now in operation where it is safe, namely, by allowing companies to diminish by discharges, without being strengthened by recruits, and by stopping appointments of second lieutenants. If it should be deemed advisable, the Veteran Reserve regiments might be discontinued by absorption and retirement of officers and discharge of men without detriment to the service."

Now, in the first place, if there is any subject-matter in reference to which Congress is dependent upon the recommendations of the public officers having charge of a subject-matter, it is the very thing upon which we are now legislating. In the nature of the case, Congress must here and in the anomalous state of the country be dependent to a large extent upon those whose official duty it is to know and whose training and education enable them to know what military force is requisite to enable the Executive to restore and secure the public peace and safety everywhere. This is one thing that we should bear in mind.

And right here I may be pardoned for saying that members generally cannot make themselves, as the gentleman from Massachusetts appears to have made himself, thoroughly familiar with the details of this subject. Not only the House but the country, I may remark in passing, will feel indebted to him for this most careful and if accurate, as it seems to be, most valuable exposition which he has given of this whole subject; and I take this occasion to tender to him my own personal acknowledgments for the remarks which he has just made. But still I again submit that in this case, if ever, Congress must of necessity be dependent for its most reliable information as to what military force the Executive needs upon the recommendations of the officers of the Army or upon those of the President based upon information from the officers of the Army and communicated to us in the messages which the Constitution provides shall be sent to us. In all that the gentleman aims at in the way of retrenchment and reduction of expenses he has, I am sure, the most hearty sympathy and concurrence of every member of the House. We will vote with him and work with him to the utmost that we may do with safety.

Now, my next suggestion is, whether it is not wise to adopt the plan of reduction indicated in the bill of the Military Committee, so far as regards this feature, namely, that we shall permit, or rather, to make it stronger, that we shall require the Army to be reduced as rapidly as can be done consistently with the interests of the public service? Is not this, for several reasons, the wisest course? The first reason is that to which the gentleman himself has alluded and to which General Grant alludes, that there must be peace in the southern States. The gentleman says there will be no more war there. I hope, for the sake of my country, that he is right; and I believe he is right. But it must be remembered that there is still in that

section of the country insubordination, want of personal safety, danger of bloodshed, violence, assassination, danger of proscription, danger of interference with elections, such as, for example, we saw in New Orleans a few weeks ago—an occurrence that will be forever one of the terrible shames of the Republic.

Now, sir, that thing must stop, and we must have peace in that sense; not only that there shall not be war, but there shall be absolute peace and public safety. Where do we stand? Here we stand with a President elected by half a million majority of the people, the greatest captain of the age, a man who knows more than any other man on the continent of America in reference to this subject, and that man has said to us that we must have peace, and also, that to the end that we shall have it, it is not best now to compel by law a sudden reduction of the Army. He has said in one sentence, which turned into a proverb as it came from his pen, that the highest ends of his Administration and the profoundest purpose of the mighty people were peace. That sentence was, "Let us have peace." But, sir, we will not have the peace that sentence means until every citizen of the Republic shall be as safe on every foot of land in the Republic as he is upon any foot. That is what he means by peace; not only absence of wars, but safety everywhere. Now, that man, charged with the duty of seeing that we have such a peace, has said to us that it is not wise to reduce by command of law the Army just now very greatly.

Mr. ELDRIDGE. If the gentleman will allow me I will ask him a question in the line which he is pursuing.

Mr. SHELLABARGER. Certainly, if the gentleman from Massachusetts does not object, as I am occupying the floor by his courtesy.

Mr. ELDRIDGE. The gentleman from Ohio has spoken of the necessity of personal security everywhere, and he has also spoken of the uncertainty of life, liberty, and property in the southern States. I will ask him whether he knows of any worse cases than the case of murder in the city of New York in open daylight, or the one in the city of Philadelphia, or the one in the city of Chicago?

Mr. ROSS. Or the one in Jacksonville?

Mr. ELDRIDGE. Or the one in Jacksonville? Does the gentleman know of any cases in the South more grievous than those showing the want of public safety in the North? Does he know of any in the southern States equal to those which have occurred recently in the northern States?

Mr. SHELLABARGER. If the gentleman's question refers to the murder in the city of New York which occurred just before the election, when a Republican was pursued by a member of his own party in daylight and killed, I believe then, I answer, that there is necessity for peace there as everywhere else, and we propose to have it. Now, if the gentleman will excuse me, I will go on with my remarks.

Mr. ELDRIDGE. I ask the gentleman to answer my question. The cases to which I have referred are notorious.

Mr. SHELLABARGER. I will say, with all due kindness to the gentleman from Wisconsin, that if his suggestions were in the line of my remarks I would go into detail and answer him; but as they are not, and I do not want to trespass too much on the time of the gentleman from Massachusetts—

Mr. ELDRIDGE. The gentleman from Massachusetts is quite willing to yield to the gentleman.

Mr. SHELLABARGER. That General of the Army has stated to us that it is not wise to make a law for the compelled reduction of the Army. He stands to us in a double relation in making this recommendation. When he made it he was the President-elect as well as the General of the Army. He has said to his political friends as well as to his political

opponents, he has officially, unofficially, and abundantly said to us, first, that he may need all the Army he now has, and he has said, second, that every possible economy shall be exercised under his Administration. It is the purpose of General Grant to be as economical as the necessities of the Republic will permit. In that double relation he has spoken to us, first, as General of the Army, and secondly, as a man about to take the responsibility of the President of the United States, charged with the restoration of order and peace. He has asked us not to reduce the Army more rapidly than under the method which he has pointed out. I wish the gentleman from Massachusetts to say to us whether he is not willing to trust General Grant under such a provision as is in the Military Committee's bill, that this reduction will be made by the General as rapidly as it is safe to do it. I wish to say that there is an economy which is both profligate and criminal which is indicated by that old aphorism that for want of a nail the shoe was lost, and for want of the shoe the horse was lost, and for want of the horse the rider was lost, and for want of the rider the kingdom was lost. We must not make a mistake. When General Grant made this recommendation he was about to become President of the United States. We must remember these facts when we come to this letter of his. He says, "I am about to become the President of the United States; I mean to be as economical as possible, but I mean to have peace; and to be certain that peace shall surely come it is not safe to reduce the Army just now by such a law as leaves no option with me, and compels me to part with troops which I may need to the securing of the public safety." I can agree to go for everything—for the gentleman has captivated me with his argument—I will go for everything he argues in favor of if it does not contravene the proposition I now state, to wit, that I am in favor of leaving the General of the Army, so soon to be the President of the United States, with an Army large enough to give us that blessed consummation that he alluded to in that sentence which crystallized into a jewel the moment it was uttered, "Let us have peace." I fear that if we compel a reduction below what the General of the Army says it ought to be, we will hamper his Administration, and cripple him in the very face of the advice he has given in his last official utterance.

Mr. BUTLER, of Massachusetts. Mr. Chairman, I have no desire to cripple the administration of General Grant. Far, far from it. His administration I propose to uphold in every way that I know how. But the argument of the gentleman that in the matter of the Army we must be guided by the wishes and opinions of the Executive, however communicated to us, grates harshly on my ear, and for this controlling reason: our fathers in England were so strenuous for civil liberty and so chary of yielding anything to the Army that they never voted supplies for one but for a single year, and always determine how many troops they will raise before they will vote a single dollar. The British army has to undergo revision every single year. The Parliament first vote how many men they will have and then how much they shall be paid. That is done lest they should have fixed upon them a standing army which they cannot get rid of. They treat the navy very differently. They vote the wages of the seamen and let the number of seamen be fixed afterward. But it has become a maxim of the British constitution that the army must undergo revision by the House of Commons every year lest the army should so fasten themselves upon the country as to steal away the liberty of the nation.

Now, while General Grant is a great military officer, yet he has the *esprit de corps* of all military officers; hence he did not wish while he was General of the Army to offend his brother officers by asking that the Army should be

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reduced and they mustered out of service; and I honor him for it. They would have looked upon him invidiously had he so done. What would his fellow officers have said in such case. "By our efforts, by our services you have attained your high position, and now you take advantage of it to throw out your comrades in arms." He did right.

Now, my friend did not observe what I said about the time when that report was prepared. How many months have passed since then? One thing is certain at all events. The Indian war is now substantially ended. There is no general Indian war; there are not three thousand men fighting Indians to-day; there have not been three thousand men in battle array against Indians anywhere, and shall we maintain forty-eight thousand men to fight a few hundred Indians?

Mr. GARFIELD. Our Army is less than thirty-eight thousand. It will be about thirty-six thousand on the 1st day of March.

Mr. BUTLER, of Massachusetts. Very well, then, shall we maintain thirty-six thousand men? And more than all that, shall we maintain officers enough for seventy-five thousand men, and staff officers enough for seven hundred and fifty thousand men? That is the point. My friend from Ohio [Mr. GARFIELD] does not seem to appreciate that there is not one word said in the bill reported by the committee about reducing the Army by one man. The President cannot reduce it under that bill by one man, let him do all he can. If an officer will not commit an offense for which he can be court-martialed, he cannot reduce it by one officer, because under the provisions of the present law he cannot dismiss an officer of his own motion for any cause. Therefore, this leads me to this question which it is for this House to determine and decide before the country. Will you muster out the officers that are not needed and the men that are not needed, or will you leave them in to draw pay and suck the blood of the country? If you take the bill of the Committee on Military Affairs you agree to keep them in; if you take my bill, then you have the means of getting rid of them. The bill of the committee provides no means of getting rid of them; mine does. The bill of the committee does not touch the pay; it leaves it with every allowance, every longevity ration, everything that is an abuse in the Army it leaves still an abuse. There is one other thing in which the bill of the committee differed from mine, and that is it proposes to consolidate three departments—the quartermaster's department, the subsistence department, and the pay department. Now, by a single clause, which I have put in my bill, I have done all that. I provide that the President may detail any staff officer to act in either of the staff departments and to consolidate two or more such departments at his discretion. There I am willing to leave him to his discretion. That is a proper place for the exercise of his discretion. If he thinks it best to detail one staff officer to pay and to buy quartermaster's stores and to buy commissary stores, be it so; let him consolidate as much as he pleases. There is where I will bow to his opinion and to the opinion of the Executive, whomsoever that Executive may be.

But upon the great constitutional privilege of the Commons, upon the great right that we have to say how much of an army we shall have, there I am very tender-footed when any officer of the Army undertakes to control my vote or my opinion. The king of England never yet dared send in to his Commons a recommendation how many troops he wanted—never; and for the reason that the Commons felt that they understood what was necessary for the liberties of the people of England.

Now, then, as I say, while I do not yield to any man in my respect for General Grant's opinion, when I see a difference of circumstances, when I see where he stands true to his craft, true to his calling, true to his brother officers

and not recommending a reduction, which it would be unpleasant for him to do, to say the least, while I give all the weight to his opinion that it ought to have, yet as a man guarding the tax-payers, as a Representative of the people, seeing this country going deeper and deeper into debt; taking his other great and quite as glorious utterances "let us have economy," and finding that we can retrench, I am for retrenching by cutting off supernumerary officers.

Again, my friend from Ohio says you want an army in order to have honest elections in New Orleans. That was the effect of what he said. Well, we had an army there at the election last fall. Well, we had more men of the United States Army in New Orleans at the last election there than the general commanding there in 1862 had when he hung a traitor for tearing down the flag, and yet we had no peace in the one case and perfect peace in the other. It does not depend so much upon the numbers of the Army as upon who commands it. I undertake to say that the single voice of General Grant is more potent in New Orleans without any soldiers than any number of soldiers with an officer in command who advises the Republicans not to provoke a conflict by registering their votes. There is the difficulty, and not in the want of troops. Troops will not prevent murders and will not prevent riots in the South; that will require the hand of the civil magistrate, under the guardianship of the general.

Now, I have trespassed far too long upon the committee. I want to call the attention of the committee to a single further question, and I have done. Let me say to you that the amendment of the Committee on Military Affairs seems to be only a skeleton on which to hang the Indian Bureau. It has been twice amended since it was presented. It has but three provisions. One is that the staff officers shall be reduced in number by consolidation—when they die or resign. The other is that the ordnance and artillery departments shall be put together and the officers mustered out—when they die or resign. That is all there is; that is the whole of it; the rest is Indians.

Now, when we come to vote we must take this matter up and deal with it intelligently. I desire the House, if they mean anything by this reduction, if they mean to have the Army reduced, to so act as to accomplish that purpose.

Gentlemen will remember that we discussed this matter on the 11th of July last, and we then ordered the Military Committee to bring in a bill for the reduction of the Army. But they never have brought that measure forward so that we could vote upon it. And now I desire a vote upon this question. We can take this substitute and have five minutes' debate upon it, and by amendments add one or more regiments or take off one more regiment, or to strike out an officer or to put in an officer. In that way full discussion can be had upon the bill and it may be perfected.

Now, will the committee adopt this system, or will you take a bill which gives you no system of reduction? That is a question on which members will vote according as they want economy or not.

Question of Privilege.

SPEECH OF HON. H. P. H. BROMWELL,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

February 13, 1869,

In the Committee of the Whole on the state of the Union, on the resolutions that the House protest against the counting of the vote of Georgia by order of the Vice President *pro tempore*.

Mr. BROMWELL said:

Mr. CHAIRMAN: The matter upon which I rise to speak to-night is that which recently

created so much disturbance in this Hall. I wish, before speaking of the more important questions involved, to call attention to the particular matter which occasioned the disorder, a matter which has not been spoken of to any extent before the House. The disturbance which has been spoken of in such animated terms by the press and by Representatives on the floor, and stigmatized by two gentlemen from Ohio as the violence of a mob, or an exhibition of the spirit of hell, arose upon an appeal taken by the gentleman from Massachusetts [Mr. BUTLER] from the decision of the Chair.

Concerning that appeal I will say that when the convention met we saw a President in the chair and three tellers. How came they there? Those who speak so much about the Constitution should take notice that the Constitution puts no man in the chair and makes no man a teller. By legislation of Congress, and that alone, was there any presiding officer over that convention. Every one has recognized the right of the Congress, from the beginning of the Government up to the present time, to fix the time at which the President of the Senate shall open the votes according to the Constitution, and the time and manner of counting the same. The Constitution has not devolved that duty upon any particular person, but the Congress, seeing the necessity that some provision should be made, has heretofore passed rules on that subject.

During the discussion that has sprung up on this occasion three different views of the nature of the convention have been put forth. Some have insisted that it was a joint convention; others simply that both Houses of Congress were present; others that members of the House and of the Senate were here as mere spectators, while the Vice President or President of the Senate was performing his functions.

Now, sir, I wish to say concerning the matter of that appeal and concerning the whole of that question that it is manifest to my mind that if any body of men be assembled together in the name of law, and charged with any functions whatever, they have certain inherent and necessary powers in order that they may first ascertain and know that they are the parties intended; and, secondly, there being an object for which they are convened, whether or not they are doing anything tending to accomplish the same, and whether or not they are doing it in the mode ordained. If they have not these powers they are the merest spectators, entirely supernumerary, and are in no sense a legislative, judicial, or executive body, an assembly wholly destitute of legal functions, and only useful as witnesses to the impotency of the law on an occasion so vital to the interests and existence of the Republic.

By the voice of the Constitution alone, according to the interpretation of some gentlemen here, the Vice President might have notified both Houses of Congress of the time and place when and where it would suit him that they should come and be present and see him count the votes. Under the interpretation of the gentleman from Pennsylvania [Mr. BROOMALL] the President of the Senate might assemble both Houses to witness his performance of counting the votes; and then, if he should choose to lay aside the vote of Pennsylvania, for instance, and say that in his opinion it was informal, that would be an end of it. Manifestly the Constitution contemplated no such result, but intended that there should be a count by a party responsible at once to the representatives of the people, who should be present competent to oversee and direct in the name and by the authority of the people. Who, then, are to count that vote under the Constitution aside from your laws? The two Houses by themselves or officers appointed to count for them. For what else are they to be present? Why he assembled? For, if the President of the Senate choose to do his work correctly and

fairly, he can as well notify the public when he has finished it to his own satisfaction without any witnesses whomsoever, and if he should choose to play the despot and usurper he could do it clothed with the form of law as well in the presence of the powerless Houses of this Congress as by himself, and the whole provision of the Constitution would be utterly a nugatory.

But manifestly when the Constitution says that a count shall be made, having first assembled the Houses of Congress, it is intended that the Houses of Congress shall count, and they have shown this to be clearly the understanding of Congress by ordering tellers to do in their presence that which would be too inconvenient to be done by the whole body, and further by making the President of the Senate President of the assembly. The Constitution having made him the custodian of the budget of certificates, he is to bring forward those papers and do what? Open them in the presence of both Houses. And then when he has done that he has done all that the Constitution requires him to do, and from that moment the whole proceeding falls into the hands of the representatives of the people and of the States. His function under the Constitution is at an end when he breaks the seal; and the Congress has recognized this to be the law by the rule I have mentioned providing tellers. Who counts when a body of men are commanded to be present at a counting and nothing is said as to who shall count? Manifestly it means the body, and Congress has so recognized it by providing laws, and particularly by this twenty-second rule, which prescribes how and in what manner the count shall go forward. By fixing a definite time for the transaction of this business Congress has assumed jurisdiction to legislate on that subject, for Congress thereby takes from the President of the Senate the determination of the time when he would open the certificates, which power was by the Constitution left in the hands of the President of the Senate as much as the power to count. When Congress passed a law or a joint rule which provided that in a certain event the vote of a State should not be counted, they were then legislating on the subject and assuming control of it, and the Senate and the House on the occasion of this count this very week recognized this doctrine, for they transacted business in reference to Louisiana under that rule, and finally they transacted it in reference to Georgia itself under that rule. Take notice, sir, that the Senate left the Hall under that rule.

In fact the Senate went out under one statute and came back under another. They left the Hall because the President said that objection being made to counting the vote of Georgia under the rule the Senate would retire to deliberate upon it. It seems that after they went out they deliberated on the question whether the objection was in order or not; they deliberated on this because of the former joint resolution, till they decided that said resolution did not bind them to deliberate at all; and having decided said resolution not in force concerning Georgia, they came back into this House and announced to the House that the cause for which they went out did not exist, for the reason that a subsequent resolution controlled the case of Georgia; but still acting under the rule they held not to control the case, they then and there by their President announced to this House and to the Senate that the Senate had decided that the objection of the gentleman from Massachusetts was out of order, and therefore he, the President of the Senate, for the reason that the Senate had so decided, held it out of order. Upon that statement by him that the Senate alone determined this question the gentleman from Massachusetts appealed from the Chair. To whom did he appeal? Of course he must have appealed to the body present, for clearly there could be no appeal from the chairman of a joint convention or any other assembly to either of the

Houses. And yet the Constitution never could have meant that the Vice President should be an autocrat on that occasion. The Constitution never intended that John C. Breckinridge, then about to become a major general in the rebel army, might have sat in that seat and declared Abraham Lincoln not elected, by withholding the votes of New York and Pennsylvania and other States on motion of his own, and therefore absolutely overthrowing the Government without a struggle with arms. The men who framed the Constitution never contemplated that; and whatever *casus omnis* there may be in the provisions of that instrument touching this matter, it is manifest that they intended that the body assembled to count should know when it met whether it was the body intended, and whether it was proceeding in order to execute the order of the Constitution.

I know it is said, and perhaps it may be true, that the founders of the Constitution founded a double-headed, a hydra-headed assembly, which, being completely organized as both Senate and House of Representatives, sits at the same time and in the same place for the transaction of business. Manifestly such a body as that cannot do business in any manner. However plausible it may sound that two complete and separate organizations can sit down in the same Hall, everybody knows that as a matter of fact two organizations cannot transact business in the same Hall at the same time in any manner that would not reflect utter contempt and disgrace upon the entire proceeding. Would one body be passing upon the objection raised by the gentleman from Massachusetts [Mr. BUTLER] while the other body was considering and determining a question of order arising out of that objection? Would one Presiding Officer be recognizing the Senators composing the body to which he belongs, and would the other Presiding Officer at the same time be recognizing the Representatives composing the other body to which he belongs? Why, sir, a confusion of Babel would be inaugurated by the overweening power of the Constitution.

There can be no doubt that the Constitution intended that the two Houses of Congress separately should regulate, by concurrent action, the law touching the mode and manner of counting the electoral votes; and that when assembled together they are so much of a joint convention that they can take notice whether they are there or not; that they can ascertain whether each House is there by roll-call or otherwise; that if the man presiding under the statute sees fit to grasp the whole power and take proprietorship of every rule of order, they can, by a right inherent in every assembly that ever sat, judge whether its own mouth-piece is speaking truly its own voice. How came the President of the Senate to be President of this joint convention? Does the Constitution say that he shall preside? Nay, the Constitution does not say that any man shall preside. Yet the manifest propriety of the officer who takes rank in other respects, taking the chair and presiding in the joint convention, has caused the law to prescribe that course. And the Senators are by courtesy provided with seats by themselves, when otherwise the members of the two bodies might be mingled together promiscuously.

Did the Constitution contemplate that the members of the Senate should leave the Hall of the joint convention and formally proceed to their own place of business every time any member of the joint convention should choose to raise a question of order? Plainly, if that were the case, they might never be able to count a single electoral vote, for as soon as they might return from deciding one question any member could raise another, and out would go the Senate, or perhaps the House be compelled to go, to decide it.

Did the framers of the Constitution ever con-

template the organization of a legal assembly so absurd and preposterous as this joint convention would be should that be the course they must pursue? Sir, such was not their intention. Their intention must have been that, under laws which Congress might frame in their separate bodies for the regulation of this matter, the inherent rights of a body assembled together for the transaction of public business should pertain to them when assembled for the purpose of counting the electoral votes, at least to an extent sufficient to enable those who are the counters on behalf of the people to know that they are counting.

There can be no doubt that the Vice President or Presiding Officer of the Senate presided over both bodies when assembled in joint convention by the consent and acknowledgment of every member of both Houses. They all recognize his duty to act as the Presiding Officer of the joint convention. The Speaker of the House himself commanded the members of the House in so many words to obey the orders of the President of the convention under penalty of arrest by the Sergeant-at-Arms of the House. Then, if the President of the Senate has such authority while sitting in the chair presiding over the joint convention that members of the House on this floor are to be arrested for not obeying his orders, it must be derived from some law. Not being provided for in the Constitution it must come from some law of Congress. And, clearly, if the laws of Congress can place the President of the Senate over the joint convention with powers of that description, clearly the laws of Congress can go further and clothe the joint convention itself with all the functions that are necessary, and without which all assemblies are but mockeries. That is, if it would be at all necessary to go further than to give a presidency with such powers to a convention in order to show that the body so presided over was a convention having all the inherent powers of such bodies in general.

And now I wish to say a few words in regard to the concurrent resolution which was passed on Monday last in relation to the electoral vote of the State of Georgia, and which controlled, in effect, the counting of her vote. Generally a member feels that an apology is due for his conduct if he is not present when important legislation takes place in the body to which he belongs. But upon this occasion I do think that I may esteem it rather creditable than otherwise that I was not present when such a resolution as that passed this body. It is a kind of draw-bridge resolution—that if Georgia be going up stream she may go through, but if she be going down stream she shall not go through. It is a fast-and-loose alternative, unworthy of the Representatives of a free people, or of any people that can maintain their freedom. The resolution said in fact to the world that we were afraid to throw out the vote of Georgia and afraid to count it, but that we would append it in this most preposterous manner to the tail end of the count. This was not simply an act of oppression in case the resolution were wrong; but an act which, whether right or wrong, is, let Georgia be what it may, an act of insult and contumely to the people of that Commonwealth, and this whether she be entitled to vote or not. To throw out the vote of a State contrary to law is an act of oppression; but to tie a State on in that manner to a count with an alternative that if she does not count she shall count, but if she counts she shall not count, is making sport not only of the people of such a State, but of the highest functions of Government. Hence I am very happy to state I was not present when this resolution was adopted by this House.

In the confusion that prevailed in the joint convention—for I think it is generally admitted that whatever thing was done that particular thing was not in order provided you could get

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at anything else that was in order—the Senate under the joint rule adopted in 1865 retired from the House to deliberate, and upon deliberating found that the joint resolution did not affect the case, and came back, and under that very resolution decided, and the President of the convention announced the decision, that the gentleman from Massachusetts was out of order. The decision rendered upon the return of the Senate was a decision under the twenty-second joint rule, and not under the concurrent resolution recently passed in reference to Georgia, and which the Senate said governed the case of Georgia. So that the Senate retired under one rule and decided under another, and then came back, and the decision of the Chair was announced under the former.

It is not to be wondered at that the gentleman from Massachusetts, [Mr. BUTLER,] in such a State of affairs, thought it would not be unreasonable to ask an appeal, for if all these things were in order I do not see why any kind of an appeal or other motion would not be in order also. Yet because, when the members of this House were told that the Senate had decided this matter for the joint convention, including the House, and for the country, there was excitement at the announcement, the House has been designated as a "mob," and we have been told about the "fell spirit" in which this thing was conducted. I, among others, had the honor to call upon the President on that occasion to state by what authority the appeal was not entertained, and thus, I presume, I became one of the "mob" and one of the "fell spirits" that at that time were horrifying the imagination of the gentlemen from Ohio, [Mr. BINGHAM and Mr. GARFIELD.] All that was meant by the demonstration made at that time, as far as I understand, was that gentlemen of this House did not want this new doctrine that had come to light in so much confusion thrust down their throats by the gavel of the President of the Senate without at least some explanation on the subject. They were willing to submit to the common judgment, and under the very arguments that have been used against them all around the board, if that very question puzzled the President of the joint convention so that the two Houses had to separate and decide it separately according to the theory of those who are in favor of separate action, and that, too, according to this very same rule under which the Senate went out to deliberate, there was then no need that the appeal made by the gentleman from Massachusetts should have caused an uproar in the House, or a conflict between the House and the Senate, or the arrest of members on this floor. According to the theory of gentlemen who take opposite ground from mine, the two Houses still retain the power to settle that question by their separate action.

Looking at the state of the law and the rules, it is not to be wondered at that on the day the Houses recently met to count and declare the vote for President there should have been considerable excitement and disorder. The only matter of wonder is that there was so little. But if there is under the present rules reasons to apprehend disturbance in case of a counting, when the vote of a State put in question cannot in any way change the result, what must we expect in a case in which the vote of a single State would determine the result? And this very case might have happened on this occasion. A few thousand votes in Pennsylvania and a few other States changed in favor of Seymour and Blair would have made the vote of Georgia decisive. In such a case as that what would have been the scene here; and what would have been the action of our Democratic friends here who now sustain the acts of the President of the Senate? Could the supporters of either candidate for the Presidency have been controlled when they would have seen the result of the great canvass which

cost so much time and money and roused every energy and passion of both parties finally disposed of in a summary manner, and in a way which the unsuccessful party would be sure to look upon as clear usurpation?

It is idle to argue the danger of such an occasion. Everybody can see that a terrible convulsion must be the result, not because the beaten party would complain of oppression, but because they would see in the mode by which their defeat had been accomplished nothing but absolute usurpation; and although it is possible to hold the American people in some order under great oppression within the forms of law, yet the least attempt at usurpation sets the whole community in a flame. In all cases in which powers are doubtful, as in this, any exercise of them against the interests of any portion of the community is held by them as clear usurpation.

Clearly, then, no presidential election can be peacefully settled under such provisions of law as we now have in case such a contest as I have supposed should arise concerning the vote of a State that would change the result. Nothing can be gained in this matter by a quarrel between the two Houses. Should they censure each other in the most ample manner it could do nothing toward avoiding future danger. It could do nothing toward providing proper security for coming elections.

In my opinion the constitutional provision is too uncertain; it is wholly defective, and the laws we have in aid of it make the matter worse, as was pointed out by the gentlemen from Massachusetts, [Mr. BOUTWELL and Mr. BUTLER,] for where the Constitution left it uncertain what might be done, the joint rule comes in and provides that something shall be done wrong. This is manifestly the case in that provision which allows either House alone to forbid the counting of the vote of a State, instead of providing that it should require both Houses to prevent it.

In view of this state of things I have offered in this House an amendment to the Constitution providing that Congress may make laws covering the whole subject, and furnish proper officers to count, and also a proper tribunal to determine in all questions of dispute touching the legality of any vote. And I think that it is proper here, as was said by the gentleman from Massachusetts, [Mr. BUTLER,] to call the attention of Congress and the country to this great defect in the framework of our Government. In fact, the Government is compelled every four years to pass through dangers, such as can only be compared to those of a ship passing through a narrow channel in which are sunken rocks, and no man knows, until she reaches them, how many they are or where they lie or how near to the surface of the waters. No man can tell what States may send up informal certificates, nor when, nor in what way they may be defective, nor what might be the effect of their rejection on the result of an election.

For this reason many members voted against laying on the table the resolution of the gentleman from Massachusetts [Mr. BUTLER] and the substitute of the gentleman from New York, [Mr. KELSEY,] as the substitute provided for future legislation on this very subject. Even if no collision should ever arise under the existing law, yet the law itself is clearly wrong, and holds out temptation to any dominant party in either House to defeat willfully, for partisan purposes, the clear will of the people. In case at any time a decision under this rule should change the result of an election it could not fail to happen that the law would be challenged at once as wholly unconstitutional; and the best answer that could be made in its defense would be that it probably is and probably is not—in either case it is wholly wrong and dangerous.

I wish, sir, to defend the action of members of this House against the aspersions thrown upon them from several quarters, and especially by those members of this House who

saw proper to be very active in getting the whole subject out of the way. What could gentlemen expect to happen in such a case? The cause of disturbance came suddenly upon the House. In order that the whole House should submit quietly and with due subordination to whatever the Senate or its President or those who assume leadership in the House might think proper it would have been necessary to train the members of the House and instruct them until they could understand just what was to be required of them. They should have been informed precisely what would suit the proprietors of the public business, and thus put upon their good behavior, and after that if they proved refractory there would be great propriety in all those who might be offended administering a severe castigation.

But I insist that no pains were taken to put the House in a proper frame of mind, and hence the natural impulses of human nature under such circumstances impelled several members to act in a manner considered very "fell" and hellish, to wit, in a dissatisfied and insubordinate manner.

In saying these things I do not wish to censure the Senate. I would not vote for any resolution to that effect. First, because the House cannot censure the Senate. To censure is to punish, and presupposes some visitatorial, inquisitorial, or supervisory power in the party censuring, and the House has not such power in the least.

Secondly, the Senate did no wrong. What they saw proper to do in their own Hall is no business of ours, and in fact they only did just what we did; that is, to vote whether the vote of Georgia should be counted; and in this Hall they did nothing but take their seats in a quiet and decorous manner and remain in good order till they departed in good order.

The truth is the House can do nothing but grumble; first, at the President of the Senate for not allowing an appeal, and secondly at the Speaker for compelling obedience to his orders. But such a complaint would in fact only be a complaint against the uncertain and improper condition of the law, and the House can do far better by busying itself with plans to put the law in better condition.

I have nothing further to add but to express the hope that the House will not let this occasion pass without setting on foot some measures for the safety of the country in the future.

Death of Hon. Darwin A. Finney.

REMARKS OF HON. S. J. RANDALL,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

December 18, 1868,

On the resolutions announcing the death of Hon. DARWIN A. FINNEY.

Mr. RANDALL said:

Mr. SPEAKER: During a period of six years as a member on this floor the present is the third time I have been called upon to speak a few parting words of respect to the memory of associates. This time death has selected as its victim one who was my warm friend, although of different political opinions. Mr. FINNEY was my sincere friend, and that friendship was mutual.

I first became acquainted with him in January, 1858. He was a member of our State Senate when I entered that body as a member from Philadelphia. For two years we lived in the same house, and of course the opportunity was given me of knowing the man and of studying his character.

He was slow in forming attachments, but when formed they were firm, and he was ever at the command of those to whom he was so attached. In fact, where he liked he liked strongly.

He was of a generous nature both in his sen-

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timents and in his acts. He always allowed those who differed with him in opinion, whether on public matters or in private affairs, credit for honesty of motive, and he never would see a friend suffer for the want of what he possessed, if its gift would contribute to his comfort. He was of a nervous disposition, sometimes taciturn. This was, I think, attributable to a seated disease—gout.

As a legislator he was upright and possessed a mind of rare culture and balance. During my stay in the Senate—for he was there before and after me—he was the intellectual peer of any man in it; and among the number then composing that body, I may mention the venerable William Wilkins, who, as a Senator of the United States from my State, as American minister at the court of St. Petersburg, and as Secretary of War under President Tyler, occupies a conspicuous space in the history of our country; Thomas S. Bell, who had been chief justice of the supreme court of Pennsylvania, was there a member at the same time; our present able and distinguished Senator, Mr. BUCKALEW; Titian J. Coffey, since assistant attorney general of the United States; Mr. SCOFIELD, now here, and others of approaching intellect, were leading spirits in the body. Mr. FINNEY coped successfully with all.

As a logical reasoner or as an expounder of the law he had few superiors. His views were always freely spoken without regard to those with whom they came in conflict. He never catered to public opinion; never yielded to policy, and was altogether unmindful of temporary popularity if it required him to step aside from what he deemed right. He was ever ready in debate; and was sometimes, if provoked, severe in sarcasm. In fact, he was one of the ablest legislators who ever came under my notice.

He took great interest in the revision of our penal code, and both in the Judiciary Committee and in the Senate, proposed many wise reforms.

His friends had great hopes of his usefulness and his power in this House, but disease had taken full possession of him, and after being in his seat but a few days his physician directed for him an entire cessation from mental and physical exertion. Under advice he traveled abroad, but it was of no avail; he gradually grew worse, and finally yielded up his spirit in a foreign land, away from his home and his friends. His wife was with him until the last, and ministered to his every want with care unceasing, and with a tenderness which is known only to woman.

It would be well for us to contemplate and understand this renewed warning of our end, so that we may struggle to make the future of our lives blameless; for there can be none here who having gone thus far in the pathway of life that can fail to recognize and realize the fact that this is a world where pleasures fade, hopes are delusive, and friendships perish.

Reduction of the Army.

SPEECH OF HON. WILLIAM A. PILE,
OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,
February 18, 1869.

The House being in the Committee of the Whole on the state of the Union on the bill (H. R. No. 803) making appropriations for the support of the Army for the year ending June 30, 1870—

Mr. PILE said:

Mr. CHAIRMAN: The question of the reduction of an army after a war has always given rise to earnest and excited debate both in this country and in England; and especially has the disposition of the officers rendered supernumerary by such reduction given rise to difference of opinion and to careful and earnest considera-

tion and discussion. After the continental war under William and Mary, for several sessions of Parliament a large portion of the time was given to the discussion of the military establishment of that country, the fixing of the peace establishment, and the disposition to be made of the large number of officers appointed in the army during that war. The same thing occurred in this country after the revolutionary war and the war of 1812. This is one of the most important considerations involved in the question now before us.

Two propositions have been presented. I propose to confine what I have to say in the limited time given me to a consideration of the points of difference between the proposition reported from the Committee on Military Affairs and the proposition offered by the gentleman from Massachusetts, [Mr. BUTLER.]

In the first place, Mr. Chairman, I want to say a word on the subject of the pay of the Army. Two thirds of the speech of the gentleman from Massachusetts [Mr. BUTLER] last evening was devoted to this simple topic; and it was presented as the main point of difference between the bill reported by the Committee on Military Affairs and his own proposition; representing, as I understood him, all the time that the Military Committee opposed and antagonized any change in the present system of paying the Army. I undertake to say for myself, and I think for the balance of the committee, that such is not the fact; that the facts brought out so elaborately and distinctly with reference to the system of paying the Army had been collected and were in the hands of the Military Committee of this and the previous Congress; and that the gentleman's proposition is substantially the proposition prepared by the committee and presented to the Thirty-Ninth Congress by the chairman, [Mr. SCHENCK.] And, sir, the only reason why the committee did not incorporate this feature in their bill was because they understood the House to give them the privilege only to bring in a bill for the reduction of the Army, and did not understand it was the will and desire of the House that they should embrace any question in reference to the pay of the Army. The gentleman from Massachusetts [Mr. BUTLER] afterward, perhaps without much attention being paid to it, had permission to bring in his proposition in regard to pay.

Mr. Chairman, I am in favor of this system of paying the Army by stated salary instead of the present cumbrous and absurd system. With some modification as to details in the gentleman's proposition in reference to the pay of the Army I shall favor and vote for its incorporation in the bill reported by the Committee on Military Affairs. This disposes of the point of difference to which a large part of the speech of the gentleman was devoted last evening. This section can be incorporated in the proposition of the Military Committee without any conflict with its provisions; but precisely in harmony with the language of the bill.

The first material point of difference between the proposition of the gentleman from Massachusetts and that reported from the Military Committee is as to whether the Army shall be reduced at a fixed and stated time peremptorily and absolutely, or whether some discretion as to the time of reduction shall be left in the hands of the President of the United States.

Mr. BUTLER, of Massachusetts. Where does the gentleman provide for that discretion? Mr. PILE. In the first section of the bill, as follows:

After the 31st of March the President of the United States is authorized to reduce the Army as the necessity of the public service will permit and to the extent and in the manner prescribed.

In addition to the well-timed and, I think, cogent remarks made by the gentleman from Ohio [Mr. SHELLABARGER] last evening in reference to the impropriety of providing now abso-

lutely by law for the immediate reduction of the Army, I desire to call attention to a table prepared this morning at the Adjutant General's office, which shows there are now on duty in Texas alone, under General E. S. Canby, six thousand troops for the preservation of order and for the protection of Union men from the bitterness and animosity of the rebel element in that State, that State being as yet unreconstructed. I tell gentlemen that that State will not be under the control of a loyal State government for months to come, and he who expects the bitterness, animosity, hatred, and malignancy of the rebel element there to pass away as the morning cloud and early dew from the simple fact that General Grant has been elected President will find himself much mistaken. It is perfectly clear to me that until there is a loyal State government there, until the sheriffs, constables, justices of the peace, and judges of the court are loyal men, we need these men to preserve order and protect Union men. There are now over three thousand men on duty also in the State of Louisiana. So that I think it will be wiser now, under the present circumstances, to leave the precise time of this reduction to the counsels of the Administration that is to come into power on the 4th of March next.

The next particular difference between the two bills—that reported by the Military Committee and that submitted by the gentleman from Massachusetts—to which I wish to direct attention, is the provisions with reference to the staff. Now, the bill submitted by the gentleman from Massachusetts provides that the staff shall be reduced one half. To any person who looks carefully into the subject it will be apparent at once that some of these staff departments can be reduced materially; but others cannot, in justice to the public service and the public interest, be reduced at all. The engineer's department, for instance, with the large amount of duty required of them now in the control and prosecution of the various public works, in the improvement of rivers and harbors, having now to employ civil engineers to do the work required of them by the laws of Congress—to reduce the engineer corps one half would be simply to dismiss a portion of that corps and pay out as much or more money in the employment of civil engineers to do the work absolutely required by the demands of commerce and the interests of the country.

Again, this bill requires that there shall be a reduction of one half in the several grades in the staff departments. Now, this is simply ridiculous. In some of these grades there is but one officer; will you attempt to reduce it by one half of an officer? In others there are three; you must of necessity reduce it either by one third or two thirds. In others there are five; you must reduce it by two fifths or three fifths. The provision for the reduction of the several grades by one half is crude, indigested, and impracticable.

Then, sir, the bill of the Committee on Military Affairs provides for the reduction of the infantry regiments to thirty, and no reduction in the cavalry and artillery. Now, sir, I agree with what the gentleman from Massachusetts has said as to the courage of the volunteer army, as to the promptness of the people to come to the rescue whenever there is danger in any quarter, and I honor the State he represents in part for their wonderful promptness in sending regiments to the national capital in the hour of peril in 1861.

But the House will bear in mind that while you can improvise infantry regiments, composed of men taken from civil life, who know how to load and fire a musket, you cannot improvise artillery soldiers. And under the present system of artillery warfare, with the improvements made in the use of guns of various kinds, it is demonstrated that you can sink any vessel that floats with two or three

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well-directed shots. So that in case of war with any foreign nation our defense will depend mainly upon such obstruction in the channel as will compel vessels of war to go into the harbors adjacent to our cities, so as to come within the range of the guns of our forts, and then with skillful, educated, and efficient artillery any vessel that is or can be built can be destroyed before it reaches any of our cities on our coast. I think to reduce the artillery when it is known that the artillery service cannot be improvised, to make skillful artillery soldiers you must have passed months and years in drilling, training, and study, so that the science of gunnery and the knowledge of the different kinds of munitions may be thoroughly understood, would at this time be disastrous. And while there is continued disturbance on the borders, and continued probability of war with the Indians, there will be, as stated by all the general officers in the recent examination made before the Military Committee, an absolute necessity for every cavalry soldier now in the service.

Now, sir, one word with reference to the main question at issue, the principal bone of contention as between the proposition of the gentleman from Massachusetts and that of the Military Committee, namely, the disposition to be made of the supernumerary officers by the proposed reduction of the number of regiments. I wish to call attention for a moment to the plan proposed by the bill of the gentleman from Massachusetts. It provides for the assembling of a board of examiners. This board is to consist of three general officers, three officers of infantry, two cavalry officers, two of artillery, one officer of the Adjutant General's department, one officer of the engineer department, one officer of the ordnance department, one officer of the quartermaster's department, one officer of the subsistence department, and one officer of the pay department, and one of the medical department, making in all sixteen officers. It then provides that it shall be the duty of this board—

"To inquire into and consider the capacity, character, record of services, and fitness to be continued in the military service of every officer below the grade of general who may be in the Army at the time of the passage of this act. And the council shall for this purpose be furnished with all information, papers, documents, records, and evidence they may require from the War Department; and the council shall furnish a report of their conclusions to the Secretary of War."

And after that personal examination into the character, services, records, and history of two thousand eight hundred officers, each officer who receives a two-thirds vote of this council of sixteen officers is to be placed on the list of officers that are to be retained in the service of the United States, and those officers who have not received that vote are to be allowed to come before this council of officers with rebutting testimony, and then the council are to summon witnesses and examine them; and after all that is done the consolidation is to commence.

Now, sir, I submit that such a council of officers as is here provided for will consume one whole year in the preliminary examination, and that not less than five years will be consumed in hearing and determining the cases of officers called before the council for personal examination. So that the gentleman's boasted reduction of the Army, so far as the official force is concerned, will be no reduction at all.

The measure, if it becomes a law, will simply result in embarrassing the Administration, breaking up the present Army organization, and rendering it inefficient and worthless, without any corresponding reduction in the expenses of the people. Who ever heard of an army organization being summarily cut in two and one half thrown out with no regard being paid to the symmetry or efficiency of the organization? This would be an achievement certainly brilliant and original, unique and unapproachable. The gentleman from Massachu-

setts [Mr. BUTLER] has won many distinctions, some of them, at least, enviable, but this would be a triumph absurd and ridiculous, unequalled by anything within my remembrance on the subject of army legislation. I hope this House will not adopt the substitute. If time is to be given to perfect a measure in detail on this subject the bill of the committee, with such amendments as may be made in Committee of the Whole, is infinitely better than the substitute.

I desire, in conclusion, to restate the opinion I expressed when this subject was permitted to be introduced, that no detailed measure for the reduction of the Army can become a law this session; and in that case I shall favor the adoption of the brief proposition of the gentleman from Iowa, [Mr. DODGE.]

Suffrage Constitutional Amendment.

SPEECH OF HON. J. S. FOWLER,

OF TENNESSEE,

IN THE SENATE OF THE UNITED STATES,

February 8, 1869.

The Senate having under consideration the joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States—

Mr. FOWLER said:

Mr. PRESIDENT: The Senate Judiciary Committee have reported the following form of an amendment to the Constitution of the United States:

The right of the citizen of the United States to vote and hold office shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

It has been alleged that this is the consummation of the reforms inaugurated by the rebellion, and is to be the crowning glory of that grand event; that freedom will thus be established throughout the whole land. If this or any other measure would produce so desirable a reform it should meet the generous approval of all.

It may become a grave question whether this amendment and the manner in which it is to be made will produce any such a desirable result. When reformatory reforms come from the individual through the neighborhood and the State to the General Government they are likely to become salutary and permanent. If on the contrary they begin with the Government and are extended by the authority of the nation over the individuals it becomes a question, and a very important one, whether the measure should meet the approval of the country.

Our institutions are based on the virtue, intelligence, and will of the people. The Government is but the expression of the popular will, which is the concurrence of a majority of the individuals speaking through the forms of law prescribed by them. The action of Congress is the termination of the process, not the beginning. It is always hazardous to reverse the method.

The report from the committee seeks to alter the fundamental law in a material form, and that without expressing any positive principle. The Constitution has heretofore served so admirably the object for which our fathers made it, without any very evident reason for its change, that the propriety of any alteration might well be questioned. If an amendment should be deemed by the people necessary it should be some well-defined positive principle. The present form is only privative. It seeks to place restraints upon the States. It rests upon no basis of its own. It is founded in no assertion of principle. Several amendments have been offered much superior to the one urged so persistently on the Senate. The amendment I have had the honor to offer is in my judgment not liable to this objection. It is the clear, positive announcement of a principle. I shall claim the attention of the Senate to this hereafter.

Considering the great liberty of our people, the elasticity of our institutions, it is far from safe to place all that may be desired in an inflexible constitutional amendment. It is difficult to alter or repeal such a law. It demands two thirds of Congress and the concurrence of three fourths of the States to alter or amend. This is difficult to obtain, indeed can rarely be done. When it comes to act heavily upon the people there will be a tendency to revolution; and all such laws must act harshly upon society if not made in strict harmony with the genius and spirit of the people. It might seem that it must always be in strict harmony with the people when it requires so large a majority of Congress and the States to adopt it. This would always be the case if the measure were first referred to the people and the members of Congress and the State Legislatures were elected on such an issue. If, however, reforms are introduced into Congress and then into the Legislatures on issues not involved in the canvass when these bodies were elected, majorities may readily be obtained that do not express the popular will.

It is a question of grave consideration whether there is any demand for an alteration of the Constitution. If under that instrument all the rights of the individual can be secured and protected without such an amendment it might be just as well to leave the framework of the Government where our fathers left it. If the measure is clearly the will of the people it will at once pass into State constitutions and meet the approval of the popular voice, which is much more likely to secure the certain and harmonious operation of the principle among the people. It is not in the nature of human society to advance the popular operation of institutions out of harmony with the voice of the people. When the public mind has arrived at a certain condition of advancement, when it has come to the recognition of its own worth, it at once becomes the law of society, and no effort of any part of the body can alter or destroy the practical fulfillment of that law; nor can it return so long as the people retain their integrity and love of liberty. There is no reversing a principle that has become one of the unwritten laws of the social constitution. The substitution of an individual or a party dictum for a divine truth does not make it so nor does it insure for any great time the successful operation of the desired rule. Human pride and egotism very frequently declare mere convictions arising out of selfishness as the law of God. The advocates of good measures and genuine reforms are not often the seers who foresaw their good and success and set in motion the slumbering element of life. They are more frequently the mere slaves of party, valuable it may be, believing themselves the ministers of heaven, but still the dull pack-horses of a blind self-adulation and love of power and gain.

The powers confided to the General Government have thus far proved adequate for all purposes of peace and war. Our population has steadily increased from three to thirty-five million men. From thirteen sparsely scattered colonies on the shores of the Atlantic, they have poured like a resistless torrent over the Alleghenies, across the great valley of the Mississippi, and filled it from the lakes to the Gulf. Where, but a few years ago, roamed the wild buffalo and his still wilder master and companion, the Indian; where no civilized voice had ever cheered the undisturbed solitude of nature, now flourish cities far more opulent and possessing a commerce far greater than Tyre or Carthage or Damascus. Nor is this all; this living flood has crossed the sterile barriers of the Rocky mountains, and settled on the distant shores of the great Pacific ocean. There, on sands richer than those of the fabled Pactolus, majestic cities are stretching their broad wings across the shoreless ocean and commanding the commerce of the oldest empire

on the globe. The wealth of India begins now to pour its treasures into the channels of American enterprise. Our territory has spread wider and wider as the resistless tide of population has pressed forward. By the acquisition of Louisiana, Florida, Texas, New Mexico, Arizona, and California, and finally Russian America, vast empires of territory far surpassing its original limits have been added to the Republic. The Constitution has carried us through three wars, the last war with England, the war with Mexico, and the great rebellion. The last has been without exaggeration the most sublime exhibition of human passion and ferocity the world has ever recorded in its blood-stained annals.

With our progress in population and territory our attainments in the useful arts have kept pace; no other people have made so many and so useful discoveries. Education has been extended and impressed upon the whole land as a part of the nation's life and function. Manufactures have risen as intelligence has advanced and commerce has been the necessary result of our progress and luxuriant soil.

As the nation has advanced in all the material elements the personal liberty of the citizen has been equally extended. Slavery has ceased, and the former slave freed from his shackles has become a citizen, and a full and complete one, clothed with all the privileges of the most favored classes. The people who were once the owners and masters of the African races now acquiesce in the decision of the war.

In all the former slave States that seceded from the Union suffrage of the negro is secured. In Missouri, Kentucky, Delaware, and Maryland only of the slave States he has not been enfranchised. There is a general conviction of its propriety and correctness among the people. No more can he become a slave. Never again could he be deprived of his right to the ballot. This is the decision of the popular mind, and is far stronger than a constitutional amendment.

There are other and graver considerations that induce me to hesitate in making a partial and inadequate amendment to the Constitution. The genius of the people, as expressed through the framework of our Government, should not be rudely assailed in times of unusual excitement and party centralization. The tendency of all strong parties that have been long in power is to derive their power from one source. They readily look to a center, move from it, and conform their action to one will. No party can in its nature avert such a result. Material considerations far outweigh all mere moral and intellectual forces in the control of a large and triumphant political party. In the formation of such organizations, where they are without power and contending for a principle, it requires the inspiration of moral and intellectual forces to produce the desired result. The end attained, and human nature triumphs over the still small voice of conscience and the reign of right. Power in the hands of a great party is far more dangerous than in the hands of one man, whom the force of responsibility tends constantly to check in its improper exercise. On the contrary, there is no sense of responsibility among the many. The rash and strong-willed communicate their force to those who readily conform in all such organizations and thus the power of the leader accumulates as it extends to the mass. Personal individuality is lost in the mass, which soon learns, as an army, to obey one will when the power of the organization is complete. This is the end of civil liberty, unless the barriers of the Government can interpose for the protection of the minority and the preservation of the individual. It seldom happens that the feeble restraints of institutions can avert the force of such an organization if there is any tendency to revolutionize, alter, or amend them in the interest of those wielding the power. To the love of power and

place in the leader is added the love of party organization in the follower, who, if tardy in his movements or obstinate in his will, is lashed into conformity by the whip of his fealty to his faith by political and social ostracism, by partiality, injustice, and tyranny.

There is no protection against the voracious maw of this monstrous power but a firm reliance upon the principles of the Government. If these safeguards are broken down in the interest of the ruling power, anarchy, war, and despotism—organized despotism—will inevitably succeed the overthrow of our liberties. Monarchical Governments may and do modify their forms and become republican and democratic, but democratic Governments fall inevitably into the hands of factious parties, and finally into the power of a despot. When a party becomes the governing authority, instead of the constitution and laws of a State, the liberties of the citizen have already been overthrown, for the action of the party is the will of a few, if not one. The Federal Government has been organized to guard against the force of party organizations. Our fathers did not fear the direct action of an individual but his indirect and greater power exerted through the multitude. They divided the Government into many departments and built up many pillars and counteracting agencies. The waves of the ocean have to roll over shoals and breakwaters before they can enter the tranquil bay; so the impulses of the party have to pass over many barriers before they are divested of their destructive power and made a part of the peaceful and just laws of the State. In its organic structure it is not a union of the people alone nor of the States alone. It is a union of the States as States and also of the people and the whole people. The States are united in the nature of a confederacy and the whole people in the nature of a nationality. The nation as based on the solidarity of the people is limited to powers necessary to maintain the rights and relations of the people to foreign nationalities. It can act directly on the people within the sphere of its granted powers, without the action of the States, for national and specified purposes. There are two other classes of powers it may not touch. The powers granted to the States by the people and the powers still retained by the people are beyond the reach of the powers of the Federal Government. These, by far the largest class of powers, are reserved as checks upon the national power and as guardians of the rights of the individual and society.

The powers of the nation are in their nature centralized and consolidated. These have a tendency to draw to them a constant accumulation, and if such tendency were not counteracted by opposite forces would soon terminate in one central despotism. It is the centripetal force, and to preserve the system must be balanced by an equal and self-adjusting centrifugal force. That force has been provided in the independent and equal States which enter into the system. The reserved rights and jealous watchfulness of the people under the deliberate exercise of their judgment will regulate the action of these two forces in our system. There can be no union without these two counteracting forces harmonize and balance each other. A union must be composed of individuals acting from a voluntary assent to one general principle. That assent is obtained from a mutual perception of its general good in order to produce harmonious action. The consent of the individual must be obtained not by force but by reason. It must not be anticipated or presupposed, enacted into law and then enforced. This would be the application of the sponge to our boasted system. If one section moves faster than another it cannot impose its imagined excellence on the other. The national system and its several distinct, equal, and independent parts make up one great harmonious system, the Amer-

ican nation. The Constitution of the United States and the laws are a part of the constitution and laws of the several States; and reciprocally the constitution and laws of the States are part of the Constitution and laws of the United States. These all make up our national unity. It is of all Governments the most complex in its nature and demands the greatest amount of intelligence and the highest civilization for its preservation.

There is in our Government the absence of all sovereignty. That term has no place in our system, which rests on authority conferred by the people and States in the character of a power of attorney to an agent. Ours is but a system of agencies, with well-defined and distinctly limited authorities. Great confusion will result, from attributing to the Government so imposing a name as sovereignty and then deducing from it powers which such a term carries with it in other and despotie States. We should, therefore, spurn this error of the feudal times so carefully rejected by our fathers. This is of far more importance than we may at first suppose. The great power, moral and physical, augmented by the pride, vanity, and natural spirit of domination of the officers of the Government, is of itself centralizing and dangerous. When you attempt to hedge this around with such an imposing divinity as that of sovereignty the religious feelings of the people are entwined around it without reference to liberty or justice. The sovereignty and divinity of the individual is lost amid the glory of a nation. When the sanctity and worth of a human spirit, walking in rags and racked by poverty and toil, are placed in the scale with the grandeur of a nation's power, liberty and right are infinitely small. The glory of our Government does not reside in its power, its gorgeous Capitol, its vast extent of territory, its Army, its Navy, its merchant princes, but in the sanctity and the inviolability of the individual. While the citizen is powerful and the Government subjected to his rights, interests, and voice, liberty is safe. When the Government becomes more sacred than the man, freedom has ceased to regulate its action or dwell in its borders. A splendid Government with sovereign powers has attracted the adoration of men in other lands and in all ages, but a Government in which the rights, worth, and dignity of the citizen have been worshiped, has been but half developed in the history of human society. If this should fail the boasted progress of humanity is but a name, and all the sacrifices in behalf of our institutions but the blood-stained footprints of the murderers of men. May virtue and love of humanity avert so terrible a fate to the sacrifices of our illustrious ancestors and contemporaries. Let their glorious deeds be embalmed forever in the hearts of men ever becoming more sensitive to the love of human rights and dignity.

The altars at which we sacrifice are not those of power. That is but a Juggernaut that has rolled over humanity for centuries, crushing out life and hope for ages. The free American bows to none but God, his creator and preserver. He knows nothing else higher than man. The humblest infant that breathes is above all Governments and all officers, be they Presidents or emperors.

It is the adoration of power that marks the institutions of the East. The purest of all those forms is that of China. There there is but one free being, the emperor, the representative of the divine, the infinite, and immutable. The people are all equals because all slaves. Under its organization the individual is absorbed in the universal. There dull monotony loves to linger. There the civilization, arts, manufactures, and agriculture, although carried to a high degree of perfection, have remained unchanged for ages. As the sun of intelligence arose in more western horizons the human mind gradually became conscious of its character and the spirit became emancipated from the thral-

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dom of matter and asserted the freedom of the individual. As a consequence of this, Greece, the first to recognize personal supremacy, became a free government of free and independent States. She remained free so long as the States maintained their individuality. When the strong arm of the Macedonian king was laid heavily upon them, molding them into one great empire, the liberties of Greece, with all its universe of beauty, art, oratory, history, and philosophy, passed to the domain of history. So must the increase of a central power too great for the centrifugal force of the States affect our Government.

The freedom of the individual depends on the all-absorbing love and sympathy of one individual for another. The playmates of our boyhood hours never cease to command our affection and our aid. Our neighbors and associates are better calculated to protect our rights than strangers who know us not. Hence the right of trial by jury. It gives to the citizen the right of being judged by those who best know his character and his motives and who feel more disposed to extend justice tempered with mercy to him. States are divided into counties and districts the better to guard the rights and interests of the people. For the same reason the Republic must be divided into local State governments.

The national officials execute their duties without sympathy or restraint. The citizen of Maine cannot feel properly for the people of Texas; and the reverse of this is also true. Our institutions have fenced around the liberties of the citizen with all possible safeguards and barriers. Not power, but reason, interest, and affection should govern. To send foreign judges into a State or community, or to remove the citizen to distant States for trial, would contradict and overthrow all the ends of our institutions. Governments have never fallen from the power of the citizen in the State, but from the centralization of power in the prince or in a body.

Mr. NYE. Will the honorable Senator allow me to ask him a question?

Mr. FOWLER. Yes, sir.

Mr. NYE. What better protection to human liberty do you propose to give than the ballot?

Mr. FOWLER. I will endeavor to show the honorable Senator from Nevada that I am in favor of giving the ballot to every citizen. No individual of mature years and sane mind can be righteously controlled without his or her consent to the political force that is to govern him or her. While I maintain the inviolability of the individual, I do not forget that the States have an existence and rights and a function in our Government. They fill a place, and a very important one in our institutions. They were organized and preserved there by our fathers, and there they must remain while civil liberty has an advocate. When the national Government has attracted all power to it the States will cease to exist, and with them the rights and liberties of the citizen. As long as they maintain their course the system will move on in harmony. As I adore the rights and dignity of the individual I would maintain the guardian that preserves these rights. I would preserve the jewel by preserving the casket in which it is inclosed. Other republics have risen and flourished, other peoples could boast of their liberty and free institutions, their power and all conquering enterprise. They have all passed from the roll of nations and are now known only by the historian. They felt as confident in their capacity to preserve forever their liberties as the American. They yielded day by day to the seductions of ambitious demagogues and the corroding influences of wealth and vanity until the organic structure of their government was completely undermined. While a nation preserves a sacred veneration for the wisdom and virtues of its founders it is secure; when they cease to remember these they have fallen.

The founders of the American nation were thoroughly conversant with the art of government. They had studied profoundly all the writers of ancient and modern times. To their great learning they brought a large and sad experience in all that could instruct and qualify man for a profound understanding of the institutions necessary to protect and preserve his liberty. Adversity, the great teacher, had been their constant companion. It had wrung from them all that men naturally endowed with the highest gifts of intellect and wisdom were capable of producing. Their works are treasures of wisdom clothed in a style never excelled for clearness, force, and elegance. The wisest and richest statesmen of England have done homage to their worth and talents. The greatest men of our Republic that have succeeded them have always turned with reverence to their counsels. Having taken my lessons in reference to the framework of the Republic from the writings of those who founded it, I am unwilling now to reject their advice or to treat lightly their great labors. The people of this Republic have not forgotten the labors of their ancestors nor ceased to venerate their great work. Having through life bowed in humble adoration to the sacred rights of the individual, I have always advocated his right to the exercise of the ballot. I have advocated the most enlarged and Christian duty of the State to guaranty this right to the citizen. I desire now to give some reasons why all men should have the ballot.

The question is not without grave objections, and has not been submitted to the test of experience in any Government. The principle has long been settled, so far as the Anglo-Saxon race is concerned, that taxation without representation is unjust and oppressive. After a gradual progress in the light of republican institutions the great majority advocate the right of the white man to the ballot. The doctrine that the colored races should exercise the same prerogative has not so generally been admitted. I will endeavor to set forth the reasons that have influenced many to oppose their enfranchisement and the reasons that have operated on others to favor the principle. The chief arguments for and against it are directed toward the negro race. I will therefore make my argument mainly with reference to this race.

The natural pride of race, always active and strong, particularly in the English race, would not readily brook the idea of equality even in political rights. The debased condition of one race has intensified this feeling. There are many persons who distrust the capacity of the individual for self-government. There are comparatively few persons who really believe that each individual of the higher races understands best his own interests. It is not uncommon to find the most profuse eulogists of humanity insisting upon impressing their own convictions or views upon the legislation of the country, utterly unwilling to trust the decision of the people.

The influence of party associations and triumphs control the action of a very great number, and often retard salutary reforms in society and government. The enfranchisement of the colored races has acted upon this class with the cumulative force of party and personal prejudice and selfishness. There are very many influenced by what they regard as special disqualifications in the negro race. His long servitude to the white race, his barbarism in his native country from the dawn of his existence, the fact that he has of himself made no advancement in science, religion, or the art of government beyond the rudest known to humanity all tend to impress the white race unfavorably.

These are substantial facts that stand forth as almost irresistible arguments against incorporating the colored African races into the body-politic of the Republic. They are argu-

ments that only experience, education, and the successful use of the ballot can answer. Eloquent homilies on the rights of men, earnest appeals in favor of human brotherhood, will do no good. Men long admit the truth of proposition before they become a part of their lives. Human philosophy and religion has advanced none in its dogmas for two thousand years. Plato is at present more powerful in his principles than he was eighteen hundred years ago. The precepts of Christianity were just as clearly defined and quite as well illustrated eighteen hundred years ago as they are to-day. Since these epochs there have been no discoveries in the duties pertaining to humanity. It is true that the world of mankind has made very rapid advances in learning and reducing to practice principles long since discovered, but no new discoveries have been made. It will require many generations to pass before the race has reduced to actual life the precepts of the past. It is now actual, living action that benefits the world. It is not principle but conduct that can now benefit mankind.

Having long advocated the doctrine announced in the Declaration of Independence, believing in its truth and obligation, I desire to offer some reasons for the course I have taken on the question. I do not offer them to others who have loudly professed the doctrine as applicable to States in which they did not reside, but wholly unsuited to their own people. The prejudice of race and demands of party never asserted themselves so openly and so inconsistently as they have on the present question. These feelings have been carried so far as to place the ancient civilization of the Chinese, marked by its centuries of conquests in arts, science, literature, and philosophy as beneath the intellectual and moral deserts of Africa, more cheerless and barren than her burning sands, in which no green plant has ever appeared.

When the prejudice of race can go so far as to obliterate the wonderful results of that people it may not be astonishing to find men advocating the suffrage of the African for South Carolina and spurning it for Ohio. The Chinese have proved themselves competent, not only to maintain civil institutions in their own land, but to maintain them for centuries extending far beyond the period of history known to western civilization, without a shadow of variation. The African is without any development in his own land, indeed without the conscious recognition of himself or his relations to the universe. He is without history, the embryo of humanity. He is still a man, and when brought under the influence of the highest civilization in history he has rapidly developed in that direction, passing at a bound over centuries of human struggle and human development. He has now reached the confines of the highest civilization and made it his own. If he has attained that place slowly and by much suffering and oppression he is abundantly compensated for his sorrow. In his process of development it must be conceded that every institution designed for his elevation was to him a sealed book. The great civilizing agent, the only nurse of religion, honor, faith, and manly virtue, the family, was forbidden to him. An inexorable public opinion doomed all to a life of sensuality. It was the boast of slavery that it produced people without shame, because without the sentiment of virtue. Under the "divine institution" the higher sentiments of humanity were extinguished in theory. If the angel of darkness had produced his master-piece for the extirpation of every sentiment of good from the human soul, he could not have excelled the matchless device of American slavery. In its vocabulary there was no such words as father, mother, wife, child, brother, sister, or home. Fortunately for them and us the love of virtue is too strongly implanted in the soul to be utterly extinguished by any form of oppression. In defiance of the relentless system these people have proved

themselves possessed of extraordinary insight into the character of the times and the part they were destined to take. They exhibited fidelity, courage, and patriotism in every emergency. Their kindness, forgiveness, and moderation have never been excelled. Their anxiety to educate their children and the progress they have made in that laudable undertaking entitles them to respect. From the good they will receive it, from the wicked they may not hope. More than two hundred years of toil, an empire redeemed from the forest and filled with wealth and luxury from the sweat of their brows, vast cities built and innumerable rivers made alive by the hum of commerce that covered oceans by well-loaded ships, are the evidences of their labor. These facts alone entitle them to the consideration and protection of the Government. They are debased. What of that? Are they more so than those who have oppressed them? If their minds are unenlightened they are not so dark as those of the men that enslaved them, or those who have approved of their enslavement. The most benighted of all human beings is he who does the greatest wrong. This institution was not alone the expression of an African civilization. It found in the American heart a ready home. It is rather the exponent of English cupidity and love of power. If the institution and its victims are degraded that degradation has been cherished by those who founded, maintained, and tolerated the institution.

But who is responsible for the unworthiness of the humble classes of all races? If vice and ignorance are found in the cottage you need not search the palace for perfection. If crime abounds in the ranks of the lowly you will not find saints among the higher. If the cottage and workshops are filled with ignorance and error the university and the church are far from perfection. Nor do I charge those immediately interested in the institution as its best friends and ablest defenders. On the contrary, among them often appeared the most elevated and refined of humanity. They were but parts of the political and social unit, and no worse than their companions and their fellow-citizens elsewhere. If the school-house, the family, and the Halls of Congress had been free in fact, slaves would never have cursed the rice-fields of Carolina. It was the spirit of American society that plied the lash in the cotton plantations of Mississippi. The love of gain, so powerful in the American mind, has not yet been extinguished by the overthrow of slavery. It is as active now, blocking up every avenue to a more enlarged and purer freedom, as before. It seeks now to bind the whole laboring element and drive them to toil for its luxury and pleasure.

This argument is the ever changing one that has opposed the enfranchisement of the masses in all ages. It is human pride and ignorance against freedom and light. Men do not readily part with power and prerogative when they have once gained it. The most stolid prince pretends to treat as inferior all who do not enjoy his rank. He does not yield a part of his authority and place to those who have not been so highly favored without a struggle. It is just as true of an American citizen who assumes all the airs of princes when brought in antagonism with those they have looked upon as their inferiors. The same arrogant, dark, malignant spirit works now that has opposed the progress of the masses in other ages and in other times. It has filled the history of the world with all its civil wars and persecutions. The effort of a part of humanity to rise, and the determination of the other to subject them to their wills, has ornamented the shores of time with the ashes of ruined cities and empires overthrown.

The battle has all been between the despots and the slaves. I care not by what name you may call the parties, the contest has been the same. Command and obedience have been the spirit of the one party and liberty and equal

rights of the other. "Despotism is the making of another's will bend to the fulfillment of our own; slavery is the having of our own will subordinated to the will of another." Do thou as I will is the spirit of the despot. I will obey none but God, is the freeman. He who sees in other men the worth which he claims for himself, and grants as a due to his own dignity the right of another to control his own action and to give his own voice for the choice of the force that is to control the State, is alone a free and enlightened man. Who denies this worth and right to his fellow-citizen is not only a despot, but an ignorant, dark mind subjugated by passion. As the franchise has been extended our prosperity and power have been augmented by the interest it gave the citizen in the State.

The events of the war threw four million people without political rights, without homes, destitute of education, ignorant of the useful arts, dependent on the necessities of their former owners for employment in the rudest forms of labor, into the condition of citizens. The prosperity of this Government above all others resides in the good will and prosperity of the laboring classes. That good will depends here, as in all human action and motive, on the interest they have in the Government where the people are conscious that their families reside in their own homes, and cultivate their own fields, and obey the laws made by their own wills, they are more ready to support and defend their Government than when they are denied all rights and interests. This principle must become national. If adopted by Congress for one State it must be for all the States and for all citizens. It will not answer to say that it is necessary and proper for South Carolina, but not proper for Pennsylvania. The ballot must be supported as a human right, not as a privilege granted. Any local application as to race, color, or condition of servitude is a condemnation of the principle. The defeat of manhood suffrage in Ohio and Kansas is far more fatal to the cause of human happiness and the peace of the Republic than its failure in Texas. If people may vote it must be because of their right and their competency. These qualifications are as strong in one section as in another. State lines can communicate no such qualities to the man if he does not have them inherent.

If a proposition is made in favor of suffrage in the Constitution of the United States, it should be made in the name of humanity, not of a race. Our religion knows no races, our principle of government recognizes no races. It recognizes humanity, the freedom and equality of the individual. Any limitations on the principle would be unworthy of the age and a disgrace to the Constitution it vainly seeks to amend. This amendment is made wholly in the interests of colored races and not in the interest of the white race. It does not even condescend to relieve or protect our own race.

It cannot be affirmed that the white race do not require relief. More of them are disfranchised to-day than of the colored races in the United States. It is not for the rights of any race, color, or condition that we should legislate; it is for the family of man. This is the life and spirit of our institutions. It has met the approval of the wise and good of other times and other nations.

Before leaving this question I desire to record the opinions of some of the men who have thought upon these questions earnestly without regard to the political influences that might affect them. I shall not rely on the opinions of men as authority only, but for its concurrence with the spirit of justice that has characterized the benefactors of mankind in all ages. Says Dionysius, of Halicarnassus, Rome raised itself from the most obscure to the most illustrious "by the reception of those who were destitute of homes, by a communication of the rights of citizens to all who had been conquered by them, who had been manumitted among

them, and by disdaining no condition of men from whom the Commonwealth might reap advantage." If a part of the citizens are weak and destitute, so much the more do they need and should they have political equality. On this subject Cicero says:

"Si enim pecunias aequari non placet, si ingenia omnium paria esse non possunt jura certe paria debent esse eorum inter se, qui sunt cives in eadem republica. Quid est enim civitas nisi juris societas?"

It is not from the masses that public virtue receives its first wounds. Says Montesquieu:

"Virtue in a republic is a love for the republic; it is a sentiment and not a consequence of acquired knowledge; a sentiment that may be felt by the meanest as well as the highest person in the State. When the common people adopt good maxims, they adhere to them steadier than those we call gentlemen. It is very rare that corruption commences with the former; nay, they frequently derive from their imperfect light a stronger attachment to the established laws and customs."

Herbert Spencer says:

"Neither party recognizes in the other itself in a different dress." * * * "Label men how you please with titles of 'upper' and 'middle' and 'lower,' you cannot prevent their being units of the same society, acted upon by the same spirit, of the age, molded after the same type of character."

"In whichever rank you see corruption, be assured it equally pervades all ranks. While the virus of depravity exists in one part of the body-politic no other part can remain healthy."

The weight of great names might be multiplied indefinitely. I will content myself with the addition of John Stewart Mill, who has so zealously advocated the right and policy of all to the ballot. But the argument drawn from authority of great names has but little influence in working out a great reformation. The light of truth must be diffused through the masses of men by more powerful agencies than the advice or reasons of philosophers. When each man carries with him the perpetual authority that his neighbor is as well calculated to act wisely his part in the State, and has as many impelling demands for the proper use of the right as himself, he will give but little heed to the opinions of others, however wise they may be, for he is conscious of a higher authority. When the period arrives for the evolution of a great reform the causes adequate to convince are invariably provided for the inauguration of the coming age. The thunders of Sinai that ushered into regenerating institutions the sacred law of the Jews have been heard in still louder tones in other mountains and other valleys than those of Arabia. God has written a new law in nobler lines amid grander displays of power than when he gave the tables of stone to Moses. From the Potomac to the Rio Grande his will and power will be traced by coming ages in brighter lines than at the present. In this wonderful display of power he did mean something, and that meaning will be and must be learned and obeyed. I shall not pretend to write in feeble words. The full meaning of this lesson will be deciphered by the future historian; but if I may be pardoned for expressing a conviction, I would say that he has taught us that the individual is free and inviolable. This is sufficient for my purpose, for he cannot be governed without his consent. There cannot result any great injury to society from admitting all to the exercise of the right to vote. The intellect will, of necessity, in a government of law, control. Force, mere force, is no longer an object of worship. That belongs to a barbarous age. The intelligence of the wisest will impregnate the whole mass and determine its action as certainly as attraction determines the course of matter. How absurd, then, to amend the Constitution in the interest of the uncultivated and unenlightened alone. Would not reason, would not policy dictate such an amendment as will embrace the race that have framed our institutions? The more wisdom, the higher morality you can embrace, the better for the State and the world.

The arguments used by most of the advocates of this measure are addressed to the prejudice of the people against the former owners

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of the negro and the authors of the late rebellion. I can neither commend the head nor the heart of the man who seeks to keep alive the memories of this unhappy conflict. It is the part of a patriot to forget the events that have occurred when the demon of passion lashed our countrymen into fury. Wisdom and charity will come at last, alas! too long delayed to heal the bleeding wounds of the nation and administer consolation to the bereaved. Happily for the nation the vice of distrust comes not up from the heroic men who periled life for their country, nor is it heard from the bereaved families of those men who sleep their last long sleep on the many battle-fields of the war. It comes from the demon of hate, inspired by the love of power. It rules the conduct of him who seeks to feed upon the passions of the hour. No people submit more readily and more cheerfully to the will of God when they see it written so legibly as it has been in the recent war than the citizens of the States lately in insurrection. Their conduct generally will challenge history for an example of similar resignation to the decision of the sword. They generally acquiesce in the right of the colored man to equal political rights. The principle of "equality before the law" is established, and no man need distrust the people of the South. Distrust is the element of weakness as well as tyranny. It belongs not to faith, courage, and generosity.

The argument drawn from prejudice against the southern whites in favor of this limited amendment of the Constitution is without any warrant from the history of the people. The history of the Republic is illustrated with her great names and generous and patriotic deeds. No portion of the country showed more devoted attachment to the principles of liberty and humanity or displayed more courage and self-denial in their defense. They were not the men that could see their brethren overrun by a foreign host without rushing to their defense. They eagerly espoused the war of the Revolution, and hesitated not to press it to a successful termination. Let it not be forgotten that Jefferson is the apostle of liberty and humanity, that he was the organ of the Western World when it announced the principle upon which free institutions should be based. Under his mission slavery was attacked, primogeniture and entail went down, and freedom of religion was established. It is not yet time to estimate his labors or his capacity. The long line of advancing centuries will hail him as one of the greatest benefactors of his race. His shadow still hovers over the land of his birth and his love.

What could I say of the devotion and wisdom, the love of liberty and country of the Father of the Republic, the leader of our revolutionary armies? He never neglected nor forgot a duty; never violated faith or confidence. Could the people that produced so grand a character either forget his example or abandon the love of liberty he illustrated by a long and devoted life consecrated to its service? Among the many bright examples of illustrious men he stands without a rival for all that could dignify and elevate human character. To the father of his country I might add Madison, Henry, Mason, Marshall, Randolph, and how many more, all the demi-gods of the nation's glory. Then comes the long line of the posterity of those that fell on every battle field for liberty, honor, and defense that has adorned the nation's history. The people of my own State, nursed in the lap of liberty, catching their inspirations from their lofty mountains and fertile plains, early entered the conflict for independence, and at King's mountain achieved a glorious victory. With Jackson they marched in triumph to Florida, and tore the honors from the brows of the conquerors of Napoleon at New Orleans. With Scott they entered the halls of the Montezumas. On every field they have poured forth their blood like water for their country's

honor. These men, though led astray in a sad hour and under unpropitious auspices, have not forgotten the principles of liberty taught them by their fathers and defended by their blood. They should not be neglected nor reviled now that the leader of the national armies who has conducted the war to a triumphant peace says let us have peace. Peace, he means not by perpetuating the memories of the unhappy past, but through a glorious hope of the future. He desires to restore the alienated citizen to his former love of country, to rebuild their burned cities and desolated homes. He desires to erase the vestiges of war and bury in perpetual oblivion angry and vindictive passions, and resume again the reign of love and good-fellowship.

Believing that he means what he has said and what we all have promised from his words to the people in every part of the Republic, I am led to look with bright anticipations upon the future. I ardently hope to see the man whose cup of military glory is more than full devote himself to the love of his fellow-citizens in all the States of this Union. As he has no more honors to win on the field of strife and dissension, he will now embrace the Republic in his generous hopes and beautiful promise. May we not fondly hope, under his magnanimous, trusting, and tranquil administration, to see the sad and mournful remains of our country won back to their former prosperity and patriotism? Over the ashes of their ruined homes the beautiful cottage will again arise surrounded with all the delights and comforts that gladdened its inmates in the past. That they will still love the cause for which their first-born bled and mourn their loved and absent ones will neither surprise us nor cause us to love them less. That they still bear hearts responsive to the voice of sympathy will not render them unworthy of Americans or their brave ancestors. May the long looked-for day of peace soon arrive. Gladly shall we greet its coming and hail him who hastens the "lagging hours of its long delay." Another Pollio shall he be to an empire greater and more lasting than the Eternal City?

"Teque adio decus hoc ævi, te consule, inibit
Pollio: et incipient magni procedere menses.
Te duce, si qua manent vestigia nostris
Irrita perpetua solvent formidine terras."

The war has long since ceased. The roar of arms no longer terrify the wives and mothers of the soldier. The sacred dead have been gathered to their homes. Over their graves the flowers of spring "bloom and breathe their fragrance on the air." Many a pilgrim seeks their silent abodes to do homage to their memories. From every grave comes up a prayer for peace and forgiveness. The rude and nameless graves of the confederate soldiers are the most touching and eloquent appeals to the heart of the magnanimous patriot. Here is a standing monument of the blasting policy of passion and selfishness. At the voice of the furies they offered up name, hope, country, cause, and life to sleep forever in their nameless and neglected tombs.

The modest patriot meant peace when he uttered the word. It was a speech for his country and his countrymen or it was a hollow mockery. It was wrung from his heart by the agony of the sad and disjointed times, by the memories of a hundred bloody fields in which he had seen the hands of a brother raised against a brother in mortal conflict. Sufficient and more than sufficient blood has flowed. It has flowed until the "tongueless caverns of the craggy hills cried misery!" How different must he feel from the hollow-hearted imitators who cry peace and demand a new scourge with which to lash even the children of the rebellion with new furies. No sooner is one rod worn out than the tireless demon of rage cries "*cede Alteram.*" Passion will not appease its own raging tempests; it is the voice of an all-embracing Divine love that can

say to its proud waves, peace, be still. Who shall first show forth this Divine benevolence? Surely the conqueror can best afford to become the prince and pardon. It is no personal matter; no humble confession can be asked.

The confederate can point to his desolated homes, his ruined fortunes, and the remnants of his family demanding support. He can say the flag you follow is mine. My grandfather followed it with Washington over the blood-stained snows of New Jersey; at Monmouth, Brandywine, and Yorktown, in victory and defeat; with Shelby and Williams and Campbell he ascended King's mountain; with Green he marched in his heroic and determined struggle for the Carolinas. My father followed it in the last war with England. I myself was at Cerro Gordo, Churubusco, and Molino del Rey. The memories of the past are ours and our children's. The Government you serve was framed by our fathers; it too is ours; ours by the dear purchase of blood; ours by the glorious liberties and sacred history it guarantees; ours by civilization, by language, by an inheritance, and support; ours for peace and war, to love and to defend. We have no other country or flag but that of the Union.

Let us have peace. Let the dead past be all forgotten over the graves of the multitudinous thousands that have fallen for country and liberty in the late unhappy storm of madness and folly.

I have no hopes in the man who shouts "peace, peace!" and then carries us to the cities of the dead and exhumes the coffin and opens up its ghastly skeletons to arouse the demon of eternal hate. In a time like the present, when it is thought best to make an amendment to the Constitution, let it not be said the American Congress has been influenced to such a step, not by the universal love of mankind, not by an enlarged patriotism, but from suspicion and distrust of our own race and fellow-citizens. Let it embrace all, not a part. Let it protect the white man as well as the colored. I would go still further, and embrace all who are the subjects of law. I would found it on the spiritual worth and inviolability of the individual. It should embrace women as well as men. There is no argument in favor of the suffrage of men that will not apply equally as well to women. She is equally well calculated to decide what measures are calculated to promote her own interests. If any man were asked whose advice was the wisest and truest on all matters of business and politics he would unhesitatingly answer his wife's, his mother's, or his sister's. It is all a delusion and a sham to talk of excluding women from the ballot and admitting all the civilized and uncivilized men of the world.

When men base their support of suffrage upon the natural rights of man, upon the worth of the individual, and then exclude woman, they do not believe the doctrine they assert. It is a direct contradiction of terms. When they admit the African and the Indian, and exclude their mothers and sisters, it is a startling exhibition of prejudice and the force of custom.

If elections are conducted improperly and rudely it is because the refining and humanizing influences of woman has not been brought to purify it. Let the husband and father go with his wife and daughters to the polls as he does to church, and the rudest men will be taught self-respect and integrity of purpose. It will make the polls as refined and solemn as the lecture or the school.

I do not design to discuss this feature of the question. The great body of the people, and especially of the legislators, are not ready to confer upon their wives and mothers and sisters the exercise of a right they are ready and willing to give to the youngest children of the race, to the babies of civilization. The day is coming, the light of truth is spreading, the time is not far distant when a step in favor of rear

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progress will be taken. The dead hours of the night have been passed and—

"Jocund day
Stands tiptoe on the misty mountain tops."

The proposition from the House to limit the constitutional amendment by the qualifications of race, color, or previous condition of servitude is a disgrace to the age. It must have been made in utter scorn of civilization and reason, or from party zeal or the blindness of vengeance. It sets aside civilization, the true, the beautiful, and the good, and bows in humble submission to race, color, and previous condition of servitude. It erects a standard of worship lower than that of the most barbarous tribes of Africa, who hold dominion over their divinities and change them at pleasure. This scorns intelligence and worth for the mere accidents of race. The Senate amendment is the same practically as that of the House. I do not know who of the Judiciary Committee approved this piece of sublime stupidity. I can only hope that the profound and enlightened and patriotic chairman never gave his assent to a proposition so abhorrent to the wisdom and magnanimity of a statesman.

If we would second the wishes and virtues of the coming patriotic Chief Magistrate let us adopt an amendment that shall embrace the disfranchised whites as well as the colored races.

The amendment of the Senator from Oregon [Mr. WILLIAMS] is much better than the monstrous proposition before the Senate from the Judiciary Committee. Although it does not meet the requirements of the times and appears to have been offered in as reverential a devotion to the sanctity of institutions as ever made an Egyptian bow in adoration to his sacred cat, it is based on no immutable and reverential principle of human worth, but on the same devotion to habit that has marked the course of the departing past. It has this redeeming feature, that it does not necessarily take from the States the right to determine the qualification of electors, but gives to the General Government the power to regulate when Congress may think it prudent.

The amendment I have had the honor to offer is very different from any of those already proposed. If an innovation upon the framework of the Government must be made let it be such an one as will go to the bottom of the question. The following, in my judgment, will meet the question:

Strike out section one and insert the following:

All the male citizens of the United States, residents of the several States now or hereafter comprehended in the Union, of the age of twenty-one years and upward, shall be entitled to an equal vote in all elections in the State wherein they shall reside, the period of such residence as a qualification for voting to be decided by each State, except such citizens as shall engage in rebellion or insurrection or shall be duly convicted of treason or other infamous crime.

Having already discussed the principles involved in this amendment, and especially the danger of so amending our institutions as to divest the States of powers they now possess and thus destroying the equilibrium of the Government, I will not detain the Senate much longer. To consummate so desirable an end as that of restoring all our citizens to their rights I would be willing to vote for the amendment I have offered.

If it were my own I should distrust my prudence in proposing it. But it comes to us from a venerated source. It is the principle contained in the plan of the Constitution submitted by the most distinguished and accomplished statesman of the Republic to the Convention that framed the Constitution. It is in the original draft of the plan of Alexander Hamilton, and completely refutes the charges made against the purest, wisest, and most comprehensive statesman of his own or any other age. I allude to the charge that he was afraid to trust the people. He was the trusted counselor and constant companion of George Washington throughout the Revolution. When the

labor of forming a new government devolved upon the men that had won their independence he contributed more than any other man in the country to devise, perfect, and establish a permanent form of government. He was placed by his illustrious chief at the head of the Treasury, the most arduous and responsible post in the nation. The country was then poor. War had rolled its all-destroying waves over its whole limits. Without commerce, without money, overwhelmed in debt, without the practical operation of a government, he undertook to create public credit and money, to evoke commerce and national enterprise, to build up manufactures and mechanic arts. How well he executed his great purpose only the inspired tongue of a Webster could utter. It was that great orator who said of Mr. Hamilton:

"He smote the rock of the national resources and abundant streams of revenue gushed forth. He touched the dead corpse of public credit and it sprang upon its feet."

His commentaries upon the Constitution have become unquestioned authority. He accomplished more labor in a few years than any other of our great men did in a long life. At an age when other minds just begin to ascend above the horizon he had reached the zenith of usefulness and fame. When others have just begun to live he had completed his mission. His mind was ever in a state of sleepless activity and he labored by night and day to execute its discoveries. The magnitude of his labors, considered with reference to the short space in which they were accomplished, is startling to the wildest fancy. Through life he was the idol of his country and his party. His death was mourned in solemn grief by the whole nation. His memory is embalmed in the grateful remembrance of his countrymen and grows brighter with advancing years and coming generations.

This amendment has in itself merits that commend it to those who desire to place in the Constitution the principle of male suffrage as founded in the rights of man to vote. The amendment of the Judiciary Committee protects no attributes but "color, race, and previous condition of servitude." For any other cause the citizen may be divested of his only peaceful and effective defense, the ballot. One is based on the rights of man, the other on the contingent and prospective advantage of party without any more permanent foundation.

Suffrage Constitutional Amendment.

SPEECH OF HON. W. LOUGHRIDGE,

OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

January 29, 1869,

On the joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States.

MR. LOUGHRIDGE. Mr. Speaker, the proposition now before the House, and upon which I desire to submit a few remarks, is a joint resolution proposing to the States an amendment to the Constitution of the United States by which the States shall be positively prohibited from denying or abridging the right of any citizen to vote by reason of the race, color, or previous condition of slavery of such citizen. I shall vote for this joint resolution. and yet, sir, I do not desire to be understood that by giving such vote I admit that by the Constitution as it now is the States have the right or the legal power to disfranchise any class of citizens of the United States by reason of race or color. I do not admit this. It is a sufficient reason for the adoption of this amendment that there exists in the minds of a large portion of the people serious doubts upon the question as to whether this power exists in the States under the Constitution of the United States. Many believe that it does, and I do

not know but I might say that in my opinion a majority of the people of the country so believe.

How far the Federal judicial tribunals of the country might go in this direction is but matter of speculation. The courts of the majority of the States, I have no doubt, would hold that under the Constitution Congress has no power to regulate the right of the elective franchise in the States. More especially would the courts of the States where the colored citizen is deprived of this right so hold; and such State courts could, in their own jurisdictions, to a great extent thwart the operation of any remedial legislation in this direction by Congress, at least so far as the right of franchise in State and local matters is concerned; and I suppose it will not be denied that with the supreme judicial tribunals of a State against the right of congressional control in relation to the right of franchise in the States it would be impossible, or at least very difficult, for full relief to be given to the injured class. The only way in which this difficulty can be entirely avoided is by an amendment to the Constitution so plain and positive that there can and would be no disagreement in relation to it, and for this reason one who holds that by the Constitution as it now stands no State can legally deny the right of franchise on account of race or color may nevertheless very consistently vote for this amendment, so as to place the proper construction of the Constitution beyond doubt or cavil, and so that no State court, however much it might desire to do so, could interpose its power to deprive a class of citizens of their rights by legal and technical quibbles.

I regret, Mr. Speaker, that there exists such a state of feeling and of fact in any of the States as to render the application of a remedy by Federal power necessary to secure to the colored citizens of this country their equal and just rights. It would be much more noble, much more magnanimous, and much more creditable for all the people and all the States freely and willingly to accept the situation and adapt their laws to the changed and advanced order of things, the result of the war through which we have passed, and extend to the colored man the full enjoyment of all the rights and privileges of citizenship and equality before the law with all other citizens. A noble example of this course has been set by the State which I have the honor in part to represent upon this floor.

The people of Iowa, at the election held last November, adopted an amendment to their State constitution, by a majority of over twenty-four thousand votes, striking out the word white from their State constitution, and abolishing, so far as civil or political rights are concerned, all discriminations on account of race or color.

The people of Iowa are not afraid to extend to the colored man equal rights; they are not afraid that with a fair start and an equal chance in the race of life the colored race will outstrip the white and become the superior in intelligence and power; at least they are generous enough to be willing to give him a fair chance. There are, I admit, a certain class of people in Iowa, as there are in every State—and they universally vote the Democratic ticket—who are fearfully exercised over the danger of "negro equality," and even of negro superiority, as likely to result from the admission of the colored man to equality in civil rights. They seem to be satisfied that with an equal chance the negro will rise to a level with themselves, legally, socially, and intellectually; and, impelled by this imminent danger, this class of people bitterly and uncompromisingly opposed the extension of civil rights to the negro, and the powerful organization of the Democratic party, sympathizing with its members in their fears and the threatened danger, threw the weight of its influence in the scale

against equal rights. But, with all opposition, justice triumphed. Satisfied that duty, principle, and consistency required it, the people of Iowa put their feet upon prejudice and trampled it in the dust, and decreed and wrote down in their constitution that within the borders and jurisdiction of that proud young empire of liberty and of law all men, wherever born, whatever the color of their skin, whatever their previous condition in life—all shall stand equal before the law.

And now, sir, in Iowa, as it should be in every State and the world over—

"A man 's a man for a' that."

But, sir, in some of the States of the Union the colored man is still persistently denied his rights, and will continue to be, I have no doubt, until those rights are secured to him by the exercise of Federal authority. In the States of Kentucky and of Maryland there are seventy-five thousand colored men, who by the Constitution of the United States are citizens of the United States, and yet who are denied by the laws of those States any participation in the civil governments of the States. Those seventy-five thousand men are required to obey all the laws of the State governments, to pay taxes to support them, and yet they are allowed no voice whatever in making the laws by which they are governed and by which their property is taken from them for taxes. And yet, sir, guilty of this great wrong, this oppression and injustice, the white people of Kentucky and Maryland, upon this floor by their Representatives and elsewhere, talk eloquently of the sanctity of justice, and claim to worship at the shrine of liberty, while they desecrate the altars of the one and violate the temples of the other.

Tell me not that the governments of those States are republican in form. As well call despotism by the sacred name of liberty, as well assert that vice is virtue. What is a republic? A government by the people; not by a portion of the people, but by all the people. A government, then, in which one-fourth of the people are denied any voice or participation lacks every element of a republican government. It is an aristocracy of the most invidious type, as far removed from true liberty as the most absolute despotism; and experience proves that the despotism of a single ruler with unlimited power is far less grievous than the despotism of an aristocracy.

Sir, I deny the right of the one million five hundred thousand white people of the States of Kentucky and Maryland to refuse the privileges and immunities of citizenship and all participation in the Government to the four hundred thousand native-born American citizens of their States, whom they disfranchise on account of their race and color. I deny it on the general principles upon which this Government is founded and which are incorporated into the fundamental law of the Republic. One of those principles, and one which our fathers incorporated into the Declaration of Independence, among other great truths which have come to be acknowledged as political axioms, is this, "that Governments derive all their just powers from the consent of the governed." If this be true, then that cannot be a just Government or exercise just powers which denies absolutely to one fifth of its citizens any voice or participation in the Government, the laws of which they are required to obey, and to the support of which they are required to contribute by the payment of taxes. On the contrary, tried by the principles of the Declaration of Independence, it is an unjust Government, exercising unjust powers, forcing upon the people the tyranny of "taxation without representation," resistance to which lit up the fires of the revolutionary war.

So far, sir, from such Governments being republican in form they are, as I have already said, aristocracies of the most detestable and hateful character. The qualification requisite to admission to the privileged class is not

merit, talent, personal achievement, or wealth, but the arbitrary one of race, in which no individual member of the unfortunate ostracised class can be inspired with the least hope to acquire, even through the exhibition of the highest genius, talent, and worth, admission to the rights and privileges of the governing class. An aristocracy in which if a man be of white blood, though he may be destitute of talent, intelligence, patriotism, or virtue—though he be ignorant, vicious, and depraved, yet all the privileges of the governing class are freely accorded to him—he is one of the acknowledged sovereigns. But if a man unfortunately be of African descent, even to the remotest degree; if to any extent there be the blood of that injured race in his veins, although he be a natural-born citizen of the United States, although he may have an intellect of the highest order, a cultivated mind, and a character unsullied by vice; although he may, when the Government was assailed by traitors, have given liberally of his means for its support, and upon red fields of battle bared his breast to the cruel storm of war and periled his life in defense of the flag, yet notwithstanding all this he is ruthlessly and cruelly thrust down and consigned, without question and without reason, to hopeless degradation.

Sir, it should cause the cheek of an American citizen to blush for shame, that while the whole world, even where the most absolute despotism has heretofore prevailed, is advancing so rapidly toward the full recognition of the rights of humanity in this the great Republic, the boasted asylum and home of liberty, such a gross wrong and such an outrage upon every principle of justice and of democracy should be any longer suffered to exist. In the name and for the sake of the great cause of human freedom, in the name of five million native-born citizens of the United States, such by birth and such by the letter of the Constitution, whose dearest rights are thus trampled upon, citizens who have been patriotic and true to the starry flag at all times, and in the dark hours of the great rebellion one hundred thousand of whom put on the blue uniform of the armies of the Republic, and upon many hard-fought fields battled bravely for a Government from which they had never received aught but injustice and wrongs, and not one of whom was a traitor to the Government, I insist that this aristocracy of race, this last relic of the barbarism of slavery, shall no longer be tolerated in the land. Sir, I have said that this denial of the elective franchise to citizens on account of race or color was contrary to the principles which lie at the foundation of the Republic and at variance with the whole theory of the Government.

This Government was established on the great principle of the natural equality of all men. The Declaration of Independence, the foundation-stone of the whole edifice, starts out with the bold and sweeping affirmation, "We hold these truths to be self-evident, that all men are created equal, and endowed by their Creator with certain inalienable rights, among which are life, liberty, and the pursuit of happiness; and that to secure these rights governments are instituted among men, deriving all their just powers from the consent of the governed." Here in this instrument man is recognized as man, and all distinctions, whether of race or of color or of any other kind, are repudiated. The framers of that instrument, which has always been and always will be the glory of the Republic and the admiration of the world, in framing it spake for no clan or particular race of men; they spake no narrow, selfish words; they did not choose, by confining their claim of natural rights and natural equality to themselves and their particular race of men, to insult the instincts and the intelligence of the friends of liberty throughout the world, while at the same time appealing to mankind for the justice of their cause and

to the Supreme Judge of the world for the rectitude of their intentions. And therefore they wrote down great and true words of universal liberty, and embraced in their claim for inalienable rights and natural equality the whole family of man, of all climes, kindreds, and nations, and in fit words declared the truth of the existence of these sacred rights to be "self-evident," political axioms, which needed no demonstration and which no man could deny, and that these rights were held by no muniments of human title, but were the gift of God. And, sir, standing upon that declaration, and by its authority, I denounce that blasphemy against Heaven which would rob man of his birthright, and would deny to a portion of God's children the royalty of their lineage and the nobility of their descent—a descent from the great Father of all, and a lineage unbroken and direct from Him who gave their names to the beasts of the earth and the fowls of the air, and for whom and for his descendants, even the humblest and poorest on earth, as much as if there were no other living man, this world was made and fitted up in all its architectural beauty and grandeur by the hand of the great Creator. As such a being, with such a fatherhood and such a lineage, the Declaration of Independence treats of man; and all that I ask, all that the colored man asks, is that the principles of that instrument shall be carried into practice, and that the natural equality of men before the law be recognized by the laws of the land and guaranteed by the Government. And sir, after our fathers had made good their declaration and vindicated the justice of their cause upon the battle-fields of the Revolution—

"And the red lion, haughty Britain's emblem,
Discomfited, went howling back with rage,
To lair amid the white cliffs of Albion,"

and when the statesmen of the Republic, their minds imbued with the true principles of liberty, met together and framed the Constitution, they carried into that instrument the same principles which were so conspicuous in the Declaration of Independence.

Although slavery then existed in the most of the States, and the States would not consent to give the Federal Government power to abolish it in the States, yet in framing the Constitution they carefully excluded from it every sentence and word which would imply that there could be such a thing as property in a man. In that instrument they recognized no distinction of color or race among men. Under its provisions a negro is eligible equally with a white man to any office in the Government up to and including that of President of the United States. Neither the word white nor the word black is found in that carefully written instrument, nor is there a single word in it, from beginning to end, showing any distinction between white men and black men, or from which such a distinction can be inferred. In the preamble it is "We the people of the United States," and throughout the instrument it speaks only of "persons" and "people." Every provision in that constitution protecting the white citizen in his rights of life, liberty, and property, applies equally in substance and equally in terms to the colored man.

Sir, this is the character of the fundamental law of our national Republic; these are the just and equal principles upon which it rests, as framed by our ancestors and handed down by them to us.

The Constitution of the United States, to the glory of its framers be it said, denies or abridges the rights of no person in the broad domain of the Republic by reason of race or color. It either guarantees the civil rights of none or it guarantees those of all. It either gives protection to none or it spreads the broadegis of its protection over all alike. It either secures the right of elective franchise to none or it guarantees that right to all. Under it either the States have no power to deny the

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colored citizen the elective franchise or they have the right to deny that privilege to the white citizen as well.

And, sir, the term "white," as used in laws and constitutions of some of the States, to create unjust and wicked distinctions among men and to rob the colored man of his rights, is a device of a comparatively recent period, the growth of a spirit and feeling nourished and strengthened during those thirty years in our history when the Government, under the control in all its departments of the slave power, was rapidly verging toward the recognition of slavery as a national institution, universal as the domain of the Republic, and protected by the Constitution, the culmination of which period was reached when the Supreme Court of the United States declared that the Constitution carried slavery into all the national Territories, protected it in all the States, and in substance that the black man in this country had no rights under the Constitution that the white man was bound to respect. It was during this period, I say, that this distinction of races and this ostracism of the colored citizen on account of his race crept into the constitutions and laws of most of the States, and it was but the natural outgrowth of the spirit and tendency of the times.

For three generations we had robbed the black man of all his rights, both natural and civil. As nearly as we could we had allied him to the brute, had closed to him every avenue of light and of knowledge, and clouded his intellect over with darkness as thick as night. Chains, handcuffs, and whips were his only incentives to exertion, and his only reward; placed on the auction-block and sold like merchandise to the highest bidder, and driven like the ox and the horse to his daily toil under the cruel lash of the heartless task-master, so far as human ingenuity could do it he was made to forget that he was a man, or had any of the rights of humanity. That he did not forget the nobility of his origin and accept his situation by the side of the brute is convincing proof that the soul of man is allied to immortality. No wonder, sir, that in view of these things Jefferson, that profound political philosopher, "trembled for his country" when he remembered that God is just, and that His justice cannot sleep forever. His justice did not long sleep, but brought swift deliverance to the oppressed, and through the blood, the suffering, and the intense anguish of the nation He brought deliverance to the slave, broke every fetter, and let the oppressed go free. But in the progress of this deliverance the angel of death passed over the entire land and shadowed it with his dark wings, leaving a vacant chair in almost every home and the sables of mourning in almost every household. And now, strange to say, after all these generations of oppression and wrong toward this unfortunate race, after all our suffering in consequence thereof, Pharaoh-like, we yet hesitate to do justice.

Sir, speaking as an individual member of this House, and speaking what I know to be the sentiments of those I have the honor to represent, so far as my voice and my vote shall go, from this time henceforth, the colored race shall have secured to them all the protection, all the rights, and all the immunities of American citizens in every portion of the Republic, from this Capitol to the remotest limit; from where the cold blue waters of the Arctic ocean dash up against the icy rocks of Alaska to the flowery shores of the Gulf of Mexico, and from the Atlantic to the Pacific, so that in all this vast empire all men, high and low, rich and poor, of every clime and race, shall stand equal before the law. Sir, I do not expect the assistance of the Democratic party upon this floor or elsewhere in the consummation of this act of justice and this recognition of human rights. I expect their opposition both here and in every State, for that

party is no longer the party of freedom or of progress. It has been for years the champion of slavery and the deadly foe of human freedom. It resisted every step in the progress of the nation toward emancipation and freedom. It has opposed every measure taken by the Government to protect, educate, raise up, and encourage the poor freedmen. In its national councils and in every State it has thrown all its weight against every proposition or measure to extend to the black man those rights of citizenship of which he has so long been robbed. The Republican party will carry this measure through here and in the States as it has carried through upon its stalwart shoulders every measure of progress, of justice, and of liberty, from the commencement of the great struggle down to the present time, and as I trust it will continue to do fearlessly and boldly as long as injustice exists in the Republic; as long as one citizen, even the poorest and the humblest in the land, is deprived of his rights as an American citizen.

The contest between slavery and liberty has been a long and a fearful one. From the murder of Broderick, the bosom friend of Douglas and the noble and true Democrat, who fell with the declaration upon his dying lips, "They have murdered me because I was opposed to the extension of slavery," to the cruel assassination of the great Lincoln, tens of thousands of noble men gave their lives for the sacred cause of liberty, and died that the Government of the people, and by the people and for the people, might live. To perpetuate its own wicked life the fell monster of oppression bathed its hands in the blood of countless patriots and brought weeping and desolation upon the land. But the contest ended, liberty triumphed, and slavery died. Yet a few lingering relics of the great barbarism still exist in the local ostracism of those who were its victims, and from whose limbs its chains have been unloosed; but this proposed amendment, if adopted, will sweep the last of them away forever; and it will be a glorious consummation. We shall then have no aristocracy of race; no privileged classes; no taxation without representation; but a just Government, deriving all its powers from the consent of the governed.

I trust, sir, that this joint resolution may pass; that the proposed amendment may be ratified by three fourths of the States, and thus become a part of the supreme law of the Republic.

Power and Duty of Congress in Counting the Electoral Vote.

REMARKS OF HON. J. R. McCORMICK,
OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

February 13, 1869,

The House being in the Committee of the Whole on the state of the Union.

Mr. McCORMICK. Mr. Chairman, a few days since a resolution was adopted for the government of the joint session of the two Houses in dealing with the electoral vote of Georgia, which reads as follows:

"Resolved by the Senate, (the House of Representatives concurring.) That on the assembling of the two Houses on the second Wednesday of February, 1869, for the counting of the electoral votes for President and Vice President, as provided by law and the joint rules, if the counting or omitting to count the electoral votes, if any, which may be presented, as of the State of Georgia, shall not essentially change the result, in that case they shall be reported by the President of the Senate in the following manner: were the votes presented, as of the State of Georgia, to be counted, the result would be, for — for President of the United States, — votes; if not counted, for — for President of the United States, — votes; but in either case — is elected President of the United States; and in the same manner for Vice President."

The provisions of this resolution are simply these: if the vote of Georgia affects the election

it shall not be counted, but if it does not affect the election then it shall be counted. What intelligent reason has Congress for such action as this? By what rule of common sense has it been governed in this proceeding? Where is its authority under the Constitution for such action? Why mock the people of Georgia by treating the electoral vote of their State in this way? It were more frank to say that if the vote of Georgia has been cast in conformity with the political views of Congress it may be counted; but if it has not, then it shall not be counted.

But we are told Congress has a precedent for its action in the adoption of this resolution; that in 1821 a similar resolution was by Congress adopted in reference to the electoral vote of Missouri, and again in 1833 the same thing was repeated in reference to Michigan. I deny the correctness of the proposition. The case of Missouri and Michigan is entirely unlike that of Georgia, which is an original State in the Union and has never been out of the Union, unless the heresy of secession is true. Under the Constitution Georgia is entitled to choose a number of electors equal to the whole number of her representatives in both Houses of Congress, and no power under the Constitution can deprive her of that right. At the time Missouri and Michigan attempted to choose electors they were Territories not in the Union, had never been in the Union, and under the Constitution were not entitled to choose any electors whatever. The resolution of courtesy then adopted by Congress toward these Territories who had made application to be admitted into the Union, and who had reason to hope would be declared States in the Union in time for them to participate in the election for President, is now sought to be made a precedent by which Congress may reject the electoral vote of a sovereign State; and the recent action of this body has gone far toward the establishment of a precedent by which a partisan Congress at some future time may overthrow the choice of the people and involve the country in anarchy and revolution. The action of Congress in reference to the vote of Georgia is without excuse; it was purely partisan in its character, inflicted a wrong upon the people of Georgia, and for which no authority can be found in the Constitution. Having given the reason for my objection to the joint resolution of the two Houses, I now proceed to consider the twenty-second joint rule for the government of the two Houses, which reads as follows:

"The two Houses shall assemble in the Hall of the House of Representatives at the hour of one o'clock p. m. on the second Wednesday next succeeding the meeting of the electors of President and Vice President of the United States, and the President of the Senate shall be their Presiding Officer. One teller shall be appointed on the part of the Senate, and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, the certificates of the electoral votes; and said tellers, having read the same in the presence and hearing of the two Houses thus assembled, shall make a list of the votes as they shall appear from the said certificates; and the vote having been counted, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote and the names of the persons, if any, elected, which announcement shall be deemed a sufficient declaration of the persons elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses. If, upon the reading of any such certificate by the tellers, any question shall arise in regard to counting the votes therein certified, the same having been stated by the Presiding Officer, the Senate shall thereupon withdraw, and said question shall be submitted to that body for its decision; and the Speaker of the House of Representatives shall in like manner submit said question to the House of Representatives for its decision. And no question shall be decided affirmatively, and no vote objected to shall be counted, except by the concurrent vote of the two Houses."

This rule provides for the settlement of questions which under the Constitution cannot arise. It recognizes the right of a member of either House to object to the vote of any State, and provides that the vote of a State when questioned shall not be counted except by the concurrence of both Houses. Suppose

that either House should take advantage of its power under this rule, and persistently refuse to count the vote of a sufficient number of States, to defeat the choice of the people. Would not that involve the country in imminent peril. I assert the Constitution grants to Congress no such powers, and whenever it is exercised it is a usurpation which from its very nature must tend to anarchy and the subversion of our institutions. But we are told that some such rule as this is necessary to enable Congress to reject the vote of a State when cast in opposition to the will of the people. To this it may be answered, the right to secure a fair expression of the people of a State, to decide who are chosen electors for a State, and to correct irregularities of elections in a State is by the Constitution secured to the States themselves. The Constitution provides:

"Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress."

Here the whole matter of choosing electors is left to the States, and for the best of reasons. Is it probable that Congress, composed of members from all the States, should be more capable to judge of the will of the people of a State than are the electors coming from the State and chosen by the people of the State? Suppose a State is politically opposed to the majority in Congress and stands in a feeble minority, are its rights and privileges more safely lodged in the hands of such Congress than in its own? I assert Congress has no power under the Constitution to reject the vote of any State; the exercise of such power may endanger the existence of the Republic, and to prevent which the Constitution declares "the vote shall be counted."

But suppose a State fallen under the domination of political faction which by corrupt legislation has disfranchised the majority, whereby electors have been chosen whom the people intended to reject, has Congress no power to right this wrong, by rejecting the vote thus fraudulently obtained? I answer, no. The people thus unfortunately situated must look for redress to the judiciary of their country. Again, suppose the people of a State to have chosen electors who have corruptly cast the vote of the State in opposition to the will of the people, has Congress no power to reject such vote? The answer still is, no; and although the courts cannot redress this wrong, and the people are without remedy, it is better they should suffer the penalty of their own folly in electing unfaithful men to office than that Congress should be clothed with a power the proper exercise of which may redress the wrongs of a State, but the abuse of which might outrage the rights of a nation. I am now speaking of electoral votes cast in conformity to the requirements of the Constitution. It is thus, I assert, Congress has no power to reject.

I propose next to consider what constitutes an electoral vote under the Constitution. That instrument provides:

"The electors shall meet in their respective States and vote by ballot for President and Vice President, one of whom at least shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President and in distinct ballots the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President and of all persons voted for as Vice President and of the numbers of votes for each, which lists they shall sign and certify and transmit sealed to the seat of Government of the United States, directed to the President of the Senate. The President of the Senate shall in the presence of the Senate and House of Representatives open all the certificates, and the votes shall then be counted."

From this it appears that a separate list must be made for each person voted for, in which shall appear the name of the person voted for, the State of which he is an inhabitant, the office for which he has been voted, the number of votes he received, and by a comparison of the lists it must appear that the electors have voted

for a President and Vice President, one of whom at least is not an inhabitant of the same State with themselves. The lists must bear the signatures and certificates of the electors.

In addition to this I believe the laws of most of the States require the secretary under the seal of the State to certify to certain facts, as that the persons whose names and certificates are hereunto attached are the persons legally chosen and qualified to act as electors for the State. The lists thus made, signed, and certified constitute an electoral vote which must be counted. But suppose the lists purporting to be the electoral vote of a State show the vote for President and Vice President to have been cast for persons both of whom were inhabitants of the same State with the electors themselves, or that a vote five times as great as that to which the State was entitled has been cast, such returns cannot be counted, because the evidence of their unconstitutionality is borne on their face. It therefore is the duty of Congress to reject such vote; but informality in the returns, not affecting the election itself, are not cause for rejecting the vote; for instance, the name of a person voted for has been misspelt or the date of the return shows the election not to have been held on the day required by law, these being no part of the election cannot invalidate the election returns. These are questions coming properly under the jurisdiction of Congress, because the returns themselves furnish the evidence by which Congress is enabled to judge of their character. But I deny the power of Congress to go behind the returns and look into the elections of the States at which the electors were chosen with a view to ascertain the validity of the electoral vote, because the Constitution provides the electors shall be appointed in such manner as the Legislatures of each State may direct. The action of electors so appointed when in conformity with the Constitution is a finality. To this I may add that the brief period which is to elapse from the opening of the electoral vote until the inauguration of the President wholly precludes the possibility of Congress investigating the legality of a State election.

In the discussion of this subject considerable has been said as to who shall count the vote. This, I think, is a question of minor importance, and on which the Constitution is silent. Congress may devolve that duty upon the President of the Senate alone, as he is made by the Constitution the recipient, the custodian, and the person to open the returns, or it may be devolved upon the President of the Senate and the Speaker of the House jointly, or on a committee of both Houses, as is now the case; but in either event Congress ordinarily is a silent spectator of the transaction, a mere witness of the procedure; it is only when on the face of the returns a palpable defect is apparent, a manifest violation of the Constitution is evident, that Congress may act while the vote is being counted, and its action must then be confined to these questions alone. After the vote has been counted nothing remains for Congress to do but to hear the results announced, except when the result shows no person to have received a majority of all the votes cast. In this event the House of Representatives becomes the principal actor, and immediately proceeds to elect a President and Vice President for the United States. Having briefly attempted to show the duties and power of Congress in dealing with the electoral vote of the States, I now propose to show wherein it has transcended its powers in this matter.

It will be remembered in the recent joint session of the two Houses, when the vote of Louisiana was announced, the gentleman from Tennessee [Mr. MULLINS] moved to reject the vote of that State, giving as a reason for his motion that no legal election had been held in Louisiana. The motion was entertained by the Presiding Officer, and the two Houses separated

to consider the motion of the gentleman from Tennessee. No witness was examined, not a word of testimony introduced in support of the motion, and yet when the question was put to the House of Representatives, "Shall the vote of Louisiana be rejected?" sixty-one members voted in the affirmative.

An attempt to exclude the electoral vote of a State upon *ex parte* evidence would be a violation of every rule of law and equity; but to attempt it without evidence, as was done in the House of Representatives, was a disgrace to the nation. Scarcely had the vote of Louisiana been disposed of when the gentleman from Massachusetts, [Mr. BUTLER,] following in the wake of the gentleman from Tennessee, introduced a similar motion in reference to the vote of Georgia, notwithstanding the vote of that State had been disposed of by a joint resolution of both Houses some days before the electoral vote was opened or the contents of the returns from Georgia known. The Presiding Officer entertained this motion also; whereupon the two Houses again separated to take into consideration the motion of the gentleman from Massachusetts. In this case the Senate decided to be governed by the joint resolution adopted by both Houses in reference to the vote of that State, while the House by an overwhelming majority decided to reject the vote in total. In this condition of affairs the two Houses met. The President of the Senate, upon taking the chair, declared the resolution introduced by the gentleman from Massachusetts out of order, although an hour before he had entertained a similar motion made by the gentleman from Tennessee, which had been rejected by both Houses, while the resolution offered by the gentleman from Massachusetts had been sustained by the House of Representatives.

The President of the Senate, sustained by the Senate, determined the vote of Georgia should be dealt with in conformity to the joint resolution adopted in reference thereto. The gentleman from Massachusetts, sustained by his friends in the House, determined the action of the House upon his resolution should be sustained, claiming that under the twenty-second rule the vote of no State could be counted except by the concurrence of both Houses, and that so long as the House objected the vote for President and Vice President could not be announced. The President of the Senate determined that the vote should then be announced, and so ordered. The gentleman from Massachusetts with his friends determined that the vote should not be announced except by the concurrence of the House. And here commenced a scene in the House of Representatives which every good citizen must contemplate with feelings of regret. The gentleman from Massachusetts, [Mr. BUTLER,] in his subsequent remarks before the House, characterized the action of the President of the Senate as a violation of the rights of the House under the twenty-second rule, and that it was the duty of the House to resist the aggression, because if this precedent is established the Senate may, independent of the House and in opposition to the judgment of the House, declare in the future who may fill the office of President, leaving the House nothing but the sacred right of revolution by which to redress the wrong. What are we to conclude from such arguments as these? Simply this: if the Senate rejects the vote of a State, and that rejection is concurred in by the House, the action is legitimate; but if not concurred in by the House and persisted in by the Senate, it is an outrage which may justify revolution.

Mr. Chairman, there is no power in either House, nor in the joint session of both Houses, to reject the electoral vote of any State when cast in conformity to the Constitution. The enactment of any law, the passage of any joint resolution, or the adoption of any joint rule conferring such power on either or both Houses

of Congress are alike unconstitutional, null, and void. It is not the recent action of the Presiding Officer of the Senate that should be so much condemned, but it is the action of Congress itself in reference to the electoral vote of the States of Louisiana and Georgia that merits our unqualified condemnation. The whole proceeding was a partisan measure whereby a precedent has been set which a future Congress availing itself of may reject the electoral vote of a number of States sufficient to defeat the choice of the people and elevate to the Presidency a creature of its own power.

These unwarranted acts of Congress are but a part of a wide system of partisan legislation which has afflicted the country for several years past. The repeated reconstruction acts of Congress have had for their object the maintenance of political power. The enfranchisement of the negro and the disfranchisement of the white race have had for their object the maintenance of political power. The denial of certain States the right to participate in the late presidential election and the rejection of the electoral vote of another State have had for their object the maintenance of political power. The enactment of a law regulating the tenure of civil offices and the impeachment of the President have had for their object the maintenance of political power. And because the Constitution has interposed its authority to prevent these aggressions of party it, too, has been made to run the gauntlet of every Congress in order that it be tortured into conformity with the requirements of party. Mr. Chairman, the signs of the times do not warrant the belief that this Republic is to be of long duration; our institutions cannot live under these repeated innovations; we must stop the one or bid adieu to the other.

Contested-Election Case.

SPEECH OF HON. S. N. PETTIS,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

February 18 and 20, 1869.

The House having under consideration the contested-election case of Chaves *vs.* Clever, from the Territory of New Mexico—

Mr. PETTIS said:

Mr. SPEAKER: I have no ambition that seeks gratification by unnecessarily trespassing upon the time and patience of my associates here, and especially when the consideration of questions of vital importance to the people and the country are demanding the attention of Congress, and my apology for what might under other circumstances be considered an obtrusion is found in the fact that the relation which I sustain to the report now under consideration makes it proper that I should ask the indulgence of the House for a short time.

This subject embraces the old question of wrong by which our fathers were oppressed, and involves the invasion or protection of the dearest interests that belong to an American citizen, his personal, political rights. The charge that the contestant makes is, that by fraud and violence he has been deprived of a seat in this House in consequence of the false and fraudulent return of votes by bad men to the territorial officials of New Mexico, and his people denied a representation upon this floor by the representative of their choice. This is denied by the sitting Delegate, and thus the issue formed between the parties to this contest.

The testimony in the case is voluminous, and upon it and the law bearing upon the controversy the parties and their counsel were fully heard.

Of the 17,606 votes cast, as returned to the secretary of the Territory, it appeared from the abstracts and poll-books forwarded by the probate judges of the various counties that the

sitting Delegate had received a majority of 540, and upon that showing a certificate of election was given to him, and upon it he was admitted to a seat upon this floor. The contestant, Colonel Chaves, anticipating that result, after learning that Mr. Clever had received the certificate of election, gave notice of the contest and proceeded to make up his case, which is now here for final decision. He alleged, and the testimony shows, that in some precincts the poll-books were altered and changed, by which in some instances Mr. Clever's vote was materially increased; and in others the contestant's vote was greatly reduced in fraud of his rights and in violation of law. It is true that such charges were and are of a grave character, and the committee gave the whole subject that careful consideration that its importance demanded. In the county of Rio Arriba, at the precinct of Tierra Amarilla, it is alleged that 464 votes were polled, of which Mr. Clever received 452 and Mr. Chaves 12. That state of facts is set forth by the poll-book of that precinct. Colonel Chaves maintains that the poll-book falsifies the facts, and that only 80 votes were cast at that precinct, of which he received 12 and Mr. Clever 68.

Felipe Madrid, one of the clerks of the election, and Francisco Martin Y. Sanches, one of the judges, testify that 464 votes were polled, of which Mr. Clever received 452 and Mr. Chaves 12.

Juan Ygnacio Miera and Eliseo Salazar depose and say that only 80 or 82 votes were polled, of which Mr. Clever received 68 and Colonel Chaves received 12. Miera was an educated man, and, as he testifies, was present and an attentive observer of the election during the whole day, and saw the votes counted and heard the result announced that I have already stated.

Eliseo Salazar testifies to the same effect. He was a candidate for the office of senator, and was present from the casting of the third or fourth ballot; was at the table at which the votes were received the whole day; kept a tally-list of the votes polled, and that when the polls closed heard the judges and secretaries announce that Mr. Clever had received 68 votes, and Colonel Chaves 12 votes.

The credibility of the statement of Felipe Madrid is questioned by the testimony of Rafael Sovats, who states that he saw him a day or two after the election coming with the ballot-box and poll-books from Tierra Amarilla to the county seat, and that he told him that the number of votes cast at that precinct was 82, of which Mr. Clever had received 68 votes and Colonel Chaves 12.

The credibility of the statement of Francisco Martin Y. Sanches, one of the judges, is impeached by the testimony of Major José D. Sena, sheriff of the county of Sante Fé, who testifies that shortly after the election Francisco Martin Y. Sanches, the judge of election, and who testifies on behalf of Mr. Clever, told him that to the best of his recollection the number of votes cast at Tierra Amarilla did not exceed 100; and yet this man testified six months afterward that 464 were polled at that precinct. It would appear, therefore, that the preponderance of testimony as between those witnesses—two on each side—is in favor of Mr. Chaves, as the veracity of his witnesses has not been questioned. And then there is evidence corroborating the testimony of the contestant's two witnesses that goes a great way toward establishing the position claimed by Colonel Chaves. At the election held at this precinct the year previous for county officers and members of the Legislature only 37 votes were polled, and the year following the election now in controversy the registration list of this precinct shows only 119 legal votes; yet the returns of this election held during the intermediate year exhibit about four times the number registered the next succeeding year.

The poll-book of this precinct will not bear

inspection. The names of the two clerks of the election, Felipe Madrid and Miguel Gallegos, are signed very differently on the last page to the certificate from what they are on the first page to the oath. The name of the latter on the first page is written "migelle-gas," on the last to the certificate, it is written Miguel "Gallegos," and it is apparent that on each page the same person wrote the names; or, in other words, that one person wrote the two names on one page, and some other person the two names on the other page. And it is strikingly obvious that the name pretending to be that of Miguel Gallegos was written by different persons on the different pages. This is demonstrated by the difference both in penmanship and orthography; and a strong circumstance going to show that he did not in either case write the name purporting to be his signature is found in the fact that this name is not properly spelled in either instance, and it is a rational presumption that a man knows how to spell his own name. In this point of view the poll-book wears the appearance of having been foully handled.

The clerk of the judge of probate, who appears to have been a friend to Mr. Clever in the election, testifies that the poll-book of this precinct was made, and the leaves stitched together just as they now are, when he sent it to the precinct; but an inspection of the poll-book indicates clearly that such could not have been the case, for it was manifestly stitched together after the names had been recorded and the figures designating the respective numbers of the votes had been written, as the stitches in some instances pass through the first figure of the respective numbers, indicating that the poll-book had been tampered with after it left the hands of the officers of the election, that votes had been fraudulently added, or that the poll-book had been reconstructed or fabricated entire and the names and figures written therein before it was sewed together and after it had passed into the hands of the judge of probate, or at least that the votes and figures therein recorded were not written during the election, as the figures could not have been so written while the book was in this manner stitched.

A circumstance going strongly to corroborate or strengthen the witnesses of Mr. Chaves in their statement that there were only 80 votes polled for Delegate at this precinct is to be found in the fact that the other party has failed to take the testimony of Miguel Galligos, the clerk of election, whose name on the poll-book was evidently twice forged, and also the testimony of Bernardo Sanches and Juan Lopez, who were judges of the election. If it were true that 464 votes had been polled, as alleged, Mr. Clever might, by bringing those men forward, have had five witnesses to the fact, and the presumption is that their depositions were not taken because they could not conscientiously testify that 464 votes were polled. Mr. Clever is left to rely for proof of his large vote at this precinct on the manifestly unfair poll-book and the witnesses, whose testimony is somewhat discredited, and who are contradicted by two other witnesses whose veracity stands unimpeached, and who testify that there were only 80 votes polled for Delegate at this precinct, of which 68 were for Mr. Clever and 12 for Mr. Chaves.

A careful examination of the poll-books of this precinct, and an analysis of the testimony on both sides, taken in connection with corroborating circumstances, leave no doubt of the correctness of the witnesses Juan Ygnacio Mierro and Eliseo Salazar, who testify that only 80 votes were cast for Delegate at Tierra Amarilla; and that being the case, Mr. Chaves becomes entitled to a credit of 384 votes which were improperly and unlawfully counted for Mr. Clever. Beyond that I would say that I have no doubt that the whole poll-book is a forgery, and that not a leaf or scrap of it was

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Contested-Election Case—Mr. Pettis.

40TH CONG....3D SESS.

before the board of election upon election day; that is, at the polls.

From the precinct of Santa Clara, in the county of Mora, 209 votes were returned—19 for the contestant and 190 for Clever. Colonel Chaves contends that only 52 votes were polled—32 for Mr. Clever and 19 or 20 for Colonel Chaves.

José Angel Padilla testifies that he knew that only 52 votes were polled; that he derived his knowledge of that fact from seeing the poll-list all day, and the numbers on the poll-list as the names of the voters were taken down by the clerks of the election, and from counting the votes as they were polled.

Benigno Baca, one of the judges of election, testifies that he thinks there were 209 or 219 votes, and that, though he could not read or write, he supposed that the true number was put down by the clerks of election, and that he knew it because the other judges could read and write, and he was present at the counting of the votes.

Manuel Abieta says that he arrived at the polls after the votes were counted, and that it was publicly announced by the clerks and judges that there were over 200 votes given, and that Chaves had received 18 votes and Clever the "balance." The other two judges were not called by Mr. Clever to testify, nor was the clerk, Fernando Nolan, who was a candidate for the Legislature on the Clever ticket. The contestant summoned Nolan, but he refused to attend, and was lurking around the place of taking testimony while it was going on, showing reluctance to testify. At this precinct only five months previous to this election for Delegate 135 votes only were polled at an election for local officers, and in 1868, the next year after the election for Delegate, the registration list showed only 106, yet it is pretended that 209 votes were polled at an election in the intermediate year.

An examination of the poll-book discloses beyond all question its total want of integrity. The names of the three judges, Jesus Barreras, Jorge Chaves, and Benigno Baca, and the name of the clerk, Fernando Nolan, as purporting to have been subscribed to the oath, are all written in the same handwriting, and the same name as signed to the certificate of the result are also written manifestly by one person, but in a handwriting entirely different from that in which they are written on the first page. The name of Jesus Barreras is spelled properly as subscribed to the oath, but in the signature to the certificate it is spelled Bareras. The Christian name of Jorge Chaves is spelled Jorge to the oath and George to the certificate. The Christian name of Benigno Baca is spelled improperly Benino in both places. The name of the justice of the peace purporting to have sworn the officers in is written to the jurat Bernardo Torres, the surname, which is Torres, being spelled wrong. The name of the same man is signed as justice of the peace, on the last page, Bemandia Torres—the surname being spelled wrong in the first instance and the Christian name in the last. There can be no doubt that two different persons wrote all of those names except the name of the clerk, Fernando Nolan, who doubtless wrote all the names on the first page, and even his name was manifestly written by another person in his pretended signature to the certificate. It is very apparent that every name on the poll-list from No. 57 to the end was written by the person who forged the names of the officers to the certificate. Every vote recorded after the forty-third vote was recorded for Mr. Clever. These circumstances clearly indicate that the poll-book of this precinct passed through a severe ordeal of manipulation and impugn the integrity of the entire poll. There can, at least, be no doubt of the correctness of the testimony of José Angel Padilla, for his frank and positive testimony is corroborated by the appearance of the poll-list.

So far as the contestant's allegations are concerned touching the impropriety and illegality of the election in precinct No. 11, known as La Junta precinct, Mora county, the committee found the facts to be as alleged, and that coarse, improper, vulgar, and threatening language was used by the friends and supporters of Mr. Clever, and that it was done to intimidate and prevent persons from voting for the contestant, and yet did not recommend that the entire vote of the county be thrown out, but only the 100 votes that Walter Fosdyke, one of the judges of election and a Clever man, testifies were fraudulently added to the poll-list and the certificate changed and forged so as to correspond with the fraudulent alteration or addition. The committee should have probably gone further and thrown out the vote of the camp-followers and lawless persons who voted in violation of law at such precinct.

In this connection Mr. Fosdyke says that only 543 votes were cast, and that 100 were inserted in the poll-book after he had signed the certificate. Mr. Fosdyke is a man in high standing, and his statements touching this matter are corroborated by the certificate, the book, and the alterations apparent upon inspection. Mr. James F. Johnson testified that Mr. Fosdyke stands as high as any man in the Territory, and that nothing can be said against him either as a man of truth or honor. Mr. Fosdyke says that after the closing of the polls he, with the other officers of election, having signed one of the poll-books and attested the result of the election, turned the poll-books and ballot-box over to Mr. Nelson, one of the clerks of the election; that he went to the house of a Mr. Kronig the next morning after the election to see Mr. Mink, and could not find him anywhere; that about eleven o'clock Mink and Nelson came out of a private room where they had been closeted during the morning, Nelson having the ballot-box under his arm. James F. Johnson testifies that he had a conversation with this same Mr. Mink just before the election, in which Mink said, "We must beat them, and even take our old books and get all the names of the hired men and take the list and put their names upon the poll-books," and that he meant that Clever must beat Chaves. This is the Mr. Mink who was cloistered with Mr. Nelson and the ballot-box and poll-books, doubtless with a view of executing the fraud suggested in his conversation with Johnson. Mr. Nelson was subpoenaed by Mr. Chaves to testify in this case, but he failed to appear, having left the country.

I am not at all clear that it was not the duty of the committee to recommend the throwing out of the whole vote of Mora county. The returns were not made by the judge of probate to the secretary as the law requires. The statute is explicit upon this subject. The returns of each county are to be sent by "special messenger to the secretary of the Territory," and the law recognizes no other mode of transmission. The returns from Mora county were not so forwarded, but were placed by the probate judge in the hands of one Harris, at Fort Union, a partisan of Mr. Clever, and by him sent through the medium of a common carrier to R. B. Mitchell, Governor of the Territory. Harris, to whom the judge of probate handed the returns, states that he inclosed them in a certain kind of paper and directed the package as follows: "Governor Robert B. Mitchell, Santa Fé, New Mexico; value, \$5,000," and thus he sent the same by express. It also appeared that the returns were covered by an inner wrapper, which was superscribed as follows: "Election returns for Mora county, New Mexico, 1867. His Excellency Governor R. B. Mitchell, Santa Fé, New Mexico." While Mr. Harris was upon the witness stand he was shown the inner wrapper, and he did not recognize the handwriting of the superscription or the superscription itself as ever having seen either before. He testified that the

inner wrapping, on which was written the address that he did not recognize, was in the form of a sack or bag, such as merchants use to put sugar and coffee in. Vincente Romero, the judge of probate, testified that the poll-books, when he left them with Mr. Harris for transmission to Santa Fé, were inclosed in common wrapping paper, such as is used in country stores, and not in the form of a sack or bag. By a departure from so plain a provision of the law in the forwarding of the returns an opportunity was afforded for tampering with the official returns; and in view of the fact that the returns from precincts Nos. 11 and 12, La Junta and Santa Clara, were altered, as I have already shown, can any one doubt that they were violated and tampered with? No doubt this unlawful transmission was adopted to facilitate this intermediate manipulation of the returns, as they were bandied about in direct violation of law, and the presumption is not only violent but conclusive that these forgeries and alterations were made while *in transitu*.

With reference to the vote at the thirteenth or Moreno precinct, in the county of Mora, and which the committee disallowed in their report, the testimony of Vincente Romero, the probate judge of the county, ought to be sufficient evidence of the correctness of the report upon that point, and he testifies that he did not at that time consider that precinct as having any legal existence. But the secretary of the Territory settles the question beyond all cavil by testifying that the precinct was established by the Legislature in January, 1868. The vote of precincts Nos. 13 and 14 in the county were excluded by the committee, and rightfully, for they were not established by law until the next year after the election of September, 1867, and 153 votes more were returned for Mr. Clever than Mr. Chaves. The first of such precincts was known as Rio Bonito, the second as La Valle de Missouri, in the county of Socorro.

The proceeding of the probate judge in the county of Dona Anna as disclosed by the testimony was extraordinary, not to say outrageous and criminal. He was himself a candidate for election upon the Clever ticket; and by the returns from the different precincts as made by the judges and clerks he was defeated, and Clever 169 votes behind Colonel Chaves. The vote of his county was, by a process to which I will presently refer, changed from a majority of 169 for Chaves to 144 for Clever, and the defeated probate judge declared elected by the fraudulent and unauthorized acts of himself and those acting under and with him. Of 390 votes that had been cast and returned for Mr. Chaves 168 of that number were rejected, as the master of ceremonies would have it, for illegality and insufficiency of the returns, and 305 stricken from the poll-books outright.

The sitting Delegate rests the authority for the exercise of such power by the probate judge on a law of the Territory, which directs him to publicly examine and count the votes polled for each candidate. The authority so claimed for the probate judge's action is simply monstrous. It is the first real board of political inquisition that ever fell under my observation. The terrible system of frauds in the city of New York, which my colleague [Mr. KELLEY], charged as having been perpetrated there in November last, and which was so warmly and emphatically thrown back by the honorable member from New York [Mr. BROOKS] as having been originated in Philadelphia, whiten when compared with those disclosed in this case, and which have nothing but their coarseness and boldness to recommend them to the favor of this House. The twenty-second section of the compiled laws of the Territory of New Mexico, page 436, is in these words:

"SEC. 22. All votes shall be by ballot, each voter being required to deliver his own vote in person. Each ticket shall be numbered, and the number placed opposite the name of the voter; said ticket shall in no case be examined unless the election be contested,

but shall be delivered by the judges of the election to the probate judge of the county, who shall retain them until the expiration of the time allowed for the contesting of the election, and they shall then be destroyed."

Section seventeen of the same law only authorizes the judge, as canvasser, to examine the regularity of the returns or votes. The authority to decide upon the legality of votes returned for Delegate, according to law, by the judges of election to the judge of probate, belongs exclusively to the House of Representatives.

The probate judge rejected the vote of precinct No. 6, in this county, because the people at the opening of the polls appointed a judge of election in place of an absentee, which was done under section fifteen of the election law of the Territory, page 434, which is substantially a copy of a provision that is to be found upon the statutes of nearly every State, and is in the words following:

"SEC. 15. If any probate judge should fail to appoint the judges provided by this act, or if from any cause they shall fail to attend to their respective precincts on the day of the election, it shall be lawful for a majority of the qualified voters, in the precinct where said vacancy occurs, to appoint judges, who shall conduct said election in the same manner and to the same effect as if they had been appointed by the judge of probate as provided in this act."

The returns from precinct No. 7 were rejected on the ground that the clerks did not sign the poll-books and certificate, although the judges had, while the poll-books of precinct No. 12, in Mora county, subject to the same objection, were allowed, the one varying or differing with the other only in this, that the one allowed polled a majority for Clever, and the one rejected cast a majority for Colonel Chaves.

It appears from the testimony that 23 votes for Mr. Clever were rejected as illegal by the judges of election at precinct No. 3 in the city of Santa Fé, but that the judges were subsequently induced to count them, in the returns, for Mr. Clever, under the influence of threats and intimidation on the part of his friends, who attended the polls armed with pistols and bludgeons.

It is alleged by Mr. Clever that 82 alien votes were polled for Mr. Chaves in the county of Santa Fé. He alludes to a certain class of persons who were citizens of the Republic of Mexico when by the fortunes of war between the United States and that republic the region of country of which the Territory of New Mexico is now a part became ceded to the United States, and who by the stipulations of the treaty of Guadalupe Hidalgo were clothed with the privilege of retaining the character of Mexican citizens, provided the declaration of an intention to retain their allegiance to their former sovereign should be made within a period designated by the said treaty.

For the purpose of proving that the alleged 82 alien votes were polled by persons who, in pursuance of that treaty stipulation, had declared their intention to retain the character of Mexican citizens, the sitting Delegate took the testimony of Donacraña Vigil, who testified that he filled the office of acting Governor of the Territory of New Mexico under the Harney code; that he continued in that office until Colonel John M. Washington entered on the duties of the office of civil and military governor of New Mexico; that he was in the discharge of the duties of secretary of the Territory when Colonel Washington issued a proclamation requiring the inhabitants of the Territory to elect whether they would retain the character of Mexican citizens; that by virtue of said proclamation a book of registry was ordered to be opened in the offices of the several precincts of the Territory, in which the names of those who wished to retain the character of Mexican citizens should be recorded; that he saw from the list of names of persons residing in the county of Santa Fé—which seems to have been handed to him while testifying—that those names, to the best of his recollection, were in the book of

registry opened in the said county for the reception of the names of those who wished to retain the character of Mexican citizens, when the said book was returned to the secretary's office by the judge of probate of the county of Santa Fé.

Witnesses are then introduced to prove that persons of the same names voted for Mr. Chaves in the election now in contest. If those persons registered their names as evidence of their intention to retain the character of Mexican citizens under the provisions of the treaty, their act became a subject of record, and that record should have been produced, or, if the record could not have been obtained, a certified copy of the same should have been produced, and if the record had been lost or destroyed, its absence should have been accounted for. The rule of evidence is, that the best evidence must be produced of which the nature of the case is susceptible. When better evidence is withheld it is fair to presume that the party had some sinister motive for not producing it, and that, if offered, his design would be frustrated. Besides, there was no evidence of identity to show that the persons who were alleged to have declared their intention to retain the character of Mexican citizens, though they bore the same names, were the identical persons who voted for Mr. Chaves. Other attempts seem to have been made by Mr. Clever to show, from the same cause, ineligibility on the part of those who voted for Mr. Chaves, but his testimony has been insufficient for the purpose.

It seems, then, from the evidence that it was before the election in 1867 resolved upon by bad men that Colonel Chaves was to be defeated and Mr. Clever elected. When an offense against the laws, against the rights of the people of the Territory—saying nothing of the rights of the contestant that were to be stricken down by the conspiracy against the ballot-box, was so early and coolly planned—can anybody affect surprise at the disclosures made in the testimony showing that after the election had been held, and under circumstances unauthorized, in unusual places, illegal voters permitted to vote, because resistance was dangerous to life, and persons prevented from voting by intimidation and threats of violence; that after all this being adjudged legal that still the contestant was elected; that a resort was had in the precinct Tierra Amerilla to add nearly 400 votes to Mr. Clever's majority, and smaller majorities in several others; and that failing still to overcome Colonel Chaves's majority, that bad men resolved upon the last conceivable monstrosity in this connection, and cap the climax of villainy by absolutely rejecting 393 votes that had been cast for Colonel Chaves in Donna Ana county, without objection or challenge, with nothing to commend such action save bold-faced impudence and brazen insolence, and all in order to falsify the records of the county, that a lie might be put in its mouth, and it made to say that instead of Colonel Chaves being the choice of her people as a representative Delegate in this House by a majority of 169, that Mr. Clever was by a majority of 144. I may say that it matters not whether the acts producing such results were virtuous or vicious, it is enough to know that they were unauthorized, for the injury is the same in either case to the contestant and an outraged people.

The evil which men do live after them, and nothing is more foolish than injustice. The bad faith of these ballot-box stuffers and election-return manipulators, repeaters and rejectors, come back to pester and plague them and theirs. Mink, Madrid, and Lemon, and their associates will die, but their infamy in this transaction is on record and will live after them, reaching down through the tide of time to the third and fourth generation, and will stick to the ribs of their posterity, and like a chronic infirmity will be felt at every change of weather. And now when this nation is emerging from the

sea of trouble and error into which it had fallen because of the wrong of her people, and when the dry land has at last rose through the great sea of blood and crime, I beg of you do not by your action in this case do that which recognizes in that struggling Territory that has united her fortunes, her interests, and her honor with our own, that force, violence, and disregard of law—that is but another name for rebellion—and would have better graced a society whose chief accomplishments were whips, chains, yokes, thumb-screws, blood-hounds and brothels, than the age in which we live. Every injury superinduced by a wrong act must be repaired by the power having control in the premises, and this upon a principle of primary and necessary justice; otherwise all the points of social and political contact, instead of points of coherence, would become points of repulsion, and society would soon cease.

Suffrage Constitutional Amendment.

SPEECH OF HON. G. W. WOODWARD,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

February 20, 1869,

On the joint resolution (S. R. No. 8) proposing an amendment to the Constitution of the United States.

MR. WOODWARD. I wish to say a few words to-day in behalf of the people of Pennsylvania. The constitution of the State of Pennsylvania of 1790 was silent on the subject of negro suffrage. A diversity of opinion and practice to a limited extent grew up under that constitution. In some sporadic instances colored men were permitted to vote; but at length the question came before the highest judicial tribunal of the State, and it was decided that the constitution of 1790, rightly understood, never permitted negro suffrage.

That decision was based upon this ground, that the negro race never had become a part of the social compact of this country, a conclusion that was deduced from the history of the negro race and their introduction into this country as slaves. It resulted very logically out of the great principle of the Declaration of Independence, that all just Governments should be founded in the consent of the governed. A subject, inferior, ignorant, and idolatrous race, introduced into a country against their will to be slaves, would be greatly wronged in being treated as having consented to the government of that country. The African race has never consented to the government of this country. They are exotic, they are alien, they are strangers to the Commonwealth. They were brought here in violation of the laws of nature; they were thrust upon us without their consent and without ours; and according to Pennsylvania law they never became parties to the social compact upon which all our political institutions are founded.

The people of Pennsylvania, penetrated with these truths, which their judiciary had thus recognized, amended in 1837 their constitution of 1790, and in defining the qualifications of electors inserted the word "white" before the word "freeman." This was not only agreed to in their constitutional convention after great deliberation, but that amendment was submitted, with other amendments, to a vote of the people of Pennsylvania. And, sir, it is a part of the history of the times that those who were opposed to the reform of the constitution were especially opposed to this amendment, because of the popularity which it gave to the other amendments. I point the House to the fact that the people of Pennsylvania thus, through their judicial tribunals and by their own popular elections, decided as solemnly as it is possible for freemen to decide that the negro race was no party to the social compact and should not be admitted to the suffrage.

HO. OF REPS.

Suffrage Constitutional Amendment—Mr. Woodward.

40TH CONG....3D SESS.

Now, Mr. Speaker, that decree has never been reversed. On the contrary, all political parties have recognized it and submitted to it. The Republican party, as often as they have been charged with intending to take out of the foundations of our State government that corner-stone, have asserted that they were slandered; that they intended nothing of the sort. They have pointed to the Chicago platform in confirmation of their assertions. In consequence of this disavowal they enjoyed in the last election, and in all the late elections in our State, a very large Welsh vote, which, I tell them, they will lose from the day that they force negro suffrage upon the people. They have enjoyed that Welsh vote by reason of their persistent and apparently consistent denial that they were for negro suffrage. The Welsh do not like the Irish; there is a lack of congeniality between the two classes on account of religion and other causes. The Republican party, while they cannot carry the great body of the Irish population, can carry a large proportion of the Welsh so long as, and only so long as, they can persuade that people they are honest in their professions against negro suffrage.

The effect of the proposition now before us is to change the fundamental law of Pennsylvania, to reverse the historic and traditional policy of the State, to introduce into the politics of that great Commonwealth this alien, foreign, unnatural element, which down to the present time the Republican party have told the people never was to be a part of their policy. I ask of the gentleman from Massachusetts and of this House that before this change of policy be adopted the whole people of Pennsylvania be allowed to pass upon the question. What answer does the gentleman give to this request? He has answered, sir, in your hearing, that he cannot allow the offering of an amendment looking to that end because the Constitution forbids him. I, standing here, asking the gentleman from Massachusetts to do an unconstitutional thing when I beg him to submit his amendment to a vote of the people! Well, sir, if the gentleman from Massachusetts had never done any unconstitutional thing it would undoubtedly be a very great sin in me to tempt him into transgression. But, Mr. Speaker, let me tell the gentleman from Massachusetts that I asked him to violate no constitutional provision when I asked him to submit this amendment to the people of Pennsylvania. And, sir, within five minutes after he refused to entertain my proposition, he stood in his place and declared, as the report in the Globe will show to-morrow, that this constitutional amendment was to be submitted to the people of this country. I deny that.

Its submission to the people, in the fair sense of the term, is exactly what I demand. The present Legislature of Pennsylvania was elected last October. It was elected while the Republicans were complaining that the Democrats were slandering them in charging them with intending to introduce negro suffrage. That charge was declared to be a defamation upon the fair fame of the Republican party. And yet it is to this present Legislature the gentleman insists upon submitting the amendment. A Legislature not only not elected to consider any such subject, but elected in the midst of profuse denials that such a subject was to come before them. On this question they do not represent the people—were never chosen to represent them. If the gentleman will say that this Legislature was elected to consider this or any similar amendment I will give up the discussion. Nay, I will give him anything I have to give if he will hazard that statement. But he will not, and the fact must remain unchallenged that you are about to call upon a body of representatives to ratify your amendment who do not represent the people upon this question. The ratification might just as

well be submitted to any other body of men—it might just as well not be submitted at all.

What I propose is, that the amendment shall be submitted to a Legislature, the most popular branch of which shall be chosen after this date, with this question before the eyes of the people.

The gentleman from Massachusetts says that is unconstitutional. Why? Because we cannot select the Legislature to which to submit our amendments. I deny his premises. I say that the Constitution devolves upon us the duty of selecting the representative body to which we shall submit amendments. When I read the words of the Constitution you will see I am right. It is as follows:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or on application of the Legislatures of two thirds of the several States shall call a convention for proposing amendments, which, in either case shall be valid to all intents and purposes as part of this Constitution when ratified by the Legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by Congress."

There, sir, is the constitutional devolution of the duty to exercise our discretion as between a Legislature and a convention to pass upon amendments. The duty involves the power. If we must choose between a Legislature and a convention, we may choose a Legislature or a convention elected last year, or to be elected this year. The Constitution does not shut us up to Legislatures now in session. We may take any Legislature that shall fairly and reasonably represent the people. And the ground on which I maintain that our discretion should be exercised in favor of a future instead of the existing Legislature is, that the people may have a chance to choose representatives with a view to this question. What right had the gentleman to say that the amendment was to be submitted to the people? It cannot be submitted to the people by being submitted to the present Legislature. Nobody knows that better than the gentleman from Massachusetts.

When you have matured the form of your proposition, throw it before the Legislature to be chosen next fall, and let the people understand that when we Democrats charged you Republicans with plotting for negro suffrage we did not slander you, but spoke only the truth. Put your amendment before representatives of the people chosen after you have shown your hands, and if they ratify it I will agree never to raise my voice again in opposition to negro suffrage.

Having said thus much in behalf of an amendment which the gentleman from Massachusetts will not let me offer, I improve the opportunity to add a few more thoughts on the general subject of negro suffrage. I have shown the House what has been the fixed position of Pennsylvania in all time on this subject. For more than thirty years all parties have acquiesced in the rule of white suffrage. So far as I remember no public man in Pennsylvania has proposed a repeal of the rule. Even the late Mr. Stevens, whose opinions were extreme on all subjects, never brought forward any measure to alter our constitution in this regard. He would not sign the constitution, as a member of the convention, and no doubt he would have voted to his dying breath to expunge the word "white." So also, had he been spared, would he have lifted up his eloquent voice to persuade the people of Pennsylvania to change their fundamental law and give the ballot to the negro; but, sir, I persuade myself that he would not have been guilty of the insincerity and duplicity that have characterized the conduct of the Republican party on this question. Having denied again and again that this issue was in last fall's election, Mr. Stevens would have said, with characteristic candor, the representatives then chosen do not necessarily represent the people on this question, let it go to the next representa-

tives they may choose. Not only have all white men in Pennsylvania acquiesced for thirty-two years in the rule of white suffrage, but so also have the black men. I cannot recall a single instance in which any representatives of that class of our citizens have asked for a change. The colored people of Pennsylvania are a quiet, orderly, and respectable population. They enjoy full protection of all civil rights. Pennsylvania abolished slavery in 1780 by an act whose preamble is often quoted to attest her abhorrence of the institution, but whose substantive provisions show that she was no more unmindful of the rights of sister States than she was of the rights of the negro race. With us the negro is esteemed according to his individual merits. If he is industrious, sober, and honest he is respected and patronized. I have many friends among them, and cherishing only the kindest feelings for them, I am incapable of doing anything in my representative capacity to their prejudice.

But, sir, the ballot will be no boon to them. The assertion that it is necessary to the protection of their civil rights is false, and, so far as Pennsylvania is concerned, is slanderous. The negro no more needs the ballot in Pennsylvania for his security than the women do for theirs. The whole history of that grand old Commonwealth shows that the weak, the ignorant, the poor, the dependent have been cared for by her with a maternal solicitude. Look at her common-schools, her colleges, her asylums for the blind, the deaf and dumb, the insane; her hospitals for the sick, her houses of correction for the erring, her prisons for the guilty, her laws for the poor, for married women, her system of intestacy. What can Christianity or civilization do for the lowly, the poor, and the distressed that Pennsylvania has not done? Who dares to stand up and accuse her of robbing the negro of his rights? Who has the audacity to assert that the ballot is essential to the negro's safety and welfare? Founded by deeds of peace, Pennsylvania has been just to all men, whether red or black or white, and he wrongs her grievously who would undermine her institutions upon the poor and false pretense that her citizens of African descent are oppressed. It is not so.

But though this amendment is uncalled for even by the negroes of Pennsylvania, and is subversive of our fundamental law, it is supposed it will be a step toward universal suffrage which gentlemen speak of as a great and beneficent reform. I cannot help thinking, sir, that such opinions are founded in a misapprehension of the nature of suffrage. Having on a former occasion stated my views somewhat at length on this head, I will not enter again into the subject, but will content myself with saying that suffrage is not a natural right any more than any other municipal regulation which experience has shown to be expedient. It does not belong to manhood in the sense in which the rights of life and liberty do; but it is a political trust which the majority may bestow where it will best subserve the general welfare. It is a conventional as contradistinguished from a natural right. Its bestowal, limitations, and exercise are regulated by the law of convenience or expediency. The question always ought to be, will a proposed extension of suffrage promote the peace and welfare of the body-politic? When Louis Napoleon in the *coup d'état* that made him a despot decreed universality of suffrage, he demonstrated how this beneficent reform of which we hear so much could be made the instrument of an inexorable tyranny; and the same reformer who extended the basis of suffrage at Athens brought in with it the odious ostracism by which the greatest and best men of the city were banished. These and many other examples that might be cited ought to teach us that when suffrage is hastened or extended by force or fraud, instead of growing up out of the experience of the people, it is a curse and not a blessing.

40TH CONG....3D SESS.

Executive and Judicial Power—Mr. Ashley.

HO. OF REPS.

Our written constitutions are the outcroppings of our national life. Until lately they were formed, not on the wild dreams of theorists, but to record the conclusions of experience. What the common mass have found to be good for themselves they have secured in their constitutions, State and Federal. Suffrage has been left to each State to bestow or withhold according to its discretion. Nowhere has it been extended to women or minors or unnaturalized foreigners. Why? If a natural right, a God-given inheritance to manhood, as it is sometimes called, why should it be withheld from these classes? It is withheld from them on the same reason it is in Pennsylvania withheld from negroes—expediency. Human experience has proved that the trust could be best executed by excluding these classes, and, as in all other trusts, the selection of a trustee on ground of expediency is no affront to those who are not selected. Everybody except those strong-minded women who, not just representatives of their sex and "most ignorant of what they are most assured," clamor for "women's rights," would probably agree that it would be a degradation to the female sex to involve them in the responsibilities of the ballot. Universal experience attests that they are not suitable trustees; and, therefore by an almost universal consent, they are set aside. The reasons for setting aside the negro are stronger and better than those which apply to females. Between him and the white man there is an ineradicable distinction that must forever prevent that free, social intercourse on which alone popular suffrage can be based.

This distinction, if it be not inflamed into hostility by bad legislation, does not prevent the two races from dwelling together harmoniously in the same community, assisting each other in the labors and the charities of life, and contributing to their mutual welfare. But when you attempt to force them into social and political equality you inflame the passions of both parties and destroy the harmony of their relations. Out of these conflicts the weaker must inevitably come most damaged. It is impossible to provoke a conflict between the African and the Anglo-Saxon races in which finally the African will not be worsted. For a while you can force a sort of equality upon him by a standing army and the Freedmen's Bureau; you can oppress your own fellow-countrymen in the hope that the African will keep you at the public crib, but as surely as God has made intellect superior to matter and the white man to the black, the country in which they dwell together must be governed by white men. They will not, they cannot maintain a peaceful partnership in this matter. Call it prejudice or what you will, philosophize and moralize upon it as you may, the fact remains that one is black and the other is white, and therefore they cannot coöperate in exercising political trusts. I do not say that one may enslave the other—the superior may be compelled to respect the civil rights of the inferior race—but they cannot long be co-trustees of suffrage without riots and bloodshedding. If the time ever comes that the political destinies of this country, even for one presidential term, are controlled by negroes, it will be the darkest day that ever dawned upon that unfortunate race. May God in his mercy to them and us avert that day!

Now, sir, it is from considerations of expediency that I oppose negro suffrage. It is the good of the negro as well as of the white man that prompts my opposition. It is my desire that they may live together in peace and happiness, as always heretofore in Pennsylvania, that leads me to deprecate this amendment. And especially have we in Pennsylvania a right to complain when, in violation of all precedent, of all constitutional law, of your own party platform, and of the peace of our Commonwealth, you repeal our constitution without giving us a right to vote against your

amendment. If such a high-handed wrong does not wake up the people of Pennsylvania to the revolutionary schemes of the Republican party; if they can be beguiled by fair speeches into the support of such a measure as this; if they are ready to have the negro thrust into political partnership in contempt of their solemnly recorded will, why then, sir, a sad and sickening degeneracy has come upon my native State, and, for the first time in life, I shall blush to own myself her son. Africa never so demeaned herself. The hardy savages of the mountain slopes in the interior of that continent never debased themselves to the level of the Bushmen and Hottentots of the Cape of Good Hope. No, no, sir, they could be torn from kindred and homes by the cruel slave trader and borne away to distant lands to be slaves, but they never would, and never did, voluntarily surrender to an inferior tribe of their own race much less to an inferior race. And have we, proud Americans, so lost our ancestral traditions that we can no longer be inspired even by African example?

We have seen in history the proud Roman refusing citizenship to the most illustrious aliens; we have seen the Goth and Hun and Vandal trample Roman grandeur into dust; we have glowed over the struggles between the Norman and the Saxon, the Cavalier and the Roundhead, the Briton and the Scot, all of them jealous of their nationalities and ready to shed their blood in defense of what they had inherited from their ancestors. But now, in this nineteenth century, we are to be held up as the first example in the world's history of a great people surrendering political trusts to one of the lowest and feeblest races of the world's population. The Anglo-Saxon of American descent giving up the inheritance which has made him great to the African! Not to the African in the wild freedom of his native jungles, but to the enfeebled, timid, ignorant descendant of a race of slaves! And these are to be made voters and law-givers, to be our judges and representatives. Is there any profounder depth of self-degradation than this? If there be I have not courage to explore it.

The Executive and Judicial Power of the Nation has Increased, is Increasing, and must be Diminished.

SPEECH OF HON. J. M. ASHLEY,
OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,
February 13, 1869.

The House being in Committee of the Whole on the state of the Union—

Mr. ASHLEY, of Ohio, said:

Mr. CHAIRMAN: At the last session I proposed an amendment to the national Constitution which provided for the abolition of the office of Vice President, and for the nomination and election of the President without the intervention of caucuses, conventions, or presidential electors. In addition to this there was a clause which provided that the election of a President should never devolve, as now, on the House of Representatives.

When submitting that proposition I intended to do no more than suggest the practicability of abolishing the office of Vice President and to call the attention of the thoughtful men of the nation to the admitted defect in our present system of electing the President. I did not expect to secure, either at that session or this, the favorable action of Congress on that proposition; nor do I now expect to secure favorable action on the propositions I am about to present. I know how reluctantly the mass of mankind consent to reforms or changes of any kind, especially in matters of government. I know how accustomed they are to run in grooves and how averse they are to agitators and to all ideas which disturb them or jog them out of their old and familiar paths; nor am I

unmindful of the fact that it would probably require years of persistent labor to bring the people to approve the changes in their organic law which I propose. John Stuart Mill, in speaking of governmental reform, says that "there is a natural prejudice against everything which professes much; that its perfection stands in its way and is the great obstacle to its success." Admitting the full force of this statement, and realizing how thankless is the self-imposed task which I am about to undertake, I nevertheless feel it to be my duty, before the expiration of my term of service, to offer for the consideration of the people, and especially for the consideration of those who are soon to be charged with the administration of the Government, the propositions which I now make for amending the national Constitution. The Clerk will please read.

Mr. WILLIAMS, of Indiana. I would like to ask the gentleman from Ohio why he offers these propositions now; if, as he says, he has no hope of their passage during this Congress.

Mr. ASHLEY, of Ohio. The gentleman from Indiana [Mr. WILLIAMS] asks me why I introduce these propositions now if I have no hope of their passage. After the amendments are read, and before submitting the observations which I propose to make, I will answer him. Let the amendment providing for the modification of the veto power be read first.

THE VETO POWER.

The Clerk read as follows:

Strike out clauses two and three in section seven of the Constitution and insert the following:

Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approve, he shall sign it, but if not, he shall return it with his objections to the House in which it originated, who shall enter the objections at large on their Journal and proceed to reconsider it. If after such reconsideration a majority of all the members elected and qualified in that House shall agree to pass the bill, it shall be sent, together with the President's objections, to the other House, by which it shall likewise be reconsidered, and if approved by a majority of all the members elected and qualified in that House it shall become a law. But in all cases the votes of both Houses shall be determined by the yeas and nays, and the name of the person voting for and against the bill shall be entered on the Journal in each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him the same shall be a law in like manner as if he had signed it, unless the Congress by adjournment prevent its return, in which case it shall not be a law. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States, and before the same shall take effect shall be approved by him, or being disapproved by him shall be repassed by the Senate and House of Representatives according to the rules and limitations prescribed in the case of a bill.

Mr. ASHLEY, of Ohio. I also offer the following as a new article, which the Clerk will please read.

The Clerk read as follows:

To Provide for the Appointment of Cabinet Officers.

ARTICLE — There shall be an executive council to aid the President of the United States in administering the Government; they shall keep a record of each meeting and of all official transactions, which record shall at all times be subject to examination by a joint committee of the two Houses of Congress. The executive council shall consist of a Secretary of State, a Secretary of the Treasury, a Secretary of War and Navy, a Secretary of the Interior, an Attorney General, and a Postmaster General; they shall hold their offices for six years, and be elected as follows: the Senators and Representatives shall meet annually on the second Monday in December (unless Congress by law appoint a different day) in the Hall of the House of Representatives, in joint convention, and proceed to elect, under such rules and regulations as the Congress may by law prescribe, the members of the executive council hereinbefore named, each Senator and Representative having one vote, and a majority of all the votes given shall be necessary to the choice of a member of the executive council; they shall be elected separately, and the term of office for each shall commence on the 4th day of March next succeeding their election. Immediately after their first election the members of said executive council shall assemble and determine by lot which of their number shall go out of office at the expiration of each year, so that one member of the executive council shall thereafter be elected annually. Congress shall provide by law for any vacancy which may occur in the executive council between the periods of each annual election, and shall

at the time appointed for their regular joint meeting elect a person for the unexpired term caused by such vacancy. All questions arising during the sessions of the joint convention shall, on the demand of one fifth of the Senators and Representatives present, be determined by yeas and nays; and the names of the persons voting for and against any proposition shall be entered on a journal to be kept for that purpose, and the Clerk of the House of Representatives shall be the clerk of such joint convention. Any member of the executive council may be removed from office by a concurrent vote of the Senate and House of Representatives, separately given. Each member of the executive council, with the approval of a majority of said council, including the President, shall, by and with the advice and consent of the Senate, appoint all officers for his Department which by law may require the confirmation of the Senate. The persons thus appointed and confirmed and all other officers or agents in any Department may be removed in such manner as Congress shall by law provide.

Mr. ASHLEY, of Ohio. I will say to my friend from Indiana [Mr. WILLIAMS] that I offer these amendments as I have heretofore offered other propositions which at the time of offering them I did not hope to see pass. I have sometimes offered propositions for which I had no intention of voting, in order to provoke a discussion of the question presented. For this I have been roundly abused by many, while others have called me the "suggesting member." I offer the propositions which I now submit and advocate them because convinced of their necessity. As the most disgraceful executive Administration which has ever cursed the country is about to die and pass into history, I believe it an opportune moment in which to present and discuss such propositions as I now submit, so that the people may be apprised of the danger which threatens them in the future.

Mr. WILLIAMS, of Indiana. But you cannot get a vote on them now.

Mr. ASHLEY, of Ohio. I know that. Only a moment ago I said that I did not offer them with any hope of seeing them passed by this Congress. That does not deter me, however, from presenting and discussing them. I know that many men would not present them unless assured of their favorable reception by their party. I care nothing about that. During my term of service here I have been more concerned to be right than to have personal success or to have the credit of securing the passage of any particular measure. This is well known to my associates here, and especially to gentlemen who for the past ten years have been connected with the public press. I have been more anxious that the work in which I was engaged should be done and well done than I have been about what would happen politically to myself. I have always acted on the theory that politically he who would save his own life should lose it. If in our reconstruction measures the Republican party as a body had acted upon this theory, and gone to the root of the matter and made our Constitution conform to our new condition as a nation, instead of enacting laws and submitting constitutional amendments which were but patch-work, we should not now be environed with the difficulties which surround us. I submit these propositions because I believe they involve practical questions of the highest importance, and because I believe that to statesmen no question affecting the welfare of the nation or the rights of its citizens can be of secondary importance.

Mr. Chairman, I am a firm believer in the necessity of the propositions which I make for the abolition of the kingly prerogatives of the President and for a modification of the veto power, for selecting each of the officers for the Executive Departments by a joint vote of the two Houses of Congress, and providing the manner of appointing and the manner in which all appointees should be removed from office; for limiting the term of service of judges of the Supreme Court, as also their jurisdiction; for making them after their appointment ineligible to any office under the national Government, except, perhaps, foreign ambassadorships, and for retiring them at the end of their term of service on such pay as Congress may deem to

be just and proper. No less important, it seems to me, is the question of appointing United States Senators by a direct vote of the qualified electors of each State by ballot, instead of electing them as now by the Legislatures of the several States; and last, though not least, the necessity of securing to the minority an equitable voice in the administration of the Government. To these several propositions I invite the considerate attention of all who recognize the fact that the whole power of the Government is gradually but surely passing into the hands of the President and the Supreme Court.

Mr. Chairman, it is claimed by the advocates of the veto power that under our form of government the Executive represents the whole people, and is the person in whose hands the requisite power ought to be lodged to protect the interests and rights of minorities and to check hasty and inconsiderate legislation. To this I answer that hasty and inconsiderate legislation may be checked and a careful reconsideration had of every bill which Congress may pass by the return of such bill by the President with his objections, and its reconsideration and passage by a majority of all the Senators and Representatives elected and qualified, as I propose in the amendment which I have submitted.

It is a fallacy to suppose that the minority can have any security from the use of the executive veto. The only way in which such protection could be obtained for them would be for the majority in the two Houses of Congress to concede to the minority the President, a proposition which the majority would not entertain for a moment. All know that, as a rule, the party strong enough to elect its President will be strong enough to elect a majority of Representatives of the same political faith, so that there must always be added to the numerical strength of the representative majority the cooperative will of a President of their own selection, armed with the veto power, and the additional power which under our system is secured to the President by the use of the entire patronage of the Government, which, as all know, amounts to many hundred millions.

If we can modify the executive veto and obtain an equitable representation in Congress for the minority, the future of representative government in this country will be secured; without it we cannot have such a negative on the acts of the majority as will afford proper security to the rights of minorities, and the legislative will of partisan majorities will by degrees be concentrated in the hands of the Executive. The experience of the past quarter of a century demonstrates the fact that the whole power of the national Government is gradually but surely passing under the complete control of our Presidents. The struggle of the great political parties for place and power strengthens his authority, and makes his will during his term of office the only law known to partisan Representatives in Congress. Against this violation of the representative principle and this dangerous innovation by our Executives of the fundamental theory upon which our Government was founded I am utterly opposed. All will admit that the veto power conferred upon the Executive by the present Constitution is a power at war with the democratic idea. There are but few men who have given the subject any consideration who will not concede that it is a dangerous power to lodge in the hands of any man, and that it is a power with which no man however able or reputable should be intrusted in a Republic. This power in the hands of any man who is not absolutely infamous or an imbecile enables him, with the use of executive patronage, to defeat the will of the nation so long as he remains in the presidential office. No man has ever discharged the duties of the executive office, nor is it probable that any man ever will, who is so far above the Representatives

of the people either in wisdom or patriotism as to justify the lodgment of such vast power in his hands.

I am unwilling, if after discussion it be thought best, to have some check against hasty and inconsiderate legislation, that the President shall have a modified negative such as I propose, so that the Representatives of the people may avail themselves of any suggestions which a citizen so distinguished as our Presidents ought to be might make to Congress when returning a bill for their reconsideration. I am unwilling, however, to intrust any men with power sufficient to overrule the deliberately formed opinions of a majority of all the men who have been elected and qualified as Senators and Representatives in the Congress of the United States. The veto power as now conferred by the Constitution makes the will of the President equivalent to that of twelve Senators, where then are seventy-eight members of that body, and equivalent to thirty-eight members of this House, when composed of two hundred and thirty-three members. Thus one man, often a very ordinary man, is made by this anti-democratic provision of our Constitution the equal in legislative power, and the theory is that he is equal in wisdom, to fifty Senators and Representatives when the two Houses together have three hundred and eleven members. For instance, when the States are all represented in the Senate, there are seventy-eight Senators; of this number forty are a majority. If the President veto a bill it requires two thirds of the Senate to repass it, which, in a full Senate with seventy-eight members, requires fifty-two votes. From this it will be seen that the veto power makes the President equal in legislative power to twelve Senators. In the House, with two hundred and thirty-three members present, it requires one hundred and seventeen votes to pass a bill. If the President veto it, it requires one hundred and fifty-six votes to pass it over the veto, which makes the veto power of the President equal to thirty-eight members of the House of Representatives and equivalent to fifty Senators and Representatives, when both Houses number three hundred and eleven members. Add to this monarchical prerogative the overshadowing authority which the appointing power always confers on an executive or king, and you have at the head of the Government a man whose will is practically the law of the land so long as he is able to maintain himself in the presidential office.

The framers of the Constitution intended that there should be three departments in this Government, the legislative, executive, and judicial, and that these departments should be separate and distinct. That was their theory. They held, as I hold, that no free Government can long endure which violates this fundamental theory. If this theory be a correct one, then the Executive of this nation ought not to be clothed with any part of the law-making power. It was intended that our laws should be the embodied will of the nation, as authoritatively expressed by Congress. To execute these laws was to be the duty of the Executive, and I hold that this ought to be his chief duty. To clothe the Executive with the veto power is to make him part of the law-making power, which is a violation of the theory upon which the Government was organized. I shall never cease my war upon this kingly prerogative. I believe it to be utterly indefensible in a democratic republic. Secure the minority an equal personal representation in the national Congress, as I propose, and there can be no necessity for the veto and no pretext for maintaining so despotic and dangerous a power in the hands of any man.

Examine the ye and nay vote of this House for ten years and you will find that when a majority of all propositions were voted upon about one fifth of the members were absent. If one fifth of the members of both Houses are absent when propositions are voted upon, as

a rule it will be found that the larger number are of the majority party. In a House of two hundred and thirty-three members we will have, if about one fifth are absent, say, one hundred and ninety votes; of this number ninety-six are a majority. If the President return a bill with his objections, my amendment requires the bill to secure one hundred and seventeen votes to again pass it; whereas under our present Constitution a less number may make two thirds of a quorum and pass the bill over the veto. One hundred and seventeen members make a quorum in a full House composed of two hundred and thirty-three members; a majority of this quorum, or fifty-nine, may pass a bill. If it is vetoed and only a quorum are present, seventy-eight members may pass the bill over the veto, or thirty-nine less than a majority of all the members of the House. Practically, then, the proposition which I make gives the minority all the security they ought to have against hasty and inconsiderate legislation where provision is made that a bill to be repassed must have a majority of all the members elected and qualified in each House. It requires time and labor to bring the absent members here when questions of great importance are pending. A bill, therefore, which on a rehearing passes both Houses by a majority of all the members of each, notwithstanding the President's objections, ought in my opinion to become a law.

From the organization of the Government to this hour no one question has employed so much of the time and attention of the thoughtful statesmen of the nation as the danger incident to the use and abuse of executive power. When our entire annual revenue from all sources did not exceed \$25,000,000, and the number of officers and agents employed by the Government did not number one fifth what they do to-day, this subject engaged the attention for many years of the ablest men in Congress. Clay, Berrien, Badger, Ewing, White, Webster, and many other statesmen of national reputations and conceded abilities all concurred in the necessity of modifying the executive veto and limiting the use of executive patronage. To this last proposition Mr. Calhoun gave much thought and labor, demonstrating its necessity by able speeches and one of the most valuable reports ever submitted on that subject to Congress. No man can read the able reports made to Congress in 1835 and the discussion on these two questions in both Houses of Congress, both before and since that time, without being deeply impressed with the great wisdom and foresight of the men whom I have named.

Some estimate may be formed of the vast patronage now at the disposal of the Executive by an inquiry into the amount of revenue annually collected and disbursed, and the number of officers and agents employed by the Government in its collection and disbursement.

The Clerk will please read the tabular statement which I send to the desk, showing the amount in millions and tenths collected and expended by the Government annually.

The Clerk read as follows:

Table showing the receipts and expenditures of the United States Government in millions of dollars and tenths from July 1, 1861, to June 30, 1868.

Fiscal year.	Receipts.	Expenditures.	Balances.
1862.....	612.6	565.7	46.9
1863.....	936.3	899.8	36.5
1864.....	1430.0	1295.5	134.5
1865.....	1940.3	1906.4	33.9
1866.....	1304.8	1139.3	165.5
1867.....	1263.2	1063.1	170.1
1868.....	1200.9	1069.9	131.0
Total in 7 years.....	\$688.1	7969.7	718.4
Average per year.....	\$241.1	1138.5	102.6

Mr. ASHLEY, of Ohio. It will be seen by this table that our average annual receipts for the past seven years were over twelve hundred and forty-one million dollars; that our annual expenditures were over eleven hundred and thirty-eight million dollars, and that there

has been on an average during all that time over one hundred million dollars in the public Treasury.

Mr. Chairman, if the ablest statesmen of the past generation were alarmed for the safety of republican institution, because of the use which the executive power could make of the patronage of the Government when its entire revenue did not exceed \$25,000,000, and its officers were less than one fifth of the present number, what would be their amazement could they look upon these figures and realize the enormous increase of power and patronage now claimed for the Executive and conceded to him by the leading men of the nation without a protest.

The Official Register for 1867 shows the number of Government officers and employés in the civil service to be about seventy-five thousand. The cost of the civil and miscellaneous list for the fiscal year 1867 was \$49,600,000, and for 1868, \$51,600,000. The expenditures of the War and Navy Departments for 1867 were \$126,800,000; for 1868, \$149,000,000. The number of non-commissioned officers and privates in the Army for 1867 was seventy-seven thousand, that of commissioned officers about three thousand. The number of officers and men employed in the Navy in 1867 was over eleven thousand. So that in the civil and military and naval service of the Government there are over one hundred and sixty thousand in the employ of the Government, all of whom are practically subject to the order of the President and dependent for subsistence on the public Treasury.

Startling as is this array it does not include those who furnish supplies for the Army and Navy and for the Indian and other Departments of the Government, all of whom are more or less dependent on the Government for support. Experience teaches us that this vast army of office-holders, employés, agents, and dependents are influenced more or less by the executive will, and I am confident their power has never been overestimated.

Add to these the innumerable number of office expectants, in every county in every State and Territory, who are intent on securing the offices and places now occupied by others, and you may form some estimate of the many thousands in the country now appealing to the Executive for a recognition of their claims. Of this great army a large majority are ready to declare that every act and utterance of the Executive is the embodiment of wisdom and the perfection of statesmanship; indeed, they will not hesitate to say that the most imperceptible wink of the eye or nod of the head of his Excellency has behind it a meaning as full of significance as any of his utterances. So utterly abased and subservient has the public mind become because of the existence of this overshadowing power that men are dumb in the presence of the Executive, and dare not so much as express an opinion, much less criticize unfavorably his official acts. It is well known to observers how devoid of all manhood men become under the practical workings of this pernicious system which centers all power in the hands of the Executive.

Even the acting President, whose treason I regard as baser than that of Davis, had an army of apologists and defenders in the Republican party. It is well known that there were at one time in the Senate and House of the Thirty-Ninth Congress over sixty men elected by the Republican party who stood ready to cooperate with Johnson in his work of usurpation if there could be but the certainty of success. How many of them were ready to go the whole length, as he did, and abandon the great central idea of the Republican party will never be known. Nor will the nation ever know how much it owes to its faithful representatives who defeated this infamous conspiracy. There are members now within the sound of my voice who know where these men met in

secret in this city to confer with a President whose apostasy was known to all men and whose treason was as clear as the sun at noon-day. No such meetings would ever have been held, no such infamous proposition would have been for a moment entertained by these men, but for the fact that the President had the veto and appointing power. Before this corrupting power men intrusted and honored by the Republican party abased themselves, and for a time imperiled the future of the Republic.

OF THE PARDONING POWER.

Mr. Chairman, in order to prevent the abuse of the pardoning power now conferred by the Constitution on the Executive, section two of article two ought to be amended so as to read:

And he [the President] shall have power, with the approval in writing of a majority of the Executive council, to grant reprieves and pardons for offenses committed against the United States after trial and conviction, except in cases of impeachment; but he shall grant no general amnesty or pardon to persons who are or who may have been engaged in insurrection or rebellion against the United States until he shall have first obtained the advice and consent of the Senate.

I suggest this additional proposition, because I believe that no one man in any Government ought to be clothed with unlimited power to grant pardons. It is a power liable to great abuse in the hands of any man, however able or upright. In the hands of a bad man it is a power which defeats the ends of justice and gives immunity to crime. The acting President has been for four years a national dispenser of pardons. I do not now refer to the unwarranted assumption of power on the part of the acting Executive in pardoning all the responsible and most guilty leaders of the late rebellion, nor to the fact that it is publicly announced as by authority that before he retires from office he will probably pardon the last of the assassin conspirators who murdered Mr. Lincoln, and thus placed him in the presidential office. It is enough to refer to the fact that he has pardoned confessed criminals before trial, and to the still more startling fact that he has pardoned over one hundred men, after trial and conviction, for the crime of counterfeiting the notes and other securities of the United States.

I need not say to members of this House that counterfeiting is one of the most indefensible of all crimes. Successful counterfeiting requires a large outlay of money; a high order of intellect and great skill in the preparation of everything connected with it. It must be done deliberately and with great secrecy. No immediate or pressing want of the person engaged in it, nor of any one depending on him for support, can be the impelling cause. No sudden impulse of passion; no motive such as often prompts men to commit crime under the pretext of retaliating for some actual or fancied injury; no cry of despair from wife and children because of hunger and cold, but almost every person engaged in the commission of this crime is a cultivated, deliberate, calculating villain, coolly weighing his chances and premeditating his every act. I am unable to divine the motive which has prompted the acting Executive to set at large almost every one of this class of criminals who during the past four years have been discovered, tried, and convicted at great cost to the Government. The fact, I believe, is notorious and undisputed, and I can only account for the apparent indifference of the public to this shameless prostitution of authority, intended only for beneficent purposes, on the hypothesis that they feel powerless in the presence of the defiant usurper of the White House, who, having been acquitted by the Senate of greater crimes, may, without question and with impunity, commit the lesser one of turning hundreds of dangerous criminals upon the country to prey upon the ignorant and unsuspecting and again engage in depreciating the credit of the nation by counterfeiting its securities. If the approval in writing of a majority of Mr. Johnson's Cabinet had been required as a condition

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to the pardon of the counterfeiters whom he has released, I am confident that but few if any of them would have been set at large to prey again upon the country. At all events I am unwilling to lodge the power to pardon even common criminals in the hands of any one man. In short, I am against the one-man power in any form, in any department of the Government.

If the question were now submitted to me whether to continue the executive office with the power now lodged in the hands of the President, or abolish the office altogether, I would vote to abolish it. For years I have believed that the executive power was the rock on which as a nation we should eventually be broken to pieces. It is the province of true statesmanship to point out prospective danger and suggest the remedy, rather than delay it until a usurper such as we now have at the head of the Government forces a recognition of the danger. The greater our confidence in General Grant the more anxious we should be to adopt an adequate remedy during the life of his Administration. We ought not to forget that Johnson succeeded Lincoln, and that we may need protection from the successor to General Grant.

APPOINTMENT OF CABINETS.

Mr. Chairman, in order that the dangerous and irresponsible power of the Executive may be still further reduced I have proposed that the two Houses of Congress shall, in joint convention, appoint annually one Cabinet officer; and that each member of the Cabinet shall, with the recommendation of a majority of the Cabinet, including the President, appoint for his Department all officers which by law require the confirmation of the Senate, the persons thus appointed and all subordinate officers for each Department to be appointed and removed in such manner as Congress may by law direct. I have also provided that each Cabinet officer may be removed at any time by the concurrent vote of the Senate and House of Representatives, separately given.

It will be observed that in providing for an executive council I have merged the War and Navy Departments into one. I have done so because my observation of the practical working of these Departments during the war satisfied me that the two Departments could be better managed if under the administration of one executive head. I have therefore provided for one Department of the Army and Navy. If this amendment were made part of the Constitution the President would still be Commander-in-Chief of the Army and Navy, and he would have all the power incident to the command of so large and influential a body of men as compose the Army and Navy of the nation; he would also have the power to nominate and promote all its officers. He would appoint, as now, all consuls and foreign ambassadors and judges of the Supreme and district courts of the United States. This, with the right to nominate officers for all the Territories and grant pardons, is all the power I am willing to concede to any Executive.

The adoption of these provisions will bring the Executive Departments into harmony with the legislative, and destroy practically the one-man power in the Government. It will also give us abler and more faithful administrative officers in the Executive Departments. I would like to discuss these propositions at greater length did time permit. Each proposition is so plain, however, that they can hardly be misinterpreted or misunderstood.

THERE MUST BE ORGANIZED OPPOSITION TO EXECUTIVE USURPATION.

After the important questions growing out of the late rebellion are permanently settled, and the question of citizenship suffrage is disposed of by the adoption of the constitutional amendment now before us, I cannot affiliate with any party which as an organization proposes to maintain the kingly and dangerous

prerogatives now conceded to the President by custom and usage. If we are to continue the presidential office at all, it must be simply as an executive and as no part of the law-making power. The duty of the President must be strictly limited to the execution of the law. The veto power, the appointing power, and the power of removal at pleasure and without cause, are all kingly prerogatives, and at war with the theory of a republican and democratic Government. As the national life is born of the will of the people, so the legislative representation of that will must be in the national Congress. In all Governments the ultimate power must somewhere have a lodgment. In a republic it is safest in the hands of the people's representatives. The nearer this ultimate power is to the people the more directly and easily it can be molded and controlled by them.

An absolute power in any Government which is above and superior to the people is a despotism. It is a fallacy to assume that there must be lodged in some department of the Government a despotic power such as the veto power. In any light in which I am able to view this great question I can see only danger in the constant encroachments and usurpations of the executive and judicial departments of the Government, and safety and security for the people only by the lodgment of the ultimate power of the nation in the national Congress. To the danger inseparable from the lodgment of such kingly prerogatives in the hands of any one man as are now conceded to the President may be added the danger of our present system of making nominations. The caucus and convention system and the manner of electing the President and Vice President by electors, or by the House of Representatives when the electors fail to make a choice, all tend to exclude the people from a direct voice in the government of the nation, and enables a few to control the Government and administer it, not according to the will of the people, but as decreed by nominating conventions and by irresponsible bodies unknown to the Constitution. All attempts to maintain the domination of the Executive over the legislative department of the Government must be defeated, and all efforts to clothe the Executive with new prerogatives or an increase of his present overshadowing power must be met by prompt, vigorous, and organized resistance; and to this great work I shall in the future devote whatever of political influence I may have.

THE JUDICIAL AMENDMENT.

Mr. Chairman, I now submit an amendment providing for the better organization of the Supreme Court, which the Clerk will please read.

The Clerk read as follows:

Strike out section one of article three and insert the following:

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and district courts, shall hold their offices for twenty years: *Provided*, That no judge shall act as a member of the Supreme Court nor of any district court of the United States after he shall have reached the age of seventy years. After their appointment and qualification they shall be ineligible to any office under the national Government. They shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office. After the expiration of the term of service of each judge of the Supreme or of any district court of the United States, the Congress shall, by law, provide such annual compensation as they may deem proper for each retiring judge during life, which compensation shall not be diminished.

Mr. ASHLEY, of Ohio. Mr. Chairman, next to the danger inseparable from the use and abuse of executive power is the danger to be apprehended from judicial usurpation and judicial corruption. The history of judicial usurpations in the United States is a history running over many years of judicial "sapping and mining." The judicial power is all the more dangerous because ever silent and insidious. In all ages and countries its most dia-

bolical crimes have been committed in the sacred name of justice and of law. Jefferson was right when he declared that—

"The germ of dissolution of our Government was in the Constitution of the Federal judiciary, an irresponsible body, (for impeachment is scarcely a scare-crow,) working like gravity by night and by day, gaining a little to-day and a little to-morrow, and advancing its noiseless steps over the field of jurisdiction." "The foundations are already deeply laid by their decisions for the annihilation of constitutional State rights and the removal of every check, every counterpoise, to the ingulfing power of which themselves are to make a sovereign part." "An opinion is huddled up in conclave, perhaps by a majority of one, delivered as if unanimous and with the silent acquiescence of lazy or timid associates by a crafty chief judge."

"It has proved that the power of declaring what the law is *ad libitum* by sapping and mining slyly and without alarm the foundations of the Constitution can do what open force would not dare to attempt."

I have no time at this late hour to go into a history of the usurpations of the Supreme and district courts of the United States. Such a history would present a long and black catalogue of unjust and infamous decisions. The first speech which I made in this House was devoted to an exposition of its betrayal of human rights and its shameful affirmation of the right of slavery. I have nothing to retract of what I then said of its indefensible subservience to the slave power and to the baneful spirit of party; nor can I modify, as I should be glad to do, what I then said of the undisguised personal and political ambition for the Presidency of some if not a majority of its members.

Years before the Dred Scott decision was delivered an attempt was made to prepare the way for that usurpation or any other which might be deemed for the interest of slavery by a studied and labored effort on the part of the slave power and their northern allies to impress the country with a greater veneration for that "august tribunal" known as the Supreme Court than for any other department of the Government.

Its decisions were declared to be "finalities" from which there was to be no appeal, and its immaculate wisdom and purity was everywhere the enthusiastic theme of a partisan press and party leaders, who demanded that its decisions should be accepted as unquestioned law. Statutes were enacted which declared they were to be operative, provided they were in subordination to the Constitution as interpreted by a majority of this "august tribunal" composed of nine men, of whom five were a majority. So persistently did political demagogues press this point upon the country that the members of the Supreme Court began to act as if they were in fact an "august tribunal" endowed with a wisdom unknown to the rest of mankind, and that they had an intuitive knowledge of the Constitution unknown to any other body of men. Those who knew the court when the Dred Scott decision was pronounced will not hesitate to admit that whatever knowledge of the Constitution a majority of them had was probably "intuitive," and that their legal endowments were of a character incomprehensible to the great body of intelligent men who read that decision. So thoroughly did a majority of this court believe in the infallibility of their assumed power that they consulted with and gave directions for the guidance of their partisan friends, and were preparing to assume to interpret without question the Constitution for both the executive and legislative departments of the Government. Justice Wayne, of Georgia, than whom there was no purer or better man on the bench in his day, believed, and so expressed himself to his friends, "that if the Supreme Court could be brought to make a unanimous decision in the Dred Scott case, [in favor of slavery, of course,] that it would settle that question for all time to come." This was the kind of immaculate judicial wisdom to which the nation was called upon to submit without question.

It is now well known to all that the Dred

Scott decision was made on the demand of the slave power. But for a supposed party necessity there never would have been a Dred Scott case before the court. It required years of unscrupulous partisan labor to pack the court with men who would consent to degrade the judicial office by making such an atrocious decision. After the case had been finally argued and the court were ready to pronounce the required pro-slavery judgment upon it, and had authorized Judge Nelson to prepare the opinion of the court, dismissing the case on the only point which the slaveholders then desired to have passed upon, namely, that Dred Scott being the descendant of an African slave could not become a citizen of the United States, and therefore could not bring a suit in the courts of the United States against a slave master, the court were brought to an unlooked-for point in the case by the announcement of Judge McLean that he should deliver a dissenting opinion, and review at length the status of the slave under the Constitution, thus going into the whole question of slavery.

It is conceded by all who are familiar with the inside history of this case that but for the fact that there were men then upon the bench of the Supreme Court, as there are now, with a mania for the Presidency, which can only be given up at death, we should never have had the Dred Scott decision. Judge McLean, whose purity of life and great ability no man who knew him will question, had for years been an aspirant for the Presidency. He saw an opportunity to make political capital out of a general review of the slavery question from a judicial stand-point, and when he announced his purpose to his associates on the bench he caused a panic among them, such as does not often overtake that "august tribunal." It was on the eve of the presidential campaign for 1856, and the pro-slavery party could not afford to have such a bomb-shell thrown into their camp. The court, therefore, or a majority of it, reserved the decision of the question, and ordered the case to be reargued in order to gain time and to await the result of the presidential election. They did this in order that they might know positively whether they could rely on the executive arm of the Government to enforce with the Army and Navy their contemplated usurpation.

The points to be made in Judge McLean's dissenting opinion were well known to his partisan friends; and the fact that he was to deliver such an opinion was publicly used with a view to secure for him, if possible, the Republican nomination at Philadelphia for the Presidency. The opinions of the majority of the court were also known to the partisan friends of the court. After the presidential election the public mind was prepared for the forthcoming decision by skillful manipulations, such as were never employed before. President Pierce in his last annual message apprised the country of the fact that this Dred Scott decision had been agreed upon, although at that time it had not been officially announced from the bench, and that the court "had finally determined the pending question in every form in which it could arise." Mr. Buchanan in his inaugural address referred to the forthcoming Dred Scott decision in these words:

"To their decision, in common with all good citizens, I shall cheerfully submit, whatever it may be."

These declarations of the outgoing and the incoming Chief Magistrates were demanded by the slave power, so as to strengthen the purpose of the court, and to give official notice to all applicants for office under Mr. Buchanan that they must indorse one of the most startling and indefensible decisions ever delivered by any judicial tribunal in the world before their claims for official positions could even have a hearing before the Executive. So successful did the plotters work, that the partisans of the court succeeded in many of the free States in procuring an indorsement by their party State conventions of this monstrous de-

cision. Then the office-seekers of the nation, with an alacrity and a baseness which no language can describe, bowed down in submission before the slave power, kissed the hands that smote them, and accepted menial positions as a reward for their infamy. All this because the Supreme Court had been molded into a political tribunal, and had upon its bench political partisans and aspirants for the Presidency. I wish the court were altogether what it ought to be now. I regret as much as any man that it is not. I need not dwell upon the painful exhibitions which may be witnessed any day gentlemen will take the trouble to go into the room of the Supreme Court. There they will find men upon the bench passing upon questions of the gravest magnitude who are utterly unfit for the discharge of such responsible and important duties as are almost daily devolving upon them.

It is painful for me to say this, and I do so only because I believe it to be an imperative duty. It is proper that the people should know the facts, so they may demand of their Representatives a remedy for the admitted defect in our judicial system. I presume the members of the present court are substantially like their predecessors, no better, and I hope no worse.

It is well known that for some time before Judge McLean's death his associates on the bench at the request of friends relieved him from all responsible labor in the preparation of opinions. Though sleeping upon the bench during the greater part of the time the court was in session, and dying with age, he was almost daily voting upon and aiding to decide questions of the gravest character; and even then was not without hope of ultimately reaching the Presidency.

Mr. Chairman, it is a sad sight to see such a body as the Supreme Court ought to be, with one third of its members sleeping upon the bench and dying with age, and the other third crazed with the glitter of the Presidency. I need not say how utterly this condition of body and mind unfits men for the proper discharge of the judicial office. If there is one body of men more than another in this country who ought to be financially removed from temptation, and intellectually to be clear and unclouded, as well as free from all partisan ambition, it is the members of the Supreme Court.

Our experience with this branch of the Government has been a sad one. I will not attempt to go into a history of its usurpations, its perversion of law, its criminal injustice, its political chicanery. It would employ more than the entire time allowed me, and then I could not present one half of the enormities of which it has been guilty. The people have been compelled more than once to disregard and reverse its infamous and unjust decisions, and they must be prepared to do so again. They were not long in comprehending the extent of the danger in the Dred Scott usurpation. They knew that the power which had the conceded right to pass without appeal on the constitutionality of the nation's laws would soon become the nation's master. If this doctrine could have obtained, the sovereignty of the nation would, sooner or later, have been usurped by the national judiciary. Congress might have enacted laws, but the court would have annulled them at pleasure. Thanks to the intelligence and virtue of the people it required but few years to reverse the Dred Scott decision and break in pieces the ebony image of slavery which this "august tribunal" set up and demanded the nation should worship. The people of this country could not be made to put their hands on their mouths and their mouths in the dust and cry out great is the Diana of slavery; immaculate and wise is this "august tribunal;" its interpretation of the Constitution shall be a "finality," "binding upon the executive and legislative departments of the Government and all the officers and agents thereof."

This attempted usurpation on the part of the court not only failed, but ignominiously failed,

and the individual members of the court were arraigned at the bar of public opinion and put into history with the men who in all ages have disgraced and dishonored the judicial office. If the proposition which I have made had from the organization of the Government been a part of the Constitution, every man will concede that no such decision as the Dred Scott decision would ever have been made. Let us, then, provide for such a reorganization of the Supreme and district courts of the United States as experience teaches to be necessary. Let us also restrict their jurisdiction to the fewest possible questions consistent with the administration of the national Government, and we may hope to see the organization of a judicial tribunal which shall command the respect of all Americans, and also the respect of intelligent men throughout the world.

THE MINORITY MUST HAVE AN EQUITABLE PERSONAL REPRESENTATION IN THE GOVERNMENT.

Mr. Chairman, the proposition which I now present is, in my opinion, one of more importance to the future peace and unity of this nation than any new proposition which has ever been suggested, involving as it does the whole question of representative government, and presenting the question of the right of minorities to an equitable representation in the Government in proportion to their numerical strength at each election. The Clerk will please read.

The Clerk read as follows:

ARTICLE—.

In the election of Representatives to the Congress of the United States, whenever more than one Representative is to be elected from a State, Congress shall by law designate the manner in which such additional Representatives shall be chosen, and shall provide for securing to the qualified electors in such State an equitable personal representation in Congress as near as may be.

Mr. ASHLEY, of Ohio. Mr. Chairman, under our system constituencies are often compelled to intrust to Representatives, especially to Senators, the settlement of questions of vast importance which have arisen after their election. Unless some system can be devised by which the opinions of a constituency can be obtained on any new and important question which may have arisen after the election of a Senator or Representative, the people must continue to intrust, as now, the settlement of such questions to men over whom they can have no control until the next regular election. The number of Senators and Representatives who have served in Congress since I came into public life, and have openly and defiantly betrayed or misrepresented the constituencies which elected them, is far greater than is generally supposed, and until the time came to fill their places by a new election such constituencies have been powerless in the presence of their own chosen servants. It will be conceded by all that if the voice of betrayed or misrepresented constituencies could have been authoritatively heard, great questions which have been passed upon within the memory of us all would have been disposed of otherwise than as they have been, and questions which have not yet been acted upon would have been settled otherwise than as they will be.

If in the past quarter of a century the voice of every constituency in the nation could have been authoritatively collected, and their will obeyed, there would have been less of compromising, less of patch-work in legislation, less defiance on the part of Senators and Representatives, and fewer betrayals of constituencies, either by Presidents, Cabinet ministers, or others. The people, however, are so wedded to our present system of electing Presidents and Senators and Representatives that it is hardly probable they can now be moved to adopt a plan so advanced as that which demands the right of every constituency at all times to instruct or recall their public servants and substitute others in their stead. It therefore becomes all the more important that a system should be adopted which will secure to every elector the right to vote for such persons

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as in his judgment will best represent his opinions on the leading questions of the day, and to whose judgment and fidelity he is willing to intrust the disposition of all new questions which may arise and on which, at the time of voting, he can have formed no opinions.

Mr. Chairman, in submitting this proposition the object I have in view is to secure to every elector, no matter where he may reside in a State, the right to vote for any citizen in the United States whom he may prefer to represent him in Congress, so that the free exercise of his individual judgment shall not be restricted to the locality of his residence or to accepting a candidate imposed upon him by local caucuses and local conventions. Experience, I think, has demonstrated the necessity of devising some improvement in our electoral system. We must adopt a system, not only for electing the President by a direct vote of the people by ballot, without the intervention of caucuses and conventions and presidential electors, but we must inaugurate a system for electing Senators and Representatives in Congress, and for State Legislatures, which will secure a more equitable representation and give greater protection to the interests and rights of minorities. The despotism and injustice of the majority has been felt with fearful power in this nation. For more than three quarters of a century in the name of Christianity and of liberty the majority enslaved millions of men. During all that time demagogues clamored for the right of the majority to enact villainy into law. Compromising with slavery was then regarded as the highest statesmanship. The right of the minority to a voice in the Government or even to a hearing was unfearedly denied, and bars and bolts and dungeons, mob law and social and political ostracism was the lot of those who in the land of Washington came pleading for the liberty of the human race. Experience warns us of the fatal consequences of such injustice and of all compromisers with wrong and of all temporary and superficial legislation. Put the propositions which I have made into the Constitution, and they will become the crowning glory of our fundamental law. We shall thus abolish the kingly prerogatives of the President, and recognize the supremacy of the people by making it the imperative duty of the Government to see that the rights of minorities are respected and protected. "The office of Government," says one of the ablest women of America, "is to represent the rights of all, not the will of all."

True representation is the corner-stone of the Republic; without it democracy surrenders to the minority, and a ruling minority in any Government will always become an aristocracy. Democracy cannot be maintained by any people simply by declaring for a Government of the majority, unless it recognizes the divine law, which commands all to "do unto others as they would that others should do unto them." The "golden rule" is the foundation-stone of true democracy, and the nation which builds upon any other foundation, though by the consent of the majority, builds upon the sand. What I want to secure in the administration of Government is not the absolute domination of the majority, but to have the enlightened "will of the majority, constituted guardian of the rights of all." My purpose is to so reorganize the Government that it shall recognize the divine law of liberty and justice and be administered by the consent of all, in the interest of all, and with representation for all. This cannot be done by concentrating so much power in the hands of the President or in the national judiciary; nor can it be done by refusing to recognize the rights of minorities to an equitable representation in State Legislatures and in the national Congress. The system which I wish to see inaugurated is based upon the fundamental idea that every legislative body should reflect the sentiments and convictions of the whole people which it is chosen to represent. Adopt this plan, and every constituency sufficiently numerous in a State to

entitle them to one or more Representatives either in Congress or in a State Legislature can secure such Representatives.

Under our present system the minority in half the States are often without a voice in the national Government. The legislative power of Ohio to-day is in the hands of the minority of the electors of that State. This could never happen under the system which I hope some day to see adopted, not only by the States, but by the national Government. The system so ably presented by Mr. Hare, of Great Britain, commends itself to me because of its admirable simplicity and its absolute security to the interests and rights of minorities. It would be mathematically impossible under that system for the minority in any State to obtain control of its Legislature, or the minority of the nation to obtain a majority in Congress, while at the same time it would secure to minorities a just representation in proportion to the number of votes which they polled at each election.

I have not time to dwell, as I should be glad to do, at greater length upon the inestimable value of this most admirable system; a system which has the approval of John Stewart Mill and many of the ablest statesmen of Europe and America. With some modifications it could be adopted by every State. But if custom and the ambition of local party leaders render the adoption of Mr. Hare's plan impossible, I am confident that a discussion of the question of minority representation which it presents will result in an amendment to our present indefensible system. For the sake of illustration let me state the manner in which the voters in Ohio are clothed with unequal political power. I do not now speak of the entire disfranchisement of minorities, which is done in almost every State by gerrymandering, but the unequal apportionment of States into senatorial and legislative districts, as in Maryland and Delaware.

In addition to this I refer to the great power which in certain localities in many States is conferred upon one voter and denied to another. For instance, in Hamilton county, in my State, each elector votes for nine representatives and three senators to the State Legislature, making twelve members of the State Legislature for whom one elector votes on one ticket.

In the county in which I reside, and indeed in a majority of the counties in the State, they elect but one member of the house and one senator in each district, so that each elector outside of Hamilton county can vote for but one representative and one senator to the State Legislature, except in such years as a few of the districts or counties have one additional senator or representative, which we call a float. Every voter, therefore, in Hamilton county has nine times the political power of a voter in Lucas in the choice of members of the State Legislature. This inequality and injustice, all will agree, ought not to be maintained. The political power of the State as represented by the number of votes cast by each party can be fairly distributed and the minority secured an equitable representation without an entire abandonment of the district system to which custom and the interests of local politicians so much attach us.

To illustrate, suppose we should alter our State constitution in Ohio so that the senate should be composed of forty-eight members and the house of ninety-six members, and that in making the apportionment in the constitution as it is now, the States should be divided into eleven senatorial and twenty-two representative districts, electing four senators and four representatives in each district, each senatorial district being divided into two representative districts; and that the remaining four senators and eight representatives should be elected as we now elect floats, except that they be elected for the State at large. This would place every voter in the State on an equal footing as to the

number of members of the State Legislature for whom he would be permitted to vote.

If after such an apportionment the electors were permitted—as I think they ought to be—to adopt the cumulative and alternate system of voting, the minority if they numbered a fraction above one fourth of the voters in any district could secure one senator and representative, or if they numbered a fraction above one eighth of the voters in the State they could secure one senator and two representatives for the State at large.

If the electors in any district were dissatisfied, as they often are, with one or more of the candidates nominated by their party, they ought to be permitted to cumulate and alternate their votes on any one or more candidates, either for the State at large or in their own district, designating on their ballots their first, second, third, and fourth choice, so that their votes should not be lost by a larger number being cast for any one candidate than would elect him, or for a candidate who would not receive enough to elect him. Under this system each party would be compelled to nominate its best and ablest men or suffer defeat. Each elector having the right of alternate and cumulative voting, he could vote for any one or more of the candidates presented, either for the State at large or in his district, and would do so rather than vote for an objectionable and unworthy man of his party merely because he was the caucus nominee, if in doing so he thereby increased the vote of his favorite candidate.

Let me illustrate this point, so that I shall not be misunderstood. I would provide that each elector should vote one ballot. On that ballot he should name his choice for State and county officers as now. State and county officers being ministerial and not legislative, and each voter being entitled to vote for but one of such officers, the right of alternate and cumulative voting cannot be provided for. Only where the elector has the right to vote for two or more candidates for the same office—like members of the Legislature or Congress—can the system of cumulative and alternative voting be applied. For example, every State has but one Governor, and every county but one clerk of the court, and each elector must vote for but one if he votes at all. Hence this system which I propose recognizes the supremacy of the legislative department in the Government and provides for an equitable representation of the minority, so that that minority may have a voice in prescribing by law the mode and manner in which all ministerial officers of the Government shall discharge the powers and duties of their respective offices. If any system can be devised which will give more absolute power to the people I am for it.

In voting under this system the ballots would be made up substantially as follows:

Republican State Ticket.

For Governor,

For Judge Supreme Court,

For Secretary of State,

For Attorney General,

For Board Public Works,

For School Commissioner,

County Ticket.

For Auditor,

For County Clerk,

For Probate Judge,

For Sheriff,

For Commissioner,

Legislative Ticket.

For Senators—State at Large,

1. _____,

2. _____,

3. _____,

4. _____.

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For Representatives—State at Large.

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____

For Senators Tenth District, composed of the Counties of _____.

1. _____
2. _____
3. _____
4. _____

For Representatives Twentieth District, composed of the Counties of _____.

1. _____
2. _____
3. _____
4. _____

Congressional Ticket—For Representatives in Congress, State at Large.

1. _____
2. _____
3. _____

For Representatives in Congress, Fourth District, composed of the Counties of _____.

1. _____
2. _____
3. _____
4. _____

In electing Representatives to Congress I have provided that the same system should be adopted which I have suggested for electing members of State Legislatures. Every State entitled to less than eight Representatives in Congress should elect them on one ticket for the State at large. In each State entitled to eight members and over, the number to which they are entitled should be divided by four, and the State apportioned into as many districts as there are products of such division, the additional number of members to which they are entitled if there be any, to be elected for the State at large as General LOGAN is now elected by the State of Illinois. Thus in Ohio we should have, until a new apportionment was made, four congressional districts, in each of which four Representatives to Congress would be elected and the remaining three members would be elected by the State at large. Under this system every voter in Ohio would vote for seven Representatives to Congress; or, if he preferred to do so, he could, by alternative and cumulative voting, give his seven votes to any one candidate. Thus a minority in Ohio, if they numbered a fraction above one seventh of the voters of a State, by uniting on one candidate, could secure one Representative in Congress, and in no event could they elect a greater number of Representatives than they would be entitled to by the number of votes which they were able to cast.

If it be suggested that the electors in States having but one or two Representatives would not have equal political power with electors in the larger States, I answer that they are more than compensated by the two Senators which represent a small population in the Senate. It requires no argument to show that this system would do much to destroy the baneful effects of party spirit; that it would check the use of money at elections and prevent the great frauds which are yearly becoming more and more alarming. In addition to this it would tend to secure the services of the ablest men in Congress and in State Legislatures. The men who were nominated and elected to the senate and house for a State at large, as a rule, would be the ablest men each party could select in the State. So also of Representatives to Congress; the people of the whole State having a right to vote for one, or two, or three Representatives to Congress for the State at large would be careful to select gentlemen of well-known ability and fidelity. In this way able and faithful and experienced men would be retained in public life, because local factions and the local ambitions of aspirants could not be so successfully used as now to defeat them. More would be expected of a man who was nominated and elected to the Legislature for the State at large than of a local candidate from almost any

county, and so of a man nominated and elected by a State at large as a Representative to the Congress of the nation.

This plan is so just and fair that it must sooner or later commend itself to the great body of thinking men in the country. Each voter should have the right to say on his ballot, "I desire to be represented by the candidate whose name I have placed opposite No. 1. I therefore cast all my votes for him. If he should obtain more than the quota of votes necessary to elect him, or if he should fail to obtain a sufficient number and thus cannot become my Representative, I direct that my vote be transferred to the candidate which I have designated as No. 2, he being my second choice;" and so on, under the same conditions, to the number of candidates for whom each elector is entitled to vote.

If the system of electing the President and Vice President by the appointment of electoral colleges is to be maintained, then they ought to be elected by districts and States as I suggest in case of Congressmen, and not in single districts as proposed by the constitutional amendment which has just passed the Senate and is now on our table. One of the amendments which I have suggested to that amendment is in my opinion far preferable, and yet I do not intend to vote for it, even if adopted as an amendment to the Senate proposition; I mean the amendment which I offered a day or two ago, which provides for the appointment of electors of President and Vice President by the Legislatures to represent the will of the voters as expressed by them at the general election. I would be very glad, however, to have the opportunity of voting for the proposition which I made at the last session and again at this, which provides for the nomination and election of the President by a direct vote of the people by ballot. If we are to have a President at all, I want him elected directly by the qualified voters of the nation. I am opposed to the single district plan because it does not secure an equitable representation to the voters of the nation. Under that system a minority of the whole people have elected a President and would be able to do so again. It is true, as my friend [Mr. WILLIAMS, of Indiana] suggests, that the minority have and may again elect the President under our present system. I prefer, however, to retain that system, imperfect as all admit it to be, until we can adopt a better one. The scene which transpired in this House on Wednesday, when counting the electoral vote, ought to be a warning to the statesmen of the nation. It developed in a practical manner the weak and dangerous point in our system of electing the President. If the rejection of the vote of a State by Congress should at any time happen to change the result of a presidential election the consequences would be fearful.

Suppose, when counting the vote the other day, there had been three or more candidates for President, (as there have been several times,) and that each candidate had received a number of electoral votes, and the friends of the defeated candidates had united and thrown out the vote of one or more States, so that it would defeat the person having a majority of all the certified votes returned, and thus have defeated an election by the Electoral College and brought the election into this House. Can any man contemplate such a contingency without alarm? In a full House of two hundred and thirty-three members thirty-eight men from the small States by uniting could elect the President, and if they saw fit to do so they could select of the three candidates before the House the person having the smallest number of electoral votes. Do gentlemen suppose the people of the country would submit to such injustice without a fearful struggle? Of course no sane man pretends to defend a system which invites such conspiracies, and which makes such scenes as

we witnessed last Wednesday possible when counting the electoral vote. Let any Congress assume to throw out votes enough to change the result of a presidential election and they will inaugurate revolution.

I am asked by gentlemen around me if I would sit here and count the vote of a State if the certificate was a forgery, or if the election in the State had been carried by force or fraud. I answer certainly not. If compelled to vote I must vote for what I believe to be right and let consequences take care of themselves; but if I voted to reject one or more States and their rejection changed the result of the election I would be voting for that which would inaugurate revolution. And I will say, in passing, that no question of contest as to the validity of a presidential election should ever be permitted to come before Congress. If frauds are committed or force is employed in any State the question should be settled either in the district courts of the United States for the district in which the fraud or force was alleged to have been practiced, or in the courts of the county in which the fraud or force is charged. These are the courts before which such questions should be determined, and the parties contesting the validity of such election should be permitted to elect before which of these courts they would bring the case. The question of the validity of any election being thus adjudicated and passed upon by a judicial tribunal in the locality where the alleged frauds were charged, Congress would have no other duty to perform than to count the vote as returned and officially proclaim the result.

But, Mr. Chairman, all this is a digression into which I have been drawn by the suggestions and questions of gentlemen around me. Let me now go back to the question of representation which I was discussing. I was speaking of the unfairness of the plan of electing presidential electors in a single congressional or electoral district. There is hardly a State in the Union which elects four or more Representatives to Congress in which the minority party could not, if they had a majority in their State Legislatures, (as the Democratic party have today in Ohio, and the Republican party in New York,) so gerrymander the State into electoral districts as to secure a majority of presidential electors in the State to the candidate of their party. If electors should be appointed as I propose Representatives in Congress shall be elected, an equitable representation would be secured to the minority in each State in exact proportion to the number of votes cast by each party and all motive for gerrymandering would be removed. If the single district system should prevail the Republican party having a majority in the Legislature of New York could and probably would so district the State as to secure a majority of the electors of President and Vice President to their party candidates, although the State should go largely Democratic. The Democratic party in Ohio could so district the State as to secure a majority of the presidential electors to the candidate of their party, although the State might be carried largely by the Republican party.

Of course, such a plan is entirely indefensible. The fact that Mr. Lincoln and General Grant received a larger number of electoral votes than the Republican party carried congressional districts, including the senatorial electors, is no argument in favor of the district system. No system is defensible which defeats the will of the majority, or which fails to secure to the electors of the entire nation an equitable representation. No man who has given this subject proper reflection will claim that the electors of the nation have ever had an equitable representation in the Electoral College for the choice of President and Vice President, from the organization of the Government to this hour. The Republican representation in this House for the past eight years has been out of all proportion to the vote cast for that

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party, as everybody admits. In the Senate the inequality and injustice to the minority has been far greater. In 1824 Jackson had a larger popular vote than Adams and Crawford combined, yet they secured 26 more electoral votes than Jackson, which carried the election into the House of Representatives, where Jackson was defeated. At that election Jackson had a larger popular vote than both Adams and Crawford and a greater number of electors than either, and yet was defeated. Jackson's vote was 99, Adams's was 84, and Crawford's was 41. Of course all remember that Mr. Adams was elected by the House of Representatives.

In 1832 Jackson was elected over Clay, having a majority of the popular vote, as also a majority of the Electoral College. But if any one will divide the total vote by the number of electors, he will find that Clay, who only secured 49 electors, ought to have had 119, making a difference of 70 votes, and double that number as between Jackson and Clay, as the 70 were taken from Clay and given to Jackson. In 1852 the candidates were Pierce, Scott, and Hale, and the popular vote and the number of electors which each received were as follows, (this statement also shows the ratio for each elector chosen:)

Presidential election, 1852.

	Popular vote.	Electors.	Ratios.
Pierce.....	1,585,545	254	6,242
Scott.....	1,383,537	42	32,846
Hale.....	157,296	-	-
	3,116,378	296	

Pierce had 254 votes, Scott 42 votes, and Hale none. The injustice of this must be very apparent to every one. Divide the whole vote, 3,126,378, by 296, the whole number of electors, and the ratio necessary to elect one elector at that election was 10,562 votes, and yet the Pierce electors were elected by a ratio not exceeding 6,242, while the ratio for the Scott electors was 32,846, or more than six times the number required to elect the Pierce electors, while Hale, with 157,296 votes, did not secure one electoral vote. If the vote had been equitably divided, as I propose, Pierce would have had 150 votes, Scott 131, and Hale 15 votes. Pierce having a majority of the popular vote over both Scott and Hale would, of course, have a majority over both of the electoral vote, and would have been the President. The inequality and injustice to the electors in 1860 is so glaring that I desire to call special attention to it:

Presidential election, 1860.

	Popular vote.	Electors.	Ratios.
Lincoln.....	1,866,452	180	10,369
Douglas.....	1,375,157	12	114,596
Breckinridge.....	847,953	72	11,777
Bell.....	590,631	39	15,144
	4,680,193	303	

Mr. Lincoln did not receive a majority of the popular vote, yet he had a large majority of the electoral vote. Douglas had but 12 electoral votes, with 1,375,157 votes, while Breckinridge and Bell together had 111 electoral votes, although their combined popular vote was less than 64,000 more than the popular vote for Douglas. Each of Douglas's electors had 114,596 votes, while each of Mr. Lincoln's electors had but 10,369 votes. If the electors had been apportioned according to the popular vote Lincoln would have had 121 electors, Douglas 89, Breckinridge 55, and Bell 38.

At the election for 1864 the vote was for—

	Popular vote.	Electors.	Ratios.
Lincoln.....	2,223,095	213	10,436
McClellan.....	1,811,754	21	86,274

The mean ratio is 17,224 for an elector; Lincoln therefore ought to have had but 120 electoral votes, and General McClellan should have had 105 electoral votes.

Election for President in 1868.

	Popular vote.	Electors.	Ratios.
Grant.....	3,016,353	214	14,090
Seymour.....	2,706,631	80	33,832

The mean ratio at this election is 19,499. This would have given General Grant 155 electors, Seymour 139 electors.

With these facts before us, the injustice and danger of our present system must be apparent to all. Under it the minority have and may again elect the President. The same inequality and injustice will be seen if the returns for the election of members of this House are examined. If the electors who voted for Grant and Seymour were equitably represented in the next House the Republican majority would be far less than it will be. For these reasons I oppose the proposition to elect the President by appointing presidential electors in each State by single districts. If this system should prevail the motive for gerrymandering would increase, and the Legislatures of the several States might provide, as was done in Maryland, I believe, in 1284, when they provided that the senatorial electors for that State should be elected in the third and fourth congressional districts. The Legislature of Ohio, if Democratic as now, could provide that the two senatorial electors should be elected in the two strongest Democratic districts in the State; and the Republican Legislature of New York could provide that her senatorial electors should be elected in the congressional districts in which her Senators actually resided. Any system which encourages the perpetration of such frauds upon electors must be met with prompt and unyielding opposition. If, as I have said, the Electoral College system is to be maintained, then I feel warranted in saying that the statesmen of the country will prefer the adoption of some plan which will secure to the electors of each State an equitable representation in the Electoral College. This cannot be done by electing them in single districts, nor as now by the State at large.

It is not necessary for me to repeat what I have heretofore said in this House and elsewhere, that I am utterly opposed to the present mode of electing the President, either by electoral colleges or by the House of Representatives. The honest and fair way is the one which is easiest and freest from complications, and that is to nominate the several candidates for President under the safeguards and protection of law, and elect by a direct vote of the qualified electors of the entire nation by ballot.

Mr. Chairman, I desire to see Mr. Hare's system adopted in this country, because I believe it to be the most philosophical ever presented for securing an equitable division of political power in a republican Commonwealth. John Stuart Mill, in his work on representative government, says:

"Of all modes in which the national representation can possibly be constituted, this one affords the best security for the intellectual qualifications desirable in a representative. At present, by universal admission, it is becoming more and more difficult for any one who has only talents and character to gain admission to the House of Commons. The only persons who can get elected are those who possess local influence or make their way by lavish expenditure.

"In no other way which it seems possible to suggest would Parliament be so certain of containing the very élite of the country. Not solely through the votes of minorities would this system raise the intellectual standard of the House of Commons. Majorities would be compelled to look out for members of much higher caliber. When the individuals composing the majorities would no longer be reduced to Hobson's choice of either voting for the person brought forward by the local leaders or not voting at all, when the nominee of the leaders would have to encounter not only the candidate of the minority but of all the men of established reputations in the country who were willing to serve, it would be impossible any longer to foist upon the electors the first person who presents himself with the catchwords of the party in his mouth and three or four thousand pounds in his pocket."

Mr. Chairman, nothing has been more successfully used in this country by small demagogues to defeat able representative men than the clamor of the spoils hunter for "available candidates" and for "rotation in office." These men demand party success at whatever cost of manhood or consistency. With this cry party discipline has been successfully invoked and

constituencies have voted to place men in office who were known by them to be intellectually and morally unfit for any honorable public position.

Is the candidate "available," asks the time-server. If so, that is enough. No spoils hunter is so indiscreet as to inquire about the character or ability of his candidate. Every person of experience knows that as a rule the "available man" has no individuality, and that political availability is everywhere a synonym for political mediocrity, and that nothing so delights the heart of respectable conservatism as stupid mediocrity.

Let any man make careful inquiry into the character of all the men who for the past quarter of a century have been members of this House and he will find, to speak within bounds, that more than one third of the entire number have been, as Mr. Benton says, "mere birds of passage," whose entrance here was often as great an astonishment to themselves as it was to the statesmen of the nation. He will also find that a large proportion of these "birds of passage" came here by the force and power of party machinery and the coöperation of the Executive, who desired the presence of such men that they might do his bidding, after which, by common consent, they were to be "rotated out," and receive as a reward for their fidelity to the "powers that be" some petty office; or he will find that they were nominated and elected because they were the representatives of money-bags rather than the representatives of ideas, or that they were political non-descripts, without intellectual ability enough to form or express one distinct political idea, but with low cunning enough to follow the programme prescribed for them by wiley party managers.

I am sure no man who has looked into our political history will say that I overdraw the picture. Of course all know that as a class these are the men who have always deceived or betrayed constituencies; and yet in every congressional district in the United States where the party majority is small and the district doubtful stupidity with money can win the day at the next election against brains with ideas. In Great Britain at the late election John Stewart Mill, one of the ablest and most philosophical statesmen of that country, was defeated by a mere popinjay, whose only recommendation for a seat in Parliament was his money-bags. Mill was known and respected in all parts of the civilized world, while the man who defeated him was not known beyond the circle of the clique which nominated him, and undoubtedly never would have been but for his money.

In this country money is being successfully employed more and more every year to elect "political noodles" to Congress. The system I propose will, if adopted, secure the election of the ablest men in the nation and banish the baneful spirit of partisan bigotry. It will also do much to destroy the political power of the Judge Noodles with money-bags; the Captain Kid-Glove Owls of codfish brigades, and the Major Blowhards, with neither brains nor money, unless, on the new theory attempted to be inaugurated here, "brass" should be substituted for that "relic of ancient barbarism."

Mr. Chairman, defective as our representative system is admitted to be, and faithless as have been many of the people's chosen servants, I can testify to the fact that, though this is called a money-loving and a money-worshipping age, I have been associated here in the past ten years with men in the administration of Government who believed in something higher than the god of Mammon.

Since the war of the rebellion I have been associated with a party a majority of whose members have been free from all schemes of public plunder or peculation, a majority of whom have also been as true as the needle to the pole in their defense of human rights. Beset as they

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were on every hand by apostacy and treason, by temptation and the allurements of power, they have kept the faith and made a record which will grow bright with time.

A great battle has been fought and a complete victory won for the establishment of a real Republic. In this grand battle soldier and civilian alike have participated and are entitled to equal honor. The one was a necessity to the other. Without the unselfish heroism of the soldier and the fidelity of Abraham Lincoln and his faithful coworkers in the national Congress, defeat would have been inevitable.

During these memorable years I count it a great honor to have been intimately associated with some of the grandest men who ever represented any people. To their fidelity and the heroism of the soldier we owe our redemption as a nation. To this same class of men we shall owe in the future our progressive development in moral power and material grandeur. Much has been accomplished; much also remains to be accomplished. The history of the past is not without its encouragements. There is a place for all and labor for all. Let no effort be relaxed, and let no man grow weary or turn back in despair. He who battles unselfishly for the right, ever and always grows stronger and stronger. To-day the nation begins to realize that the divine command embodied in the "golden rule," and coming to us down the centuries, is breathing its spirit into the hearts of millions, quickening the faith and strengthening the heroic purpose of every noble man and woman. With this quickening faith the old anti-slavery guard went forth, strong in heart and brave in purpose, to battle for the rights of mankind. In that great conflict they were as true as the law of gravitation, and labored long and faithfully for the reorganization of the Government on the basis of complete justice. Free from selfishness, without concealment and without compromise, inspired with this great purpose, they patiently endured mob violence and the persecutions of maddened men. Though often assailed they assailed not again. In their lives they were as beautiful as the morning, tolerant as charity, and gentle as the spirit of peace. I can never tire in my praises of these grand men and woman. In our anti-slavery triumph and national regeneration behold the fruits of their labor, which transcends even the hopes and expectations of enthusiastic poets and philosophers. To them we owe a country redeemed, regenerated, and disenthralled from the despotism of slavery, a country which to-day is presided over by the genius of universal liberty and universal peace.

National Currency.

REMARKS OF HON. J. T. DEWEESE,

OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

February 22, 1863,

On the bill to authorize the issue of a national currency, to assure its stability and elasticity, lessen the interest on the public debt, and reduce the rate of interest.

Mr. DEWEESE. Mr. Speaker, in addressing the House in favor of the bill "to authorize the issue of a national currency, to assure its stability and elasticity, lessen the interest on the public debt, and reduce the rate of interest," introduced by the gentleman from Massachusetts, Mr. BUTLER, I may with propriety begin by quoting the language used by Sir Robert Peel, who, in introducing the bank act of 1844, said:

"There is no contract, public or private, no engagements, national or individual, which is unaffected by it. The enterprises of commerce, the profits of trade, the relations of society, the wages of labor, pecuniary transactions of the highest amount and the lowest, the payment of the national debt, the provision for the national expenditure, the command which the coin of the smallest value has over all the necessities of life are all affected by the de-

cision to which we may come on that great question which I am now about to submit to the consideration of the committee."

I regard the passage of this bill as a measure of importance second to none that has been brought before this House since the creation of this Government; it is, in my opinion, the best, as it is the only feasible plan of relief from the excessive evils under which we are now suffering. The remedies offered so freely in both Houses will in my view serve only to aggravate, not cure the disease. I earnestly hope the gentlemen of this House have given or will now give to this bill the careful consideration it deserves. I know the apathy prevailing upon this subject. I know the difficulty of obtaining a hearing upon it, but it is a matter of too vital and universal importance to be dropped into oblivion. Strong convictions on this difficult question are not to be put down by authority; and when they happen to be right, as I feel sure mine are, I can only hope for their vindication by oft-repeated efforts to impress the reason of the people, that tribunal of last resort which tests all we do or say. Progress of opinion upon this subject is, always has been, and always will be slow; and although I cannot hope to add any weight to the argument of the gentleman who introduced this bill, I will do what I may to answer some of the objections that have been made to it. I will try to influence the opinions of the people by stating the reasons which have operated to convince me of its propriety and lead me to urge its passage.

I have been long convinced that the evil most grievous to be borne, and which is and has been making in this country, as in all others, the rich richer, the poor poorer, centralizing the wealth of the country into the hands of the few at the expense of the many, robbing the laborer to enrich the capitalist, is our unjust and unequal laws relating to money. The laboring classes of all civilized nations have always been and now are as a class poor, although wealth is the production of labor. Had there not been something then intervening to prevent the natural results the laborers would have possessed the wealth.

In our own country, where land is comparatively cheap and where labor commands a greater reward than in any other, some cause is operating with continual and continually-increasing effect to separate the production from the producer, to take the wealth from those who create it and give it to others. The wrong has for a long time been evident, and many are the schemes that have been devised to remedy it, but its true source has been but recently discovered, is now but little understood. Hence it is only recently that a plan has been proposed competent to prevent the wrong. There is a remedy, simple and effectual. It is to be found in part in the provisions of this bill. I say in part, for I think that the limitation of the issue of the currency proposed, to the payments made by the Government and to such persons as may choose to deposit therefor United States bonds bearing six per cent. coin interest, will soon have to be modified so as to permit the issue of the currency upon other securities; but with this defect, which may at any time be remedied, it is a long way in advance of any proposition relating to the currency I have yet examined, unless I may except the bill introduced last winter by the gentleman from Ohio, [Mr. CARY.]

Believing, as I do, that this bill when made a law will possess great and beneficent power, I urge its passage, that we may speedily put it into operation and save the laborers, the producers of this country, from the oppression, degradation, and misery which have befallen the laboring classes of all other countries, and which is rapidly approaching them in our own. I affirm that the monetary systems of the world are a disgrace to the civilization of the nineteenth century, placing, as they do by enact-

ment of law, power in the hands of a few capitalists to trample in the dust the rights of the laborer, on whom we depend for the food we eat, the clothes we wear, the houses we live in, and, in fact, for every comfort and luxury of life. The wealth of the United States is estimated at \$20,000,000,000, and the population at thirty-seven million, and yet one half of this great wealth is owned by one hundred and eighty-three thousand men. Estimating five persons to each family these wealthy men and their families would number nine hundred and fifteen thousand persons; two and a half per cent. of the population of the United States own as much wealth as the remaining ninety-seven and a half per cent. I think that this estimate is rather under the actual figures than above them; that in fact one half of the wealth of the country is owned by less than two and a half per cent. of the population.

If there be any who doubt that this small percentage of the population own half the wealth of the country let them single out the wealthiest men of their own neighborhood and see if half of the wealth is not owned by two and a half per cent. of its population. Now, unless this two and a half per cent. of the population have contributed as much labor physically, intellectually, or morally for the common benefit as the remaining ninety-seven and a half per cent. have, some wrong is done to this large majority. It is quite clear that they have not contributed an equal amount, and a grievous wrong is committed in diverting to the few the products of the many. The wrong is that a national standard of value like money, forming as it does the foundation of contracts, regulating the award of property, limiting all minor rights of freedom of contract, location, and occupation, and which a whole nation is compelled to use, must, if it be variable and uncertain, as that of every country of which I have any knowledge now is, affect injuriously the interests of every individual, except the great capitalists, as far as the money circulates. Our money has thus operated to the prejudice of the laboring man and the advantage of the capitalist; and now when, as an example of our prosperity, I am requested to observe the palaces of the wealthy, filled as they are with every luxury that art can create, I reply that a luxurious upper class, however elegant, if enriched at the cost of the poor laborer, is not an evidence of national prosperity; on the contrary, it is the surest evidence of national decay.

The present rates of interest on money enable the owners of property to demand an undue proportion of the products of labor for the use of property, and laborers are compelled to make agreements under these circumstances, and a very large proportion of the people are really wronged out of the earnings of their labor by the unjust operation of the laws. The laborers who produce present products should receive a large proportion of them; capitalists who do not labor, who produce nothing, should receive only a small proportion of reward. The reverse of this is now true, and the unfair distribution is caused by an unjust legal standard of distribution. Distribution is regulated by the standard of value, the medium of exchange, which is money.

The Special Commissioner of the Revenue, for whose industry and abilities I have due respect, tells us that among the agencies now operating adverse to our national development is an irredeemable paper currency. If by an irredeemable paper currency the Special Commissioner means a currency not convertible into gold or silver at the pleasure of the holder, then must I differ from the gentleman, for I stand here an advocate of an inconvertible paper currency, believing that it will, if fixed upon the basis provided for in this bill, prove a stimulus and not a hindrance to our national development and progress.

I hear but I do not heed the clamor of those

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who insist upon a return to a specie basis, who tell us that we must have respect to the laws and customs of the past, and who predict ruin from innovation. All improvement is an innovation, and unless we make innovations we had far better go home to our constituents, for it was to make innovations that we were sent here. One half of my constituents owe not alone their right to vote but their right to liberty, or rather its possession, to an innovation, and one that eight years ago found fewer advocates upon this floor than it now finds assailants. The abolition of slavery and the recognition of the rights of the negroes is one of the most important innovations ever known in this country, and we all recollect the ruin we were told was to follow this innovation; but as yet it has not come, and instead of the evils predicted we have found only blessings. The antiquity of laws and customs is no proof of their excellence. In all ages and in all countries the producing classes have been ill paid for their labor. Shall we recur to ancient laws and usages for precedents to perpetuate the evil, to uphold our unequal and unjust standard of distribution? We cannot alter the evils of the past; we can remedy those of the present and prevent them from recurring in the future.

If past Legislatures have enacted laws giving a part of their constituents great advantages over the remainder it is our duty, having discovered the error, to amend the law so that it shall operate equally upon all; the alteration is not an infringement of the rights of those who received undue advantages from the former law; it only renders justice to those previously injured. The moral and social evils which have resulted from our unjust standard of distribution are incalculable, the wrong is enormous and universal. Money is the national standard of distribution; the evils inevitable upon its present institution are national evils, and can only be removed by the action of Congress. We can so regulate the standard that the general distribution will be in accordance with actual earnings. Shall we hesitate to do right when we see that the remedy will prove gentle, immediate, gradual, and sure; that it makes no retaliations for past injuries; that it simply though completely protects the laborer in his rights by securing to him the fruits of his toil without in any way wronging the capitalist whose wealth has been accumulated by gigantic wrongs? Year after year the greater number of my constituents were held in a degrading and cruel slavery. It was thought to be a great and dangerous innovation to set them free, but it was at last accomplished, not peacefully as this other great innovation may be, but by a long, devastating war. Having done these colored laborers this tardy justice let us crown our labors by doing full justice to workingmen and women of all colors by setting them free from our unjust laws relating to money. I believe that if this bill becomes a law the question of repudiation will cease to be talked of; the payment of the public debt, both principal and interest according to the terms of the contract, will then be as easy as it now seems difficult.

The gentleman from Ohio, [Mr. CARY,] in his argument in favor of an American monetary system, very truly said that "whatever is endowed by the sovereign power of the nation with the qualities of representing, measuring, exchanging, and accumulating value by interest is money; and any circulating medium not endowed by Congress with all these powers is not money, though its material be the finest gold." These qualities are coessential to a medium of exchange. It is impossible that any one of them should exist in any medium independently of the others. The material of money is the legalized agent employed to express these powers and render them available in commerce, and it matters not what that material is so long as it is endowed by the legislative power to represent, measure, exchange, and accumulate value by interest. The powers

of money, which alone render it useful, are created by legislation; hence money can possess none but a legal value. Legal value depends upon actual value which it represents or holds, that is, the value of property or labor. Money must be a legal representative of property, for there is no portable material possessing the requisite inherent value to equal the value of the property to be exchanged. The property possesses the real value; the money is only the legal medium by which this value is represented and exchanged. The power to represent is always independent of the natural and inherent powers of the representative; it is superadded and delegated; it cannot alter the original capabilities and qualities of the agent. The representative is quite distinct from the thing represented. Gold and silver are property, and in proportion to their bulk valuable property; but these metals when coined into money become the representatives of property, although not more so than does the paper which is made into a note and endowed by Congress, as is our greenback, with the powers of money. A piece of paper legally representing ten dollars is just as valuable for all the purposes for which money is used as is a piece of gold representing the same value. The ten dollars made of gold and the ten dollars made of paper may each pass in payment for products, in exchanging values through the hands of fifty persons in a single day, and are alike ready to perform the same service upon each succeeding day. Every debt paid by the paper ten dollars is as completely paid as those paid by the gold ten dollars.

That this representative, this legal value is quite distinct from the intrinsic or real value will clearly appear if you attempt to use these materials for any other purpose than that of money. If, for example, you wish to make spoons, you can use the gold but not the paper, although, if your paper dollars are issued under just and proper laws, as many gold spoons can be purchased with the paper ten dollars as with the gold ten dollars. The value of gold and silver coins when not used as money consists in the worth of these materials for spoons, forks, ornaments, &c., and are a very small part of our actual wealth, and not indispensable to our existence; the gold and silver coins when used for these purposes cease to be money and lose all the powers of money—we call them not money spoons, forks, brooches, rings, &c., but silver forks, silver spoons, gold brooches, gold rings, &c.

The metals may be recovered by the Government and again become money. So if the paper has been ground to pulp, its value as money ceases; but it may be made into paper and by the Government again be made into money, receiving its former value. The laws have professed to establish the value of money in its material substance; the groundwork being false, they have practically failed to establish it on this basis although they have succeeded so far as to grossly deceive the public. To expose the fallacy of the assertion that the value of money is in its material substance, I need only repeat the illustration of the gentleman from Ohio, [Mr. CARY:]

"The yard-stick is a measure of length, and it is of no moment what its material is if it is three feet long."

A yard of cloth measured by a gold yard-stick is neither longer nor shorter than if measured by a wooden one, and property purchased with gold and silver money is neither more nor less valuable than if bought with paper money. If the value of money be in the worth of its material it cannot be representative; if its value be not representative it would be as impossible to make paper money fulfill as it now does the functions of coin as to make a paper promise to pay a loaf of bread on demand as nutritious as the bread, or to make paper representatives of locomotives promising to pay real locomotives on demand capable of drawing heavy trains of cars. The advocates of a

specie basis—for I think there are few who hope ever to have a purely metallic currency, or who suppose it possible to carry on the business of this country, much less that of the world, without the use of paper money—tell us that a return to a specie basis will give us the same standard of value as that of the other civilized nations of the world. Grant that the assertion be true, we have gained nothing; the standard is still a fluctuating one, no standard of value at all, a measure that contracts one day and expands the next—one which places our laborers not only at the mercy of our own capitalists, but of those of Europe as well.

If a bank with \$1,000 in coin issue \$5,000 in notes the amount of money is as much increased as if \$5,000 in coin had been issued. Each dollar of the bank notes will pay for as many of the necessities of life, as much labor, as any dollar of specie, and so long as the bank notes circulate on a par with specie they hold the same power as specie; hence, if the value of money is inherent it must inhere as much in the paper money as in the gold money, in bank notes or greenbacks as well as in coins. Another property of money is the power to measure value. The length, weight, quantity, and value of all articles are settled by certain measures fixed upon by Government. The length of the yard-stick measures and defines a before undefined length of cloth; the size of the bushel measures and defines a before undetermined quantity of grain; the dollar measures and determines a before undefined value of labor, land, or products; the value of the land, labor, or products does not measure and determine the already defined value of the dollar. All these measures are determined by the laws which instituted them and gave them power to measure length, value, or size. If the yard be variable the measure of length will commit frauds when it is used, and if its value be fluctuating the measure of value will, whenever it is used to measure the value of labor, land, or products, commit frauds. If the measure of value be equitable, unvarying, it will measure values equitably and without variation. The Government very properly reserves the right to fix the length of the yard, the weight of the pound, the size of the bushel, and the value of the dollar, that they may be fitted for public use. Money is the public measure of value, and the Government is bound to make it just and uniform, that it may correctly measure and determine the value of all commodities. And this the Government has not done; for the value of the dollar fluctuates from day to day, even from hour to hour, is as false a measure of value as a yard-stick would be of length which at one time contracted until it was but one foot long and at another stretched out until it was six feet long.

I shall but briefly notice the two other properties of money, one of which is to accumulate value by interest; this power is essential to the existence of money as no one will exchange productive property for money that does not represent production. The legal power of money to accumulate by interest compels the borrower in a given period, determined by the rate of interest, to procure by the sale of his labor or products an equal amount of money as great as the amount borrowed, and give it together with the amount borrowed to the lender. If he pay interest at the rate of six per cent. half yearly he must double the amount in less than twelve years; at three per cent., in less than twenty-four years; at one per cent., in about seventy years. The worth and amount of the interest on the dollar determines the value of the dollar as much as the amount and kind of labor that a man can perform determines his value as a workman. The value of the workman is, however, natural, consisting in his power to produce; the value of money is artificial, and consists in its arbitrary power to represent actual value and accumulate by interest. A dollar which can be loaned for twelve per cent.

interest is worth twice as much as one that can be loaned for but six per cent, just as stock that yields annually a revenue of twelve per cent. is worth twice as much as one that yields a dividend of but six per cent. The value of money as much depends upon its legal power to be loaned for an income as the value of a farm upon its natural power to produce or as the value of a horse upon his ability to perform useful labor for his possessor. Another power of money is to exchange value; it is made by law the public representative of value, and when the interest is fixed at a just rate it is fitted to perform the duty of money; that is, the equitable exchange of property. Money is not merchandise, and it differs in this: articles of value are designed to be actually used or consumed; money, the medium of exchange, is designed to be continually exchanged for articles for use and consumption. If the material of money is used as a commodity, if coins be converted into spoons, the owner must keep them to make them useful; they no longer represent value, measure value, accumulate value by interest, nor are they capable of exchanging value. Having now considered what money is, and having, as I hope, clearly shown that it is but a combination of legal powers expressed upon metal, paper, or any other substance; that its value is the standard determining the value of all other things, while it serves as a medium of exchange for land, labor, and all merchandise, I hope I have at the same time made it plain that the natural powers or intrinsic value of any material do not make it money; that be the material what it may its powers as money are all legal and delegated. Some material is necessary to which shall be delegated by law the powers I have named as belonging to money. Gold and silver were early selected, because they were, in proportion to their bulk, possessed of great intrinsic value by reason of the quantity being small. I object to the use of these metals as the material of money, because the quantity is so limited and because it is so expensive. The material of money should be plenty, cheap, and easily portable. All these requisites are found in paper.

The claims made for gold and silver, as the materials for money, that their value is inherent and that it always remains the same, have no foundation in fact. Gold fell in value about seventy-five per cent. upon the discovery of America; it has fallen nearly twenty-five per cent. since the discovery of the rich mines of California and Australia, and as these mines are more fully developed and more economically worked it must continue to fall; but if it should become as cheap as iron it would not then be so valuable as paper for the purposes of money, paper being so much more portable and so much more cheaply made into money. The quantity of gold and silver being limited and made the agent of these legal powers, it becomes necessary to acquire its possession to discharge debts and to make purchases; hence, its owners are enabled to extort from the necessities a very high price for its use. If gold were not used as money it would find its level as a commodity; its abundance would not cause an inflation of business, or its scarcity produce distress. Should we continue to use gold as a currency its increased quantity would only render more bulky and abundant an instrument of exchange the chief merit of which has always been thought to consist in its scarcity and its portability.

The Governments of the world have endeavored to fix by law the rate of interest as well as the nominal value of the dollar, but their measures have always been but half measures and have accomplished little or nothing. The Government has fixed a value upon coins, prescribed their weight and fineness, denounced severe penalties upon those who should coin money even of the same weight and fineness. If money be not the creation of law, if it be

but a commodity as many contend that it is, why have Governments taken so much care to reserve the right to make it, and why is it that it can be at all times exchanged for all other products and property, and that all other more necessary commodities are at certain times esteemed almost worthless compared with it? It is answered that it is because it is made by law the legal tender for debts that it has this superiority over every other commodity. The answer proves that it is not a commodity, for a legal tender is a creation by law of certain properties which do not belong to any substance, but which are made to represent all substances. Human reason is useless, given to man only to juggle and confuse him, or the proposition that money is the creation of law, its value not depending upon the material of which it is made, is true. Resumption of specie payment, even were it possible to-day, would not take the power out of the hands of the moneyed despots. A low rate of interest, one that corresponds to the accumulation of value of other property, is the only means to prevent the tyranny of the moneyed men of the country. I will not say more upon the various schemes for changing the value of our present currency to put it upon a specie basis than that in my opinion none of them are possible, and an attempt to enforce either or any of them would create such wide-spread ruin as to speedily convince the members of this House that they had attempted to force upon the people a measure more disastrous in its consequences than would be an attempt to reenslave the colored people of this country.

To secure a low and uniform rate of interest we must provide for the funding of the currency in bonds bearing a low rate of interest, which are again exchangeable for currency at a slightly increased rate of interest. Let us pass this bill, provide a cheap currency, reduce at once the rate of interest we are paying the public creditors, and so take a weight off the shoulders of the tax-payers. Let us reduce the public expenditure wherever it is economical so to do. If the Army and Navy are superfluously large, as I think they are, let us reduce them, for every dollar unnecessarily spent upon either is dissipated, destroyed, and wasted. So far as it is necessary for the peace and prosperity of the nation I favor the support of armed men and ships, but every dollar spent beyond that necessity is stolen from the laboring men of the country, and it shall not be done with my consent. We must take care that what we get in the way of security is worth all it costs. We have no right to spend the people's money except it be clearly for the good of the whole people. Reduce the Army and Navy, providing liberally for our wounded and disabled officers and soldiers; cut down the civil list to the lowest limit consistent with the proper discharge of the public business, and with the prosperity of the laborers we shall see a true prosperity of the whole people.

Destruction of Territorial Governments.

SPEECH OF HON. W. A. BURLEIGH,

OF DAKOTA,

IN THE HOUSE OF REPRESENTATIVES,

February 22, 1869,

In opposition to the bill (H. R. No. 1625) providing for the destruction of the territorial governments of Dakota and Utah.

Mr. BURLEIGH. Mr. Speaker, in presenting the memorials and remonstrances of the citizens of Dakota against the passage of the bill reported to this House by the chairman of the Committee on the Territories, which provides for the immediate destruction of the territorial government of Dakota and contemplates the annihilation of Utah at an early day, I will say that, in my judgment, it is one of the most

unjust and impolitic measures that has ever been reported by a committee for the consideration of Congress. Unwise in its inception, as it will be found cruel and oppressive in its operation toward the people of the Territories, I think this House cannot fail to see—that I know to be true—that its inevitable tendency will be the destruction of all confidence in the future action of Congress, by rendering insecure the rights and privileges of our citizens after having been guaranteed by organic laws.

None of the rights and immunities which Congress guaranteed to the people of Dakota when it gave to them a territorial organization, none of the privileges which they acquired under their organic law, or which have been conferred upon them by local legislation had in conformity to that law, are by this bill respected in the slightest degree; on the contrary, they are utterly ignored, while the honorable chairman of the Committee on the Territories, for himself and his colleagues, in the blandest and most deliberate manner proposes to reduce to a state of vassalage the whole population of a great Territory, in extent four times as large as the State of Ohio, by this most extraordinary and despotic act. Has it really come to this, that Congress will allow any one man to arrogate to himself and exercise the high prerogative of devising schemes for changing the boundaries of sovereign States and annihilating the great territorial organizations of the country at his own imperious will and pleasure? When before in the history of our national legislation has anything of this character been undertaken or thought of even? Never. So far from it, the boast of the American citizen has ever been that the safeguards of liberty are the common inheritance of all; the weak as well as the strong, the poor as well as the rich.

In 1861 the Territory of Dakota was organized by a solemn act of Congress. Emigration was invited there by that act. From almost every State of the Union people flocked to that new Territory, settled upon its fertile lands, established their homes, and became law-abiding citizens. The Government guaranteed them protection, they in return rendered to the Government a loyal obedience. Owing to the distracted condition of the country and to the almost continuous Indian wars which raged within our borders our growth was slow, but steady and permanent. Our Legislature met, and in strict conformity with the organic law which Congress gave us we established our courts of justice, located our capital, and erected our public buildings by private enterprise, for Congress refused to build them for us, as had been done for other Territories, we believing that the plighted faith of this Government was a reality, and not a mere myth. But, sir, how great is our disappointment. We are met here to-day, after having removed to these Territories with our families and property, after having spent years of toil there and suffered privation and want, and are stunned by the heartless proposition of the gentleman from Ohio, which proposes nothing less than the utter annihilation of our territorial organizations, the bankruptcy of our most enterprising citizens, and the blasting of all our bright hopes of the future. These, sir, will be the inevitable consequences of the passage of this bill so far as Dakota is concerned.

By the organic act of March 2, 1861, creating the territorial government of Dakota, (see Statutes-at-Large, volume 12, pp. 239 to 244,) Congress provided for a republican form of government, having all of the guarantees of the Federal Constitution and of said organic act. (See section sixteen, page 244.)

The Legislative Assembly had power under the twelfth section of said act "to locate and establish the seat of government for said Territory," and it was located and established at Yankton in the autumn of 1861—a point most eligible for such purpose. The government for the Territory thus authorized became fully

organized in the year 1861, and the citizens of other States emigrated to the new Territory in large numbers upon the faith of the organic act. Then they purchased lands and erected buildings, imported flocks and herds, put up large and valuable improvements at Yankton, the capital, for the use of the Federal officers and the Legislative Assembly. The people who came into the Territory established their homes and made improvements with especial reference to the location of the capital, the establishment of the territorial roads and highways, and the location of a railroad from Yankton to Sioux City, connecting with all of the lines north of the Ohio river leading to the Atlantic and the Pacific oceans. The population of Dakota has now reached more than twenty thousand souls, and the value of their improvements and property of all kinds amounts to many millions of dollars. The value of the buildings and much of the real estate depends upon the continuance and preservation of the territorial government under its organic act until the people shall apply to become a State; and all the improvements in the Territory were made upon the faith of the express declaration and promise on the part of the Federal Government that the people should be guaranteed a republican form of government, with a fixed capital, established roads, highways, schools, and other advantages arising from a government of the people under said organic act and the Constitution and laws of the United States.

Whether it be considered by this House good law or not, I accept as good common sense the principle that this organic act, connected with the settlement of a considerable portion of the Territory and the full organization of the government under it, creates a solemn compact between the United States and the people of Dakota, that they shall be protected in the peaceful enjoyment of that government so established until Dakota becomes a State of this Union. To destroy that government and annihilate Dakota by attaching a portion of its lands and people to Nebraska, and another portion of its lands and people to Minnesota, would be as great a political outrage as was the partition of Poland.

Pass this bill, and at one blow fifty per cent. in value of all their improvements would be lost, and the people would be subjected to State taxation by two States for debts which they had no voice in contracting. To what end had these pioneers on the outposts of civilization fought the savages, the wild beasts, and endured all the hardships of such a life, if the plighted faith of the Government is to be broken, as this bill proposes, and they are to be transferred as vassals or serfs to other State governments without their consent?

When Congress passed that organic act and opened up Dakota's broad prairies to settlement it extended a free and general invitation to the people of all the States and Territories "to go in and possess the land." With that invitation the Federal Government guaranteed full and ample protection of life, liberty, and property to every law-abiding citizen who should go there. There was an implied and an express contract entered into on the part of the United States with the citizens of Dakota that they should be protected in the enjoyment of every privilege, in the free exercise of every civil and political right, among the chief of which was the form of government created by the organic law. The people of Dakota have performed and fulfilled all the duties and conditions imposed upon them by this organic act; their rights have become vested and perfected under the common assent of all departments of the Government; and ever since the creation of the Federal Constitution there is not to be found a single instance of the destruction of an organized territorial government by act of Congress. From these territorial governments all of our States, except the original thirteen, have sprung and the assent of all

administrations for eighty-five years past, and of every Congress since the adoption of the Federal Constitution, in this uniform process of creating territorial governments, that afterward became States, is conclusive against the nefarious object and design of this bill, to inaugurate a plan for the destruction of governments without the consent of the people, who are the only true source of political power. What necessity is there for this assault upon the people of Dakota? Who asks for it? No one except the Committee on the Territories in this House. No one is to be benefited by it. Why, then, is the national faith to be broken, this Congress to be dishonored, and the people of that Territory to be beggared, as will be the case if this bill becomes a law?

The people of the Territories which this bill seeks to destroy do not ask for this unprecedented legislation; nor do the States to which the dismembered and mutilated fragments are to be attached ask for it. It comes in here upon the sole motion of the honorable chairman of the Committee on the Territories, who insists that the sins of the inhabitants of Utah, like the blood of murdered Abel, "crieth unto him from the ground" for vengeance; and that Utah must be wiped out from the map of the nation on account of the sinful practices of its people and the anti-republican teachings of its prophets. But, sir, the destruction of Utah is not a sufficient sacrifice; it is too small a sin-offering for the cause and the occasion. The close of the gentleman's term of most valuable and meritorious service in this House is too important an event to be allowed to pass unnoticed and unchronicled. With Utah, Dakota also is marked for destruction, for annihilation. This great Territory, of more than one hundred and seventy thousand square miles, is to be blotted from the map of the nation. Not, however, for sins committed or sins conceived; not for anti-republican teachings or anti-republican tendencies, but for the all-important and vital purpose of making a prettier national map, just to please the scholars, and perhaps for the further purpose of turning over to Nebraska that portion of the Territory lying south of the Missouri river which has recently been set apart for the use of the Sioux Indians, whose presence will require large supplies and heavy disbursements of money. It is not to be suspected that the remote prospect of a seat in the United States Senate from an adjacent Territory has had anything to do with this plan to destroy Dakota and enlarge the boundaries of Montana and Wyoming.

But wherein is the beauty of the national map improved even? Look at it and you will find its boundary lines extended, with all the angles, triangles, and distortions that the science of geometry can devise. The sutures of a monkey's cranium are symmetrical when compared with them, while its improvement is as difficult to comprehend as is the wisdom or justice of the measure here proposed. What a luminous idea! How pregnant with every principle of profound statesmanship is this wonderful conception of territorial reform! Does any person regard the necessity of a pretty map with beautiful lines and multitudinous angles as paramount to the maintenance of national faith in standing by the guarantees of protection to life, liberty, and property which this Government has pledged to its citizens, or for a moment suppose that by congressional action vice can be eradicated from the nation, or from a State or a Territory even? As well might you attempt to legislate the sun from the heavens or banish from the hearts of men by legislative power their natural fondness for the fair sex—a slight excess of which appears to be the sole cause of Utah's present discomfiture. There must be some other cause for this extraordinary proceeding, although I am compelled to admit that I have failed to discover it. It cannot be supposed that political combinations are being made by which new capitals are to super-

sede old ones, regardless of the interests and without a word of consultation with the parties to whom Congress has already conceded this right.

But if my conclusions have been at fault, if the honorable chairman of the Committee on the Territories be sincere, and is really weeping over the sins of Utah and is struggling with more than prophetic zeal to purify the moral condition of its people and protect the fair daughters of that Territory from the practices of the patriarchal age, I mean no disrespect when I say, in my judgment, he has displayed less than his usual legislative acumen on this occasion by failing to intrust the management of this bill to some older and more infirm member of the House, whose silvery looks, attenuated form, and furrowed cheeks—in striking contradistinction to his own—requires no special plea to convince this body beyond all question of his sincerity, and that the contemplation even of polygamy is abhorrent to every feeling of his virtuous nature.

However much we may desire moral reformation, both individual and national, we cannot forget the fact that the only power by which it is to be effected is a moral power, and that for some wise and inscrutable purpose the Almighty has withheld it in a great degree from legislative bodies, while He has reserved it as His own special prerogative, to be exercised in His own time and at His own good will and pleasure.

But, sir, if the reasons which have been urged by the gentleman for the dismemberment of Dakota are valid and worthy the consideration of this Congress, why, I ask, have they been allowed to slumber so long? Why were they not urged at the time of its territorial organization? If they really exist now, with our rapidly increasing population, accumulating wealth, and multitudinous interests, how much more did they exist then; with how much more force and propriety might they have been pressed before the Congress of the nation breathed into its organization the breath of political life. Why this strange and unparalleled neglect in the discharge of this great public duty, by the honorable chairman of the Committee on the Territories? Has it not been his especial province for many years past rather to care for the feeble, uphold the weak, and wait upon the great mother of Territories and States; to sit by her bedside during the tedious hours of travail and administer to her his own favorite "maternal relief" as she brought forth these children of promise, two of whom the venerable *accoucheur* now desires Congress to slaughter, cut up, and throw their mutilated remains to two elder and two younger members of the same family? Is there any good reason for the extraordinary action here proposed? Is there anything unnatural, is there any deformity in the case of these two offspring of one common parent, both of whom have grown up under the scrutinizing eye and nursing care of the gentleman from Ohio? Does their vigorous youth in any way threaten the safety of our national family, its prosperity, or the extension of its power? Nothing of the kind is pretended, and I entreat him to exercise those parental virtues, patience, forbearance, and nursing care, which will do much toward removing the evils complained of, to abandon his rash design, to stay his "uplifted hand and outstretched arm," and not strike the murderous blow which he has so deliberately aimed at these two children of the great mother of States, both of whom were conceived and born in lawful wedlock, beneath the Dome of the nation's Capitol and the "star spangled banner," and were baptized in the creed of our national faith in the presence of both Houses of Congress, every department of the Government acting as sponsors, and received the certificate of birth and baptism under the great seal of the Republic.

But, sir, if the inhabitants of Utah have sinned by adopting the patriarchal custom of

polygamy, which is in opposition to the civilized and Christian system of monogamy, and if this alleged sin can only be expiated by depriving that Territory of political life, I must solemnly protest, in the name of the loyal and free people of Dakota, in the name of my country, whose honor it seeks to destroy, against the right of this Congress or any other power beneath God's shining sun to impute to them the crimes of the polygamists of which they are not guilty, or to punish them for transgressions which they have never committed. A more loyal, patriotic, and law-abiding people than my constituents of Dakota cannot be found in the Union. During the late war they gave as large a proportion of their male population to the Union cause as any other Territory. They organized their own troops to protect the inhabitants of Dakota and the frontiers of Iowa, Nebraska, and Minnesota from Indian depredations. They pursued a policy so wise and conciliatory toward the Indian tribes as to enable them to organize and equip a considerable Indian force that has always proved faithful and efficient in defense of the inhabitants of that Territory against the hostile Indian tribes surrounding it. They challenge the scrutiny of the Committee on the Territories in regard to the faithful manner in which the territorial government of Dakota has been administered. For economy, efficiency, and just policy, I know of no better example in the Republic. While the whole southwestern and southern portion of our territorial domain is in a blaze of Indian war, that is costing the nation at the rate of more than forty million dollars a year, peace and tranquillity reign uninterruptedly throughout Dakota under the wise and conciliatory policy pursued by her people in their dealings with the savages.

And now, sir, I appeal to this honorable body, and ask if you will sanction, by your approval, a measure so fraught with injustice, bad faith, illegal and unconstitutional oppression and wrong as this bill? If the principles of justice and equity yet linger within this legislative Hall, where the Representatives of the people meet and exercise the sovereign power of this nation; if the binding force of the official oath still retains its solemn obligations; if, while so much time is spent in reconstructing States, it would be unwise to inaugurate a system for the destruction of organized Territories, I ask that you will withhold your approval from this measure, so fraught with ruin, disaster, and oppression to the loyal people of Dakota, whose vested rights and political existence it aims to destroy.

Resumption of Specie Payment.

SPEECH OF HON. J. V. L. PRUYN,
OF NEW YORK,
IN THE HOUSE OF REPRESENTATIVES,
February 5, 1869.

The House being in Committee of the Whole on the state of the Union—

Mr. PRUYN said:

Mr. CHAIRMAN: I propose to submit some thoughts on this subject which now occur to me without any of the thoroughness of arrangement and detail which has characterized the remarks of many who have preceded me, leaving it to some other occasion, if need be, to elaborate them. I have no new theory to propound in regard to the payment of our Government debt. I have no method to propose by which it is to be liquidated or got rid of in some mysterious way, by some funding or other process, or by some fanciful scheme of an overwrought or enthusiastic brain without the pressure of taxation upon the people. I have no plan of that kind to advance. My views on the subject are very simple and I think per-

fectly practical, and I will submit them as briefly as I well can.

Gold by the common consent of mankind at all times and by all nations has been considered as the standard of value. We hear of it in the second chapter of Genesis, where the land of "Havilah" is spoken of, "where there is gold, and the gold of that land is good." It is useless to question this standard. Whoever has attempted it has failed in the attempt, and the common judgment of mankind has settled down upon it as the most reliable. There are those who say that gold is to be looked upon only as an article of merchandise and not as a standard of value. I shall not now attempt to controvert such views, because I look upon the matter as settled by a sentiment so universal that it is useless to question it.

The evils attendant upon paper money, which were experienced during the revolutionary war, were so great that when the founders of the Government met in Convention to prepare our Constitution this subject arrested their most earnest attention, and there can be no doubt that they supposed when that instrument was completed that they had established gold and silver coin to be the standard of value, as well for the States as for the Federal Government. Let us test this by an inquiry: had the Federal Constitution, which inhibits States from making "anything but gold and silver coin a tender in payment of debts," contained an express provision that the General Government might make Government notes or bank notes a legal tender, does any person believe that it would have been ratified by the people? No candid man acquainted with the history of the times will venture to say yes to this inquiry. Notwithstanding all the troubles the country passed through for more than seventy years this principle was adhered to until the legal-tender act of February, 1862, was passed. I believe the gentleman who last addressed the committee was a member of the Congress of 1862.

Mr. BROOMALL. No; I was not a member until 1863.

Mr. PRUYN. I feel sure from the current of his remarks this evening that had he been here he would have voted against that act.

Mr. BROOMALL. I have always voted against expansion.

Mr. PRUYN. Many of the gentleman's views on this subject are so sound that I feel quite certain had he been here he would have opposed the adoption of that law. It was in my judgment a great error, increasing our debt unduly, leading to extravagance and wasteful expenditure, while our interest was payable in gold on the enormous amount of our obligations in like manner as if the act had not been passed. But I do not propose now to discuss this point. We are incumbered with a vast debt, for the payment of which the faith of the nation is pledged, and the question is, what are the best means to pay that debt, and what system of finance should be established which by its wise provisions will bring us back to specie payments and consequently to the extinguishment of the debt in coin, the common standard of the world.

There has, it is true, been very much discussion about the legal-tender act, especially with reference to the question whether the principal of the debt was by the terms of the act payable in coin or not. And notwithstanding all that I have read and heard in regard to it it appears to me that there is a view of the act which has never been sufficiently considered. It is one which I have always entertained from the first time I carefully read it, and which I think affords the true solution of its provisions. I will refer to it presently.

In the late political canvass neither party did justice to itself as to this great question of the public debt. The Republican party at the Chicago convention passed a resolution in regard

to it, which was understood one way in one part of the country and another way in another part. It was a very clever political device, and it had its full effect. It declared in substance that the public debt ought to be paid according to the true spirit and intent of the acts of Congress creating it. What that true intent was presented the question in dispute. At the West both political parties, to a great extent, claimed that the debt might be paid in paper. At the East, however, a different view prevailed largely, and therefore this resolution did not fairly meet the question or put the party upon the unquestioned ground which it ought to have occupied on so grave a question.

On the other side the resolution passed by the Democratic party at the New York convention was supposed to insist upon the payment of the debt in paper under all circumstances, an inference quite unwarranted, however, by its terms. The view I take of the act of 1862 is this: its first section authorized the issuing of legal-tender notes, which the statute says—

"Shall be receivable in payment of all taxes, internal duties, excises, debts, and demands of every kind due to the United States except duties on imports, and of all claims and demands against the United States of every kind whatsoever except for interest upon bonds and notes which shall be paid in coin, and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States except duties on imports and interest as aforesaid."

The statute also provides that—

"Such United States notes shall be received the same as coin at their par value in payment for any loans that may be hereafter sold or negotiated by the Secretary of the Treasury, and may be reissued from time to time as the exigencies of the public interests shall require."

The next section of the act—and that its provisions follow those already referred to is not to be overlooked—authorizes the issue of what are called five-twenty bonds, on which interest was to be paid in coin as already stated; but nothing is specially said as to the manner in which the principal is to be paid, clearly leaving that matter to the operation of the first section of the act.

The statute is one virtually declaring the Government to be unable to carry on the war on a sound financial basis, and the proposition it made was simply this: that finding itself in this situation, having undertaken a task to pay for which it had to draw on posterity, it said to the lender, "If you choose to lend us money, and we will take our own paper money from you, we promise to pay a large rate of interest in gold, but as to the principal you must take your risk." That is, if we come out successfully from this great contest in which we are engaged, if we retrieve our position and put down the rebellion so that we can resume our career of prosperity, then these obligations will be worth par, and as a matter of course be paid in gold.

If, on the other hand, we are defeated in our attempt to put down the rebellion, if our indebtedness becomes so great that we can only pay in paper, you must then take paper and hold it till we can pay gold; that is all we can do, all you can ask us to do; in other words, you must, if you choose to buy our loan on the liberal terms on which we offer it, share our fate—coin at the time named if we succeed, but if not, then paper, to be redeemed in coin whenever we resume specie payments.

Mr. POLAND. I would like to ask my friend from New York if any such construction as he now puts upon that statute was put before the people at the time these bonds were offered in the market? Does he not know that the question was put directly to the Secretary of the Treasury whether the principal of these bonds was to be paid in coin, and that the Secretary of the Treasury and every official from the Secretary down declared that that was the true construction of the law? Does he not know that every public place throughout the country was perfectly blazing with advertise-

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ments of the Secretary of the Treasury and of all the Government officials and agents that these bonds, principal and interest, were payable in coin?

Mr. PRUYN. My friend from Vermont states his facts, I think, too broadly; but I am well aware that there is some foundation for the questions which he has propounded to me and I am prepared to meet them, and while advertisements of the kind referred to were put forth in many quarters it must be recollected that the act of Congress referred to was published in every considerable newspaper of the country, I may almost say of the world, and that a publicity was given to it almost before unknown in our history. The gentleman from Vermont is too good a lawyer and a statesman to claim that any official of the Government, high or low, can undertake to give a construction to an act of Congress in the extra-judicial, unauthorized manner he has stated, or to give it any construction by which he can override the clear language of the statute. If so, our statutes amount to nothing. I am aware that the Secretary of the Treasury wrote a letter to a gentleman in answer to an inquiry which he propounded stating that the principal of the five-twenty bonds was payable in gold. I observe that the gentleman from Vermont wishes to make some additional remarks. Has he any other point to present?

Mr. POLAND. I desire to put another question to my friend from New York. I believe I am lawyer enough to know this principle that every man is bound to know the law. But when the Government of the United States has allowed all its officials to put forth to the people in every possible form that these bonds were to be paid, principal and interest, in coin, and when the people of the United States generally never saw the law and had no means of seeing it, I would like to ask my friend whether he would have the Government shelter itself under this principle that every man, woman, and child who took one of these bonds was bound to know the law, and that all the Government officials had misinterpreted it?

Mr. PRUYN. As to the point of publicity of the law, I have already met it. The gentleman, however, clearly yields the legal question, and I will meet my friend's criticism and the view which he suggests. The gentleman is not only enough of a lawyer to know just what this statute means, but he is so good a lawyer that I am sure when he comes to look at it thoroughly he will not misconstrue it. I am dealing with the statute. I am not dealing with what the Secretary of the Treasury or any one else chose to say.

Mr. POLAND. I am not, in the inquiries I make of my friend, questioning that he may be right in the technical construction of the statute. I think I could prove he is wrong. But conceding that he is right, when the Government in every form put forth to the people and induced everybody throughout the country to take the bonds on the pledge of all their officers that they were payable principal and interest in coin, would he have the Government shelter itself behind the plea that everybody is bound to know the law?

Mr. PRUYN. I must again say that the gentleman states his case too strongly. But passing this by I hope to show, or shall try to show, that the Government, although as the gentleman admits it may have the legal right to pay by new obligations, need not, if it be wisely administered, take any such course. Now, in regard to the consideration which the gentleman has made so prominent in his inquiries, I will remind him of a fact of very great significance in regard to this matter which occurred in the Thirty-Eighth Congress.

It was said on the floor of the House, in substance, that the Secretary of the Treasury had stated that the principal of the five-twenty bonds was by the act of February, 1862, made

payable in gold, and a letter from him to that effect was then read.

The late Mr. Stevens, of Pennsylvania, who was then the chairman of the Committee of Ways and Means, the leader of this House and the exponent of the Government, from whose hands in fact the statute came, at once most warmly denied that any such statement by the Secretary of the Treasury was in any way authorized, and maintained that there was no engagement whatever to pay the debt in coin. He went quite beyond the views I have expressed as to the character and effect of the act. This denial went at once to all parts of the country from the person best authorized to speak upon the subject, utterly contradicting the position taken by the Secretary of the Treasury.

This construction of the law derives strength from the fact that subsequently the ten-forty act expressly declared that not only the interest, but the principal also of that loan should be paid in gold; and the gentleman from Vermont and others will recollect that very special prominence was given to this fact throughout the country as well by Government officials as by the public press.

There is a clause of the act of 1862, providing among other things for a sinking fund, which it is a great misfortune was not complied with. It was enacted that the duties on imported goods should be paid in coin, and such coin be set apart as a special fund and applied, first, to the payment in coin of the interest on the bonds and notes of the United States; and secondly, to the purchase and payment of one per cent. of the entire debt of the United States, to be made within each fiscal year after the 1st day of July, 1862, which was to be set apart as a sinking fund, the interest of which should in like manner be applied to the purchase or payment of the public debt as the Secretary of the Treasury should from time to time direct.

The advantages and benefits resulting from a sinking fund, fairly and honestly applied for a series of years toward the payment of a great debt, has been so thoroughly proved in the financial history of some of our States, municipalities, and large corporations that it cannot be questioned. I know of nothing which will give greater confidence to the public as to the eventual redemption of the public debt than to find that year after year the Government has actually and in good faith laid aside something toward its payment. Had this sinking fund been instituted at the time the act directed and faithfully accumulated and applied, it would now probably have held \$250,000,000 of the public debt. The effect of this upon our credit would have been most beneficial and decided.

This subject came up in the Thirty-Eighth Congress, when it was proposed to authorize the Secretary of the Treasury to sell the coin in the Treasury vaults. I then called the attention of this House to the sinking fund provision, for the reason that if that fund had been properly kept up, or if the coin then due to the sinking fund had been taken from the coin on hand, there would, after reserving a proper margin, have been very little or none left for sale. The answer suggested to that was that if the sinking fund had been created the Government debt would simply have been so much larger, and therefore it was useless to create it.

To a person who reflects carefully on the subject that answer, although plausible, is to a very great extent unsound. We all understand the effect upon every community, upon every family of the obligation to lay aside a certain amount of money for a certain purpose during a month, a year, or any fixed period of time. It leads to care, to thrift, to economy; and I will venture to say that had this sinking fund been kept up as it should have been in good faith to the public creditor we would not have bor-

rowed one half the sum to which it would now amount.

I have no time within the limits allowed to me to go into a detailed discussion of the various and conflicting views which have been placed before the community in reference to the act of 1862. The only plausible ground which I have heard in favor of construing it as promising the payment of the principal of the bonds in coin is that to which the gentleman from Vermont [Mr. POLAND] alluded; that is, that the Secretary of the Treasury and his agents stated publicly that such was its meaning; and this, it is argued, created an obligation upon the part of the country to pay it accordingly. After what I have already said I do not propose any further discussion on this point, nor in the conclusions to which I have come do I consider it to be material. The question is how is the debt to be paid? And I aver that with a wise system of finance, with judicious taxation on the one side and proper economy in public expenditures on the other, it will all in due time be paid in coin and the most punctilious public creditor be most amply satisfied in his expectations.

It was said long since that "there is no royal road to learning" and "no new way to pay old debts." Our national debt must be paid by the labor and the industry of the country. There is no other way to pay it. You cannot extinguish it by any mysterious financial process. The duty stares us in the face, and must be met boldly. How is it to be discharged? My time will only allow me to present a few considerations on the subject.

In the first place it is asked what can Congress do with reference to what is called the financial question; that is, the resumption of specie payments? The moment we resume, the bond question is at once disposed of. I agree with the gentleman from Pennsylvania [Mr. BROOMALL] that it can do very little about the matter—certainly not directly, but it may do much indirectly. We cannot by any act of Congress fixing a day for the resumption of specie payments bring about that event unless the country is in a proper condition for the purpose. The idea that the fiat of Congress can compel resumption is somewhat like the proposition made in England to abolish original sin by act of Parliament. No; Congress cannot do it. Congress can help in the work, but the burden of it must continue to rest where it now rests, upon the shoulders of the people; their labor, their industry, must accomplish it. Legislation can do much to help along and still more to embarrass it. And in considering what it can do one of the first things that presents itself is the matter of the currency.

Now, I do not agree with many persons that there is a very great excess in the currency. I cannot go into the reasons for this belief further than to say that since the opening of the war in 1861 the country has largely increased in population, in business, in wealth; that much more money is carried in the pockets of the people than formerly, and that to a certain extent every man has now become his own banker. Formerly every person having money beyond his immediate wants would at once carry it to his bank of deposit for the purpose of getting rid of the responsibility of taking care of it. The bank would immediately use the money, and in that way the circulation of the country, looking at its amount, was formerly very much more active than at present. But now we find that almost every business man in every quarter of the country has his own strong-box in which he will accumulate his funds for the purpose of meeting his obligations. So that of \$700,000,000, which is about the total of the circulation at this time, I think it may be safely estimated that fully \$150,000,000 are actually locked up in the way I have mentioned.

Before the war we had about four times as

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much currency in circulation as we had gold and silver in the country to redeem it, but still our bank notes passed from hand to hand as the equivalent of coin. Why was it? Why did all of us with the admitted inability of the banks to redeem their circulation take bank notes as an equivalent for so much gold and silver? Simply, and here is the whole point of the matter, because we had "faith" in the labor, in the business—in the integrity, if you please—of the country to pay its debts, public and private. In short, we believed that the country was able to meet its obligations honorably, and the banks were just as able to meet theirs. But the legal-tender act of 1862 changed all this; we declared our inability to sustain ourselves on a sound financial basis and that we must draw on the future to help us, and our drafts were so numerous and so large that our own people lost confidence in our Government securities, and of course the world did so also. Confidence, "faith" has as yet but measurably returned. By wise financial management it will be restored, and when that comes, and not till then, we will resume specie payments. When this shall be depends upon ourselves. But it never will come until our financial system is put on a sound basis, and the world understands, not only that we are willing, but that we are able to pay our debts without imposing undue and excessive burdens upon the people. This last consideration is important in every view we may take of financial matters. We have met taxation—excessive taxation—liberally, nobly. The history of civilization affords no parallel to it. But this cannot continue without limit. History teaches us very plainly that no people will consent to the indefinite prolongation of such a state of things.

As soon as we are satisfied that the legislation of the country is wise and just, that our system of finance is what it ought to be, that revenue judiciously raised at the smallest possible cost (the reverse of our whole course thus far) is adjusted to judicious expenditure, our securities will rapidly appreciate in value, and we will soon reach the point of specie payments. I have not now the time, nor will it be expected of me that I should enter upon detail and mark out an entire scheme of taxation on the one side and of expenditure on the other. It is a great point gained if it be distinctly understood that those in power will insist upon and enforce proper economy in all departments of the Government. Let a beginning be made here in this Capitol, with this House, with the Senate, with all the arrangements about us. Here let reform and retrenchment begin; there is ample room for it. Let it be carried into your Executive Departments, into the Army, the Navy, and above all into your revenue service, where frauds so glaring and so great have been committed that the country has been shocked by the exposures made in regard to them. Simplify your scheme of taxation, impose burdens on a small number of articles instead of the present endless catalogue, and thus effect a vast saving in the expense of collection.

Let the Government do these things, others will necessarily follow; and with the results which a few years of wise financial administration will give our credit will be established, our securities will command not their present reduced rates as compared with even those of third-class Powers in Europe and elsewhere, but a value correspondent with our resources, and we will soon reach the result which all so much desire—a return to specie payments. I repeat, no fanciful schemes will do this; no plans or resolutions of boards of trade, of commercial associations, of State Legislatures, of congressional authority, can accomplish it. Labor—that of the mechanic in his workshop, that of the farmer blessed by the bountiful returns of Providence—labor in all its varieties must and will, with a wise Government, work it out if not baffled in its attempts by careless or corrupt legislation.

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SPEECH OF HON. GEORGE F. MILLER,
OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

February 25, 1869,

The House being in Committee of the Whole on the state of the Union—

Mr. MILLER Mr. Chairman, during the last eight years our country has passed through a critical period. When Mr. Lincoln took the presidential chair and assumed the reigns of Government we were upon the eve of a rebellion which arose to a magnitude that surprised not only this but all other nations. No other President had ever been placed in such an embarrassing position. But it seems that an all-wise Providence destined him for the great work of saving this Republic. Mr. Lincoln on assuming the Presidency was anxious to avert the catastrophe of a war, and did not desire to interfere with slavery in States where it then existed, but was decidedly opposed to its extension. Its advocates, however, were determined to have their favorite system extended and placed upon what they denominated a "more permanent foundation," and were, as they thought, prepared for the mighty contest between freedom and slavery. The slaveholding States claimed one after another to secede until they amounted to eleven. They organized armies, and the first rebel gun was fired on the 12th of April, 1861, which stimulated the northern patriots to action, and there was a mighty rising of the people, who flew to arms, and, after a long and bloody contest of the contending armies, which cost hundreds of thousands of lives and millions of treasure, the armed rebellion was subdued, and resulted in the overthrow of that system which for so many years had caused a bitter feeling between the northern and southern States.

Slavery, as a war measure, met with its first check by the proclamation of President Lincoln under date of September 22, 1862, and that followed by the one of January 1, 1863, and received its final blow by the adoption of the constitutional amendment known as article thirteen, which provides that—

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction."

The firm and undaunted courage of President Lincoln during the existence of that terrible war will never be forgotten by the American people. His name will go down in history as one of the greatest patriots that ever lived. Though he lived to see the open rebellion subdued he was not spared to participate in the reconstruction of the rebellious States, but was deprived of that by the hands of an assassin, leaving the chair of state which he filled with so much honor to be occupied by another. Of his immediate successor I need say nothing, for his course has been condemned by all the true, loyal people of the country, and the retirement of Andrew Johnson from office will be hailed as a harbinger of better and more peaceful times.

The reconstruction of the late rebellious States was undertaken by Congress, and notwithstanding the opposition of President Johnson it succeeded in having all those States placed on a firm basis so as to insure the citizens therein a republican form of government and the protection of life and property, except Virginia, Mississippi, and Texas. Those three States have not as yet come up to the requirements of the reconstruction laws, but I trust it may not be long until they do. It may be said that the conduct of the State of Georgia shows that the reconstruction laws had not the desired effect so far as that State is concerned. My answer, Mr. Chairman, is, that is not the fault of the reconstruction laws, but for the want

of a suitable man at the head of our national affairs to "take care that the laws be faithfully executed." When the so-called rebel States are properly reconstructed there will be little danger of another rebellion being ever inaugurated therein, and as the great bone of contention, slavery, has been abolished, legislation, with a representation from all the States, can proceed in harmony, having in view the prosperity of the entire country.

This, Mr. Chairman, will increase emigration to the southern States, and encourage the improvement of that section of country in agriculture, development of mineral resources and manufactures, which will render them more prosperous than they ever were or would have been under slave labor. Free labor infuses into the people new life and vigor; consequently prosperity follows. The late slave States by pursuing a judicious course will in a few years be among the most prosperous of this Republic, and the devastations of war therein, so far as relates to prosperity, will be forgotten, and the blessings of freedom duly appreciated.

The reconstruction being nearly consummated, which, aside from the late war growing out of the rebellion, was the most momentous question that ever devolved upon Congress to adjust, there are other questions raised calculated to agitate the public mind, the most prominent of which is in relation to the financial condition of the country. The late war entailed upon us a heavy debt which our national honor compels us to hold sacred. In the late presidential campaign the mode and manner of its liquidation was introduced by the two great political parties into the contest, and the people decided in a most emphatic manner that the national debt shall be paid in good faith, and that there shall be no shrinking from our obligations, thus showing to the world that the United States discards repudiation in any form that may be devised, and the man or party that attempts it is sure to meet with a merited rebuke.

I shall, Mr. Chairman, first remark upon the policy of resumption of specie payment before speaking of the condition of our national debt. Many schemes are proposed for bringing about resumption, and members in both Houses of Congress are eager to present a plan by which the desired object may be accomplished. Some are for having the paper currency reduced before a resumption takes place; some for fixing upon a certain period when it is to occur without any reduction, and others for grasping at the golden egg at once. The question, Mr. Chairman, is, are either of these projects practicable? Suppose we should determine, as some desire, to try resumption either at once or at a certain period, say a year or two hence; have we coin in the country sufficient for that purpose? According to the last statement furnished us by the Secretary of the Treasury, it appears the coin in the United States Treasury amounts to \$88,732,716 44. How much more there is in the country that can be made available it is impossible to say. Mr. McCulloch, in his report for the year 1868, estimates the gold and silver product of California and the Territories since the year 1848 at upward of thirteen hundred million dollars. He also estimates that upward of eleven hundred million dollars have gone to other countries in exchange for their productions. It is also well known that a large amount of gold is used in manufactures.

In the able report of the Director of the United States Mint at Philadelphia for the year ending June 30, 1865, he estimates the production of precious metals in the United States for the previous fifteen years at \$700,681,566 75, of which \$630,681,566 75 was deposited for coinage. And it is estimated in the valuable report of Joseph S. Wilson, esq., Commissioner of the General Land Office, that the aggregate amount of gold and silver remaining on hand on the 1st of January, 1848,

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among the nations of Europe and America in the various forms of money, bullion, and manufactured articles, was \$8,122,000,000, of which \$4,136,000,000 was gold, and \$3,986,000,000 was in silver. This, however, like all such estimates, is but a mere conjecture. As we cannot come to anything like an accurate estimate of the coin in the United States, there is one thing we do know, and that is, there is very little in use as a circulating medium—in some States none; so that it would be very unsafe to attempt a resumption with the large amount of paper money we have in circulation, and a failure would be most disastrous. It would tend to depreciate our paper money to an alarming extent.

Then, on the other hand, will it do under existing circumstances to diminish the amount of paper money in circulation? That, in my opinion, is the only safe road toward an early resumption, (and in that I agree with the views expressed by the Secretary of the Treasury in his last annual report,) provided it can be done without injury to the business of the country. We must be careful to do no act that will bring upon us a repetition of the financial crisis of 1857, which swept over the country like a tornado. Let us next examine as to the amount of our currency under State banks prior to the passage of an act of Congress entitled "An act to provide a national currency secured by a pledge of the United States bonds, and to provide for the circulation and redemption thereof," and what it now is under the national banking system.

First, as to the State banks, it is difficult to ascertain the amount of circulating medium under their operation, as they were local institutions and in many instances the circulation confined within narrow limits; but as near as I have been able to approximate to it from such information as I could obtain it appears that in 1860 the capital of such banks amounted to \$421,880,095, and their circulation to \$207,102,477, and the specie to \$83,594,537, making the total of notes and specie amount to \$290,697,014. In 1861 the capital was \$429,592,713; notes in circulation \$202,005,767, and specie \$87,674,507, making for that year notes and specie amounting to \$289,680,274; and in 1862 capital \$419,761,812; notes in circulation \$183,938,945; specie \$102,207,559, making in notes and specie for that year under the State bank system \$286,146,504; and their deposits during the same year were \$297,127,226. In October, 1868, there were 1645 banks organized under the national banking system, with a capital of \$420,634,511, having national bank notes outstanding to the amount of \$295,769,489, and at the same time there were State bank notes outstanding to the amount of \$2,006,352; individual deposits, \$579,686,549 60; specie belonging to said national banks, \$11,749,642 14. In order to show the amount of our present circulating medium we must add to the above the United States notes (or legal tenders as they are called) and fractional currency and the result will stand thus:

National bank notes outstanding.....	\$295,769,489 00
United States notes.....	356,021,073 00
Fractional currency.....	35,511,127 54

Thus it will be seen that our present paper currency amounts to \$687,301,689 54. It may be proper to state that I have not included in the above gold certificates amounting to \$32,659,520. This, however, is not all in circulation, but what is we must depend upon for our circulating medium. In 1867 the Secretary of the Treasury had authority under the then existing laws to cancel \$4,000,000 per month of the United States notes, and by thus withdrawing from the circulation a stagnation in business, and more especially in the western States, began to be severely felt, and Congress was memorialized from every quarter to put a stop to such cancellation, and consequently Congress felt constrained to pass an act sus-

pending the authority that had been given to the Secretary of the Treasury to make a reduction of the currency except so far as relates to mutilated notes and the issue of others to fill their place, which act became a law on the 4th of February, 1868, without the President's signature.

By estimating our population at forty millions we would have about seventeen dollars and eighteen cents of paper money to each individual. Then, Mr. Chairman, if we have not more paper currency than the exigencies of the times demand, of course it will not do for Congress to permit a reduction which would be sure to bring upon us another financial crisis. Our paper currency is good; it passes in every section of our country without discount. It is equal to if not better than the old United States Bank notes and the people are satisfied with it. It has answered a good purpose; it served us in carrying on with success one of the most terrible wars that any country ever endured. Then why such a clamor for resumption? Clamor by whom? Not by the people at large, but by politicians, speculators, and some statesmen who seem anxious to show to the country that they have hit upon the favorite plan by which what is deemed by some a desirable object may be obtained; but, strange to say, we seldom find two agreeing upon a similar theory, which makes it evident to any reflecting mind that we are not in a condition to experiment upon such a grave question.

Our country is in a prosperous condition and has been so ever since the close of the war, with a slight exception, which is a remarkable circumstance in history, as financial disasters generally follow in the wake of a great war. Then, why agitate this question now? Why not be content in leaving "well enough alone?" We have not enough of the precious metals to answer for a circulating medium throughout the commercial world. That which is annually taken from the bowels of the earth does not keep pace with the increase of population and business wants. Since paper money must necessarily be resorted to, bank notes are issued in all European Governments, except it may be in Russia, where the entire circulating medium is issued directly by the Government. I am aware that it has been said that the Secretary of the Treasury keeps too large an amount of coin on hand; that it might be placed in circulation or, in other words, used in aiding to bring about specie resumption. As I have heretofore remarked the February statement of the Secretary shows on hand \$88,732,716 44. This, it is true, is a large amount, but it must be borne in mind that we have a very large amount of outstanding Government bonds, the interest on which falls due semi-annually and must be paid in gold, and paid promptly, too. A large amount of these bonds are held in Europe, and if we had not a sufficient supply of the precious metals on hand to meet this demand we would be disgraced as a nation in the eyes of the civilized world. Therefore, Mr. Chairman, I approve of keeping sufficient specie on hand to meet any contingency that might arise.

Before leaving this part of the subject I will notice one of the main grounds urged by the advocates of an early resumption, which is that it would have a tendency to reduce prices and consequently render living much cheaper. It is true that prices have very much increased, compared to what they were prior to the war, but so likewise have wages, and in a much greater proportion, and, beside, employment has been afforded to the industrious which never would have been the case if business were prostrated by a contraction of the currency. Never was there a time since the organization of our Government that business of all kinds—except for lawyers and sheriffs—was so prosperous as at the close of the late war. Those who, judging from the past, anticipated an awful crisis about to overtake us

have been astounded, and well they might, for our success as a nation is unparalleled.

I do not wish, Mr. Chairman, to be understood as opposing a specie resumption, provided it can be brought about without injury to the industry of the country; but I am satisfied that if it were now attempted we would have a repetition of that fatal disaster of 1857 and of prior financial crises. I would ask of what advantage would low prices be to the laboring man if his wages were reduced in proportion or to a greater extent, and worse than all, if he could get no employment; and it must be remembered that we have a large national debt upon us, of which I will speak more fully hereafter; that it now requires about one hundred and twenty-five million dollars annually to pay the interest thereon; that this and other expenses of the Government, aside from duties and sale of public domain, must be raised by taxation, and if prices are reduced by contraction, the products of the farmer, for instance, say one third or one half, and the manufactures in proportion, how are the taxes to be raised? I say let us be cautious before we take such a leap in the dark.

I will now notice briefly another subject connected with our circulating medium on which considerable feeling is manifested, and that is there is not a fair distribution among the several States and Territories of our national banking capital. It is true that many of our cities have considerably more than might be deemed a fair proportion, while the country has nothing like what was had under the State banking system, and not nearly as much as the business of the country requires. Some of the late rebellious States have little or none, and the reason is because, when this system of banking was inaugurated, they were in open rebellion against the Government and waging a war to destroy it, and now they complain that they have not a fair share. I admit that as far as practicable and the requirement of business demand there ought to be banking facilities afforded to every section of our country, but the question is how is this to be brought about? One proposition is to take from States having over a certain amount *per capita* and divide it among those that have less or none. If this rule should be applied indiscriminately to all the banks in such States as are alleged to have more than their proportion great injustice would be done to many of the country banks in those States that have not now anything like the capital that the business in such localities requires, nor what was afforded under the old system of State banking.

This, it seems to me, could be remedied without increasing our paper currency or working injustice to any locality, and that is by withdrawing from circulation United States notes or legal tenders to the extent of such banking capital as might be needed in the States having none or too little and issuing in lieu thereof to such banks as might be organized in such localities a banking circulation to be secured by United States bonds, as in case of banks now in existence. This would afford the relief sought for and in no way expand the currency, for I do not desire an expansion and trust it will not be attempted, notwithstanding I deem it impracticable at this time to contract the circulation. It may be said that by this mode the United States will have to pay such newly-created banks a large amount of interest on the bonds they will have on deposit as security. My answer is there will be no increase of national debt, for the banks will have to go into market and purchase the bonds, and it certainly can make no difference to the Government whether the accruing interest is paid to such banks or to an individual or whether a portion of our bonds are held by our own banking institutions or by foreigners. For my part I would prefer having them in our own country. If a plan could be devised by which our bonds could be made to bear a lower interest than at

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present it would be desirable. The mode I propose would, I have no doubt, be sustained by the country. I have not indicated, Mr. Chairman, in what I have said what plan I would recommend in order to hasten a specie resumption other than by contraction of our paper currency in case it was deemed expedient. I have carefully read many of the plans proposed, and have become thoroughly convinced that any attempt of the kind would under existing circumstances be disastrous to the country.

The next great absorbing question is in regard to the national debt and how it is to be liquidated. The last statement furnished by the Secretary of the Treasury is as follows:

Statement of the Public Debt of the United States on the 1st of February, 1869.

Debt bearing coin interest.

5 per cent. bonds.....	\$221,589,300 00
6 per cent. bonds, 1881.....	283,677,400 00
6 per cent. 5-20 bonds.....	1,602,583,350 00
	2,107,850,050 00

Debt bearing currency interest.

Certificates at 3 per cent.....	\$57,410,000 00
Navy pension fund, at 3 per cent.....	14,000,000 00
	71,410,000 00

Matured debt not presented for payment.

Three-year seven-thirty notes, due August 15, 1867, and June and July, 1868.....	\$1,977,150 00
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Compound - interest notes, matured June 10, July 15, August 15, October 15, December 15, 1867, May 15, August 1, September 1 and 15, and October 1 and 16, 1868.....	3,599,170 00
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Bonds, Texas indemnity.....	256,000 00
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Treasury notes, acts July 17, 1861, and prior thereto.....	148,411 64
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Bonds, April 15, 1842, January 28, 1847, and March 31, 1848.....	278,400 00
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Treasury notes, March 3, 1863.....	445,492 00
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Temporary loan.....	193,313 00
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Certificates of indebtedness.....	13,000 00
	6,910,936 64

Debt bearing no interest.

United States notes.....	\$356,021,073 00
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Fractional currency.....	35,511,127 54
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Gold certificates of deposit.....	32,659,520 00
	424,191,720 54

	2,610,362,707 18
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6 per cent. (lawful money) bonds, issued to Pacific Railroad companies.....	52,017,000 00
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Total debt.....	2,662,379,707 18
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Amount in Treasury, coin.....	\$83,732,716 44
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Amount in Treasury, currency.....	17,441,332 66
	106,174,049 10

Amount of debt, less cash, in Treasury.....	\$2,556,205,658 08
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From which it will be seen that our national debt on the 1st day of February, 1869, is put down at \$2,556,205,658 08; but that includes \$52,017,000 six per cent. bonds issued to the Pacific Railroad Company, in which the United States are made secure and the company punctually pays the interest thereon. Deducting the amount of these bonds, our national debt at that date was \$2,504,188,658 08. This, though large, is not discouraging when we take into consideration the vast extent of our country, immense resources and population, compared with that of other countries.

The following tabular statement will show the square miles, population, national debt, and *per capita* share of the debt in the European Governments in the year 1867, (which is

the latest date I have found,) and our own in 1869:

Countries.	Square miles.	Population.	National debt.	Per capita of debt.
Austria.....	240,251	35,000,000	\$1,620,000,000	\$46 30
Bavaria.....	29,331	4,774,140	157,000,000	32 99
Belgium.....	11,401	4,940,570	125,000,000	25 36
Denmark.....	14,735	1,698,095	55,000,000	33 96
France.....	209,322	38,067,094	2,632,000,000	69 14
Great Britain.....	122,450	29,071,000	3,746,000,000	128 87
Italy.....	109,782	24,368,787	1,349,000,000	55 35
Netherlands.....	12,674	3,529,108	392,000,000	111 11
Portugal.....	36,475	4,349,966	199,000,000	45 70
Prussia.....	135,847	23,577,893	299,000,000	12 71
Russia (in Europe).....	1,515,359	61,061,801	1,945,000,000	26 94
Spain.....	195,500	16,392,625	879,000,000	53 93
Sweden and Norway.....	293,782	5,815,619	34,000,000	5 93
Switzerland.....	15,719	2,510,494	3,000,000	1 17
United States.....	4,000,000	40,000,000	2,556,000,000	63 90

From the foregoing statement it will be seen that our population is greater than that of either Great Britain or France; that our national debt is considerably less than that of France, and some twelve hundred millions below that of Great Britain, while the extent of our country leaves them both in the shade, as it is seen we have a country containing four million square miles. It is estimated by a French gentleman, who has made it his study, that the financial losses of our late war was as follows:

The northern States.....23,500,000,000 francs
The southern States.....11,500,000,000 francs
which, in the aggregate, is equal to about seven thousand million dollars. In addition to the destruction of values by the war nearly a million able-bodied men were killed or permanently incapacitated for industrial pursuits, and hundreds of thousands of dollars in value were consumed by the armies, while they produced nothing in an economical sense. Yet, notwithstanding all this, the wealth of our country is great. It is difficult to estimate its actual value at this time. It is said, however, that it may be safely put down at \$14,000,000,000; and according to the estimate of Commissioner Wells it should double itself every ten years. We have in the United States upward of forty thousand miles of railroads, among which is the great line from Omaha to San Francisco on the Pacific coast of some two thousand miles in length, and over sixty thousand miles of telegraph, besides a line of communication conveying intelligence with the speed of lightning across the Atlantic ocean to and from the Old World.

We can pay the interest on our public debt and the ordinary expenses of Government besides applying something toward the extinguishment of the principal without excessive taxation. It appears by the report of the Secretary of the Treasury that the disbursements by the War and Navy Departments between the 1st day of April, 1865, and the 1st day of November, 1868, amounted to \$630,481,125 90 for indebtedness growing out of the war. These war claims are now pretty well paid, which will very much limit our expenses. During the fiscal year ending June 30, 1868, our receipts from customs amounted to \$164,464,599 56. During the same year the receipts from internal revenue amounted to \$191,087,589 41, making in the aggregate \$355,552,188 97. Mr. McCulloch, the Secretary, has estimated that

hereafter the receipts from customs and internal revenue will amount to not less than \$300,000,000 per annum, and that our expenditures ought not to exceed the following figures:

For the civil service.....	\$40,000,000
For the War Department.....	35,000,000
For the Navy Department.....	20,000,000
For pensions and Indians.....	30,000,000
For interest on the public debt.....	125,000,000

Making a total of.....\$250,000,000 which will leave an excess of receipts over expenditures of \$50,000,000 to be applied to the payment of the principal of the national debt. This would be reducing the debt fast enough, for it ought not to be required of the present generation, that has done so much for the preservation of the country, to discharge the entire war debt; but those who come after us should be allowed to bear a share of the burden, as the entire war debt was about four thousand million dollars, of which \$1,500,000,000 has already been paid besides immense sums paid by corporations and individuals in the way of bounties and contributions, thus leaving, as I have before said, a balance of Government debt of about twenty-five hundred million dollars. This can easily be borne by a country of the extent and resources of ours. If the growth of the country should cause an increase of taxation to meet the expenditures of the Government our wealth would in a corresponding manner increase the resources on which the same rate of taxation can be imposed.

I trust the time is not far distant when what is denominated "income tax," which is looked upon by many as odious, may be removed, and that sufficient revenue can be raised from customs and a reasonable taxation upon luxuries. It is said that the debt of the nation is upon the increase. It is true that there has been some increase during the last year, but it must be remembered that we had a large number of old claims to liquidate, besides \$7,200,000 paid for Alaska, and a large amount of bonds were issued to the Pacific railroad. The latter, although it tends to swell the debt on paper, ought hardly to be counted in our indebtedness, inasmuch as the company is amply able to pay it, and it is not at all likely that the United States will ever be called upon to pay any part of that liability. The mode of discharging the national debt, as suggested by President Johnson in his last annual message, is too absurd to be noticed. It is nothing more nor less than encouraging repudiation, and shows but a limited knowledge in finance. What we want, Mr. Chairman, in order to make our debt easily borne, is an economical management of our national affairs, and the collection of the revenues strictly enforced.

There is another subject that I deem of vital importance to the country, and that is a judicious tariff for protecting and fostering American industry, and in some measure to prevent the balance of trade from being against us, and thus put a stop to such a large exportation of our gold to foreign countries. I will not undertake, Mr. Chairman, on this occasion to discuss the importance of the tariff nor point out the defects of the one now in operation, as my views are well known and my State a unit upon this question. I will therefore drop this important subject with this passing remark, referring to what I have said in relation to it on other occasions.

The Thirty-Ninth and Fortieth Congresses have had arduous duties to perform, among which were the great reconstruction measures that were deemed so vital to the life of the nation, and which have been so vehemently opposed by President Johnson, who lavishly interposed the veto power. Happily, however, for the country, both branches of Congress, having more than two thirds of a Republican majority, had the power under the Constitution, which they promptly exercised in passing what they deemed wholesome laws over the vetoes, which, as I have heretofore remarked, when faithfully carried out, will afford peace

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and security to those residing in the late rebellious States, and add to the permanency of our Government. The labors of Congress during the last four years will not soon be forgotten, especially by its members, having been kept in almost constant session, owing to the refractory course of the President. It will be an epoch in our national history. Though some of our body differed in regard to important measures, and excited debates ensued, yet our associations in many respects were pleasant, and will ever be remembered with kind feelings.

In a few days a new Administration will be inaugurated and another Congress assembled, in whose hands our governmental affairs will be placed. It is fortunate for the American people that General Ulysses S. Grant has been chosen to fill the presidential chair. His strict integrity and orthodox views of the great national questions of the day give confidence, both at home and abroad, that the affairs of the Government will, in his hands, be judiciously administered, and that he will "take care that the laws be faithfully executed." And in SCHUYLER COLFAX, our Vice President, the nation has also implicit confidence. The financial question, so far as relates to our Government bonds, which caused so much excitement during the last presidential campaign, and led many to doubt as to their ultimate payment in good faith, may now be considered as settled, and confidence restored not only in this country but also in Europe, where not less than six hundred millions of United States bonds are held, and an attempt from any quarter to bring them into dispute will be rebuked at the ballot-box.

We have, Mr. Chairman, a country that we can well be proud of, containing an area of about four million square miles, with a variety of climate suitable to the various productions that add to a nation's wealth and comfort, and interspersed with great lakes and navigable rivers on which extensive commerce flows, and checkered over with railroads aiding in expediting travel and transportation of commerce; and, besides, we have telegraph lines extending in every direction conveying intelligence with the rapidity of thought; and we are increasing rapidly in all that makes a nation great and powerful.

The emigration to the United States from various foreign countries is estimated at about four hundred thousand annually, who are adopting this as their future home and augmenting our population rapidly.

We have added to our Constitution two important amendments, one abolishing slavery and the other regulating citizenship. Neither slavery nor internal war any longer exists in any part of our Republic, and we to-day stand before the world without a blemish resting upon us. Though as a Republic young, yet we are a great nation. Our commerce whitens every sea and ocean and our flag is respected by all nations. Here the oppressed of all countries can find a home, and if true to our Government will receive its protection. Here education is extended to all classes and our institutions of learning are of the highest order. May God grant that this Republic, founded upon truth and justice, may continue to prosper and its benign influence be felt throughout the entire world, and that other nations may be induced to adopt our form of government, where manhood alone is the test.

Military and Postal Railroad from Washington to New York.

SPEECH OF HON. C. HAIGHT,
OF NEW JERSEY,

IN THE HOUSE OF REPRESENTATIVES,

February 9, 1869,

On the bill (H. R. No. 621) to authorize the building of a military and postal railway from Washington, District of Columbia, to the city of New York.

Mr. HAIGHT. Mr. Speaker, the remarkable character and provisions of the bill now under

consideration by this House and its probable effect in case it becomes a law upon the interests of the State of New Jersey, which I have the honor in part to represent upon this floor, seem to require that I should ask the attention and indulgence of the House for a short time, which I propose to devote to the discussion and examination of the legislation proposed by this bill. It must be apparent to the mind of every one whose attention has been directed to the object and purposes of this bill that there are principles involved in it of the most vital importance to all of the States of this Union, because it is declared that certain powers belong to and are invested in Congress which may be exercised in every State, subject only to such rules and regulations as Congress may prescribe.

If this bill becomes a law it will be referred to as a precedent for future legislation of this kind and urged as being conclusive in regard to the principles upon which it is predicated. It is true the theater of its immediate operations is confined to three or four States, but the principles involved are applicable to all the States. Among the States to be affected by the operation and provisions of this bill is the State of New Jersey; and ever since the right or power of Congress under the Constitution to invade the territory of a State without her consent for such purposes as are claimed in this bill has been pending before or been agitated in Congress the people of New Jersey have manifested a great deal of anxiety and interest in the final action of Congress upon the subject. The geographical position of the State of New Jersey, lying between the two great cities of New York and Philadelphia, renders her more liable to be affected by legislation of this kind than probably any other State, and consequently enhances the interest her people feel in the rights and powers that belonged to her as a sovereign State and which she did not surrender upon the adoption of the Constitution; and her people will not willingly and without protest surrender the reserved rights retained by them when the State entered into the original compact, for such relinquishment would involve the practical surrender of all her powers of government.

I have no doubt, and never have had any in regard to the passage of this bill by the House. I have been in Congress long enough to be prepared for the passage of any bill, however doubtful its character or questionable its provisions, if it can be shown that it will advance the interests of the party in power or confer privileges upon those who contribute to its success. The objection to the exercise of power not conferred upon Congress by the Constitution was sufficient in the early and better days of the Republic to prevent legislation of even a doubtful character; but those days are past. A sufficient warrant by modern constructionists can be found in the Constitution for the exercise of any and all power if it is necessary in order to accomplish any cherished or fixed purpose. If the end to be attained is desirable the means are always at hand; and unless this idea of the omnipotence of Congress which has taken possession of gentlemen on the other side of the House is repudiated by the people of this country the destruction of the Republic seems to me to be inevitable.

The history of the legislation of Congress for the past few years must satisfy every reasonable mind that we have been rapidly advancing toward the consolidation of all power in the General Government, contrary to the express provisions of the Constitution as interpreted and understood by the framers of that matchless instrument, and in violation of the reserved rights of the States. It is surprising to me that the people of this country have not become alarmed at the wonderful strides that have been and are every day being made toward centralization. It certainly should give rise to the most serious apprehensions. Yet Congress proceeds from one step to another, while the people seem indifferent or careless

of the result. This bill is another step in that direction, for if Congress has the right under the Constitution to pass a bill of this kind it is difficult to conceive what limits there can be to its power. The effect of such legislation will be to render the States mere dependencies upon Congress, without any sovereign rights which cannot be invaded by Federal authority at its pleasure.

It is to be regretted that the powers conferred upon the General Government by the framers of the Constitution are no longer the limits of congressional action, although they are few, well-defined, and easy to be understood. And it ought to be remembered in the consideration of this measure what are the boundaries between the General Government and the State governments, for the preservation of the public liberty requires that these boundaries should be observed. The powers of the General Government are principally confined to peace and war, negotiation, foreign commerce, taxation, and the disposition of the public lands. The powers reserved to the States are indefinite and extend to all objects "which in the ordinary course of affairs concern the lives, liberty, and prosperities of the people, and the internal order, improvement, and prosperity of the State. The operations of the Federal Government will be most extensive and important in times of war and danger: those of the State governments in times of peace and security.

But, Mr. Speaker, before examining the question whether Congress has the right or power under the Constitution to enter upon the soil of the different States for the purpose of constructing railroads, or can create corporations or take control and possession of those already created and in successful operation through State legislation, and by enlarging and increasing the privileges and franchises already conferred upon such corporations virtually destroy the domestic policy of the States, as is proposed by the bill now under consideration, I desire to call the attention of the House to some questions of fact which have been strenuously urged as reasons why this bill should become a law. It is alleged that upon examination it will be found that the facts relied upon by the friends of this measure do not exist except in the imagination of gentlemen who are anxious to seize upon every circumstance and magnify it in order to fortify themselves as well as they can against this great assumption of power. We are told by the chairman of the Committee on Roads and Canals, who reported this bill to the House, that additional railroad communication is required between New York and Washington to accommodate the traveling public, and that is one of the reasons why this bill should be passed; but on the contrary it is claimed that this statement is not true in point of fact.

The fact is known by every one that a double track of railway has been constructed and is now in use from Jersey City to Washington. It is claimed that any number of trains can pass over the roads forming this line every day, affording ample accommodations for the transportation of passengers, freight, and merchandise; that by the expenditure of large sums of money the existing companies are prepared to do all and a great deal more than they are called upon to do; that they make the time between New York and Washington as quick as it is wise or prudent for them to do; and that their cars and accommodations will compare favorably with any railroads in the country. But it is urged that if they do now they did not during the war answer all the purposes for which they were needed. When the war broke out a sudden and unusual demand was made upon them, yet at that time the existing companies were sufficient to carry regiments of soldiers from some ten States, which were compelled to pass and repass almost every day during the war; but since that time it is claimed that they have increased their facilities and

are now prepared to meet any emergency that can possibly arise.

But admitting the fact that during the war the communication between New York and Washington was not adequate to the demands of the Government and the public, the force of an argument at that time for additional facilities would not apply in the present condition of the country. We are not now at war, and the exercise of this power cannot be sustained upon the plea of military necessity. Whatever reasons existed at that time, if any, do not exist now, and in all human probability never will again. I do not understand that this additional line is asked for or desired to accommodate the citizens of the States of Maryland, Delaware, Pennsylvania, or New Jersey, whose interests are mainly affected by the legislation contemplated in this bill. I will not stop to inquire into the fact contended for by some of the advocates and supporters of this measure that the companies forming the line between New York and Washington have not been faithful servants of the people. This may or may not be the case; their interest would seem to require that they should be, and my observation and experience has confirmed the belief that corporations like individuals in matters of business generally consult their interests; but there is one fact in this connection that will not be denied or disputed, that these companies, or at least some of them, incurred risks when it required courage to create these conveniences. Such facts require that we should at least deal fairly with them. But, Mr. Speaker, it looks to me as if this bill and this proposed legislation was an effort to break down and absorb the present railroad companies between Washington and New York to advance the interest of other parties for private gain, and to make the States of New Jersey, Maryland, and Delaware tributary to the gold kings of Wall street and eastern stock-jobbers.

The gentleman from New York, [Mr. McCARTHY,] in speaking of the State of New Jersey, used the following language:

"The State of New Jersey, in which the Camden and Amboy incorporation and railroad exist, lays across the great highway running from the commercial and financial center of the country to many States and millions of people; laying an obstruction to an immense foreign and inland commerce, and which is soon to flow in increased volume from ocean to ocean, from India to Europe, across our vast domain; standing in the way of easy, cheap, and time-saving channels for the vast travel and traffic between the metropolis of trade, of commerce, and of finance and that of other States and cities and this capital, the center of the political power of our country."

Now, sir, I do not propose nor do I deem it necessary to defend the State of New Jersey. The wisdom of her policy in regard to internal improvements is a question for her people to settle in their own way without the interference of Congress. But I do deny that the State has been or is now an obstruction to foreign or inland commerce. The gentleman probably does not know that the State of New Jersey was the pioneer in the railroad system of this country. The first rail of iron for railroad purposes was laid in the State of New Jersey by one of her citizens. I am fully aware of the fact that the State of New Jersey possesses advantages over many of the other States of this Union, and that her geographical position confers upon her citizens privileges which few, if any, of the citizens of other States enjoy. I am also aware of the fact that she has always fulfilled her obligations to the General Government, and that now a great wrong will be committed if a railroad is constructed across her territory without the consent of the State. I am satisfied the cause of much that has been urged against the railroad policy of the State has come from a misconception of the system adopted by her, and from the fact that her legislation could not be influenced by stock-jobbers in their interests. I would not be understood as saying that I approve altogether of the policy that has been pursued, for I would

have had it different in some respects if it had been under my control.

But again, the same gentleman in referring to the Camden and Amboy railroad says:

"A monopoly of the carrying trade, conferred upon a corporation and road by that State, thus preventing that healthy competition which insures to the public safety, speed, comfort, and cheap fare, all of which the advocates of special privileges and powers, yes, technical interpreters of the Constitution, forbid to the people at large."

Mr. Speaker, I know very little about railroads; I am not here in the interest of any railroad corporation; I am not a railroad man and never have been one; but I am surprised at the language of the gentleman from New York which I have just quoted. If I correctly understand it, it would seem to convey the idea that there is but one railroad across the State of New Jersey, and in fact but one railroad corporation in the State, and that corporation the Camden and Amboy railroad. Why, sir, he cannot be advised of the fact that there are to-day some six or seven railroads across the State, and that a great portion of the State itself is belted with railroads. According to her population and territory I believe her enterprise in railroads is behind no State in this Union. I have not the actual figures before me, but if my recollection is correct, and I know I cannot be far out of the way, the amount that has been expended in the construction of railroads in the State of New Jersey will reach in the aggregate the sum of \$70,000,000, and the number of miles of railroad already built and in successful operation cannot fall far short of a thousand miles. There is nothing now to prevent the construction of competing roads; the special privileges that were granted have expired, and there is no restriction whatever upon the people, for the Legislature can charter as many railroads across the State as they see fit or proper.

It is stated that the object of this bill is to authorize the construction of a military and postal railroad from Washington, through the States of Maryland, Delaware, Pennsylvania, and New Jersey, to the city of New York. It does seem to me that the very title of the bill is intended to deceive and mislead, for the condition of the country at the present time is such as to show conclusively that there is no need whatever for a military road between Washington and New York nor anywhere else; and I cannot believe that the committee are serious when they give it that title any more than they are when they designate it as an "air-line road," for I do not understand that any one favoring the bill contends that it will be an "air line," because from the very nature of the country between Washington and New York that would be impossible; besides, it clearly appears from the express provisions of the bill that such is not the purpose or intention of the parties who are interested in this measure. It has been said on the floor during this debate, and not contradicted, that—

"The road, if built, will be an 'air-line' running in a zig-zag, and will avoid the great centers of trade between Washington and New York. It is a job. It is a provision for the incorporation of a number of unprofitable roads into one and a sacrifice of the interests and rights of all save the stockholders of these roads; and it is to be enacted just when the great want which we have always felt is being supplied."

But it is claimed that the present route between New York and Washington is monopolized. Suppose we admit that to be the case and that it is as bad as it is alleged by those who are hostile to the existing companies, what do we gain by exchanging a lesser for a greater monopoly, for it does seem to me that no corporation was ever created or attempted to be created with greater or even so great powers as are conferred by this bill. Why, sir, by a careful examination of the provisions of the bill it will be seen that there is no limitation to the powers of this corporation; it proposes to run through New Jersey, Pennsylvania, Delaware, and Maryland, or any of

them, and is in fact absolute over them; its route through the different States is not defined, but it can be located anywhere within the States named. The second section of the bill provides for the construction of a railway between the cities of Washington and New York, upon a route to be surveyed and designated by a competent engineer appointed by them and approved by the Secretary of the Interior, commencing at some point in the city of Washington, in the District of Columbia, and running thence through the States of Maryland, Pennsylvania, Delaware, and New Jersey, or any of them, to the Hudson river; and shall have power to construct a railway, which shall have a double track, from a point in the city of Washington to the Hudson river, opposite the city of New York, and to cross the Hudson river by ferry from such point in the State of New Jersey into the city of New York.

The fifth section of the bill provides that the National New York and Washington Railway Company shall have power to connect with and use, as a part of their said line or lines, any railroad or railroads now constructed leading in the general direction of the line specified in this act, by consolidation or transfer of the stock of said railroad or railroads with or to the said National New York and Washington Railway Company or otherwise, as may be mutually agreed upon; and thereupon the said railway hereby authorized shall be empowered to so change the grade, curvature, and location of such railroad or railroads as to conform to the requirements of the seventh section of this act.

This section confers great powers of consolidation, and it is the first step in the history of this country by congressional action to place under the jurisdiction of Congress the vast railroad interest of the country which has heretofore been under the control of the States as subjects of internal improvement. This assumption of power becomes the more alarming when we call to mind the fact that there are already constructed in this country over forty-two thousand miles of railroad, with many more thousand miles under process of construction at a cost of over three million dollars.

Mr. Speaker, suppose we admit that all the facts are true as stated by those who are favorable to and are urging the passage of this bill in regard to the necessity for additional railroad facilities between Washington and New York, and for the creation of this corporation as the means and instrument to effect it, still there remains a question of paramount importance to be decided, and that is: has Congress the power, without a violation of the Constitution, to pass a measure of this kind? There should exist no doubt upon this question, for this is not a time nor is this a subject which will justify the exercise of doubtful powers. It is proposed by an act of Congress to create a corporation for the purpose of constructing a railroad in some three or four States without the consent of those States. It cannot be claimed that any such power is expressly conferred upon Congress by the Constitution. The history of the formation of the Constitution furnishes abundant evidence that such is not the case.

The proceedings of the Convention that framed the Constitution are a matter of record, and the interpretations placed upon the different provisions of the Constitution, both at the time of its formation and since by the most eminent men this country has ever produced, are preserved to us; yet, in the face of the evidence thus furnished, we do find defenders of principles and constitutional interpretations that inflict the deadliest stab upon the whole State-rights doctrine. But after the clear views of Monroe, Madison, and Jackson upon the powers of Congress in reference to this matter it is no longer a disputed or doubtful question. We not only have the opinions of the ablest statesmen of this country that no such

powers were given to the Federal Government, but, on the contrary, were expressly denied to it. All the decisions of the courts have been to the same effect. The best judicial minds of the country have always held that Congress could not create corporations, except in those cases in which they became necessary instruments for carrying into effect some expressly granted powers. But I do not propose to go any further in this question, for I do not see how there can very well be any doubt about it, except to refer in this connection to the opinion of Chief Justice Marshall in the case of *Osborn vs. United States Bank*, (9 Wheaton, p. 860.) In reference to the creation of corporations by Congress he said:

"It has never been supposed that Congress could create such corporations. The whole opinion of the court in the case of *McCulloch vs. The State of Maryland* is founded on and sustained by the idea that the bank is an instrument which is necessary and proper for carrying into effect the powers vested in the Government of the United States."

The power claimed by Congress under the provisions contained in this bill will not stand the test of the rule laid down by the same jurist in a celebrated case, when he said:

"Let the end be legitimate; let it be within the scope of the Constitution; and all means which are appropriate, which are plainly adapted to that end, and which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional."—*McCulloch vs. Maryland*, 4 Wheaton, 421.

Mr. Speaker, Congress certainly has not the power to enter upon the soil of the States and create private corporations or take control of those already created by State legislation. That would be an assumption of power which would extend to the claim of eminent domain over the soil of every State, and the appropriation of the land and property of the citizens of the State deemed necessary for the construction of lines of communication between different points of the country. This should not be attempted by Congress for the purpose of constructing railroads or for any other purpose. Corporations have been created by the States under their constitutions and laws with such restrictions and limitations as were considered necessary to promote their domestic policy. But Congress, by this assumption of power, proposes to annul and destroy the solemn compacts entered into between the citizens and the State, impairs the obligation of contracts, and, in short, tramples upon the lawful enactments of a sovereign State. But it does even more than this; it takes from the States the right to control their internal affairs, for the corporations created by Congress will be under its control and subject to its jurisdiction; and the vast interests of the States, built up by their local care and local superintendence, will be absorbed by the General Government, and the people will feel the effects of these extraordinary powers in the increase of taxation to raise revenue to support and provide for the expenses of their governments which are now in a great measure supported by the income received from the privileges and franchises conferred upon corporations chartered by the States. A writer lately, referring to the fascination of the internal improvement system, has well said:

"The objects of the General Government and the nature of its powers are calculated to give it a preponderating influence over those of the States. It is our shield in war; its offices have more attraction for talent and ambition than those of the States, and its public expenditures embrace a wider range and are more diffusive in their benefits. The character of the public expenditures facilitates the transition from legitimate objects to such as are of a more doubtful character. It adds to the means of the citizens; it relieves their burdens; it multiplies their accommodations; it facilitates their means of intercourse; it stimulates their industry and enterprise, and enhances the value of their property. Its influence is seductive, its beneficent character silences inquiry, paralyzes resistance, and obliterates the memory of State rights and State obligations."

"Roads, bridges, canals, and telegraph lines are the subjects of internal improvement. Their use is to facilitate intercourse and transportation from one place to another. If any subjects whatever require simple municipal regulation more than others these are those subjects. Roads and bridges are a part of the '*triviale necessitates*,' to which every citizen was bound to contribute by the ancient laws. They are

altogether of a local nature. They require local taxation, local superintendence, and local protection. Internal improvements were not among the purposes for which the General Government was instituted, nor is it the object of any one of its enumerated powers. If the General Government has any power over the subject, pray what are the limits?"

"It appears to us the general subject clearly belongs to the States, and that the cases in which it may possibly become necessary to the execution of the enumerated powers of the General Government are exceptions to the rule and in confirmation of it. Yet such is the fascinating influence of the power that it is much to be apprehended that now it has gone so far that it is likely to obtain as common an operation as if it was among the enumerated powers of the Constitution. Look at the legislation in Congress to-day. It becomes those who still value State rights, and yet advocate the extension of the powers of the General Government to the subject of internal improvement, to review the subject and inquire whether they have not mistaken the exception for the rule, and whether the beneficent character of the power or the magnificence of a system of national improvement may not have beguiled them of their political vigilance and influenced their conclusions."

It is stated in the title of the bill that one of its objects is to authorize the construction of a postal railroad between Washington and New York. Congress by an express provision of the Constitution has the power "to establish post offices and post roads," and it is contended that the construction of this railroad for the transmission of the mails is an incident of that express power conferred upon Congress by the Constitution. I am not aware that any authority has been produced in this discussion to support that position, nor do I believe that it has or can be successfully maintained. It was not so understood at the time the provision was incorporated in the Constitution, and the whole practice of the Government from its foundation up to this hour is a complete refutation of this implied power. The preservation of the institutions of this country and the liberties of the people forbid the exercise of implied power except to aid in the execution of expressly granted powers. The practice has always been to carry the mails over the railroads constructed under State auspices; they have proved amply sufficient; but it has been urged in this discussion that it is in the power of one of the corporations between Washington and New York to cut off all railroad postal communication between Washington and New York. This strikes me as an argument, if an argument at all, with very little force. The railroad companies of the country have always been willing and anxious to carry the mails, and it is natural they should be, for it adds to their receipts and emoluments. It is hardly within the range of probability to suppose such a thing will ever occur; it is very certain that presumptions or probabilities of that kind will not justify Congress to enter the territory of any State and create mammoth corporations, or take control of those already in operation under State legislation, in order to insure the pretended interest of the postal service. It is well settled that the meaning of the provision of the Constitution "to establish roads" confers the power to select the roads over which the mails shall be carried, but extends no further. Justice McLean says:

"If Congress can construct a bridge over a navigable water under the power to regulate commerce or to establish post roads, on the same principle it may make turnpikes or railroads throughout the country. The latter power has generally been considered as exhausted in the designation of roads on which the mails are to be transported, and the former by the regulation of commerce upon the high seas and upon our rivers and lakes. If these limitations are to be departed from there can be no others except at the discretion of Congress."

The practice having always been to carry the mails over the highways of the States I have failed to see any good reason why the policy should be changed now.

Mr. Speaker, when the Constitution of the United States was adopted the States surrendered to the General Government the power to regulate commerce, for the eighth section of the first article of the Constitution declares—

"That Congress shall have the power to regulate commerce among the several States."

And under this provision of the Constitution it is contended that Congress has the power to

authorize the construction of railroads, turnpikes, and telegraph lines. If Congress has the power under this provision of the Constitution to enact the legislation contemplated by this bill I can see no limits to its power. The constitutional power to regulate river and ocean commerce is very different from the power here assumed. Does the power to regulate commerce among the States extend to the creation of instruments of commerce? I am satisfied that it does not, and was never so intended. The power to regulate refers to the control of what already exists. The creation of corporations by Congress in the States and without their consent, as instruments of commerce, was never dreamed of by the framers of the Constitution. It is true that railroads were unknown at the time the Constitution was formed, but the legitimate power to regulate commerce has no connection with the construction of railroads as instruments of commerce.

I know it has been contended that the power to regulate also confers the power to create, and, when necessary, to execute. When that necessity exists, I suppose, depends altogether upon the will of Congress. But it is not my purpose to occupy any time upon this question, for it has been so often the subject of judicial decision, and the distinction between the proper regulation of commerce and the attempt to create, construct, and exercise jurisdiction over the means and instruments by which commerce is carried on has been so clearly shown that I only refer to it for the purpose of calling attention to the opinion of the Supreme Court of the United States in reference to the power of Congress to regulate commerce with foreign nations and among the several States. The court delivered the following unanimous opinion:

"The phrase can never be applied to transactions wholly internal, between citizens of the same community, or to a polity and laws whose ends and purposes and operations are restricted to the territory and soil and jurisdiction of such community. Nor can it be properly concluded that because the products of domestic enterprise in agriculture or manufactures, or in the arts, may ultimately become the subjects of foreign commerce the control of the means or the encouragements by which enterprise is fostered and protected is legitimately within the import of the phrase foreign commerce, or fairly implied in any investiture of the power to regulate such commerce. A pretension as far reaching as this would extend to contracts between citizen and citizen of the same State, would control the pursuits of the planter, the grazier, the manufacturer, the mechanic, the immense operations of the collieries and mines and furnaces of the country; for there is not one of these avocations the results of which may not become the subjects of foreign commerce, and be borne either by turnpikes, canals, or railroads from point to point within the several States, toward an ultimate destination, like the one above mentioned. Such a pretension would effectually prevent or paralyze every effort at internal improvement by the several States; for it cannot be supposed that the States would exhaust their capital and their credit in the construction of turnpikes, canals, and railroads, the remuneration derivable from which, and all control over which, might be immediately wrested from them, because such public works would be facilities for a commerce which, while availing itself of these facilities, was unquestionably internal, although immediately or ultimately it might become foreign."

"The rule here given with respect to the regulation of foreign commerce equally excludes from the regulation of commerce between the States and the Indian tribes the control over turnpikes, canals, railroads, or the clearing and deepening of water-courses, exclusively within the States, or the management of the transportation upon and by means of such improvements. The design and object of that power, as evinced in the history of the Constitution, was to establish a perfect equality among the several States as to commercial rights, and to prevent unjust and invidious distinctions which local jealousies or local and partial interests might be disposed to introduce and maintain. These were the views pressed upon the public attention by the advocates for the adoption of the Constitution, and in accordance therewith have been the expositions of this instrument propounded by this court."

The effect of this legislation upon the States must be evident, for if Congress has the power to create corporations it has the power to control and manage them when created, and therefore all jurisdiction and control, including the right to tax these corporations and their property, is wrongfully taken from the States. It has been settled by the courts that—

"All subjects over which the sovereign power of a

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Public Credit—Mr. Burr and Mr. Miller.

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State extends are objects of taxation; but those over which it does not extend are upon these sound principles exempt from taxation. This proposition may almost be pronounced self-evident. * * *

"The sovereignty of a State extends to everything which exists by its own authority or is introduced by its permission; but does it extend to those means which are employed by Congress to carry into execution powers conferred on that body by the people of the United States? We think it demonstrable that it does not."

It is not only claimed that Congress has the power to create corporations, but also to enlarge and increase and confer new privileges on those already created by the States. This certainly would be conceding to Congress a power unauthorized by the Constitution, for any attempt to take from the States the reserved right to regulate their own internal affairs is a flagrant usurpation. Suppose we take for example the State of New Jersey; how will her interests be affected? It will utterly destroy the large income now derived from the railroads already incorporated and leave the taxpayers to foot up a heavy deficiency.

I find by reference to the report of the comptroller of the State of New Jersey that the railroad revenues of the State during the past year were as follows:

Camden and Amboy Railroad and Transportation Company.....	\$140,965 91
Delaware and Raritan Canal and Transportation Company.....	78,185 80
New Jersey Railroad and Transportation Company.....	50,350 88
Belvidere Delaware Railroad Company.....	79 06
Frelhold and Jamesburg Railroad Company.....	11 81
	269,613 46
In 1867 these duties, including a receipt of \$26,724 41, which belonged to the year 1866, were.....	268,269 96
Excess of 1868.....	\$1,353 50

The tax on capital was paid by the corporations mentioned below and in the amounts there given, to wit:

Central Railroad Company.....	\$38,540 50
Morris and Essex Railroad Company.....	34,869 66
New Jersey Railroad and Transportation Company.....	28,437 50
Paterson and Ramapo Railroad Company.....	1,240 00
Warren Railroad Company.....	10,295 25
	113,382 81
In 1867.....	99,971 15
Excess of 1868.....	\$13,411 66

If to these amounts be added \$20,410 95 paid in by the Morris Canal and Banking Company as rent, the gross sum received from these corporations during the past year was \$404,407 22, which is a fraction beyond four fifths or eighty per cent. of the entire receipts of the State fund.

I do not believe the people of that State belonging to any political party are willing to give up the right so long maintained by the government of the State to control, regulate, and tax the railroad and other corporations within her limits.

The growing power and influence of the corporations in the States is dangerous enough, but it will be a great deal worse to have these institutions wielding millions of money as national centers of influence, controlling Congress by their power and exerting an influence not bounded by the limits of the State.

Public Credit.

REMARKS OF HON. A. G. BURR,
OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1869,

On the bill (H. R. No. 1744) to strengthen the public credit and relating to contracts for the payment of coin.

Mr. BURR. Mr. Speaker, in the brief moment allowed me I can only indicate my dissent from the bill in question and denounce the

spirit urging its passage. In this bill it is specially declared that "the faith of the United States is solemnly pledged to the payment in coin or its equivalent of all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold or silver."

Sir, there is no equivocation in this language. It is plain, direct, and positive. It is intended to "remove any doubt as to the purpose of the Government" on the public debt question. How very different this language from that in the Chicago platform of last fall which declared that the bonds should be paid "according to their letter and spirit!" There is no "letter and spirit" here; it is plain language, "gold or its equivalent." Why this difference? Because, sir, a grand conspiracy between parties holding Government bonds forced the Radical party to assume the position of servitude to bankers and bondholders during the canvass of last fall.

To secure public support loyalty was the battle cry, and to allay public suspicion by those who held that the five-twenty bonds were payable to the banker just as the pension was payable to the crippled soldier it was agreed that the platform should not specifically pledge gold payment lest it should be repudiated. Therefore the "letter and spirit" dodge was invented, and during the canvass "the letter and spirit" meant gold in one region and greenbacks in another. But so soon as a victory is won by the party on the loyalty line this bill defines what is meant by letter and spirit, and says to the tax-payers, "You thought you would be allowed to pay these bonds as you do other debts, in greenbacks, which constitute the 'lawful money of the United States'; but we now declare that you shall pay the same in coin or its equivalent!" All will agree that these bonds will not be paid in coin, for the whole civilized world does not contain coin equal in amount to the bonds of our Government now outstanding and constituting part of our indebtedness. Then it follows that the promised payment will be in the "equivalent" of coin. What will that "equivalent" be in lawful money?

Assuming as a safe estimate that gold is worth thirty-three per cent. more than paper, it adds one third to the amount of our public debt represented by the bonds in question. The result of this increase is to add one third to the taxation of the country, one third more to the burdens now resting upon labor, and as a result depress correspondingly the industrial interests of all our people. And for what? To convince bondholders that the Radical party will perform its undertakings toward them at all hazard, or in other words to remove all doubts from the minds of those who own the labor of the country by controlling its capital. And it is said, sir, that this bill is necessary to repel the implied charge of repudiation. That assertion assumes that a proposition to pay the bonds outstanding in the same money which pays for labor and produce is repudiation.

Sir, those who perform labor and raise produce and pay taxes have been and still are in favor of just such repudiation as will bring labor up to its proper level and make the rights of the producer equal to the rights of the capitalist. But it is charged that we who favor what is popularly termed "greenback payments" propose to violate the implied terms of a contract. That charge has been often refuted, both here and before the people; both in the canvass and by the press. But suppose for the moment that we were liable to that charge, it is urged against us with poor grace by those who propose to reduce the interest on the bonds from six to four per cent., when by the express stipulations of the law as well as by the plain recitals of the bonds the holder

is entitled to demand and receive six per cent. interest, payable semi-annually in gold. They repudiate one third of a gold debt which we would pay, and charge us with repudiation because we will not pay an ordinary debt in an extraordinary manner.

But, sir, I have no time now to argue. The period for argument has gone by. The same party which carried a canvass by asserting that the States should regulate suffrage, and then construed its victory into a demand for universal suffrage by act of Congress, can only be consistent in now construing the letter and spirit of their own laws to mean gold for bondholders, bankers, and capitalists, and paper for mechanics, farmers, laborers, and producers of substantial wealth. Will the followers of that party continue to be blinded and led captive by eastern capitalists who use in turn the cry of loyalty and the charge of repudiation as arguments to induce western laborers to submit to legalized robbery and plunder? If so, they are worthy only of the slavery which they invite.

But, sir, we are told that all kinds of produce commands a good price, and that the people are in good condition to pay taxation. Still, sir, it is true now as when uttered by Mr. Lincoln, "A large debt is easier paid than a larger one;" and before our laborers will have paid our bonds in "coin or its equivalent" they will find taxation no joke, and slavery to capital no mere party luxury. Even now, with heavy taxes and scarcity of money, if all national, State, and local taxes were due in one day the money of the whole Union would not be sufficient to pay the taxes. Let but one failure of the staple products of the great West occur and those who have supported the Radical ticket and laughed at predictions of hard times because their pockets were filled with greenbacks will find that with small crops and heavy taxes, with greenbacks outlawed and capitalists demanding gold, poverty will stare them in the face and grim want invade the threshold over which for years gone by have passed only the velvet-slippeder guests of luxury.

Then, sir, labor will scarcely bring enough to sustain life. Then staple articles of manufacture will be without profitable markets. Then capital, having overreached itself by crushing industry, will itself lack profitable return. Then repudiation will be more than an idle term—it will become a fixed fact; a stern, unavoidable necessity. When it comes, let it be known that radicalism produced it by its lack of candor in dealing with the people. The owner of the goose which daily laid a golden egg, moved by avarice, slayed the fowl to obtain all its wealth at once; and by his folly lost all his income. So, too, capitalists now realizing golden treasures from the labor of the country may, by trying to obtain all the coveted wealth at once, overreach themselves and destroy the source of all their gains.

I, sir, am in favor of paying our debt just as we agreed to; but before I will consent to crush the laboring masses for the benefit of bondholders may my tongue cleave to the roof of my mouth and my right hand forget its cunning.

Public Credit.

REMARKS OF HON. G. F. MILLER,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1869,

On the bill (H. R. No. 1744) to strengthen the public credit and relating to contracts for the payment of coin.

Mr. MILLER. Mr. Speaker, this bill may properly be deemed one of importance. It embraces two sections. The first provides—

"That in order to remove any doubt as to the purpose of the Government to discharge all just obligations to the public creditors, and to settle conflicting

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Public Credit—Mr. Beatty.

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questions and interpretations of the laws, by virtue of which such obligations have been contracted, it is hereby provided and declared that the faith of the United States is solemnly pledged to the payment in coin, or its equivalent, of all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligations has expressly provided that the same may be paid in lawful money or other currency than gold and silver: *Provided, however,* That before any of said interest-bearing obligations not already due shall mature or be paid before maturity, the obligations not bearing interest known as United States notes shall be made convertible into coin at the option of the holder."

And the second section provides—

"That any contract hereafter made specifically payable in coin, and the consideration of which may be a loan of coin, or sale of property, or the rendering of labor or service of any kind, the price of which is carried into the contract, may have been adjusted on the basis of the coin value thereof at the time of such sale or of the rendering of such service or labor, shall be legal and valid, and may be enforced according to its terms; and on the trial of a suit brought for the enforcement of any such contract, proof of the real consideration may be given."

The first section, with the exception of the proviso, I fully indorse. In the early part of this session I presented to the House a joint resolution, which was referred to the Committee of Ways and Means, embodying in substance the same as contained in the first section preceding the proviso. This part of the section, if adopted by Congress, will quiet all doubt in regard to our national debt both at home and abroad, showing to the world that our Government intend to act in good faith with its creditors, and that those who in our country's peril parted with their money to save the life of the nation shall be paid according to the pledge and understanding at the time they gave our Government their money in exchange for its bonds.

The people of the United States at the late presidential election decided by a large majority that our Government bonds should be met in good faith and with the kind of money that it was pledged they should be paid in or its equivalent, and by the passage of this section only carries out the original understanding and desire of the American people as expressed in an emphatic manner at the recent presidential election. I am aware that some doubt the propriety of Congress thus pledging the faith of the Government at this time in regard to our obligations, but I see no good reason why this exciting topic in regard to the national indebtedness should not be met promptly and decided, so that there shall be no more doubt as to what course our Government intend taking in regard to its obligations. I therefore trust that this section may pass; but as to the proviso, I object. It proposes to pay in coin obligations not bearing interest in preference to those that do. It is certainly a benefit to the Government to pay off interest-bearing obligations prior to those that do not and save that much, and I think the committee ought to consent to have this proviso stricken out.

This brings me to consider briefly the second section of the bill, which I think ought also to be stricken out, for if retained it may work great hardships upon some unfortunate creditors by allowing the shrewd money-lender to take advantage of their pecuniary situation. A debtor that is hard up will not be able to borrow money, let it be ever so much depreciated, without giving obligations payable in gold, at least dollar for dollar, besides the highest rate of interest, and money now loaned out will be called in to enable the lender to reinvest by taking obligations payable in coin. But it may be said that contracts to be enforced must be based on coin value; that is, the creditor shall receive coin value for the obligation that he gives for money borrowed. Admitting for argument sake that to be so, I would ask that in case the shrewd money-lender would so manage as to have no person but him and the debtor present when the contract is made and obligation signed, how could it be proven that it was anything different than expressed on the face of the obligation? For, according

to the rules of the common law, the party injured could not be a witness in a suit where he is a party except in the United States courts, where we have a statute allowing either party to be a witness, leaving the jury to judge of the credibility, but it is not so in many of the States. We have seen what great injustice has been done unfortunate creditors by exacting from them exemption notes and agreements by which every vestige of property has been taken from them and their families. It has been said that some courts have held that gold contracts can be enforced; then if they can be so enforced without any statute on the subject, what is the necessity of this second section? I have no objection, Mr. Speaker, where a man borrows coin or its equivalent, and agrees to pay the same kind in return, throwing the burden of proof upon him who undertakes to enforce such contract. This section, however, is not couched in such language as to sufficiently guard the unwary against imposition.

Public Credit.

REMARKS OF HON. JOHN BEATTY,
OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,
February 24, 1869,

On the bill (H. R. No. 1744) to strengthen the public credit and relating to contracts for the payment of coin.

Mr. BEATTY. Mr. Speaker, the bill under consideration is called an act to strengthen the public credit. It might have been more appropriately termed an act to transfer money from the tax-payer to the pockets of the bondholder and to place the debtor class of this country under the heel of the money-lender. It is in reality a proposition to add \$600,000,000 to the burden of our national debt, and I for one desire to record my solemn protest against it.

If the law under which \$1,700,000,000 of our indebtedness was created makes the five-twenty bonds payable in coin, then there is clearly no necessity for the first section of this bill, which declares "that the faith of the United States is solemnly pledged to their payment in coin or its equivalent." If by the law these bonds may be paid in greenbacks, then this bill is a perversion of the original contract for the benefit of the bondholder and to the disadvantage of the tax-payer. If, on the other hand, the law is of doubtful construction, then the determination of the doubt should be left to the courts, where the interests alike of the tax-payer and the bondholder will be dispassionately considered and fairly and properly guarded.

Gentlemen talk in glowing terms about maintaining the faith of the nation, as if, forsooth, the fulfillment of the law of the nation was not a maintenance of the faith of the nation, and as if the bondholder on the one hand and the tax-payer on the other had not recourse alike to the courts for the settlement of questions arising under the law. Six years after the contract was made, with a full knowledge that honest men deeply interested differ widely as to their rights under the contract, this House proposes in the closing hours of a session to decide hastily against the weaker party and add one fourth to a burden already almost insupportable. This may be an effort to maintain the faith of the nation and strengthen the public credit, but it seems to me more like a proposition to destroy our national credit and drive an honest people unwillingly to repudiation. Had this act been passed in 1862 or 1863, before the bonds were sold, it might have strengthened the public credit to some purpose by adding to the value of the public securities and to the receipts of the public Treasury. If the intention was to pay in coin it should have been so stated. You stipulated then simply that the interest should be paid in gold, leaving the purchaser to the inevitable conclusion that the principal might be paid in the notes

you had made "a legal tender in the payment of all debts, public and private, except duties on imports and interest on the public debt." You subsequently issued another bond stipulating that both its principal and interest should be paid in coin, thus virtually reiterating that the principal of the five-twenties might be paid in greenbacks. Now after you have sold the last dollar of these bonds at an average of not more than sixty cents, and while they may still be bought in any European market for seventy-five cents, you come forward with a proposition to strengthen the public credit by running these bonds up to a hundred cents, absurdly imagining that by increasing your own burden you will in some way increase your ability to bear it.

The fact that one German in Frankfort buys our bonds from us at sixty cents and resells them to his neighbor at seventy is not a matter over which I propose to grieve, and I have no pride that would be gratified by adding fifty per cent. to his profits out of my own income. So long as he gets an exorbitant profit on his investment he should be satisfied, and I have no doubt is. The proposition to give \$200,000,000 to the capitalists of Europe for their good opinion, and \$400,000,000 to the bondholders of our own country for theirs, is monstrous, absurd, and iniquitous. The loyal people of this country propose to pay the debt according to the letter and spirit of existing law, and will indignantly denounce this endeavor to put into the law at this late day a new letter and a new spirit. It is claimed in justification of this measure that it will enable us to substitute four per cent. bonds for those bearing six per cent. In my humble judgment the passage of this bill will no more enhance the value of a four per cent. bond to be issued hereafter than an editorial or a stump speech. The four per cent. bond cannot thus be made better; it will in fact be made worse, for the simple reason that by this foolish and unnecessary addition to the real burden of our debt we diminish our ability to carry it successfully, and our attempt to buy ourselves into credit with the capitalists of Europe will be justly regarded by sensible men as the last resort of a tottering house that endeavors to bolster up its waning fortunes by an extravagant display which adds to its liabilities without increasing its assets. If we can so easily and hastily put such a construction upon a contract as will take millions from the pockets of our tax-payers, it will be readily inferred that we may with equal haste and ease so construe another law as to defraud our creditors of twice as much.

The second section of the bill legalizes coin contracts. I object to it, because its effect will be damaging to the currency of the people. It will give to the greenback the character of a discredited note, which must at every change of owners submit to a discount. This will embarrass trade in communities where the greenback is the only currency known, by giving rise to interminable alterations as to the precise value of the dishonored note, and by lessening the confidence of the people in its ultimate payment. If worth seventy cents at the money centers, it will in the West be estimated at such a "margin" below as the prudence or the avarice of the money dealer may see fit to exact, to cover fluctuations, either fancied or real, and cost of transportation. Those who remember the endless embarrassments which grew out of the uncurrent money in circulation prior to the war can readily understand how sharpers may play upon the fears or ignorance of those who have little knowledge of money, except what they derive from the fact that it passes unquestioned, and does apparently, if not in reality, go currently at its face value. A thousand dollars in gold in the hands of the shrewd banker will be made the basis of \$1,000,000 of gold contracts, the borrower loaning the coin, giving his gold note, receiving the gold over the counter, and im-

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Public Credit—Mr. Cary.

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mediately reselling it at whatever premium in paper money the lender may see fit to give. Renewals will be managed in a similar way, and all efforts under this bill to prevent the substitution of gold in the renewal of currency contracts will be futile.

The proposed law will practically force all the evils of immediate resumption upon those who have no specie and give to those who have coin all the advantages of a depreciated currency. It will stamp as "uncurrent" the money of the people, and make gold the apparent as well as the real standard. It will open up a thousand and one ways for sharpers to fleece the unsuspecting or the distressed in the little transactions of every-day life. Men will be forced or wheedled into making gold contracts and be ultimately compelled to adjust the same on the basis of the value of a metal which they never see, estimated at a price far beyond its worth.

Who demands either the first or second section of this bill? Certainly not the farmers, not the mechanics, not the laborers, not the great body of the people. No petitions have come up from them; they are contentedly and wisely adjusting their business affairs to the present condition of the currency, and desire simply that it be let alone. The cry for the payment of the five-twenties in gold and for the legalizing of gold contracts proceeds only from the capitalists, the value of whose bonds will be increased fifty per cent. by the one, and whose opportunities to fleece the people fifty per cent. by the other.

Public Credit.

REMARKS OF HON. S. F. CARY, OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

February 25, 1869,

On the bill (H. R. No. 1744) declaring that all the bonds of the United States shall be paid in coin.

Mr. CARY. Mr. Speaker, in my opinion the title of this bill is a misnomer. Instead of a measure to strengthen the public credit, it should be termed a bill to render repudiation of the public debt a necessity. There is a possibility and even a strong probability that our national debt, large as it is, can be paid according to the letter and spirit of the laws under which it was created. While the tax-payers of the country will make any reasonable sacrifices to meet in good faith the obligations of the Government they will not so readily consent to have their burden made heavier to gratify the rapacity of bondholders.

The introduction of this bill by the Committee of Ways and Means is a tacit acknowledgment on their part that the laws providing for the issue of five-twenty bonds, and the bonds themselves, do not positively provide for coin payment. If by a fair construction of the law coin payment is required, then this bill is a simple declaration on the part of this Congress that the public debt shall not be repudiated. If, on the other hand, it is clear that the five-twenty bonds are payable in the money of the people, then this is a proposition to disregard the law creating these bonds, repudiation in behalf of bondholders, and impose new and additional burdens upon the productive industries of the country.

But it is said that the mode of payment of the five-twenties is a mooted question, and the passage of this bill will settle it and give assurance to the holders of Government securities that they will be paid in coin. If doubts exist on this subject, then I maintain that these doubts should be resolved in favor of the debtor and not the creditor class. This construction should be given for the additional reason that the bonds were purchased at a discount of fifty per cent. in coin, and have been yielding a gold interest of twelve per cent. on

cost price. Upon what principle of law, justice, morality, or fair dealing should the producers of wealth, now staggering under a load of debt, have one third more added to the burden solely for the benefit of a privileged, non-tax-paying, moneyed aristocracy? This outrage assumes a greater magnitude when we remember that the very class of men who must pay the bonds is the only class who made sacrifices during the war. We are told that this measure will strengthen the public credit and inspire the holders of our securities with confidence that they will get their pay. Much is said of the sacredness of our obligations and the imperative duty resting upon us to pay the war debt in such manner that no taint or stain of dishonor shall attach. I believe, sir, in the full payment of the nation's debt according to the fair construction of the law and the bond; but there are obligations more sacred, there are duties more imperative resting upon this people than even the payment of Government bonds. The people owe it to themselves first to support their families and see that their earnings are first appropriated to secure food, shelter, and education to those dependent upon them. The right to possess and enjoy the fruits of one's labor is a divine right older than civil government and paramount to all other claims. Government may exact from the poor man such share of his daily earnings as will enable it to give him and his full and adequate protection. When Government demands more than this, when it leaves him only rags and an empty cupboard, taking all else to fill the coffers of an untaxed, moneyed aristocracy, it becomes a robber rather than a protector. That Government which beggars me by its exactions and takes the bread from the mouths of my children to give it to the bondholder I am under no moral obligation to maintain.

When Congress assumes to bind the people to a money contract, the payment of which would result in degradation, bankruptcy, and ruin, and make the producers of all wealth, the laboring classes, the mere vassals of a privileged class, they have a right by the laws of God and man to repudiate it. If this or any other Congress shall attempt to subject the laboring whites and the enfranchised blacks to a common slavery in order to keep faith with the public creditor, and pay bonds in a money not known to the people, the power behind the throne will make bare its almighty arm. Chief Justice Marshall said:

"That every man has a natural right to the fruits of his own labor is generally admitted; and that no other person can rightfully deprive him of these fruits and appropriate them against his will seems to be the necessary result of this admission."

Another distinguished authority says that every man's earnings belong to himself exclusively as against the whole world; and that the taking away of any portion of them on any pretense whatever, except a small share for the use of the Government which protects him, is robbery.

It will be said that the people have a right to do what they please with their earnings; that we are the Representatives of the people, and are here to do their bidding. Admitting this proposition in its full force, I deny that they have given us any instructions, either express or implied, to pass this bill. On the contrary, its passage would be an imposition, a fraud, and a deception. The Republican national convention at Chicago declared that the public debt should be paid according to the letter and spirit of the laws under which it was contracted; but it did not and dared not say that the letter and spirit of the law required payment of the five-twenty bonds in coin; nor did the leaders of that party in their discussions before the people intimate that these bonds were to be thus paid. The Republican city council of my own city with great unanimity passed a resolution, and the Republican State conventions of Ohio and Indiana by their

platforms declared that these bonds were payable and should be paid in greenbacks. Hundreds of thousands of voters in the West were misled and deceived by these pretenses. They may quietly submit to the frauds practiced upon them, but I do not believe they will. The same great convention of the dominant party solemnly declared that the question of suffrage in all loyal States properly and rightfully belonged to those States respectively. Here, again, the people have been deceived; for the very men on this floor who received their votes on this assurance now propose that negro suffrage shall be forced upon a loyal State against the will of its people. I rejoice, sir, that neither of these flagrant abuses of public confidence are without remedy.

The passage of this bill may temporarily enhance the price of Government securities and give the "bulls" an advantage over the "bears;" but it does not follow that the bonds will be paid in coin. This law can be repealed by a subsequent Congress without in the slightest measure affecting the good faith of the nation. The laws under which the debt was contracted are to be interpreted according to their own terms without regard to the opinion of a majority of this Congress. Our constituents will have something to say about the proper interpretation of these laws and of these bonds before the bondholder gets his gold. I warn gentlemen not to presume too much upon the forbearance of a betrayed, an overtaxed, and an unequally taxed people. The maintenance of the public faith, the sacredness of the nation's honor, are patriotic themes and will induce the producers of wealth, the tax-payers, to endure much and suffer long, but endurance and long suffering have their limits; and I mistake the character of the American people if there will not be a limit to the taxing power of this Government.

The people have been, and they are still, patriotic. They cheerfully poured out their blood to preserve the integrity of the Union, and there is no reasonable sacrifice which they will not make to preserve the public faith and pay the debts of the war. But such a war debt never was paid in coin by any Government under heaven. With our immense resources we can pay this debt according to the fair construction of the law, be magnanimous to the bondholder and just to the tax-payer. The Shylocks took every advantage of the Government's extremity when it was struggling for life. They demanded exorbitant rates of interest for their money, and now ask the payment of currency bonds in gold at more than twice their cost price. To make this swindle upon the people effective every effort has been made by the Secretary of the Treasury and bankers and bondholders to contract the circulation, call in and cancel the legal tenders, that there might be no lawful money except gold and silver. There has been a studied, persistent, and combined effort to deprive the people of the only means they had of making exchanges and payments. They have been insulted by the miserable pretense that there was a plethora of money when they have scarcely had enough to satisfy the inexorable demands of the tax-gatherer, much less to supply the necessary wants of their families. I concede that the money-lender, when he gave fifty per cent. in gold for his bond, believed that at its maturity he would receive one hundred per cent. in gold; that then there would be no lawful money but coin. It was with him (with honorable exceptions) a matter of pure speculation, and this bill proposes that his hopes shall be realized. Greenbacks are still the money of the people, and although insufficient in quantity to answer the legitimate requirements of business they are satisfied with them as a safe and reliable measure of value. The people comprehend the situation. They perfectly understand that if gold payment of bonds is assured the commercial value of all other property depreciates,

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that labor and its products fall in price. that their taxes are increased while their ability to pay them is diminished. The only persons to be benefited by the passage of this bill are bondholders, bankers, and brokers, while every other man, woman, and child must suffer. I am aware, sir, that the national banks are ably and fully represented on this floor by over sixty stockholders, directors, and presidents, and that the money power is a terrible one to resist, but I appeal from its despotic edicts to the people. The interest of the people requires that the national bank notes should be called in and canceled, their places supplied with legal tenders, and that the amount should be increased sufficiently to pay off the \$516,000,000 of fifty-two bonds now redeemable. This action would only require \$200,000,000 more of currency than we now have, and we should then have \$100,000,000 less than we had when the insane and wicked policy of contraction was inaugurated in the interest of bondholders and national bankers. This would not only furnish money for the transaction of business, but would relieve the people from more than thirty millions annually of taxes.

This policy would open a way out of our difficulties, give relief to an overtaxed people, encourage manufactures, give full and remunerative employment to labor, develop our agricultural and mineral resources, enable a desolated and impoverished South to contribute her share toward the payment of the public debt. Give the people an absolute paper money sufficient in volume to answer all the requirements of business, made a legal tender for all payments, prohibit all banks of issue, let gold and silver remain as now, commercial commodities, and your war debt can be paid. When other bonds are redeemable pay them in the same manner, or if preferred by the holders give them other bonds at three per cent. convertible at pleasure into lawful money. Let the Government borrow all surplus money at three per cent. and there never can be an excessive issue of legal tenders. On the other hand, pass this bill, make it irrevocable, if you can, that all the bonds of the Government shall be paid in coin, and repudiation will be a necessity and a blessing. Whenever Government becomes an oppressor instead of a protector the time will have come for the exercise of the divine right of revolution.

Reconstruction in Georgia.

REMARKS OF HON. P. M. B. YOUNG,
OF GEORGIA,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1869,

On the reconstruction of Georgia, proposed by the gentleman from Massachusetts.

Mr. YOUNG. Mr. Speaker, I shall not weary the patience of this House by any attempt of mine to discuss the measure now before us in the light of the Constitution, of law, or of justice.

But, sir, we should not forget self-interest, profit, gain, or any of the inducements or lures of material advantage, even if we should determine to disregard the august authority of justice or law. If we cannot be a good and noble people; if we, in all matters of public morality, declare for the expedient if it suits us, let us at least secure the praise of being a thrifty people, whose judgment in all matters of more temporal concern is entitled to high respect. This would be something. What that something in the future would amount to perhaps the conscience or casuistry of the present day would not be able to decide.

But, Mr. Speaker, I can assure this House that, if I am not a stranger to my own home and its resources and utterly ignorant of the temper and spirit of my people, then I can say

in all solemnity that a little more pressure of such torment as this bill inflicts and its legion of kindred measures have already inflicted will result in the utter ruin of the South. Would to God, sir, that the truth, the whole truth, as regards my afflicted section could be seen and felt here this hour. The effort to portray its true condition I will not be guilty of the presumption to make. The tongue of an angel could not do it; and if by some miracle an adequate description of the suffering of my people could be given it would overwhelm you. I see around me to-day stern and unrelenting faces, men with uplifted hands, ready for another stab at the heart of my poor country, which this narrative would soften.

But it is useless to hope for the truth. A theory must be sustained at all hazards. A party erected on sectional enmity must not be allowed to die at the hands of fraternal unity and love, and in our politics it has come to be regarded as a vital principle that a sectional war must be waged by one portion of our country against another. Indeed, this startling assumption has been formally made in a public speech by one of the foremost leaders of our political world.

Is this exaggerated language? Let him who says so read the very first section of the bill now before us. By that section all enactments and proceedings of the last Legislature of Georgia are declared to be inoperative, void, and of none effect. What is there throughout the whole scope of this bill to soften the terrible effect upon more than a million of Americans of such savage legislation? If the "enactments and proceedings" of the last Legislature of my State are "void" of course they must also be of "none effect," and the franchise already vested must be withdrawn, the prison must give up its criminals, the gibbet its felon, and for a space, let it be long or short, society must be in a state of chaos.

Mr. Speaker, there can be no paraphrase for such a state of society as is here threatened. The bare recital of this section sets forth all that can be conveyed, and shows that this measure is charged and surcharged with superlative wretchedness. What excuse will gentlemen give for all this fresh violence and this ferocious prosecution of a helpless and downtrodden people? In what one solitary case has Georgia offended and merited such intervention as this? Was it in the vote she gave for Seymour and Blair? These men are "bone of your bone and flesh of your flesh," and if we can trust them you might. Or was it not rather in the expulsion of colored men from her Legislature that gentlemen seek for an excuse to afflict with renewed humiliation a State whose bitter cup of trial is already overflowing? Ah, sir, here is the rub!

But what will gentlemen on the Republican side of the House have to say when they are told, and told truthfully, that they themselves by the act of some of their own number, are responsible for this expulsion. The father of the doctrine that negroes could not hold office under the last constitution of Georgia was no less a man than ex-Governor Joseph E. Brown. The Governor laid down the doctrine that, by the constitution of the State and the laws consistent therewith, the negro was not eligible to hold office. Then, who indorsed and gave practical effect to this Radical doctrine? A Legislature notoriously packed in the interests of the majority in this House were the perpetrators of this heinous offense against liberty and human rights, for which a whole State, an empire within itself, is to be summarily punished.

But, Mr. Speaker, I pause a moment in these allusions to facts affecting the question now before us which occur at home, and turn my face northward. Gentlemen of the North, defenders of the faith, exponents of Republican liberty, Representatives of American social and moral progress, are you guiltless? How are

you to face the public opinion of this world and this age after such an issue as you are here forcing upon us of the South with the bayonet at our throats?

In Massachusetts, while it may be law for the negro to sit in your Legislature, it can hardly be said to be a fact. I have never heard that more than two colored men, mulattoes at that, were ever so promoted; but how is it in any other State controlled by freemen of America? What says Connecticut with her opposing voice of six thousand? What do we hear from Ohio with her fifty thousand dissenters; from Michigan, from everywhere but the slave States yet of the South, now doubly enslaved under this new dispensation, which spends its mighty energies day and night in guarantying a republican form of government?

The day is coming, it is now dawning, when the unsparring verdict of heaven and earth will demand from you what excuse you may have to give for placing on the backs of others loads that crushed them to the dust, while you would not lift even with your little fingers. How much more magnanimous it would be for the majority here, claiming to be the Government, if it would explicitly declare its ultimatum! Why all this circumlocution and softening phrase? Why not at once speak out and say that the law of might is the true American Constitution and that if the South will not bend she shall break? For this is what you mean.

Your precedents you will not be suffered to recall when your need so to do will be sore indeed. The usurper or agrarian who is now watching you in eager silence delights to hear you talk so convincingly of the "law of necessity," of the "life of the nation," of the "powers and rights of the majority," and last, but how far from least, of the "right of the conqueror." Presently there is coming a pressing necessity for your rights, your peace, your substance, your self-respect, to give way before the opposing might of some other man; when, shrinking from a sense of secret sin, you will be speechless in the presence of your oppressor. You are teaching the coming man or the gathering mob what utter cobwebs clever men and sharp men may make of law and conscience; how to hush the voice of mercy, and how to look upon the ruin of a brother with philosophy and satisfaction. Alas! there is no state of wretchedness on this sad earth from which some comfort may not be gathered.

Mr. Speaker, I pass on with a bare reference to the second section of the bill before us. That section provides that the present acting Governor of Georgia—

Is empowered and authorized to suspend or remove from office any civil officer, either executive, administrative, or judicial, claiming to hold or exercise the duties of any office under any authority derived from or granted heretofore by the provisional government of the State of Georgia, or any portion of the people thereof; and to appoint such other officers in their stead who are authorized to perform the duties and invested with the powers of such officers so removed, and to fill all vacancies otherwise occurring in said offices.

The power thus delegated by this bill to a single individual amounts to a monstrous tyranny, and is a scandal to a people professing to be republican. It would be an outrage on human nature unless this individual had been nominated by a voice from heaven and divinely appointed head of a theocracy. Were Mr. Bullock a prophet or inspired priest; had he lived a life absolutely without sin to this last hour of his existence; had he the self-command and purity of Washington, the wisdom of Solomon, and the public integrity of Aristides, it would even then be a crying shame in this land to exalt such a human being by the grant of such fearful powers.

May I ask, Mr. Speaker, what safeguards do we have in this bill against the appointment to any or every office in the State of the most truculent and ignorant negroes to be found in or out of Georgia?

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Public Credit—Mr. Coburn and Mr. Boyden.

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But, sir, I weary of the subject, and in complete hopelessness make this last appeal to the honor and patriotism of Congress. If I had the faintest hope of a candid hearing I would plead with the honorable member from Massachusetts, who presses this bill, to call for a fair commission, with the fullest powers, who upon the soil of my State should investigate for themselves and the whole country the charges, whatever they may be, calling for these extreme and cruel measures. I here declare upon my honor and in my place that I believe them to be uncalled for and the suggestions of private and party interests or revenge. The day has not yet come to write the chapter of our wrongs and our endurance of them. The honor of our achievements has been nothing in comparison with the sublime courage and resolution under afflictions and wrongs; and this day the universal wish of our people is to live in peace with all men, and asking favor of none but the poor privilege of being let alone to work out our fortunes as we may be able. We are willing to accept the terms, and under them to live if we can or die if we must.

But, sir, one thing we have a right to ask; nay, the voice of human nature makes the demand of you in our behalf. We demand to know your ultimatum. This just expectation has to this very hour been denied us, and we have for three weary years been steadily meeting the harshest and most unsparing treatment with concession after concession, and to-day we seem to be as far from a solution of our troubles as ever, and the country as much vexed with the great problem, "what shall be done with the South?"

Mr. Speaker, I do not care to pass to the milder forms of wrong and injury to my State which are embodied in the remainder of the bill before you. We hail with satisfaction the branch of the alternative which in a certain contingency might place us in the power of the chief now in command of our military district. A thousand times sooner let us fall into the hands of a gentleman of honor whose fame must be dear to him than into the fangs of a human monster like him of Tennessee or Arkansas.

One word more, Mr. Speaker, and I have done. Will gentlemen on the other side of the House not reflect a moment upon the effect for good or evil which our action is to produce upon the material interests of our common country. Our industry throughout the South is sadly discouraged. The shortness of crops in the two first years after the war and that cruel, merciless tax on cotton have ruined thousands of my people.

Could you let us alone, in five years of ordinary good fortune the crop of Georgia would reach more than half a million of bales. But we hardly have the hopeful energy necessary to drop a seed into the ground under all our aggravated discouragements.

Will you lose even in a party view by the wisdom of moderation and justice? Why, sir, you cannot disguise the fact that even now the Radical party is split in twain on the rock of finance, and I must admit as much for my own party. Upon a protective tariff the parties are not much more united; and could your politics cease to be predicated on sectional issues and animosities we would in a very short time find the mass of our people, North and South, divided no longer by sectional lines, but upon general issues, as of yore. Now, I can see no possible issue excepting always the one alluded to, which would leave the South a unit.

Then, sir, why cannot the majority here declare in heart and soul a general peace, and if you choose to call it so a general amnesty? What earthly good can result to the fortunes of white or black from continual exacerbations and this eternal calling for inquisitorial and punitive legislation?

Public Credit.

REMARKS OF HON. JOHN COBURN,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1869,

On the bill (H. R. No. 1744) to strengthen the public credit, and relating to contracts for the payment of coin.

Mr. COBURN. The bill before the House in its title seems to admit the fact that our national credit is bad and needs strengthening. This I am not willing to admit. Our credit is good and growing better every day. We have paid \$802,000,000 of our war debt and \$438,000,000 of interest. We have the ability to pay all we owe, and need only time to husband our resources. Who doubts or dare question our ability to pay every cent honestly? The interest on our public debt is promptly paid as it falls due, and there is no reason to doubt that our bonds will be paid as they fall due, or will be renewed if that is desired. No measures to strengthen our national credit are needed just now except those coming out of an economical management of our affairs and an equitable adjustment of our paper currency. To pass a law declaratory of our honesty and ability is not worth the paper on which it is printed, is empty and idle. Mere assertions of integrity and pecuniary ability are contemptible.

The law providing for the issue of the five-twenty bonds and the law providing for the issue of greenbacks should be construed together. It will not do to look alone at the law authorizing the issue of these bonds, and shut our eyes to the law which provides that greenbacks shall be a legal tender for all debts public and private within the United States, except for duties on imports and interest on the public debt. And although the law providing for the issue of these bonds may be silent as to their payment in legal-tender currency, yet the provisions for that currency are in force and become part of the contract and cannot be separated from it. I hold the position to be clear that unless the law providing for the bond and the language of the bond calls for gold or coin that it is payable in legal-tender currency. It would be a strange inconsistency to say that the phrase "debts, public and private," did not cover bonds of the Government. These bonds are bonds of the "public;" these bonds are evidences of "debt." This is all there is of it. In fact these bonds brought us very much less than their present value in legal-tender currency. No one can complain of a loss if they are paid off in such currency. The holder might lament the loss of a speculation, only this and nothing more. Our business is not just now with speculators. The credit of the Government is not in them or of them.

Our five-twenty bonds being payable as to principal in legal tenders, with six per cent. interest in gold, may readily be funded at a lower rate of interest, for our creditors, especially in foreign countries, prefer a long bond with a low rate of interest, principal and interest payable in gold. The possibility of the payment of the bonds in legal tenders will facilitate the exchange, and our debt be thus funded at a rate of interest somewhat near that paid by the other great nations of the world, while the project of returning to specie payment before funding the debt, if such a thing were possible, effectually destroys the possibility of accomplishing that end. The return to specie payment and a funding measure just now are antipodes. The funding measure should come first; the bulk of the debt should be disposed of at a low rate of interest and put out of the question for a long period, and then the enhancement of the legal tenders will be a light task. It is the unsettled condition of the vast

bonded debt that keeps legal tenders below par. Settle that matter and they will come up.

The second section of this bill provides for gold contracts. This will enhance the price of gold, will enormously increase the demand, will fill Wall street with buyers on private contracts from all parts of the land, and, added to the already exhaustive demand for duties on imports and interest on the public debt, will inevitably increase its price. This measure is in direct and flagrant opposition to a return to all measures of specie payment, will be oppressive, will create fluctuations in our currency, which is and must be paper for some time to come, will put paper under ban till gold gets beyond reach, and then will come a collapse in business, followed by bankruptcy and ruin. Gold is too scarce for such an experiment; we can hardly get enough for our interest, much less double that amount yearly on private contracts. We should wait and work some time before we attempt such a measure. The production of our mines, the balances of trade, economy, and good management will bring us to it, but the passage of a law will be as empty and idle as the wind to effect good, get up confidence, or create gold where there is none. This bill begins with an imputation on the public credit, and I fear ends with a scheme which will effectually destroy it.

Public Credit.

REMARKS OF HON. N. BOYDEN,

OF NORTH CAROLINA,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1869,

On the bill (H. R. No. 1744) to strengthen the public credit and relating to contracts for the payment of coin.

Mr. BOYDEN. Mr. Speaker, I am decidedly in favor of both sections of the bill, and I trust that the bill will be passed by an overwhelming majority. As to the first section, it merely declares, what every statesman and constitutional lawyer must know, the United States are bound by every principle of law and fair dealing to do. Nothing can be clearer to any legal mind than that a promise of the Government to pay a certain number of dollars, *ex vi termini*, means a payment in coin, the currency of the world. What can be more absurd than the proposition that when the Government of the United States has promised to pay ten years from date the sum of \$1,000, with six per cent. interest to be paid semi-annually, and when the bond falls due the United States has a right to say to the creditor when he demands it, "I will not pay the debt, but I will do this: I will give the note or bond of the Government without interest payable at no particular time." Let me illustrate: A borrows of his neighbor B \$1,000, payable at the end of ten years, with six per cent. interest payable semi-annually. The ten years having expired B calls upon A for his \$1,000, and A replies, "I have not the money to pay the debt, but I tell you what I will do: I will give my note or bond without interest and payable at no particular time or place." What do you think B would say to A, his neighbor? Would he not order him out of his house and denounce him as an unprincipled scoundrel? And is there an honest man in the country who would not approve of the conduct of B, and who would not himself feel indignant should such a proposition be made to him? And yet gentlemen would put this great Government of the United States in this most disgraceful position and ruin and destroy its credit and good faith. I can have no patience with men who can maintain such absurd positions.

As to the second section, I desire the passage of this section notwithstanding the opinion of the Supreme Court recently delivered. I maintain, Mr. Speaker, that there is no power

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in the General Government to prohibit the making of contracts between the citizens of the several States payable in specie, nor does the Government possess the power to prohibit the enforcement of these contracts in letter and spirit in the State courts, and nothing could be more absurd and ridiculous than the passage of such a law even if Congress possessed the power. Coin, Mr. Speaker, is the currency of the world, and every executory contract payable in dollars means coin unless otherwise specified in the contract. Dollars, *ex vi termini*, means coin, and must always be so declared by the courts, unless the contract which contains this word dollars also contains some other definition of the term than its well-known and legal meaning throughout all commercial countries of the world. I deem it important that this section should be passed in order that the people should know that there is no longer any difficulty in making or enforcing specie contracts.

Party Platforms and the Public Debt.

REMARKS OF HON. P. VAN TRUMP,
OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1869,

On the bill (H. R. No. 1744) to strengthen the public credit and relating to contracts for the payment of coin.

Mr. VAN TRUMP. Mr. Speaker, I do not propose to make any very extended remarks upon the bill now before the House as reported by the chairman of the Committee of Ways and Means, [Mr. SCHENCK.] I am impelled to say what I shall say mainly from the fact that this side of the House seems to be somewhat divided, if not demoralized, upon the very important question presented in the first section of the bill; a question which has heretofore been made a distinct party issue, if I properly understand the principle contained in that section, when applied to the late platforms of the two great parties of the country in national conventions assembled.

Sir, I consider this bill not only as an initial movement to declare authoritatively the entire public debt a coin obligation without regard to time or circumstances, but also as a shrewd and artful effort to divide and distract this side of the House in relation to the whole scheme of the public debt. Whatever its success may be here in the halls of legislation, I feel quite sure it will fall very wide of the mark among the great mass of the people, who are strong in their convictions that this immense amount of debt, incurred with so much extravagance and corruption, should be adjusted upon fair and equitable principles. They have not forgotten, nor will they soon forget, that this vast amount of public liability was the result of civil commotion among our own people, of a struggle to sustain a Government common to all and for the benefit of all, and that it is unjust to hold that its burden should rest unequally upon the great interests of the country or that it should be the source of enormous profit to one class of citizens and of intolerable and crushing expense to another.

Sir, they will recollect all this none the less keenly and strongly with the broad and impartial spirit of the Constitution impressed upon their minds. They know that that Constitution, while it confers its benefits like the dews of heaven alike upon all, also imposes an equal obligation upon all to sustain by arms or means the integrity and existence of the Government. They know and feel that there is just as much power in that Constitution to draft money or property as there is to draft men to sustain, support, and defend the Government under which they live. They know and feel that there is just as much power in the Government under a rightful interpretation of the Constitution to

break open the strong boxes of the capitalist and seize upon his money-bags to aid the Government in its struggle with the power which assails it as there is to enter the lowly cabin of the poor man and drag him by a provost marshal from his frightened, helpless, and dependent family and compel him to risk life and limb in the defense of that Government. They know that this political equilibrium existing by virtue of the Constitution between the rights and the obligations of the citizen to the Government, this "equality before the law," to use the phrase of our friends across the way, though applied to a subject not recognized by the Constitution of our Fathers, this theory that there can be no aristocracy of personal rights or privileges by enactment of law, is the great American idea which underlies the whole structure of our Government; and any material or permanent departure from this great fundamental principle of our institutions will be the dirge of our liberties and sound the knell of the Republic. All this they know and feel.

The bondholder is blind to all things but his own interest. Fanaticism in political organizations, favoritism in the administration of public affairs, injustice and wrong to political opponents in legislation, always come as the after-birth of civil war; but, sir, there is no party feeling however intensified, no power of money however great, even in an age of loose morals and mercenary principles, which can long maintain with safety to existing institutions a system of class legislation which panders to the sordid selfishness of a moneyed oligarchy against the interests and the welfare of the people. Sir, I tremble for the consequences which lie behind such unwise and unjust legislation. I can well understand why a Republican should be in favor of a bill like this; but why a Democrat should vote for it is past my comprehension. The honorable gentleman from New York on this side of the House, [Mr. Brooks,] in the brief colloquy between him and myself snatched from the organized debate, confidently claimed that there was and could be no possible conflict between the Democratic platform made in council at New York and the principles contained in the first section of the bill now before the House. In that I differ from my honorable friend *toto caelo*.

Sir, I think I shall be able to show, either as a legal proposition or as a question of construction, that the first section of this bill exactly reverses or transposes the financial proposition as to the mode of payment of the Government bonds declared in solemn convention by the national Democracy at New York in July last as the true and only equitable construction of the several loan laws creating the public debt. And in doing this I shall neither claim or feel any personal triumph over my distinguished friend from New York. I know it is the fact, and I have as much pleasure as pride in acknowledging it, that there is no better informed or abler man on this floor upon any of the great subjects of human knowledge, whether in science, in art, or in literature, than the gentleman who so ardently and so ably represents the great money center of the country; but he is not and does not claim to be a lawyer conversant with the technical rules of legal construction or interpretation.

Now, sir, what is the issue between us? I am sorry to say, I profoundly regret that I am compelled to say, that the honorable gentleman in his remarks upon and in advocacy of this bill said as much and went as far as the greatest bondholding Shylock in the land could have desired him to say or go. All his dazzling rhetoric about the hard-money history of the Democratic party in other conditions of the country, when it was prosperous and out of debt and when both the gentleman and myself were found in opposition to all its leading measures, will not blind any one to the remarkable position he has now assumed

upon the great and vital question of the liquidation of the public debt. Sir, it is no time now to cover up differences of opinion, even among political friends, when that discordance is manifested here in open debate in this House, and I warn those of my Democratic brethren on this floor who are disposed to follow in the lead of a Wall-street exposition of Democracy that it is a false light, an *ignis fatuus* which will allure them into the bogs and quagmires of a delusive political philosophy, to be denounced and repudiated hereafter by the great mass of the yeoman Democracy.

A false blending or union of the two distinct and independent questions of a return to specie payments at the right time with full power to sustain it, and the mode and manner under a fair construction of the provisions of the loan laws of paying off the bonds of the Government as they now and shall hereafter fall due, will not and shall not, so far as I can prevent it, deceive or cheat any one. They have no dependence upon each other. They are distinct and independent propositions. The one is a mere financial question at large; the other is a question of contract to be governed solely by the law of its creation. No one, Mr. Speaker, can be more anxious for a safe and permanent return to specie payments than I am. I am for a constitutional circulating medium in such money as is recognized by the organic law of the land, whenever the change to that standard from what we now have as its illegitimate substitute can be made without suddenly plunging the country into disorder, bankruptcy, and ruin. This change in our monetary system is only a question of time. But to be done safely to the interests and great business of the people it must be done gradually, and especially must it be done honestly and without class legislation. On this general question of a return to specie payments as an ultimate but perhaps somewhat remote condition of the country the gentleman from New York and myself will not differ.

The only point or criticism which I wish to make in reply is to controvert the assumption of my friend that the principles embodied in the first section of this bill are sustained by the Democratic platform made at New York, and, in the language of the gentleman, by the "beautiful and glorious history" of the Democratic party in all its past existence. Sir, while I do not indorse all that was said and done in New York by that convention, I do most heartily and cordially sanction what they said as to the mode of liquidating the public debt, and the legal interpretation they put upon the loan acts of Congress by which that debt was created. So far from that interpretation being in harmony with the first section of this bill I shall show that they are the antipodes of each other. First as to the bill. The first section provides:

"That in order to remove any doubt as to the purpose of the Government to discharge all just obligations to the public creditors, and to settle conflicting questions and interpretations of the laws by virtue of which such obligations have been contracted, it is hereby provided and declared that the faith of the United States is solemnly pledged to the payment in coin or its equivalent of all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver: *Provided, however*, That before any of said interest-bearing obligations not already due shall mature or be paid before maturity the obligations not bearing interest, known as United States notes, shall be made convertible in coin at the option of the holder."

Now, Mr. Speaker, there can be no mistake as to the legal effect or object of this section. It is true that it recognizes the paramount force of an *express* stipulation in the statutes, whether in favor of or against a gold payment of the principal of the bonds of the Government created thereby. So far so good. But the vice of the section is, that in the absence of any *express* stipulation for or against a gold payment, no matter what the *res gestæ*

of the contract may be, it demands that the construction of these loan laws shall be in favor of a gold liquidation, as against any or all other lawful money whatever. In other words, as a mere declaratory law, it enacts, as against the law of the contract, that all *improvements*, whether of law or logic or fact, shall be in favor of gold, in despite of all the equities in aid of a different construction as to other lawful money, made so by statutes equally solemn and imperative. Mr. Speaker, I assert there can be no difference of opinion among intelligent and sound lawyers that this is the true legal effect of this first section of the bill now under consideration. Now, sir, let us turn to the Democratic platform, which the gentleman from New York with so much confidence asserts is identical with the provisions of this bill, and we will see that it propounds the very converse of this proposition. The third resolution of that platform declares that:

"Where the obligations of the Government do not expressly state upon their face, or the law under which they were issued does not provide, that they shall be paid in coin, they ought in right and in justice to be paid in the lawful money of the United States."

Now, Mr. Speaker, when it is known that so large a portion as more than one half of the public debt was created under and by virtue of laws which did not specify in express terms, except as to the interest accruing thereon, how or in what species of money, as between coin and currency, such debt was to be ultimately discharged by the Government, the point of difference between the provisions of this bill and the Democratic platform, and consequently between the honorable gentleman from New York and myself, will be at once seen and appreciated. It is presented in two modes of legal construction, which, when applied to the laws creating the public debt, produce results so vast and a difference in principle so marked and decided as to be worthy of our most serious consideration, whether we are engaged in enacting laws or the erection of political platforms. That difference applies to more than fourteen hundred million dollars of the public debt! As to that immense amount of debt this bill, got up in the interest of the bondholders, declares it shall be paid in gold, through an attempted legislative construction of the contract under which the debt was made; while the Democratic party of the country, by its solemn utterance at New York, says it shall be paid in that kind of money only which is equal in value to that by which the debt was originally created, in all cases where the contract of loan does not expressly provide for a different mode of payment.

That, Mr. Speaker, is the position of the Democratic party in opposition to the provisions of this bill; and that also, I am sorry to say, is the difference between the gentleman from New York and myself upon this question of the public debt. My honorable friend will permit me to say he cannot sustain or justify his vote upon this bill by saying, as he has said, that by such vote he only pledges himself to abide by the law of the country. If this bill is to have any legislative or judicial effect at all he does something more than that by voting for its passage; he votes to *change* the law, and with it the *contract*, as both the law and the contract now stand in relation to the mode and manner of the payment of the public debt. And right here, upon this very question, I cannot refrain from quoting an authority for which the gentleman from New York, by association, by sympathy, and by the "beautiful and glorious history" of the past will have the highest respect. I quote the deliberate opinion of not only a great lawyer, but who was also one of the great leaders of that grand old Whig party which held within its conservative folds, up to the last moment of its existence, both the gentleman from New York and myself. I allude to Hon. Thomas Ewing, of Ohio, who has

acted with the Republican party until within the last year. In speaking of this question, which now so unpleasantly divides my honorable friend and myself, and really to some extent the Democratic delegation on this floor, Mr. Ewing remarks as follows:

"So far neither party has ventured to commit itself on the disposition of the public debt. My mind has long been made up as to the principle which should govern us in its adjustment. It is this: so far as our contracts are distinct and explicit we must abide by them, no matter how unequal or onerous. As, for example, where we have promised to pay the interest or the debt, or both, in gold, national faith requires, and we must so pay it; but where the contract is not explicit, but requires construction, we must deal with creditors and the people precisely as an enlightened court of equity would deal with debtor and creditor under like conditions. For example: the creditor borrows forty cents, or depreciated bank paper worth forty cents, which the public calls a dollar, and promises to pay interest, six per cent, on its nominal or fifteen per cent, on its actual value in gold. The promise to pay the interest in gold being explicit, the nation who owes the debt should pay it, for there is no usury law operating on contracts with sovereigns; but where a distinction is taken in the contract between the debt and the interest—the interest only made payable in gold—equity would require that the debt should be paid in that which is equal in value to the fund received. Sovereigns have not always meted out this even-handed justice. The coin of nations has been sometimes debased after a loan made, so that one pound of silver and one pound of copper would be made to pay what was two pounds of silver when the loan was made. This was a gross wrong. It is equally wrong, on the other side, to take the name for the thing, and pay an ounce of silver to the lender for four tenths of an ounce borrowed, because each in its turn was called a dollar. Equity, if called into action, would suffer neither one nor the other, but require the payment from sovereign or subject of the just amount borrowed, regardless of name. This should be the rule of payment. If currency were borrowed which was worth forty cents on the dollar, currency or bonds of equivalent value should be paid."

There, Mr. Speaker, we have not only an exposition of the true and even "plighted" faith of the nation, not only an honest mode of adjustment of the obligations existing between a sovereign debtor and its citizen creditors, but the broad-minded views of a practical statesmanship, which would settle and adjust the principles of a public debt between Government and creditor by the same rules of law and equity which govern the contract of a private debt between private individuals.

Now, sir, take the facts and circumstances under which these loans were made; the pressing necessity under which the Government labored for money to carry on the war in its gloomiest periods; the depreciated condition of the currency even after the passage of the legal-tender act; the grasping avarice and extravagant demands of the money-lenders; the "loyal" Shylocks who rushed to the rescue of the Government with such a gush of patriotism, as interpreted by their friends who now sustain them in their imperious demands for a gold payment of all the bonds—take all these facts into a fair and honest consideration, and I would like for any honorable gentleman in this House to show me the elements for an equitable construction of these loan laws in favor of the bondholders and against the Government.

Every lawyer on this floor who has read Story or Foulke knows that in a suit between private individuals in a court of chancery upon a contract involving a similar state of facts the chancellor would enter a decree setting aside the contract upon the ground of inadequacy of consideration—a decree dictated by the legal presumption that a *fraud* had been practiced by the lender upon the borrower. I do not say, Mr. Speaker, that the same rule ought to prevail upon a contract where the Government is a party, but I do most emphatically say this: that any law which proposes, as the first section of this act does propose, to declare that all legal implications and every canon of an equitable construction shall be distorted in favor of the bondholder and against the Government or the people is a gross outrage upon every principle of justice, and would not be worthy of the jurisprudence of a nation of Hottentots.

My political friends on this side of the House will vote for this bill under a delusion; they will indorse a mere party decree fulminated by a party caucus; controlled by the influence of the bondholders, instead of an effective legislative enactment which can reach or control the original legal status of the bonded debt of the Government, because this law will be powerless so long as we shall have an honest and independent judiciary.

The honorable gentleman from Illinois, [Mr. LOGAN,] in the fervor of his advocacy of this bill, disclosed the true purpose of its introduction when he openly declared that the Republican party was pledged to pay the public debt "in such money that the world regards as money."

Mr. Speaker, that is what I call coming up to the issue squarely and frankly. What was dubious in the Chicago platform is now made plain. We now have the true interpretation of the third plank in that artful piece of political carpentry: gold for the bondholders under the loan laws, and a depreciated currency for the people under the legal-tender act. That, sir, is the "good faith" so boldly vaunted in that most remarkable creed. But after the shameless trampling upon and the bold repudiation of the principle of suffrage, as declared in the second plank of that platform by the passage of the late constitutional amendments forcing negro suffrage upon the States against the expressed will of the people, why should we be surprised at this turn given to the equivocal utterances of the third plank of the Republican platform in relation to the public debt?

Sir, I am prepared to be surprised at nothing which the Republican party may do in the future. I think I see clearly some of the coming events. Still more radical changes are to be wrought in the structure of our Government. When the spirit of revolution is once let loose its course is onward until its momentum of power is exhausted. We have struggled in vain against this great tidal wave of fanaticism and wrong. The power of money and of organization has been too strong for us. The people have been fully warned of these changes, and it would be uncandid to deny that thus far they have sustained them. If they shall still indorse the changes and usurpations yet to come, then indeed is the last experiment of the capacity of man for self-government a poor, miserable failure, and the American Republic will have to take its place in history by the side of those of Greece and Rome, as another monument alike to the genius and the weakness of man.

But to come back more directly to the question now under consideration: the honorable gentleman from New York representing the Albany district [Mr. PRYOR,] put this bill upon its true ground when he said that if it was intended to be a mere declaratory law, it was deceptive; and if it was intended to mean anything more, then it undertakes to create a new obligation on the part of the Government to its creditors such as the acts under which the bonds were issued did not create. That, Mr. Speaker, is the whole point of the discussion. If this is a mere declaratory law, then it amounts to nothing; if it seeks to change the original obligation, then if it is not absolutely unconstitutional and void in consequence of the Government being a party to both acts of legislation, it is nevertheless a gross outrage and a most stupendous partisan fraud upon the rights and interests of the people.

My distinguished colleague who reported this bill [Mr. SCHENCK] has evidently been misled by the English theory of the legal effect of a simple declaratory statute. The sole ground upon which a declaratory act of Parliament in England is sustained by their courts does not at all exist in this country. The only purpose for which they are resorted to in England is to preserve the traditions of their unwritten law. They are only enacted where an old custom of the kingdom is almost fallen into disuse or

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has become a matter of dispute, or the recollection of some ancient prescription has become confused or uncertain, in which case the Parliament may think proper, in *perpetuum rei testimonium*, and for avoiding doubts and difficulties in the future to declare what the common law is and has been upon some given custom or prescription. The reason for this rule of legislative power does not pertain to this country, and Chancellor Kent settles the question by the following observation:

"It seems to be settled, as the sense of the courts of justice in this country, that the Legislature cannot pass any declaratory law or acts declaratory of what the law was before its passage so as to give it any binding weight with the courts. It is only evidence of the sense of the Legislature as to the preëxisting law. The powers of Government in this country are distributed in departments, and each department is confined within its constitutional limits. The power that makes is not the power to construe the law. That latter trust belongs to the judicial department exclusively."—1 Kent, 513, in notes.

But, Mr. Speaker, I did not intend to enter into the discussion of the merits of the bill now before the House. I only wished to set myself right before the country as to the difference of views between the gentleman from New York [Mr. Brooks] and myself as members of the same political organization. My respect for his abilities and character, both public and private, is such as will make me deeply regret any future recurrence of antagonistic opinions in relation to any of the fundamental principles of that great political party to which it is our common pride and honor to belong. But be this as it may I cannot and will not consent, so long as I shall occupy a seat on this floor, that any political heresy shall go forth from an acknowledged member of the Democratic organization, however high his position, to distract and confound the views and opinions of the party at large if any humble effort of mine can prevent it. I may regret the collision, but I cannot avoid the duty. I shall vote against this bill upon the ground that the first section seeks to change the law of the contract, and because the second section is wholly unnecessary and uncalled for, for the reason that the Supreme Court of the United States has already settled the principle which it seeks to establish.

Congressional Railroads, their Causes and Results.

SPEECH OF HON. C. SITGREAVES,

OF NEW JERSEY,

IN THE HOUSE OF REPRESENTATIVES,

February 9, 1869,

On the bill (H. R. No. 621) to authorize the building of a military and postal railway from Washington, District of Columbia, to the city of New York.

Mr. SITGREAVES. Mr. Speaker, I very much regret that a bill of this character, a bill authorizing and exercising power not warranted by the Constitution, changing the whole policy of the country in relation to internal improvements, and calculated in its results to destroy the proceeds of a capital greater than the public debt, is not permitted a full and free discussion in Committee of the Whole House.

During my service in Congress nothing has amazed me more than the fact, patent to every member on this floor, that grave questions affecting the constitutional rights of the States and the business of the people, by the operation of the "previous question," sustained by a majority of a House calling itself "a high deliberative body," have been passed with less discussion than would be considered decent or proper in a town meeting on a question of road taxation or school laws; and this amazement is only seconded by hearing the assertions used as arguments by many honorable members in advocating the passage of bills.

I allude especially to one series of assertions made by stock-jobbers outside and members

inside of this House, and used as reasons for the passage of this and similar bills:

1. "That New Jersey for thirty years has been bound hand and foot by the chains of a powerful monopoly."

2. "That New Jersey imposes an onerous tax on passengers passing through the State."

3. "That every citizen of a sister State who passes over the railroads between the cities of New York and Philadelphia must pay a tax *per capita* to New Jersey."

One honorable member has asked: "Look at New Jersey, have we not an illustration there of the power of a railroad corporation which controls the Legislature of the State and which holds in its vice-like grasp the political and commercial destiny of that Commonwealth?"

I propose to occupy a few moments in reply to these assertions.

1. New Jersey has not for thirty years nor for a single year of thirty "been bound hand or foot by the chains of a powerful monopoly," but on the contrary that "powerful monopoly" (the Camden and Amboy Railroad and Transportation Company and Delaware and Raritan Canal Company) has been bound by the honor and faith of its contracts. The men who originated these works urged the Legislature to construct them as State works. They urged the capitalists of New York and Philadelphia to aid in their construction. Neither the Legislature nor the capitalists would embark in this then "untried experiment." The Legislature chartered these companies and contracted to protect them from competition during a limited period for the consideration of an annual tax on their business and a transfer of two thousand shares of their stock and the right to purchase the works. This contract was in the nature of a lease, binding in law. This contract was never violated either by the State or the companies. The companies never attempted by legislation or otherwise to evade it either in letter or spirit, but they offered at a subsequent time to surrender their exclusive privileges to the State and the State refused the offer. New Jersey was bound by her faith, policy, and interests to maintain the contract. Had the "monopoly" tried at any time within thirty years to break faith with the State? If it had made the attempt the State would have held it with a "vice-like grasp," and her judiciary would have meted to it that impartial justice which has ever been rendered at her bar, without distinction of poverty, wealth, position, race, or color.

2. "New Jersey does not impose an onerous tax on passengers and freight passing through the State." The tax imposed on the joint companies is ten per cent. for every passenger transported across the State, which averages about two tenths of a cent per mile. This is the onerous taxation under which we are told that the traveling public have writhed for thirty years, and over which members and a venal press have eloquently descanted as a burden too grievous to be borne by the commercial interests of the country. Strange that gentlemen who by their influence or votes have imposed unnecessary taxes under the weight of which the tax-payers of the nation now stagger do not see that in their denunciation of this transit duty "they strain at a gnat and swallow a camel."

3. "Citizens of sister States who pass over the New Jersey railroads between New York and Philadelphia do not pay a tax *per capita* to New Jersey."

I quote the law relative to this transit duty from the report of William K. McDonald, comptroller of the New Jersey State treasury, under a resolution of the State Senate:

"The Delaware and Raritan canal was chartered February 4, 1830, and the treasurer of the company was required thereby to report quarterly the number of passengers and tons of merchandise transported across the State, and pay into the State treasury eight cents for each passenger and eight cents for each ton

of merchandise transported thereon, except coal, lumber, lime, wood, ashes, and similar low-priced articles, for which the transit duty was declared to be two cents per ton; and no other tax was to be levied.

"Camden and Amboy Railroad and Transportation company, chartered February 4, 1830. The twenty-third section of this act requires the treasurer of the company to make quarterly returns of the number of passengers and tons of goods transported upon said road or roads to the State treasurer, and to pay him at the rate of ten cents for each and every passenger and fifteen cents for every ton of merchandise so transported thereon, and forbids the levy of any other tax. By act of February 4, 1831, the company was required to pay ten cents for each passenger between Delaware river and Raritan bay, instead of a ratable tax as reserved in the charter. The act of March 15, 1837 imposed the same transit duties on the road to New Brunswick as on the road to Amboy; and the joint resolution of March 10, 1842, directed the State treasurer to demand of the Delaware and Raritan Canal and Camden and Amboy Railroad and Transportation Companies the payment of a transit duty of ten cents a passenger and fifteen cents for every ton of goods thereafter to be transported on any railroad or railroads belonging to said companies from Camden, Burlington, Bordentown, the Trenton-Delaware bridge, the city of Trenton, or any point or place on the Delaware river, to South Amboy, the city of New Brunswick, or any other point or place on the Raritan river or bay, and from South Amboy, the city of New Brunswick, or any other point or place on the Raritan river or bay, to the city of Trenton, the Trenton-Delaware bridge, Bordentown, Burlington, Camden, or any other point or place on the Delaware river.

"New Jersey Railroad and Transportation Company, chartered March 7, 1832. The eighteenth section of the act provides that after the completion of the road and after the expiration of five years the said corporation shall pay yearly to the State a tax of one quarter of one per cent. upon their capital stock paid in; and after the expiration of ten years a tax of one half of one per cent. upon the true amount of the capital stock of said company, and no other tax shall be imposed; *Provided, nevertheless*, That if at any time hereafter any railroad shall intersect or be attached to the railroad established by this act, so as to make a continuous line of railroads carrying passengers across the State between the States of New York and Pennsylvania respectively, that then the treasurer of the company shall make quarterly returns, under oath, of the number of passengers and tons of goods transported over the whole line of the road chartered by this act, and shall thereupon pay into the State treasury eight cents for each passenger and twelve cents for each ton of goods so transported thereon in manner aforesaid. The second section of the act of April 18, 1846, makes it the duty of the treasurer of this company to make quarterly returns to the State treasurer of the whole amount of moneys received by the company from passengers for whom the said company are subject by law to pay transit duties to the State, and thereupon the company shall pay quarterly in each year eight cents for every dollar so received in payment of the transit duties chargeable for passengers on said company by their act of incorporation. This company therefore pays to the State a tax of one half of one per cent. upon the capital stocks, and a transit duty on through passengers of eight cents for each dollar of passage money, and on through freights twelve cents for each ton.

"The three companies before named constitute the united railroad and canal companies, and the aggregate of their respective capital stocks is \$16,249,968 75.

"But the act fixing the transit duty on low-priced articles on railroads, approved March 9, 1859, declares that the transit duty on lime, wood, stone, ashes, manure, lumber, coal, iron ore, and similar low-priced articles, shall be two cents per gross ton in lieu of the transit duty now required by law to be paid on similar property carried over any railroad in this State."

It will be perceived that no tax is imposed on the citizens of sister States. The transit duty is a tax on the companies, and the only State or local tax which can be imposed on them. Do gentlemen contend that a State has no right to impose a tax for valuable privileges granted to an incorporation? Where is the difference to the passenger whether the State had imposed an annual direct tax in gross amounting to the same sum imposed by transit duties? I should like to know by what ingenuity of argument any one can show the difference to the public between an annual tax of \$100,000 levied upon a road and its franchises and a tax amounting in the aggregate to \$100,000 per annum by a transit duty? Every intelligent mind must perceive that in the results to the traveling public they are essentially the same; if one is a tribute levied on passengers and the commercial interests of the country so is the other. Why, then, do not stock-jobbers invoke the aid of the national Legislature to enable them to destroy other important lines constructed under the authority of State charters and taxed by State laws? Why single out the line through New Jersey,

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Pennsylvania, Delaware, and Maryland for their unholy work?

Mr. Speaker, this transit duty is a tax on the business of the companies, which will be increased or diminished according to the amount of that business. It is a tax on the business of the companies under a special contract for a special purpose; that purpose being now accomplished the transit duty will probably be substituted by a tax on the costs of the works. It is not a special tax on the citizens of other States. It was not so intended. The transit duty is paid by the companies whether the passenger comes from New York, Philadelphia, Trenton, or New Brunswick. Repeal this transit duty, and impose a per cent. tax on the capital invested, or in any other form, and the traveling public would not be benefited by a reduction of the fares, for let it be noted that the companies are not authorized to charge this transit duty on their fares in addition to the rates of fare which are limited by law. No one, whether a citizen of New Jersey or not, can be charged beyond a certain sum per mile, transit duty or no transit duty; nor does the fare required of a through passenger pay more in proportion to the distance traveled than a passenger to and from points in the interior of the State, even if the fares were augmented by the transit duty, for we all know that the ratio of fare per mile on all roads is graduated by the through fare.

Notwithstanding this so-called "enormous tax" of two tenths of a cent per mile, I am informed and believe, although I have not the means at hand to ascertain the fact, that upon a fair comparison of the price paid by passengers and freight over these New Jersey roads with other roads, calculating the length of the roads and cost of construction and equipments, there are few, if any, roads in the United States where the fare is lower than the transit across New Jersey. But, sir, if New Jersey has no constitutional power to impose this tax in this form why not bring the question before the proper judicial tribunals? Why right the wrong by the commission of a greater wrong? Why constitute a company of greedy, irresponsible stock-jobbers to be the ministers of your justice or your vengeance?

4. It is not true that the joint companies control or have controlled the political and commercial destinies of the Commonwealth. The men who controlled the affairs of these companies from the beginning until the present time were men of diverse political sentiments, men who belonged to the old school of politicians, now so "few and far between"—men who conscientiously believed in the dogmas of their respective political creeds; men whose honor was above price; men who could not be swerved from their political and moral status by any political position or commercial gain; they looked with loathing and abhorrence on the modern politician of the modern school, who is ready, or whose practice, if not his creed, is

"To crook the pregnant hinges of the knee,
That thrift may follow fawning."

Two of these men have lately passed away—Stockton and Stevens; but their names will live in history, identified with the faith and commercial and agricultural interests of New Jersey and the glory of the Republic so long as unselfish patriotism and great services shall be cherished by the State and nation.

The bill under consideration is reported by the Committee of this House on Roads and Canals; it charters a company to construct a railway of one or more tracks between the cities of Washington and New York, commencing on some point in the city of Washington, and running thence through the States of Maryland, Pennsylvania, Delaware, and New Jersey, or any part of them, to the Hudson river, crossing the Susquehanna above tide-water, with no grades greater than thirty feet per mile, nor any curvature less than three degrees. To do this

the company are authorized immediately to enter upon, take possession of, and use all such real estate and property as may be necessary, with the usual directions, in case they cannot agree with the land or property owners; in addition to other powers the company is authorized to connect with any State railroad carrying the mails of the United States for the purpose of transportation, and the said line of railway authorized to be constructed, and the parts of existing railways which may become a part of the New York and Washington railway shall be deemed and considered a national public highway and post road, and no tax or transit duty shall be imposed by virtue of any State authority upon the traffic of said company, its freight, or passengers.

The questions which present themselves in the consideration of this bill are: has Congress the constitutional power to build railroads over a State without its consent, assume the right of eminent domain over the soil, and incidentally regulate its internal commerce?

I am opposed to its passage, because I believe Congress has no such constitutional powers.

The right is claimed under the first article of the Constitution, giving Congress the power—

"To provide for the common defense and general welfare.

"To regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

"To establish post offices and post roads.

"To make all laws which shall be necessary or proper for carrying into execution the foregoing powers."

I deny the power of Congress to charter an incorporation for the purpose of constructing a railroad for any purpose, postal, military, or commercial, or under the indefinite term of "public welfare," against the consent of the State through which it shall be laid. No such warrant is given in the letter of the Constitution; no such warrant is given by implication; and if the power is doubtful from the letter, then, by a resort to the meaning and intention of the framers of the Constitution as evidenced by their votes and subsequent opinions, we find that the incorporation of such a power in that instrument was expressly denied. The canal was then considered as the great means for the extension of our internal commerce, development of our internal resources, and promotion of the public welfare; for the railroad was then unknown. Dr. Franklin moved in the convention to add after the words "post roads" a power to provide for "cutting canals when deemed necessary."

"Mr. WILSON seconded the motion.

"Mr. SHERMAN objected. The expense in such case will fall on the United States, and the benefit accrue to the places where canals may be cut.

"Mr. WILSON. Instead of being an expense to the United States, they may be made a source of revenue.

"Mr. MADISON suggested an enlargement of the motion into a power to grant charters of incorporation where the interests of the United States might require and the legislative provisions of individual States may be incompetent.

"His primary object was, however, to secure an easy communication between the States which the free intercourse now to be opened seemed to be called for; the political objects being removed, a removal of the natural ones, as far as possible, ought to follow.

"Mr. RANDOLPH seconded the proposition.

"Mr. KING thought the power unnecessary.

"Mr. WILSON. It is necessary to prevent a State from obstructing the public welfare.

"Mr. WILSON mentioned the importance of facilitating by canals the communication with the western settlements.

"The motion being so modified as to admit a distinct question, specified and limited to the case of canals, Pennsylvania, Virginia, and Georgia voted for the proposition; New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, North Carolina, and South Carolina, voted 'No.'"

A proposition "to grant letters of incorporation for canals" was decided in the negative by the same vote, and the constitution then adopted provides that—

"The Congress shall exercise exclusive jurisdiction over all places purchased by the consent of the State in which the same shall be for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings."

Congress could not exercise exclusive juris-

diction even over the District of Columbia without the cession of Maryland and Virginia. The right to make a canal or railroad through a State without the consent of the State carries with it the right of exclusive jurisdiction over the land occupied by the canal or road. Surely if the Congress could not exercise exclusive jurisdiction over the territory covered by the capital, and without the consent or cession of Maryland and Virginia, they cannot over the territory occupied by railroads and canals within the limits of a State without its consent.

James Madison, in his letter to Reginald Chapman, January 6, 1831, volume four of his "Writings," page 143, expressed a regret that the Constitution "does not give the present Congress power to construct canals," &c., and recommends an amendment to the Constitution giving that power. That it was more than once proposed to the convention of 1787 and rejected, from an apprehension chiefly that it might prove an obstacle to the adoption of the Constitution. Such an addition to the Federal powers were thought to be strongly recommended by several considerations, and among these cases where "canals might be important in a national view, and not so in a local view; cases where canals might pass through sundry States and create a channel and outlet for their foreign commerce." And in a letter to Edward Livingston, volume three, page 435, he says:

"It is remarkable that Mr. Hamilton himself, the strenuous patron of an expansive meaning to the text of the Constitution, with the views of the convention fresh in his memory, and in a report contending for the most liberal rules of interpretation, was obliged by his candor to admit that they could not embrace the case of canals."

I need hardly say that the views of gentlemen who advocate the passage of this and kindred bills, in their construction of the constitutional powers of Congress, are so far in advance of that great champion of centralization, Alexander Hamilton, as to "out-Herod Herod."

The all-absorbing question in the convention was, what State rights, what portion of State sovereignty, shall be conceded to the General Government? They decided by a solemn vote that they would not yield the power to the General Government either to construct or charter companies to construct canals, although the amendment was advocated by the very reasons now urged for the passage of this bill. The members who advocate this bill say that the convention did authorize this power. It seems to me that the modern constructionist, with such evidence before him, stultifies himself in his arguments on the construction of constitutional power. What is the Constitution but a solemn compact between the States, the Federal Government, and the people? What is an infraction of the Constitution by either of the contracting parties but a breach of faith, a violation of the obligation of contracts? When will the nation learn that the most insidious foe to the rights of the States and liberties of the people is the advocate of constructive power—a foe more powerful than rebels in arms, more deadly than any other foe? When will the nation learn that laws passed by the Legislature, "outside of and above the Constitution," that a mental reservation in the oath of a member to support the Constitution is only binding when it comes in conflict with what he deems a "higher law," is perjury to God and man; and that God will hold nations as well as individuals amenable to that "higher law" in relation to covenant-breakers.

This bill not only assumes the right to exercise exclusive jurisdiction over the soil occupied by its tracks, depots, and other buildings—I say assumes, for the right of eminent domain confers that jurisdiction—which is not ousted by the fact that it has a provision giving power to the State to tax (to a limited extent) its property and franchises. We all know that this bill is intended to establish a "system."

We all know why this boon of taxation was graciously conceded in this bill. We all know that if the right of eminent domain is in the General Government this taxation would conflict with the Federal power. We all know that it will be repealed when the purpose for which it was introduced is accomplished; and we all know that it will not be embodied in any future bill after the right to construct railroads under the authority of Congress is established.

I shall, therefore, in the discussion of this bill, consider it as the inauguration of a system which gives, and is intended to give, exclusive jurisdiction to the Federal Government; and while this system assumes the right of exclusive jurisdiction over the soil occupied by the road, it is rendered more odious from the fact that it does it by means of a private corporation.

I do not know whether the advocates of this charter assume that it is a direct or incidental mode of executing the enumerated powers of Congress, but I do know that in either case the results are the same in ousting the States of their jurisdiction. I do know that this system will authorize one man to enter upon the property of another and for his own private gain and purposes wrest that property from the rightful owner, and I do know that not a single exercise of power, either legislative or territorial, will be left to the States which the Government may seize—State legislation, State judiciary, and the sacred rights of eminent domain will be trampled upon by the heel of arbitrary power, either directly by the act of the Government or through the intervention of private corporations. If Congress has power to wrest from a State a single foot of her soil without her consent for the purposes of this bill, then it has the right to seize any portion or all her territory to raise cotton or to plant tracts of oak forests or to colonize the colored man, under pretense that such seizure is necessary to promote the public welfare, to maintain a Navy, regulate commerce, or to carry out the "higher law" of right and justice and human brotherhood.

The framers of the Constitution repudiated the idea that Congress had a right to exercise this power without the consent of the States. James Madison denied the right in his veto message of March 3, 1817. James Monroe reaffirmed the denial in his special message returning to the House of Representatives the bill for repairs of the Cumberland road. Thomas Jefferson denied that power in the Federalist; and that incorruptible patriot and stern defender of the Constitution, Andrew Jackson, with a reasoning incontrovertible, denied the right in his veto of the Maysville road bill, and that veto was sustained by the nation. For almost half a century after the adoption of the Constitution, in all controversies in relation to the power of Congress to make internal improvements, the question related solely to the constitutional power, with the consent of the States—never without that consent.

In relation to the commercial power, while I admit that Congress has power to regulate commerce among the several States, and that the States are prohibited from "laying any imposts or duties on imports or exports, except what may be absolutely necessary for executing their inspection laws," which was made a constitutional provision to correct the abuses which were perpetrated under the old Articles of Confederation, I deny the right of Congress to prescribe the means of commercial intercourse. Congress may make rules and laws to govern commerce, but cannot make canals and railways to transport commerce. Such a power exists not in the Constitution, but only in the brains of those men who by construction would overthrow every safeguard which the Constitution has erected to protect the States from the encroachments of Federal despotism. If you construe the word "regulate" commerce to include the means, as an inevit-

able sequence you can exercise the power when and where it shall be sold, nullify State laws connected with internal traffic and licensed auctioneers, and build a merchant marine for every navigable river.

The Constitution throughout all its provisions is an instrument of checks and balances; the power to regulate commerce extends to navigation of vessels carrying merchandise, coasting trade, fisheries, light-houses, buoys, beacons, ports of entry and delivery, &c., but was never intended to apply to the means of transportation either of foreign commerce or the internal commerce of the States by constructing vessels, canals, or railroads. The denial of that power by the Constitution to make a canal is conclusive proof that no such power was intended. If so, then the members of the convention stultified themselves by a grave discussion and denial of a right which existed in the enumerated powers given by the Constitution.

The road proposed by this bill is called a military and postal road. It was incubated after a lengthy sitting by the Committee on Roads and Canals, who were instructed by resolution passed April 27, 1868, "to inquire whether Congress has the power, under the Constitution, to provide by law for the regulation and control of railroads, especially those extending through several States, so as to secure, first, the safety of passengers; second, uniform and equitable rates of fare; third, uniform and equitable charges for freight or transportation of property; fourth, proper connections with each other as to transportation of passengers and freight; and if, in the opinion of the committee, Congress possesses such power, then to report a bill which will secure the foregoing objects."

In their report of seven printed pages to justify the passage of this bill the whole is devoted to the right of construction under the commercial power, except eight lines; and yet the road is stated in the preamble of the bill to be a "military and postal railway."

In discussing the power of Congress in relation to the construction of a railway directly by the Government or by the intervention of a corporation, no one I presume will assert that a commercial road can be constructed under the power (if there were such a power) to construct a military or postal road, or construct a postal road under the commercial or military power, or a military road under the postal or commercial power. To exercise the power to promote one object under the power to promote another distinct object would render the Constitution a nose of wax to be manipulated into any shape that politicians or plunderers might choose to subserve their own selfish purposes; yet this bill, in its preamble, with the report that accompanied it and the arguments of its advocates, combines all of these objects, showing conclusively that in the opinion of its framers it could not be sustained under any single enumerated power granted by the Constitution irrespective of the others. One fourth of the members might suppose that Congress has no power to construct or there is no necessity for a postal and military road, yet may vote for it as a commercial road; one fourth that Congress has no power to construct or there is no necessity for a commercial or postal road, and may vote for it as a military road; and one fourth that Congress has no power to construct or there is no necessity for a military or commercial road, and may vote for it as a postal road; and by passing it establish a system which could not singly command more than one fourth of the votes of the members. This legislative trick was first introduced into the United States Senate to condemn and disgrace President Jackson, by a resolution declaring that his recent acts in relation to the revenue "were not warranted by the Constitution and laws, but were in derogation of both."

Some Senators based their votes on official acts relating to one thing and some on another; while probably no single act if defined would have been denounced by a majority of Senators. Such a mode to obtain the requisite number of votes is unworthy fair and honorable legislation. It is a mode of legislation which for years cursed Pennsylvania with omnibus and tape-worm and plunder bills, until the system "stank in the nostrils" of every honest man, and it went down branded as a fraud upon the people and the "higher laws" of honesty, justice, and honor.

Mr. Speaker, I admit the right to construct a road by the war power, *ex necessitate*, and for a limited period; but that power is wielded by the Executive, and ceases with the exigency that called it into existence.

I deny that there is a military necessity for the construction of a military road now between the cities of Washington and New York. Were the directors of the present lines connecting these cities wanting in alacrity or patriotism during the rebellion; or if they were, could not these lines have been seized and used by the war power? No, sir; they were promptly volunteered to the Government in its hour of peril, and every requirement was met. With one day's notice forty thousand men, with all their arms and munition of war could be transported in two days from New York to Philadelphia on the New Jersey roads; with three days' notice the whole rolling stock of the Philadelphia, Wilmington, and Baltimore railroad, and Baltimore and Ohio railroad, now occupying four hundred and seventy-seven miles of railway, could be concentrated at Philadelphia and Baltimore; with three days' notice these roads could transport troops with all their arms in three consecutive days from New York to Washington sufficient to cope with and conquer any army of invasion that could be landed on our shores. Sir, there is no necessity for a military road on that route. The necessity did not exist during the war of the rebellion. It exists now only in the cupidity of those who desire a rival road to flitch from honest men the honest avails of their enterprise and capital. The necessity will never exist, not even in a renewal of the rebellion, which, while in magnitude it has no parallel in the past, will have no parallel in the future. No one believes in a renewal of the rebellion and the coward; no one proclaims it but the dastard who would trample on a fallen foe, or the enemy of a restoration of the States. With our coasts defended by iron-clads, manned by our gallant tars, no foreign invaders will ever land in force on our shores; or if they do, not in sufficient numbers to require the organization of armies equal in numbers to one fifth of the armies organized against the rebellion.

Notwithstanding the entire capacity of the present roads for the exigencies of the military service during the war, they would occupy less time now in the transportation of troops, as since then that stupendous work, the bridge at Havre-de-Grace, resting on iron-clad piers, has been erected by the Baltimore and Ohio railroad at a vast expense for the benefit of the traveling public. Nor were these the only lines of road available during the war. The Central railroad of New Jersey, running from New York to Philipsburg on the Delaware, sixty miles above Philadelphia and fifty miles above tide-water, was also used during the rebellion by order of the Secretary of War for the transportation of the troops from New York to Washington by way of Easton and Harrisburg, showing that by this Harrisburg route troops can be transported to the capital from New York without danger in time of war, which is the reason given in the bill for crossing "the river Susquehanna at some point above tide-water." Since then another railroad has been constructed in New Jersey and is now in full operation, the Morris and Essex railroad, running from New York to Philipsburg, giving

additional facilities and guarantees for the safety of troops from "danger in time of war."

Mr. Speaker, a similar bill to this passed the House a year or more since, and, as a demonstration of railroad speed, it was passed under the operation of the previous question and was called an "air-line railroad;" and with this assumption on its face the people believed that it would shorten the distance by railway from New York to Washington. Strange as it may seem it was passed as an "air-line route." Now, let any member examine the maps of Maryland, Delaware, Pennsylvania, and New Jersey and he will see that no line nearer an air-line could be constructed than the present line between these cities unless you tunnel through stupendous mountains and bridge for miles over the waters of the Chesapeake bay; that the shortest practicable route, with a grade less than thirty feet per mile, can be run only on the existing lines; yet for fear this falsehood would be exposed no opponent of the bill was permitted to open his mouth in the debate.

There is no necessity for this road as a postal road. All the roads in the United States, I believe, by an act of Congress, in 1853, were declared post roads; and surely one route is sufficient to transport the mails between New York and Washington. The old objection that the mails were delayed in running through Philadelphia on horse-cars has been obviated by the trains running through the suburbs of the city without change of cars.

President Monroe, in his message to Congress, on the 4th of May, 1822, gives the true construction of the power to establish post offices and post roads:

"What is the just import of these words? The word 'establish' is the ruling term; post offices and post roads are the subjects on which it acts. The question is, what power is granted by that word?"

"If we were to ask any number of our enlightened citizens who had no connection with public affairs and whose minds were unprejudiced what was the import of the word 'established' and the extent of the grant which it controls, we are satisfied that all of them would answer that a power was thereby given to Congress to fix on the towns, court-houses, and other places throughout the Union at which there should be post offices; the routes by which the mails should be carried from one post office to another, so as to diffuse intelligence extensively, and to make the institution as useful as possible; to fix the postage to be paid on every letter and packet thus carried; to support the establishment and to protect the post offices and mails from robbery. The idea of a right to lay off the roads of the United States on a general scale of improvement; to take the soil from the proprietor by force; to establish turnpikes and tolls, and to punish offenders in the manner stated above never occurred to any person.

"If the United States possessed the power contended for under this grant, might they not, in adapting the roads of the individual States for the carriage of the mails, as has been done, assume jurisdiction over them and preclude a right to interfere with or alter them? Might they not establish turnpikes, and exercise all the other acts of sovereignty above stated over such roads necessary to protect them from injury and defray the expense of repairing them? Surely if the right exists these consequences necessarily followed as soon as the road was established. The absurdity of such a pretension must be apparent to all who examine it. In this way a large portion of the territory of every State might be taken from it, for there is scarcely a road in any State which will not be used for the transportation of the mail. A new field of legislation and internal improvement would thus be opened."

Even Judge Story, in his Commentaries, section eleven hundred and forty, volume two, admits that in this case it would not be sound policy to construct a post road. He says:

"It is said that there is no reason why Congress should be invested with such a power, seeing that the State roads do furnish such routes for the mail. When State roads do furnish such routes there certainly can be no sound policy in Congress making other routes."

I oppose the system inaugurated by this bill, because it assumes the power of Congress to exonerate from State taxation every railroad, canal, and turnpike upon which goods are transported from State to State by declaring that they are instruments of interstate commerce and that no State has a right, by taxation or otherwise, to burden commerce in its passage through the territories, as they allege is now

done by the joint companies. This will follow as a logical sequence of the system when established; for it has been well said that our canals and railroads are a unit, and all are concerned in transporting merchandise from State to State; or if no such sweeping act is passed, then by a "connection" with the roads constructed under the authority of Congress they become in fact the instruments of the Government to carry out its powers, and can demand immunity from State taxes on the principles, well known to every lawyer, enunciated in the case of *McCulloch vs. The State of Maryland*, (4 Wheaton, 416,) principles which have been reaffirmed in every subsequent decision on the same subject.

"1. That the power to create implies the power to destroy.

"2. That a power to destroy, if wielded by a different hand, is hostile to and incompatible with the power to create and preserve.

"3. That when this repugnance exists that authority which is superior must control, not yield, to that over which it is supreme.

"4. That the power to tax involves the power to destroy.

"5. That the power to destroy may defeat and render useless the power to create.

"If the States may tax one instrument employed by the Government in the execution of its power they may tax any; they might tax the Mint, mails, judicial process, and all means used by the Government to an excess which would defeat all the measures of the Government.

"The State has no power by taxation or otherwise to retard, impede, burden, or in any manner control the operation of constitutional laws enacted by Congress to carry into execution the powers vested in the General Government."

Inaugurate this system by the passage of this bill, which you know will be followed by a thousand other bills of a like character, and this exemption of State property from taxation you inflict on States where people are burdened by a taxation that bows them to the very earth, and which will rest on their children and their children's children for half a century to come, and you will require of them, as the ancient Pharaohs required of the children of Israel, to find the same amount of bricks while you take away the straw; a taxation incurred, too, by impulses of patriotism as pure as ever throbbed in the breast of man. The people will ask what party, what individuals inaugurated a scheme which lifts taxation on property and business worth more than the national debt from the shoulders of railroad owners and places it on the property and earnings of the people.

But if this freedom from taxation should not be the result of your system, then I oppose it, because it would give a fatal stab to the internal improvements of the country. When a railroad charter is granted by the State, there is an express or implied contract that the capitalists who build the road shall be protected from competition so long as they meet all the reasonable demands of the public. Upon the faith of this contract, express or implied, men invest their capital and build the works. It is a principle of sound policy for the extension of internal improvements and development of State resources as well as of fair dealing. No man would invest his capital in the construction of a railroad if he knew or believed that the moment it was completed or yielded a dividend a rival road would be chartered to compete with it in business. Under that system of State charters our land has been covered by a net-work of railroads. Whenever and wherever commerce or travel demanded, there a railroad has been or will be constructed. Under that system the energies of the people have been encouraged and fostered. Under that system we have been the means of doing more for the industry and prosperity of man than any nation under heaven. By that system the skill of our mechanics, the diffusion of knowledge, the cultivation of our soil, the energies of our sons, on lake, land, and sea, have placed our people in the van of nations. Under that policy the avenues of commerce have been opened; the most gigantic rebellion that the world ever saw has been

crushed; and a net-work of railroads has been stretched over the land which commands the admiration and elicits the astonishment of the world.

I have not the means of knowing the number of miles of railroad now completed under State charters, but in 1860 the number of miles exceeded thirty thousand; a chain of railroads which, in one continuous line, would more than girdle this great globe; and of this vast construction and expenditure the States through which this proposed railroad would pass have more than performed their share; and I learn from the able speech of the gentleman from Indiana [Mr. KERR] that now "over forty thousand miles of railways are in complete operation, at a cost in construction of about twenty-six hundred million dollars." By the inauguration of your system you paralyze these energies. No men will invest under a State charter with the certain prospect of competition whenever it will pay, under the authority of the General Government. There will be no security against competitions from other States, under the authority of Congress, by men who have no direct interest in the honor, prosperity, or soil of the State with whose roads they wish to compete. These men will only demand charters for routes which promise immediate remuneration of the outlay. On the other hand, the citizens will not construct a road on such routes under State charters with the knowledge that when the road shall become profitable a rival road will be created for the benefit of stock-jobbers, in the name of commerce, and impelled by avarice and plunder.

Sir, I am "not a prophet, nor the son of a prophet," but I predict that under your system you will not have half the number of railroads available for military, commercial, and postal service in fifty years as you would have under the State system, nor would you gain the support of the millions of citizens who have invested in railways, by declaring their roads instruments of commerce, and thus freeing them from State taxation; for your system of competition would cause them to lose in the depreciation of stock ten times the amount of State tax.

Inaugurate this system and you interfere with the energies and pockets of the people; you alienate their affection for the Union and reverence for its laws; you inaugurate a conflict of interests between the State and Federal Government. This conflict of interests will bring on a struggle for power, and in that struggle the States will triumph, by curtailing even the power now constitutionally vested in Congress by an amendment which will demand, if not indemnity for the past, at least security for the future.

Inaugurate this system and you give the earnings of the industrious and patriotic to the idle and worthless drones who feed and fatten on their country in peace and war.

Inaugurate this system and you violate the national faith. Upon the faith of the construction given to the powers of the Constitution by the framers themselves, by successive Presidents, by judicial decisions, and by the acquiescence of Congress in their construction, this vast outlay was made, these works were constructed. By the passage of this bill that faith will be violated, and the Goths will be invited to enter Rome.

Inaugurate this system and you inaugurate sectional legislation. Before many years the West and South will control Congress, and they will take the lion's share of the public plunder.

Inaugurate this system and you inaugurate a railroad bureau, with its hordes of officers throughout the whole land to harass the people and eat out their substance.

The highest dictates of morality as well as sound policy require the Federal Government to hold inviolate all constitutional contracts made under the authority of State laws and in

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the faith of non-interference by the Federal Government.

Who does not know that the charter of railroads through the States without their consent would be followed by subsidies? The same arrangements now used by corporations to seize upon the public lands will be used to obtain subsidies for railroads through the States. A future Congress will be told, as the Congress now is told, that the construction of the road will save in transportation of military supplies, or will add to the revenues by increasing the taxable property tenfold the amount of the subsidy; that this great saving to the Government, this great increase of the Government revenue cannot be effected without Government aid; and untold millions will be wrung from the sweat and toil of the people to enrich the stock-jobbers under the plea that the roads are of a national character. This bill is but the entering wedge of a system of public plunder. Nor will Congress resist the plunderers more than they now resist the plunderers of the public domain. But a few days since the chairman of the Committee on Appropriations [HON. ELIHU B. WASHBURN] proclaimed in his place on the floor of this House:

"It is not an over-estimate to say that the value of public lands voted away by Congress in the last eighteen years has not been less than \$500,000,000"—and asked the attention of the House to the quantity reported by the Commissioner of the General Land Office, who says:

"It is of empire extent; in aggregate more than five million acres—the entire area of the six New England States added to the surface of New York, Pennsylvania, Ohio, Delaware, Maryland, and Virginia."

These are the lands, sufficient in area to form six large States; these lands, the common inheritance of the American people as homes for their children, are given to soulless corporations.

Now, a new placer will be opened by the operation of this new system, and the work of corruption and plunder will be complete. From year to year these public robbers will besiege the Halls of Congress; will gather like the locusts of Egypt, attracted by the scent of public plunder, and held together by its cohesive power; they will come with lies on their lips and bribes in their hands to control members of future Congresses elected by their influence, and ready for gold to barter away the honor and the money of their country. Then you will have "a ring" to control legislation in comparison with which the "whisky ring" shrinks into insignificance.

Mr. Speaker, you could not devise a system better calculated to corrupt legislation, plunder the people, and destroy the Union of the States than the system you would inaugurate by this bill. You array the interest of one citizen against another; you excite hostility between the States and General Government; you offer a premium to the unprincipled stock-jobber and stimulate his greed by transferring to his pockets the honest earnings of honest men through legislative charters, and you throw around this act the mantle of public virtue by calling him that it is patriotic thus to aid the military, postal, and commercial interests of the country. Undermine the foundations of public virtue and this fair fabric of human liberty sooner or later will fall in irredeemable ruins. No republic ever was or ever will be permanent unless sustained by public virtue. We have every evidence that a fearful work of demoralization is progressing with fearful strides among our people. That demoralization must cease or the days of the Republic will soon be numbered, and the patriot of future times, while lamenting the fall of "the Great Republic," will see what every patriot should now see, that "honesty is the best policy" for nations as well as individuals.

There are doubtless many members who favor bills of this character because they suppose it will advance their darling project of a

"strong Government" to have a "Government with the strength of a monarchy under the forms of a republic," and they entertain the delusive idea that this can be effected by a centralization of all power in the Federal Government at the expense of the reserved rights of the States. When will gentlemen learn that in the means used to attain this the Government is weakened, not strengthened? When will gentlemen learn that the true strength of a republic lies in the respect and love of her people; in the justice and impartiality of her laws; but, above all, in the promotion of public virtue? Whatever tends to promote sectional strife, promote corruption or avarice, the interest of the few at the expense of the many, will make the Government weak indeed. Destroy in any way the beautiful equilibrium, the harmonious workings of our State and national governments, and you hasten the destruction of both; every interference in the reserved rights of the States or business of the people, every scheme of public plunder, will weaken the attachment of the people to the Union. They will then begin to calculate its value, and when by your acts you lead them to believe that the Union is an instrument of plunder or oppression, then the end will come.

You talk about a "strong government." When this system is fully inaugurated it will inaugurate a power behind the throne greater than the throne itself. Was not the Government strong enough to marshal and equip armies greater than the world ever saw? Was it not strong enough to crush a rebellion which in numbers and arms had no parallel in history? Was it not strong enough to imprison men and women by thousands in its bastilles without charge and without trial? Was it not strong enough to keep States out of the Union and place their people under the laws of the bayonet until they altered their fundamental law according to its behests? What greater strength could you give it except to change it into an imperial government with imperial power?

Mr. Speaker, I feel it my duty to defend the rights of my State, trampled upon by this bill. While I maintain the just powers of the Federal Government, I believe this duty imposed upon me by my oath before high heaven in the presence of the members of this House. I should feel by voting for this bill that I would violate the Constitution and aid a system which eventually would result in a conflict of interest or of power between the national Government and the States; that I would be attempting "to do in the forum what the rebels failed to do in the field." With these views, should I vote for this bill, I should feel that I would be recreant to my State, my country, and my God.

Rights of Loyal Citizens of Alabama.

REMARKS OF HON. T. HAUGHEY,

OF ALABAMA,

IN THE HOUSE OF REPRESENTATIVES,

March 2, 1869,

On the resolution restricting the jurisdiction of the Court of Claims and providing for the payment of quartermaster's stores and subsistence supplies furnished to the Army of the United States, and that it be so extended as to include the loyal citizens of Alabama.

Mr. HAUGHEY. Mr. Speaker, on the 24th of last July I introduced the following joint resolution:

Resolved, &c., That the benefits of the act of July 4, 1864, restricting the jurisdiction of the Court of Claims and providing for the payment of quartermaster's stores and subsistence supplies furnished to the Army of the United States be so extended as to include the loyal citizens of Alabama.

The committee to which this resolution was referred has been carefully examining the subject, and will report unanimously in favor of

its adoption so soon as the floor of the House can be obtained by the committee to make such report.

Relief is sought in this resolution for such loyal citizens of Alabama as furnished to the Army of the United States quartermaster's stores and subsistence supplies for which they have received no compensation. The class of men for whom relief is sought are those whose sufferings and sacrifices and whose persecutions during and since the war entitle them to the favorable consideration of Congress. They are those who opposed secession, opposed rebellion, and never did any act which could be construed as giving voluntary aid to the enemies of the Government. They are generally men of moderate or limited means, small farmers whose horses, mules, cattle, corn, and hogs constituted nearly all their wealth. Very few of them had any interest present or prospective in slaves or slavery. Though impoverished in many instances by the Union forces they never faltered in their love and attachment to the Government. Thousands of them rather than submit to rebel tyranny and despotism left their homes, their wives, children, and all that life holds dear and took refuge within the Union lines and there remained until the close of the war. While many of these brave men were fighting in the ranks of the Union Army and exposing themselves to all the dangers, privations, and hardships incident to camp life their families at home were stripped of all their means of support by that very Army which should have been their shield of protection.

For reasons satisfactory to Congress the claims of these men have hitherto been ignored. Though the justice of the claims and the loyalty of the claimants can be established by the highest and most positive evidence, and though nearly four years have elapsed since the claims originated, they have thus far failed to be recognized and still remain unsettled. The tendency of legislation in regard to such claims is to increase rather than diminish the difficulties attending their adjustment.

According to existing laws it is of no avail that a claimant from a southern State can prove by demonstrative evidence that he never voluntarily aided the rebellion. He may even prove by incontrovertible evidence that he not only gave no aid to the rebellion, but that he had served in the United States Army during the whole period of the war and aided to the full extent of his ability in suppressing the rebellion; yet from the simple fact that his property was taken by the United States forces in one of the States declared to be in rebellion the payment of his claim is prohibited by the acts of July, 1864, and that of February, 1867. Even the widows and orphans of Federal soldiers may establish the fact that they have been impoverished and brought to misery and want by the Union Army, and yet because they were residents of the South no compensation for their losses is permitted.

The law of July 4, 1864, and that of February, 1867, prohibits the settlement of all claims originating during the war in any of the rebellious States, Tennessee and West Virginia excepted. They declare in effect that the loyal citizens of these States are not, according to the Constitution of the United States, entitled to all the privileges and immunities of citizens of the several States, nor are they entitled to just compensation for their private property that had been taken for public use. The mere residence or domicile of loyal citizens during the war in any of these States is regarded as *prima facie* evidence of disloyalty, and is considered a sufficient reason to deprive them of their inherent and inalienable rights guaranteed to them by the Constitution of the United States.

The object of the joint resolution now under consideration is to extend the benefits of the law of July 4, 1864, to the loyal citizens of Alabama, the law of February, 1867, to the

contrary notwithstanding. All that is sought in the resolution is that the loyal citizens of Alabama shall be placed upon an equal footing with loyal citizens of these States that are not excluded from the benefits of the law of 1864.

Alabama is no longer a rebellious State. Her legitimate and practical relations with the Union are now fully restored. A large majority of her people are loyal to the Government. They prefer the Government of the United States to every other Government, and in case of need an overwhelming majority of her fighting men would defend the Government against all other Governments on earth. A large majority of the Legislature and of the State and county officers are loyal, and always have been loyal. Her constitution and laws guaranty equal rights and privileges to all. They are preëminently liberal and in entire harmony with Republican principles and with the enlightened and progressive spirit of the age. Alabama, then, being a State in the Union and of the Union, it is sincerely believed that if the benefits of the law of July 4, 1864, were extended to the loyal citizens of Alabama that law would be as safely and as guardedly administered as in any other State of the Union.

The loyal citizens of Alabama have a war history very similar in many respects to that of loyal citizens in Tennessee, to whom claims originating during the war in that State are now authorized to be paid. Like the loyal citizens of Tennessee those of Alabama resisted secession and rebellion to the full extent of their ability. When resistance was found to be hopeless they yielded a reluctant acquiescence to a fate which they were powerless to avert. Like the Tennessee loyalists, thousands of the Union men of Alabama lay hidden in caves and mountain gorges, and deep ravines, awaiting their chances to escape to the Federal lines. Many thus situated were captured by rebel bloodhounds, and if not instantly shot they were carried in chains to loathsome rebel dungeons and allowed to linger and die from bad treatment, or to be taken from their prison cells by vigilance committees and either shot or hung for no other crime than that of Unionism.

Like the Unionists of East Tennessee a large number of the able-bodied Unionists in North Alabama enlisted in the Union Army and fought with it until the end of the war. Though the Tennessee Federal soldiers largely outnumbered those from Alabama this disparity in numbers is due to the greater difficulties to be overcome by the latter in reaching the Federal lines. It is fair to presume that the love of the Union was equally intense in the eastern counties of Tennessee and the northern counties of Alabama, and that the difference in the manifestation of that love was solely due to the difference in the geographical position of these two Switzerland of America. All the arguments, then, which have heretofore been urged in favor of the payment of loyal claimants in Tennessee apply with equal force to the payment of loyal claimants in Alabama.

To deny these men the small pittance which some of them claim for property taken by the Union Army upon the simple plea that these men were citizens of a rebellious State during the war does not comport with that justice and magnanimity which have hitherto been characteristic features in the conduct of the Government toward its loyal citizens. It was not the fault but the misfortune that they were citizens of these States during the war. Nor was it their fault, but their great misfortune, that their homes had been made the chosen battle-ground of a causeless and wicked rebellion. Moreover, it was not their fault but their exceedingly great calamity that the United States Government failed to extend its protecting arm to its loyal citizens in these States, and save them falling into the meshes of a rebel despotism. If there is any culpability in residing under a rebel despotism during the war

the Government cannot be held blameless in permitting that rebel despotism to exist.

Allegiance and protection are reciprocal and correlative obligations between the Government and the citizen. The citizen owes allegiance to the Government and the Government owes him protection. If the citizen refuses to obey the behests of the Government and manifests a desire to overthrow or attempts to overthrow it he is a traitor and forfeits his claim upon the Government for protection. And on the other hand, if the Government is unwilling, unable, or fails from any cause to protect the citizen the allegiance which the latter owes to the Government is absolved. A Government which is unable or fails from any cause to protect its citizens can justly have no claims upon the latter for allegiance.

At the commencement of the war a majority of the people in the southern States revolted against their lawful Government, and organized in its stead a revolutionary one. A minority of the citizens of those States opposed the revolution and adhered to the lawful Government until they were overpowered by the revolutionists. The rightful Government, however, for four long years failed to protect the minority, and suffered it to be ruled and controlled by the revolutionary government. The citizens composing this minority were at all times anxiously desirous of resuming their allegiance, but during the whole of this gloomy period the protecting arm of the Government was too short to reach them. Finally, however, when the Government did succeed in conquering this revolutionary majority, and resumed its sway over the rebellious States, the citizens of the minority with joy and exultation resumed that allegiance which they for four years had held in abeyance, but had never absolutely relinquished.

Under such circumstances these Union citizens composing the minority had no right to expect that the Government in resuming its rightful authority over those States and in establishing rules and regulations for the payment of claims growing out of the rebellion would impose upon them the same disabilities as are imposed upon the revolutionary majority. By existing laws there is no distinction made in those States between the innocent and the guilty, between those who tried to destroy and those who tried to save the Government. The rebel assassin is classed with the Union man who was the victim of his assassination. The persecuted Union man is entitled to no more consideration than his rebel persecutors. No distinction is made between claims for supplies furnished to the rebel forces and those for supplies furnished to the Army of the United States. All are reduced to a common level by the laws of July 4, 1864, and that of February, 1867.

In view of the long-suffering privations and persecutions to which the loyal citizens of Alabama have been subjected it would almost appear to be a work of supererogation to ask Congress for such a recognition of the justice of their claims as has been granted to the loyal claimants of Tennessee and West Virginia. Four fifths of the loyal claimants in Alabama are small farmers of moderate or limited means. Their claims are generally small, but though small they are just and very much needed. They are small when compared with the ability of the Government to pay, but large when compared with the ability of the claimants to lose their claims. Their property that was taken for the use of the Army was such in many cases as was indispensable for the support of their families. In many cases their horses, mules, cattle, corn, and hogs were all taken, and thus their only means of making a support were entirely taken away. Even the families of Federal soldiers who were at the time fighting the battles of the Union were thus stripped and left dependent upon the charity of their more fortunate rebel neighbors.

In the latter part of March and beginning of April, 1865, United States troops under the command of General Wilson marched through the very heart of Alabama, from the Tennessee river on the north to the Alabama river on the south. They lived on the country through which they passed, giving no receipts or vouchers for any of the property taken or used by the Army. The Union people were generally the greatest sufferers because they would not conceal their property, while the rebels whenever they had timely warning would usually carry off their property to remote and secluded localities and conceal it on the approach of the Army. All that these Union men want is simple, even-handed justice. They have committed no crime, they have forfeited no rights, they firmly adhered to the Government so far as adherence was practicable through good and evil report. They were the friends of the Government before the war and during the war, and are the friends of the Government to-day; and if need be would fight in its defense.

This joint resolution is no party measure, nor is it to be considered in the light of policy or expediency merely. It is a measure which addresses itself to the justice and magnanimity and liberality of Congress. The reasons which induced Congress to extend the benefits of the laws of July 4, 1864, to the States of Tennessee and West Virginia are equally forcible in the case of Alabama. The provisions of the law have been justly and wisely extended to those States without any important losses or any serious detriment to the interests of the Government. It is believed that the aggregate amount of claims in Alabama is considerably less than in Tennessee, and that the payment of fraudulent claims can be guarded against with as much facility and efficiency in the former State as in the latter.

Congress has hitherto responded very favorably and promptly to the appeals of the loyal citizens of Alabama in matters of political reconstruction. For this the loyal citizens of that State are profoundly grateful. A few of them again appeal to Congress for some degree of financial reconstruction. Their property has been taken and used by the United States Army. They appeal to Congress for compensation. It is confidently hoped and believed that this last appeal will be met with the same promptness and with the same spirit of liberality that characterized the responses to their former appeals. The sectional and discriminating features of the law being removed the long-neglected and down-trodden Unionists of the South will thus have cause to rejoice that their sufferings and sacrifices in behalf of an imperiled Union have not been in vain; that their faith and confidence in the justice and beneficence of the Government have not been misplaced. They will thus have fully realized that this great Government of the people, for the people and by the people, knows no North, no South, no East, no West, but that the rights, interests, and welfare of all sections are equally favored and equally protected.

Tariff Bill.

REMARKS OF HON. G. F. MILLER, OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

March 2, 1869,

The House of Representatives, in Committee of the Whole, having under consideration House bill No. 1349, entitled "A bill to increase the revenue from duties and imports, and tending to equalize exports and imports."

Mr. MILLER. Mr. Chairman, the object of the bill under consideration is, as the title properly states, "to increase the revenue from duties and imports, and tending to equalize exports and imports." This bill, it is true, does not go to the extent that the friends of the tariff

would desire, but it is one step in the right direction. The friends of protection did all in their power to have a judicious tariff bill passed in the Thirty-Ninth Congress, but were thwarted by the enemies of the measure. The object of the bill is the protection of American industry, and unless we build up and nurture manufactures, develop our mineral resources, and encourage labor, the laborers of this country will be reduced to the same condition as the oppressed of Europe.

We, the friends of the tariff, do not want, as intimated on a former occasion by the gentleman from Ohio, [Mr. GARFIELD,] a prohibitory tariff, but we want it sufficient to protect American manufactures and labor, and at the same time produce a fair revenue. I am aware that it is the cry of free traders and of presses, (and I am sorry to say some American presses at that,) that it is the object of protectionists to have a tariff so high as to be prohibitory, and consequently abuse is poured out upon any man that has the independence to stand up in defense of American labor; and I wish it understood, Mr. Chairman, that we Pennsylvanians are not captious upon the subject. We want a fair protection to all interests of these United States, and will maintain that view irrespective of abuse from any quarter. I am sorry that so many members of this House representing the enterprising West should have been induced to imbibe the free-trade doctrine, which I hold is at variance with the interest and welfare of this country. They seem to have forgotten the doctrine promulgated by that mighty champion of the West, the gallant Henry Clay, who stood up on all occasions for protection of American industry, and whose name will be revered by the masses of the American people down to the latest generation.

Why, Mr. Chairman, if our friends in the West, Illinois for instance, would turn their attention to building up manufactures they could soon compete with the New England States, and would find in their own State a ready market for at least a large proportion of their agricultural products. Dr. Benjamin Franklin, writing in London on the 22d of April, 1771, to Humphrey Marshall, says:

"Every manufacturer encouraged in our country makes part of a market for provision within ourselves and saves so much money to the country as must otherwise be exported to pay for the manufactures he supplies. Here in England it is well known and understood that wherever a manufactory is established in which is employed a number of hands it raises the value of lands in the neighboring country all around it, partly by the greater demand near at hand for the produce of the land and partly from the plenty of money drawn by the manufacturers to that part of the country. It seems, therefore, the interest of all our farmers and owners of lands to encourage our young manufactures in preference to foreign ones imported among us from distant countries."

Thus it will be seen that the opinion expressed by that far-seeing philosopher at such an early period, if carried out at the present day will make these United States the most prosperous country in the world; and yet we hear Representatives on this floor advocating "free trade," which is nothing more nor less than favoring foreign manufactures and prostrating our own, and discriminating against all the great industrial interests of the country, and a strike at the laboring man. The gentleman from New York [Mr. BROOKS] and the gentleman from Iowa [Mr. ALLISON] seem to be ardent admirers and advocates of what I deem anti-American doctrine. The latter gentleman, who is a member of the Committee of Ways and Means, on all occasions opposes the protective policy, and if I am not mistaken, he will in a few years regret the course taken. Pennsylvania long since has taken a firm stand and will support no man who discriminates against American industry. We find that in 1866 after absorbing \$82,000,000 in gold there was left upon us a debt of no less than \$200,000,000 which was settled by transferring \$280,000,000 in bonds to foreign countries; and

with this I would refer to the statistics read by the honorable gentleman [Mr. MOORHEAD] who has charge of this bill. The aspect presented, Mr. Chairman, is alarming, and unless something is done to check the enormous importations I fear our country will eventually be brought to a precarious condition.

Mr. Chairman, I have a word to say about another system adopted which ought to be done away with, and that is what is denominated the warehouse system. It allows a large influx of foreign goods without payment of duty thereon. The only true mode, in my opinion, is to abolish that system entirely, and require the duty on all foreign commodities to be paid when they are landed on our shore. This would be a preventive of immense frauds and greatly increase the revenue to the Government.

As the time allotted for the discussion of this bill is short I cannot go fully into the subject of the tariff, but can only make a few cursory remarks. This last session of the Fortieth Congress is now rapidly drawing to a close, and I regret that we will not have time to take any decisive action on this important subject. I will, however, refer specially to one item of imports that if adequate protection were afforded could be manufactured in our own country, and that is linen cloth. In 1866 England exported to the United States 119,343,207 yards of linen cloth, valued at £3,680,000 sterling, and for which the wholesale merchants of America paid at least \$40,000,000 in currency.

Let me say, Mr. Chairman, in conclusion, that the thanks of this nation are due to the gentleman from the Pittsburgh district [Mr. MOORHEAD] for the industry and perseverance he manifested in having this tariff bill brought before this House; and it is unfortunate for the country that in a few days it will be deprived of his valuable services on this floor.

Death of Hon. James Mann.

EULOGY OF HON. W. J. BLACKBURN, OF LOUISIANA,

IN THE HOUSE OF REPRESENTATIVES,
March 2, 1869,

On the death of Hon. JAMES MANN, member from the second congressional district of Louisiana.

Mr. BLACKBURN. Mr. Speaker, I ask the indulgence of the House while I perform a sad duty. It falls upon me to announce the death of Hon. JAMES MANN, who took his seat as a member of this House from the second congressional district of Louisiana on the 18th of July last, and died in the city of New Orleans on the 13th day of September following. I had expected that the various contests for the seat which he so nobly filled for only a few days would not have been permitted to prevent the formal announcement of his death at the proper time. I was, therefore, rather surprised to find on my arrival here about a month ago—having been detained at my home by severe illness until that time—I was rather surprised, I say, to find that no announcement had been made of his untimely and much deplored death. It would be a shame, sir, if not a disgrace, were such announcement to fail to be made by some one of his colleagues. Hence I hesitate not to attempt the performance of the painful but imperative duty.

It was not my good fortune, Mr. Speaker, to know the deceased member for any length of time; but during the brief period in which I had the honor of his acquaintance, I think I may say I became to know him well and intimately; for he was of that mold of manhood which has nothing hidden, and of that generosity of soul which could conceal not even an impulse of a large and open heart.

Of the early life of JAMES MANN I know absolutely nothing. I believe he was a native of Maine, and served in the legislative coun-

cils of that State prior to the late deplorable war in this country. During that war he is known to have served bravely and gallantly as a soldier in the cause of the Union and of liberty. I know not the extent of his public services as a civilian, nor the various phases and ranks in his military career. I only know that at the close of the war he settled in the city of New Orleans, where he was known only to be loved. It was there that I first became acquainted with him, soon after his election to a seat on this floor; for this House has decided that he was so elected, and as his personal friend and admirer I am perfectly satisfied with that decision.

Sir, in passing a few words of eulogy on the memory of my deceased friend, I am glad to find that no great degree of eloquence or of genius is needed. I need not, if I could, indulge in any such strain as that exhibited over the dead body of Cæsar. My subject being more pure and simple, the words and the figure of speech want no such embellishment.

To be a man in the true and natural sense, is the legitimate summit and fullness of all earthly greatness, and honor, and glory. To be able to stand forth before the world and bid defiance to its scrutiny and its criticism, and remain unscathed and without a blush, is the fulfillment of all that God could ever require or expect in this life of any of his creatures. Of such a character and type of being, so far as my knowledge and acquaintance extend, was my deceased friend and honored colleague. And I speak this not as a mere formal compliment, for with me on such occasions, the poor, common words of courtesy are only a mockery; but I speak what I say as coming from the heart, and as meaning something.

JAMES MANN was elected by a party with which I had no sympathy, and came up here and took his seat with political sentiments different from those entertained by myself. But our intercourse was none the less cordial and pleasant, and only tended to exemplify the beauty and wisdom of our system of government—a system of government which we may hope and pray shall prove immortal. To differ politically is not only the right but the duty of freemen; but to allow this difference to run into personal hates and proscriptions and persecutions, is both hateful and criminal. The gentleman on whose death I speak had a soul too large and a heart too noble for this. Being honest himself he accorded honesty of purpose to those who differed from him, and loved them none the less socially and personally. Ah! if this could with truth be said of every American citizen, how much more harmonious and judicious would be our legislative deliberations, and how much more happy our homes and pleasant our social intercourse! Neither a great mind nor a generous soul ever persecutes for opinion's sake. JAMES MANN was never accused of such folly and wickedness.

Well and vividly do I remember our last interview. It was on one of those lovely nights known only to the clime of my nativity and of his adoption. It was in the city of New Orleans, but a short time before his much lamented death. He embraced me cordially, and with the fervor and warmth of a long-absent brother. We walked to Canal street and ascended to a balcony where we could witness in safety a torchlight Democratic procession. I reminded him that the procession contained many prominent Confederates whom he had assisted in compelling to lay down their arms and acknowledge as supreme the cause of the Union. I was pleased to notice in him a lively love and even enthusiasm for the cause for which he had so bravely fought; and equally well pleased was I to notice in him no lurking feeling of hatred or jealousy toward those against whom he had fought—my personal friends and fellow-citizens. For all this I loved him the more; for thus I thought he did but display the more aptly the true type of the

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magnanimous and generous American citizen; and such he was in the true and practical sense.

Only a few days more and my noble friend and able and honored colleague slept with his fathers. He died suddenly of acute brain fever. But a man of his magnanimity of soul and his honesty and purity of impulse and aspiration could not have been taken wholly by surprise, and ushered into the presence of his God and Maker totally unprepared and unprovided. He was of that class who, to some degree at least, are always prepared; and without assuming to speak or judge as to the future, I can but feel that the friends and relatives of JAMES MANN should not mourn his death in the sense and feeling indulged by those who mourn without hope. God has not willed that the generous and noble and good should be finally and forever lost. Such characters may die suddenly, and with scarcely a moment's warning; but they cannot fail to die "in hope of that eternal life which God, that cannot lie, promised before the world began." They may sleep for a season, and perhaps suffer beyond the tomb; but if creation is not a mockery, they shall arise and live again in renewed life and increased beauty and immortal happiness.

But, turning in sorrow and mourning from the tomb of the departed, it is natural, and perhaps of more avail and utility, to sympathize and condole with the bereaved and afflicted. Our honorable and honored departed friend has left an afflicted family, a bereaved wife and orphaned children, to weep over his tomb and bewail his death; and it becomes our duty to at least sympathize and condole with them. Those of us who have wives and children, and who have lost friends and kindred, will not need much special instruction to direct us aright in this matter. We shall instinctively know how to mourn with those who mourn and weep with those who weep. Nor is this unmanly or a sign of weakness; but on the contrary we shall find that after all our earthly efforts for honors and greatness, it is in the domestic circle and the private walks of life that are exhibited the noblest traits of exalted manliness and true womanhood. What the outside world may see and know but little of, and at which it may scoff if it does know, God in his wisdom and goodness has promised the most highly and specially to reward. David never appeared so majestic and grand, and so much like a man after God's own heart, as when prostrate in prayer and sackcloth for his sick and dying child; Joseph never seemed so manly as when he stepped aside in silence and unseen to drop a tear of joy at being told that his younger brother still lived; nor was the meek and devoted Rachel ever half so lovely as when weeping for her children, and refusing to be comforted because they were not!

Hence, we may well pause for a moment and extend the poor boon of sympathy and condolence to the bereaved family of our departed member and friend; while we drop upon his untimely tomb one tear of sincere sorrow and regret.

Uniform Suffrage.

SPEECH OF HON. W. J. BLACKBURN,
OF LOUISIANA,

IN THE HOUSE OF REPRESENTATIVES,
January 30, 1869,

Pending the proposed constitutional amendment making suffrage uniform throughout the United States.

Mr. BLACKBURN. Mr. Speaker, the proposition pending the action of the House is one of such deep interest—I may say gigantic importance—that I deem it but fair and proper that every State of the Union having

representation on this floor should be heard, and through as many voices as time and occasion will allow. And it is with this view and under this feeling that I ask a few moments indulgence while I attempt to drop a few practical, common-sense hints, without aiming to enter into anything like a theoretical and nicely systematic argument; but what I say shall be addressed to the plain and unsophisticated understanding and honest heart of the country.

And what is it that we now propose to do? If I understand correctly it is simply to recommend a constitutional provision protecting all free and qualified citizens in their natural right of franchise, and to make the status of this right uniform and national. I take it that the abstract question of the utility of granting to certain classified portions of the community the exercise of the elective franchise is not involved or to be discussed in this issue, but rather that the question of granting to freemen in a free country the right to vote is conceded, upon the common-law principles of right and of public safety, as according more strictly with the theory and purposes of republican government. And the plain, practical question before us is simply whether this natural right under free republican institutions shall be nationalized.

Now, sir, as a southern man, living in a locality where this idea of nationalizing suffrage has been enforced, has been taken from the State authorities and regulated by the national Government, I would be in favor of this proposed amendment if for no other reason or feeling than a desire to give to others what they have given to me. If it is good, I would, as a just and generous man, naturally desire that those who gave it me should have it also; and if it is bad I could not do less, as a man of spirit, with a proper self-respect and resentment, than thrust it back upon those who thrust it upon me. But I favor this measure upon a higher ground than this. Conceding the proposition that all freemen in a free country and under a truly republican form of government cannot with safety to the healthy condition of the body-politic be deprived of the exercise of the franchise for any reason or ground short of felony, I am willing to see the right of this exercise dignified with a national guarantee. I am unwilling to see it remain subservient to the whims and caprices of local and sectional prejudices.

Sir, what has occasioned in this land so much fraternal bloodshed and civil commotion? I answer briefly but pointedly, the narrow-contracted heresy of State sovereignty over the national will; that unpatriotic idea in our politics which would dim and tarnish the luster and glory of our national renown with the flickering shadow of State pride and sectional prejudice. This heresy was beaten into the dust of humility by the hard implements of war in the patriotic hands of those who loved their whole country more than they loved any particular section or locality thereof. But there are those in the land, and some of them do not live in the "late rebellious States," who would even now revive this fatal delusion. And the great trouble is, the advocates of this idea of sectionalizing and localizing the full measure of freedom under our beautiful system and theory of government are men not exactly ignorant, in the real and vulgar sense and meaning of the term, but they are evidently resting under and actuated by the lowest and most stupid order of prejudice—a prejudice which our patriotic forefathers who framed and put into motion our system of government scorned to notice, much less exercise—a prejudice against a man because of the color of his skin; and they seem so oblivious to all which the idea of a free republican government means as to be willing to deprive a man of his right of self-protection simply and solely because of this color of the cuticle! For the eternal cry and leading "argument" with these men is and has

been the everlasting and inevitable "negro!" When a slave he was their hobby; and now that he is free they ride him still! And the fact that he has been freed against their will and in direct opposition to their cherished idea of sectionalization as against the national safety, they are none the less forward; they run after him still, and hunt him down as their game, as a hound would chase a hare! These men feign a hatred or dislike to the black man in politics, when the truth is but for the negro as a bone of contention in the politics of this country the so-called Democracy would have no watchword, no slogan cry. The party would die for the want of humbuggery to feed upon. They could no longer cry aloud against the poor, unoffending negro in public, and then, after he is enfranchised by the Republican party, kneel to him in private for political power, while the hypocritical howl of "negro equality" gurgles from their very decent throats! Othello's occupation would be gone with the disappearance of the last African from this land, and modern Democracy would die a natural death.

Mr. Speaker, it seems to me that it is part of the mission of the Republican party to see to it that the march of free institutions and the consummation of real and practical liberty shall not be retarded in this land. It is the mission of the Republican party to see that the Government shall have a new and accelerated impetus under the new order of things, and be firmly organized and adjusted upon the idea of a great and overpowering nationality. If we are to give heed and give way to sectional prejudices and State pride, and allow the course of justice and of liberty to be turned and directed alone by an educated but barbarous proscription against color and caste, then the late war will have to be fought over again before treason against freedom is put down.

I confess, sir, that this question of suffrage is one which suggests many intricate and very delicate points, especially as involving negro suffrage; and an intelligent citizen of a free country, if he desires to maintain and retain his freedom for the future and perpetuate free institutions, will not approach such a question hastily, much less will he be influenced in his views and action by classified and sectional hates and prejudices.

The greatest source of strife in this matter seems to be a fear of social equality and a personal mixing up and commingling of the races; but if we view the question calmly and in the light of history and common sense we shall see that this fear is both unfounded and unmanly. We shall find in history that the noblest and greatest statesmen this country ever produced deemed it no personal disgrace nor political humiliation to vote at the same poll with "free negroes;" and if we consult the dictates of common sense we shall be taught that true manhood, like true virtue in woman, is its own best protector, and needs no special immunity or class legislation to sustain and protect it against outside pressure and the encroachments of menial and unworthy association. It is folly to assume and a burlesque to manhood and personal decency to contend that because a citizen is your equal before the law and at the ballot-box he is therefore your equal and must needs be your associate in the social circle.

Gentlemen who make such assumption know nothing practical of the negro character and display but a poor appreciation of the instincts of the white man, and I must think have studied but scattering and comprehended but illy the genius and tendency of free republican institutions. The negro in the South is already as thoroughly and completely enfranchised as written law can make him; and I can very plainly tell northern gentlemen that there is in the South to-day less of personal equality and social intercourse between the races than in the days of slavery. And I can assure them further that there was always in the South, both pre-

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vions to and after the abolition of slavery, more kindly personal feeling toward the negro than I have ever heard of existing toward him among the people of the North. The meanest masters I ever knew were men who came from the North as rash and fanatical Abolitionists, and who, after their cupidity had overcome their philanthropy and patriotism, and they became the owners of slaves, knew no end to their exactions and no limit to their tortures. It comes then, gentlemen, with poor grace from any of you to object to the enfranchisement of the few colored men among yourselves, after you have freed by force the slaves of the South and enfranchised them to a man; and not only so, but have disfranchised and disqualified for office many of their former masters!

Now, Mr. Speaker, it may seem that the truths I speak "doth lack some gentleness and time to speak them in;" it may be thought by some whose withers are galled that I "rub the sore when I should bring the plaster." But my answer is that "truth is truth unto the end of reckoning," and was never indebted to a lie. If gentlemen do not wish their toes tread upon they must get out of the "straight and narrow path" which duty, honor, and a Christian patriotism dictate to me to follow.

Let me say, sir, that of all the characters who now claim a name in the political history of this country, the so-called Democrat of the present hour, and especially the northern Democrat, is the last who should raise his voice or cast his vote against negro suffrage. And why? Because whenever and wherever this principle is ingrafted upon our statute-books they are the first and most eager to profit thereby. They seem to lack the nerve and the manliness to bring about that which they are the most forward and eager to grasp when accomplished; thus placing themselves in the most unenviable attitude of one who is too cowardly to steal, but who is mean enough to be the first to appropriate stolen goods!

I know how it is in the South, and I think I know what northern Democrats expected of the Democrats of the South. I know that the Democrats of the South, while they have howled and are still howling against negro suffrage, stole it and appropriated it in the last election in my State; and I think I know that the northern Democracy both expected and greatly desired this. Mr. Frank P. Blair, for instance, who was the first to disturb the quiet of southern institutions on southern soil, and who fought as bravely and gallantly as any man to bring about the condition of affairs which naturally enfranchised the former slaves, turned the back of his hand against their manhood, while he both craved and expected their votes! Such an attitude in politics is not only inconsistent, but it is something even more wicked. It is both unfair to themselves and unjust to their political adversaries for gentlemen to assume and seek to maintain any such untenable and humiliating attitude. As history passes on, gentlemen will look back and be ashamed of their acts before the ink of their record shall have dried on the pages of their disgrace.

But I have just said that the Democrats of the South have howled and are still howling against negro suffrage. I am willing to intimate that this, to some degree at least, may be an injustice. I am willing to say they are to some extent becoming reconciled to what they deem sealed and inevitable. I believe the southern Democrats would bow in the future to negro suffrage without a murmur if the same rule could be made uniform, and if they themselves could also be relieved from all disability and disqualification and placed upon a political equality with their former slaves. And, Mr. Speaker, without stopping to argue this question here, or that feature of it which relates directly to the disqualified white portion of the community and section in which I live, I would simply ask if it is deemed too much on the part of intelligent tax-payers,

educated white men, who mainly support the Government, to expect or at least desire to be allowed as many and as much political rights and power as their former slaves? If it were in place I could here and now tell gentlemen—as I trust to be permitted to do so hereafter at a more proper time—that we shall never have the quiet and harmony which we ought to have until white men are accorded as many rights under the written law and the constitutional guarantees as are conceded to the black man. And I can say now and here, legitimately and appropriately, that until suffrage in this country is made uniform and is nationalized, we shall continue to have local strifes and sectional jealousies, which will tend more or less to mar that harmony of national unity which the proud and free citizen of a great and glorious Government should so much crave.

I fear, sir, there are in America, as there were once in Europe, and perhaps are still, Bourbons who neither forget nor learn anything. A prejudice becomes fastened to their souls, and it rankles and cankers in their hearts through life; and they persistently refuse to be taught anything more manly or less damning than a prejudice.

So far as the South is concerned I have said we feel that negro suffrage is irrevocably and irrepealably fastened upon us. It was not of our choice or of our asking; but we are not so sure but it will result in special good to us even in a sectional point of view, leaving entirely out of the count the question of national unity and national uniformity; for by its institution we shall be greatly increased in representation on this floor, a thing which I already see is much needed and "devoutly to be wished." And I appeal to northern gentlemen of all parties to harmonize on this issue and let us have a great country and a strong Government, with a uniformity of interest in the great leading question of franchise, and a sameness of honor and glory, without sectional prejudices or local animosities. We have tried a diversity of interest long enough, and the wounds thus opened need to be closed and healed, and the losses thus sustained should be at once gathered up and restored.

I trust, sir, and believe, this proposed amendment will be passed by Congress; and I believe it will be ratified by the necessary majority of the State Legislatures, and I believe much good to the country will result therefrom. The "negro question," I think, may then rest and cease to disturb the equilibrium of legislation and the unity of the nation. We want rest and peace, with brotherly kindness, and a sameness of interest, in a national sense at least, throughout the land. Then let us have uniform suffrage as an earnest of uniform and perpetual peace.

Extension of Boundaries.

SPEECH OF HON. W. H. HOOPER,
OF UTAH,IN THE HOUSE OF REPRESENTATIVES,
February 25, 1869,

On the bill to extend the boundaries of the States of Nevada, Minnesota, and Nebraska, and the Territories of Colorado, Montana, and Wyoming.

Mr. HOOPER, of Utah. Mr. Speaker, when it shall be in order I propose to offer the following amendment to the bill offered by Mr. ASHLEY, of Ohio, to extend the boundaries of the States of Nevada, Minnesota, and Nebraska, and the Territories of Colorado, Montana, and Wyoming, namely:

Strike out the first and fifth and so much of the sixth sections of the bill as relates to Utah Territory.

And on this amendment I propose to speak at this time.

Sir, in the interior of the North American continent, peopling the narrow valleys that lie between mountains from which the snows never

disappear, exists a colony of this Republic, a hundred thousand strong, prospering marvelously in spite of rigors of climate and unfriendliness of soil, and distinguished by all the characteristics of the most thriving and moral American communities. This colony, planted some twenty years ago in a savage wilderness, remote from other civilized association, divided from either ocean by vast spaces of desert, was, like the kindred colonies of Massachusetts, of Maryland, and of the Carolinas, the offspring of religious persecution; a persecution which had not then the excuse since alleged, that the marriage institutions of the Mormons are antagonistic to the civilization of the age, for at that time the question of polygamy had not entered into the public discussion of their religious faith, but which was simply an outburst of the blind intolerance which has so often before driven the sincere disciples of a new religious faith from their homes, with the loss of property and good fame, and forced them to seek such asylum as God in his providence opened for their occupation. Three times before had these people founded a community and erected their altars to the Christians' God, whom they worshiped, though with forms somewhat different from those of the various sects which compose the visible church of this nation, yet relying on the Bible as the foundation of their faith; and each time they were pioneers in civilization and the useful arts, and like the Pilgrims in Massachusetts, the Catholics in Maryland, and the Huguenots in Carolina, had based their community on the foundations of religion and law, and introduced the habits of industry and the aids of mechanical invention.

The newspaper and the school were indigenous in their settlements. Nor, guided as were their movements by men born on American soil and reared in the fullest devotion to American institutions, and composed as they were, in great part, of immigrants escaped from the grinding despotism of European poverty, and inspired by fervent faith in our Government, did they ever fail in their fealty to the Republic nor exist a single hour without the overshadowing presence of the American flag. These are not mere rhetorical figures, but serious statements of fact, for which I personally vouch and which I am prepared uncontestedly to prove. This people, healthily grown now to the stature of a State, having subdued the hostile forces of nature in a region before considered a desert and filled the valleys of Utah with fertile farms, with successful manufactories, with workshops, with homes; having built up numerous cities and villages and constructed hundreds of miles of roads and telegraphs; having diffused the mountain streams over the barren plains, till all the fruits and grains of the temperate zone now flourish where only the sage-bush grew before; having established schools for all the children and built up a system of territorial government not inferior in practical excellence to any other in the land; having, as the last and crowning labor, accomplished the grading of between three and four hundred miles of the great railway whose center rests on Utah, while its extremities reach the older States—this people, with this record, stands arraigned as though these acts were crimes and its very existence an offense; and I, as its Representative, find myself compelled to assume an attitude of defense and ask the interposition of the just and reflecting members of this House between the citizens of the Territory of Utah and an act which confessedly threatens its very existence, and seeks again to make those citizens the victims of a persecution which they are justified in believing forever ended.

While I shall indulge in no undue severity of language in opposing a measure which must have its origin either in fanaticism or in motives still less excusable, and while I shall refrain from unkind allusion to the chief spon-

son of the bill, notwithstanding his want of personal courtesy and all common fairness in seeking to pass it in the absence of the Delegate representing the people whose interest in the measure is fourfold greater than that of any other constituency—I, whose stake in this issue is so great, must be pardoned for some intensity of feeling when I reflect upon its nature. If, indeed, it were possible, as I hopefully believe it is not, by destroying the autonomy of Utah and partitioning out its settlements among neighboring Territories and States whose capitals are remote and the exercise of whose authority over them must of necessity be feeble—if it were possible to exasperate this people to the point of resistance to law, and thus invite the fearful calamities of civil strife, how infinitely more terrible would be the consequences than on any of the previous occasions when they have been smitten and scattered by the hand of violence. I am reminded of the description given by Colonel Kane, in a lecture delivered before the Historical Society of Philadelphia, of a scene which had been visited by a similar calamity, and I must be excused for quoting his words as a fragment of history full of warning against future dangers. He says:

"A few years ago, ascending the Upper Mississippi in the autumn, when its waters were low, I was compelled to travel by land past the region of the rapids. My road lay through the Half-Breed tract, a fine section of Iowa, which the unsettled state of its land titles had appropriated as a sanctuary for coiners, horse-thieves, and other outlaws. I had left my steamer at Keokuk, at the foot of the lower fall, to hire a carriage, and to contend for some fragments of a dirty meal with the swarming flies, the only scavengers of the locality. From this place to where the deep water of the river returns my eye wearied to see everywhere sordid vagabonds and idle settlers and the country marred, without being improved, by their careless hands.

"I was descending the last hillside upon my journey when a landscape in delightful contrast broke upon my view. Half encircled by a bend of the river a beautiful city lay glittering in the fresh morning sun; its bright new dwellings, set in cool, green gardens, ranging up around a stately dome-shaped hill, which was crowned by a noble marble edifice, whose high, tapering spire was radiant with white and gold. The city appeared to cover several miles, and beyond it, in the background, there rolled off a fair country, chequered by the careful lines of fruitful husbandry. The unmistakable marks of industry, enterprise, and educated wealth everywhere made the scene one of singular and most striking beauty.

"It was a natural impulse to visit this inviting region. I procured a skiff, and rowing across the river landed at the chief wharf of the city. No one met me there. I looked and saw no one. I could hear no one move, though the quiet everywhere was such that I heard the flies buzz and the water-ripples break against the shallow beach. I walked through the solitary streets. The town lay as in a dream, under some deadening spell of loneliness, from which I almost feared to wake it. For plainly it had not slept long. There was no grass growing up in the paved ways; rains had not entirely washed away the prints of dusty footsteps.

"Yet I went about unchecked. I went into empty workshops, rope-walks, and smithies. The spinner's wheel was idle; the carpenter had gone from his work-bench and shavings, his unfinished sash and casing. Fresh bark was in the tanner's vat, and the fresh-chopped lightwood stood piled against the baker's oven. The blacksmith's shop was cold; but his coal-heap and lading-pool and crooked water-horn were all there, as if he had just gone off for a holiday. No work people anywhere looked to know my errand. If I went into the gardens, clinking the wicket-latch loudly after me, to pull the marigolds, hearts-ease and lady-slippers, and draw a drink with the water-sodden velvet-bucket and its noisy chain, or knocking off with my stick the tall, heavy-headed dahlias and sunflowers, hunted over the beds for cucumbers and love-apples, no one called out to me from any opened window or dog sprang forward to bark an alarm. I could have supposed the people hidden in the houses; but the doors were unfastened, and when at last I timidly entered them I found dead ashes white upon the hearths, and had to tread a tiptoe, as if walking down the aisle of a country church, to avoid rousing irreverent echoes from the naked floor.

"On the outskirts of the town was the city graveyard. But there was no record of plague there, nor did it in anywise differ much from other Protestant American cemeteries. Some of the mounds were not long sodded; some of the stones were newly set, their dates recent, and their black inscriptions glossy in the mason's badly dried lettering ink. Beyond the grave-yard, out in the fields, I saw in one spot hard by, where the fruited boughs of a young orchard had been roughly torn down, the still smoldering embers of a barbecue fire that had been constructed of rails from the fencing round it. It was the latest sign of life there. Fields upon fields of heavy-headed yel-

low grain lay rotting ungathered upon the ground. No one was at hand to take in their rich harvest. As far as the eye could reach they stretched away—they sleeping, too, in the hazy air of autumn. Only two portions of the city seemed to suggest the import of the mysterious solitude. On the southern suburb the houses looking out upon the country showed by their splintered woodwork and walls battered to the foundation that they had lately been the mark of a destructive cannonade; and in and around the splendid temple, which had been the chief object of my admiration, armed men were barracked, surrounded by their stacks of musketry and pieces of heavy ordnance. These challenged me to render an account of myself, and why I had had the temerity to cross the water without a written permit from a leader of their band.

"Though these men were generally more or less under the influence of ardent spirits, after I had explained myself as a passing stranger they seemed anxious to gain my good opinion. They told me the story of the dead city; that it had been a notable manufacturing and commercial market, sheltering over twenty thousand persons; that they had waged war with its inhabitants for several years, and had been finally successful only a few days before my visit in an action fought in front of the ruined suburb; after which they had driven them forth at the point of the sword. The defense, they said, had been obstinate, but gave way on the third day's bombardment. They boasted greatly of their prowess, especially in the battle, as they called it; but I discovered they were not of one mind as to certain of the exploits that had distinguished it; one of which as I remember was that they had slain a father and his son, a boy of fifteen, not long residents of the fated city, whom they admitted to have borne a character without reproach.

"They also conducted me inside the massive sculptured walls of the curious temple, in which they said the banished inhabitants were accustomed to celebrate the mystic rites of an unhallowed worship. They particularly pointed out to me certain features of the building which, having been the peculiar objects of a former superstitious regard, they had as a matter of duty sedulously defiled and defaced. The reputed sites of certain shrines they had thus particularly noticed, and various sheltered chambers, in one of which was a deep well, constructed they believed with a dreadful design. Beside these, they led me to see a large and deep chiseled marble vase or basin, supported upon twelve oxen, also of marble, and of the size of life, of which they told some romantic stories. They said, the deluded persons, most of whom were immigrants from a great distance, believed their deity countenanced their reception here of a baptism of regeneration, as proxies for whomsoever they held in warm affection in the countries from which they had come; that here parents 'went into the water' for their lost children, children for their parents, widows for their spouses, and young persons for their lovers; that thus the great vase came to be for them associated with all dear and distant memories, and was therefore the object, of all others in the building, to which they attached the greatest degree of idolatrous affection. On this account, the victors had so diligently desecrated it, as to render the apartment in which it was contained, too noisome to abide in.

"They permitted me also to ascend into the steeple, to see where it had been lightning-struck on the Sabbath before, and to look out, east and south, on wasted farms like those I had seen near the city extending till they were lost in the distance. Here, in the face of the pure day, close to the scar of Divine wrath left by the thunderbolt, were fragments of food, with a bass drum and a steamboat signal-bell, of which I afterward learned the use with pain.

"It was after nightfall, when I was ready to cross the river on my return. The wind had freshened since the sunset, and the water beating roughly into my little boat, I headed higher up the stream than the point I had left in the morning, and landed where a faint glimmering light invited me to steer.

"Here, among the dock and rushes, sheltered only by the darkness, without roof between them and the sky, I came upon a crowd of several hundred human creatures, whom my movements roused from uneasy slumber upon the ground.

"Passing these on my way to the light, I found it came from a tallow candle in a paper funnel-shade, such as is used by street vendors of apples and peanuts, and which, flaring and sputtering away in the bleak air of the water, shone flickeringly on the emaciated features of a man in the last stage of a bilious remittent fever. They had done their best for him. Over his head was something like a tent made of a sheet or two, and he rested on a but partially ripped-open old straw mattress, with a hair sofa-cushion under his head for a pillow. His gaping jaw and glazing eye told how short a time he would monopolize these luxuries; though a seemingly bewildered and excited person, who might have been his wife, seemed to find hope in occasionally forcing him to swallow awkwardly measured sips of the tepid river water from a burned and battered bitter-smelling tin coffee-pot. Those who knew better had furnished the apothecary he needed—a toothless old bald-head, whose manner had the repulsive dullness of a familiar with such scenes. He, so long as I remained, mumbled in his patient's ear a monotonous and melancholy prayer, between the pauses of which I heard the hiccup and sobbing of two little girls, who were sitting up on a piece of drift-wood outside.

"Dreadful indeed was the suffering of these forsaken beings. Cowed and cramped by cold and sunburn alternating as each weary day and night dragged

on, they were almost all of them the crippled victims of disease. They were there because they had no home, nor hospital nor poor-house nor friends to offer them any. They could not satisfy the feeble cravings of their sick; they had not bread to quiet the fractious hunger-cries of their children. Mothers and babes, daughters and grandparents, all of them alike, were bivouacked in tatters, wanting even covering to comfort those whom the sick shiver of fever was searching to the marrow.

"These were Mormons, famishing in Lee county, Iowa, in the fourth week of the month of September, in the year of our Lord 1846. The city—it was Nauvoo, Illinois—the Mormons were the owners of that city, and the smiling country round; and those who had stopped their plows, who had silenced their hammers, their axes, their shuttles and their workshop wheels; those who had put out their fires, who had eaten their food, spoiled their orchards and trampled under foot their thousands of acres of unharvested bread; these were the keepers of their dwellings, the carousers in their temple whose drunken riot insulted the ears of their dying.

"I think it was as I turned from the wretched night watch of which I have spoken that I first listened to the sounds of revel of a party of the guard within the city. Above the distant hum of the voices of many occasionally arose distinct the loud, o-h-tainted exclamation, and the falsely intoned scrap of vulgar song; but lest this requiem should go unheeded, every now and then, when their boisterous orgies strove to attain a sort of ecstatic climax, a cruel spirit of insulting frolic carried some of them up into the high belfry of the temple steeple, and there with the wicked childishness of inebriate—they whooped, and shrieked, and beat the drum that I had seen, and rang in charivariic unison their loud-tongued steamboat bell.

"They were all told not more than six hundred and forty persons who were thus lying on the river flats. But the Mormons in Nauvoo and its dependencies had been numbered the year before at over twenty thousand. Where were they? They had last been seen carrying in mournful trails their sick and wounded, halt and blind, to disappear behind the western horizon, pursuing the phantom of another home. Hardly anything else was known of them; and people asked with curiosity what had been their fate—what their fortunes?"

But I trust, sir, that any apprehensions of such evils may not be prophetic. I trust so because I know the deep-seated respect of the Mormons for the forms of law, and because I cannot for a moment believe that while the wounds inflicted in the late national struggle are still unhealed, and while amnesty and conciliation are the watchwords of all parties, and while all men are inspired by a generous emulation to excel in works of charity and forgiveness and to inaugurate a lasting reign of peace; I cannot believe, I say, that under these circumstances a majority of the people's Representatives will deliberately so outrage the feelings and violate the rights of the citizens of Utah as to enact against them measures as despotic as those which within our recollection gained for Poland the sympathies and drew down on her oppressors the execration of the whole unprejudiced portion of the civilized world.

I trust, sir, that no member of this House will vote on this bill without a careful examination of its provisions and of the changes which it meditates on the map of the region affected. The boundaries of Utah, as will be seen at a glance, are already those indicated by nature as fitted to divide adjoining States, and its limits are much less than those of any other Territory. Its form is nearly square, and the geographical centre is made conformable to the probable centre of population. But this bill so cuts and mangles the Territory as to diminish its size to the point of insignificance and to shear it of its fair proportions and utterly destroy its symmetry. As though in very mockery of the wishes of its inhabitants it is sought to reduce it to a narrow strip of country running north and south, containing only about twenty-two thousand square miles, and even cutting off from its northern frontier all the settlements nearest to the Pacific railroad; thus preventing that great thoroughfare for which the citizens of Utah have so ardently longed and which they have so cordially welcomed and have so gladly assisted to build from even touching the Territory within which it is intended to confine them! Are gentlemen afraid to allow a direct contact between their own civilization and that of Utah that they should thus seek to build up artificial boundaries between the two and con-

HO. OF REPS.

Extension of Boundaries—Mr. Hooper.

40TH CONG....3D SESS.

fine the latter within a Chinese wall of territorial limits? Were the question of Mormonism not involved, or some other appealing equally to special prejudice, I do not hesitate to say that a map thus disfigured with mutilations would not for a moment be contemplated with favor. Will the members of this House allow this prejudice so to overcome their judgment and sense of justice as to blind them to the enormity of the proposed change? I do not believe it.

Moreover, to accomplish the end in view the boundaries of three States and four Territories are also to be changed, and one Territory is to be blotted from existence; in fact it is as though a legislative earthquake had prevailed upon the map and so transposed the parts that each could scarcely identify any longer that which formerly belonged to it. The States of Nebraska and Minnesota, already containing the one sixty thousand square miles and the other fifty thousand square miles, are each to be nearly doubled in size; while Nevada, containing one hundred and eight thousand square miles, is given some twenty-two thousand square miles now belonging to Utah and containing some ten thousand of its people. An even larger amount of population is to be transferred to Wyoming, a Territory now without local government and nearly destitute of inhabitants except the transient settlers drawn there by the work on the railroad; while a generous slice is appropriated to Colorado, though six hundred miles from its capital and all practical local government. But the authors of the bill hope, it is said, to gain some votes for the measure by reason of this wholesale mutilation, to make which legal the consent of three State Legislatures must be obtained beside that of Congress. By giving to the States of Nevada and Minnesota and Nebraska additional territory it is claimed that the Representatives of those States on this floor will be brought to sustain the bill. This may be so, sir; were those States now small in size I could understand the temptation on the part of their Representatives to plead local interest in extenuation of an act violative of real justice; and particularly in the case of that State which, lying contiguous to Utah, would absorb a large portion of its industrious population to assist in paying the taxes already so onerously bearing on her citizens. But if these gentlemen are at present swayed by an argument of self-interest like this it cannot be that they have reflected on the great injustice inflicted on the people thus expatriated; for while Utah, by industry and economy has thus far escaped all territorial indebtedness, the citizens thus forcibly transferred—sold like serfs with the soil they till—would be made responsible for obligations they never incurred, and in fact compelled to pay the debts contracted by their neighbors. Surely no man's sense of right can be so blunted as to permit his approval of a wrong like this.

No; the end sought by this measure is not the promotion of justice nor the benefit of the region affected. It is the destruction of an obnoxious system of religious faith through the temporal ruin of its disciples. That it would result as intended of course I do not believe; for all the persecutions of the Mormons thus far have eventuated in the increase of their prosperity. It is true still, as it ever has been, that the blood of the martyrs is the seed of the church. But if it were possible thus to extinguish Mormonism in the United States it could only be done by the expatriation of the entire people. Similar things have been done in other ages and lands, it is true, but at what fearful cost? A hundred thousand of the citizens of France were destroyed and expelled during the great religious contests of that country in a single century; and the result was the emigration of the best of her scholars and artisans to Holland and Britain and America, and the ingrafting upon the learning and

industry of those countries and the rapid growth under the influence of free institutions of those sciences and useful arts that have contributed so greatly to their glory and prosperity. But can such a thing, in this age of enlightenment, occur in free and tolerant America? Can this Republic institute oppressive measures against her own citizens for the purpose of driving them weeping from her soil? Is it possible that she can be so indifferent to the growth of new States, to the increase of population, to the production of material wealth, as deliberately to wage war on a whole community like that of Utah, which has so triumphantly demonstrated its power of self-support and self-government? I am confident, sir, that this cannot be; and in order that the people of the country and their Representatives may not be ignorant of the true character and history of the people against whose prosperity the measure is directed I must be pardoned for a rapid review of their past record and their present condition.

At the early history of the Mormons I shall but glance. Their expulsion from Missouri and from Illinois will in after times constitute one of the darkest, the most painful, and most shameful chapters in American history. Long before a suspicion existed of their practice of polygamy they were driven from State to State by the bigotry and avarice of their neighbors, who impiously coveted their valuable improvements while their piety could not tolerate a difference in religious faith. I trust there is no such feeling in the land to-day. And everywhere as this persecuted people in search of freedom of conscience planted colony after colony on the frontiers of civilization did they establish monuments of their industry and intelligence which were the wonder of all beholders. In Missouri they introduced implements of culture and mills for grinding grain and laid the corner-stone, which still remains, of a temple to be reared for the worship of the ever-living God. Their industrial achievements in Illinois are well known; and not even mob violence and the ravages of time and the elements have been able yet to obliterate the evidences of their industry and skill. After the bloody extinction of their hopes in that State they turned their faces again westward, resolved, like the Israelites of old, to dare even the terrors of the unexplored wilderness and the tender mercies of the beasts of prey rather than longer trust to the charity and justice of their fellow-Christians.

With this stern resolve they crossed partially-settled Iowa in 1846. Being scantily clad and but poorly provisioned, many perished by the way. The close of the autumn found them encamped upon the banks of the Missouri, in what was then called the Pottawatomie country. Here they wintered, laying out the town now known as Council Bluffs. In the spring of 1847, when preparing to send forward their pioneers to seek out a home and a route thereto, the United States Government called upon the Mormons for a battalion of five hundred men to aid in vindicating its honor in the conflict with Mexico. In spite of the sacrifice involved in a compliance with this call there was no hesitation in the response, and the men promptly volunteered. They made the march across the continent under the command of Colonel Philip St. George Cooke, and were honorably discharged in southern California the following year. The congratulatory order of Colonel Cooke is full of the most unqualified testimony to their patriotism, subordination, endurance, and general good conduct, and I invite its perusal by all who still credit the injurious calumnies with which we have been assailed:

[Order No. 1.]

HEADQUARTERS MORMON BATTALION,
MISSION OF SAN DIEGO, January 30, 1847.

The lieutenant colonel commanding congratulates the battalion on their safe arrival on the shore of the

Pacific ocean and the conclusion of its march of over two thousand miles. History may be searched in vain for an equal march of infantry. Nine tenths of it has been through a wilderness where nothing but savages and wild beasts are found, or deserts where, for want of water, there is no living creature. There with almost hopeless labor we have dug deep wells, which the future traveler will enjoy. Without a guide who had traversed them we have ventured into trackless prairies where water was not found for several marches. With crowbar and pick and ax in hand, we have worked our way over mountains which seemed to defy aught save the wild goat, and hewed a passage through a chasm of living rock more narrow than our wagons. To bring these first wagons to the Pacific we have preserved the strength of the mules by herding them over large tracts, which you have laboriously guarded without loss. The garrisons of four presidios of Sonora concentrated within the walls of Tucson gave us no peace. We drove them out with their artillery; but our intercourse with the citizens was unmarked by a single act of injustice. Thus marching, half naked and half fed, and living upon wild animals, we have discovered and made a road of great value to our country.

Arrived at the first settlement of California, after a single day's rest you cheerfully turned off from the route to this point of promised repose to enter upon a campaign and meet, as we believed, the approach of the enemy; and this, too, without even salt to season your sole subsistence of fresh meat.

Lieutenant A. D. Smith and George Stoneman, of the first dragoons, have shared and given you valuable aid in all these labors.

Thus, volunteers, you have exhibited some high and essential qualities of veterans. But much remains undone. Soon you will turn your strict attention to the drill, to system and order, to forms also, which are all necessary to the soldier.

By order of Lieutenant Colonel P. St. George Cooke:
P. C. MERRILL, Adjutant.

Returning eastward these men found their families in the great basin of the Salt lake. The advance-guard of the Mormon emigration reached Salt Lake valley on July 24, 1847, selected the present site of Salt Lake City, built a fort of some strength as a protection against the Indians, and planted some root crops, a portion of which partially matured. A few of these pioneers under the lead of President Young returned to the Missouri river the same fall, leaving the majority to plow and plant during the following season. Their subsistence through the entire winter was in part a root growing wild and pointed out by the Indians as capable of supporting life. The few cereals and roots brought with them were saved for planting, for such were the difficulties of transportation through the eleven hundred miles of mountains and deserts they traversed that it was with the greatest difficulty they could bring the necessary implements and grains and roots for seed. No white man save Colonel James Bridger, a trapper at Fort Bridger, and a mountaineer named Goodyear, was found in the region, consequently the Mormon pioneers were undisputed masters of the country, with no neighbors except the wild and degraded Utah and Shoshone Indians, whose friendship was courted for the sake of peace and has always been retained through a policy of liberality and justice. The opinion of Colonel Bridger was expressed that it was impossible to raise grain in that region and that immigration to the "great basin" would be followed by starvation. Nevertheless, trusting in the Providence of God and remembering the persecutions of man, the community resolved to dare the alternative.

When the bulk of the immigration reached the valley in 1848 they found that much had been raised for their support, besides a large percentage preserved for seed. Rations of bread were issued and used, and the people were again in a condition of comparative safety and comfort. The march of 1848, as may be supposed, was attended with great hardships. The immigrants were deficient in transportation, and suffered from a scarcity of provisions and the severe toils of the journey. Great mortality resulted from disease, old age, and other causes, and it was said that the trail of the Mormons could be followed in 1849 by the graves of the dead they had left on their route. Yet it is worthy of note that during that pilgrimage of four months' duration neither the spinning-wheel nor the loom ceased to do its work, the large wagon and the slow

step of the ox giving an opportunity for labor while the train was in motion. There are now in Utah hundreds of yards of goods for which the material was spun and which were woven during that journey. Every means was utilized to the utmost; even the faithful cow gave her strength in the yoke, and furnished milk at night for the sustenance of the children she had drawn during the day.

Such, sir, are some of the incidents connected with the planting of this colony which is now sought to be legislated out of existence. The calumnies charging the Mormons with idleness, immorality, and disloyalty are all refuted by the facts of history. The first printing-press ever taken west of the Missouri river was established by them at Independence in 1832. The first newspaper in the great basin of the Salt lake, where now there are three, and I believe the first in San Francisco, were published by the Mormons. The first United States flag unfurled in the great interior, save by Government officials, was raised by Mormons. Well do I know the spot where the first "liberty pole" was raised, and from the top of which floated the stars and stripes, while yet the country was known as Mexican territory. In obedience to Mormon love of law and order and of the institutions of our country one of their first acts after reaching their new home was to meet in convention and form a local government and send a Delegate over three thousand miles to Washington, and ask the parent Government to extend her protecting care over them.*

In regard to the Christian temper of the Mormons during the infancy of this colony there is also indisputable evidence. The year 1849 blessed the new settlement with an abundant harvest, amply sufficient, with strict economy, for its wants, besides something to spare to the many California immigrants who crowded the plains during that season in their march to the Pacific shores and whose lack of experience had caused much sickness and great loss of stock. Multitudes fell by the way-side, and many of those who succeeded in reaching "the great half-way house," as they styled Salt Lake City, were sadly in need of rest, medical treatment, and good nursing. The ill-health of many forced them to remain there for a time, and numerous lives were saved by the careful watching and tender nursing of some good old mother by the bed-side of the suffering stranger. For several years Salt Lake City was more or less a hospital for emigrants during the fall and

winter seasons from disease and accidents incident to a long journey. When the strangers became rested and were able to proceed they exchanged their broken-down stock for fresh animals, recruited their supply of breadstuffs, and having improved their health by a free use of vegetables, went on their way rejoicing. Captain Stansbury, who spent a year among the Mormons while engaged on the Government survey of the Great Salt lake in 1849-50, in his report gives the following frank testimony to the character and dealings of the people:

"In their dealings with the crowds of emigrants that passed through their city the Mormons were fair and upright, taking no advantage of the necessitous condition of many if not most of them. They sold them such provisions as they could spare at moderate prices, and such as they themselves paid in their dealings with each other. In the whole of our intercourse with them, which lasted rather more than a year, I cannot refer to a single instance of fraud or extortion to which any of the party was subjected; and I strongly incline to the opinion that the charges that have been preferred against them in this respect arose either from interested misrepresentation or erroneous information. I certainly never experienced anything like it in my own case, nor did I witness or hear of any instance of it in the case of others while I resided among them. Too many that passed through their settlement were disposed to disregard their claim to the land they occupied, to ridicule the municipal regulations of their city, and to trespass wantonly upon their rights. Such offenders were promptly arrested by the authorities, made to pay a severe fine, and in some instances were imprisoned or made to labor on the public works; a punishment richly merited and which would have been inflicted upon them in any civilized community. In short, these people presented the appearance of a quiet, orderly, industrious, and well-organized society, as much so as one would meet with in any city of the Union, having the rights of personal property as perfectly defined and as religiously respected as with ourselves; nothing being further from their faith or practice than the spirit of communism, which has been most erroneously supposed to prevail among them. The main peculiarity of the people consists in their religious tenets, the form and extent of their church government, (which is a theocracy,) and in the nature especially of their domestic relations."

A few words of evidence may not be amiss in regard to the orderly character of the Mormons and their capacity for self-government, especially when the witness is one suspected of no partiality for the people whom he describes. Lieutenant Gunnison, speaking of the same period, says:

"We found them in 1849 organized into a State with all the order of legislative, judicial, and executive officers regularly filled under a constitution eminently republican in sentiment and tolerant in religion; and though the authority of Congress has not yet sanctioned this form of government, presented and petitioned for, they proceed with all the routine of an organized self-governing people under the title of a Territory, they being satisfied to abide their time in accessions of strength by numbers, when they may be deemed fit to take a sovereign position, being contented so long as allowed to enjoy the substance under the shadow of a name. They levy and collect taxes, raise and equip troops for protection in full sovereignty on the soil they helped to conquer first and subdue to use afterward."

Gunnison also adds his testimony to that of others in regard to the fair dealing of the people, and says that food "was sold to the gold emigrants at a less price than at Fort Laramie, four hundred miles nearer to the States."

The progress of the colony was what you might expect from such a beginning. In 1850 there was not a shingle roof in Salt Lake City, now containing nearly twenty thousand inhabitants, with splendid churches, theaters, dwellings, and business houses. It is a remarkable fact, too, that most of the fortunes which were realized in Utah in mercantile pursuits previous to 1863 were made by those who were not Mormons; while I have never known of a farm being opened, a mill built, and scarcely a house erected by any but those of that faith. Thus it is shown that to the Mormons belongs the credit of redeeming from the complete sterility in which they found it the now magnificent valleys of Salt Lake. The population other than Mormon has never, in my opinion, exceeded two and a half per cent of the whole. The fact that a very large proportion of our people are of foreign birth is one that should give us favor in the eyes of the Government. We have expended over \$5,000,000 in the pro-

motion of immigration from foreign lands. While many of the States operate special machinery at considerable expense for the purpose of bringing foreign immigration within their limits, the whole country is sensitively alive to the importance of this means of increasing its power. With an immense area of virgin soil and all our wonderful resources, nothing is so essential to the nation as abundant labor. Now, the Mormons have not only materially swelled the aggregate of immigration, but they have created a system of management which is already famous for its excellence, and has attracted the attention of the British Government and caused the examination of our agent in England by a parliamentary commission, in order to learn the means by which we have so successfully transported our tens of thousands from the one continent to the other. Verily, a prophet is not without honor save in his own country.

I have alluded to the Indian policy of the Mormons and its excellent effect; and as the Indian question has become one which excites the anxiety of the whole country I must be pardoned for pointing with justifiable pride to results which show the wisdom of their leaders in this respect to be far in excess practically of that of our neighbors. We have acted on the principle that it is cheaper to feed these savages than to fight them; and the Indians have permitted the passage of the Mormon trains without the loss of a life or of a dollar's worth of goods. The first loss ever sustained was of property on the railroad since its construction. Compared with the Indian troubles of other sections those of Utah have been trivial. The whole expenditure of the United States on account of Indian wars there has been but \$75,000, while millions on millions have been spent all about us without accomplishing any durable peace. These expenses too would have been much greater but for the supplies of food and forage drawn from our settlements at nominal prices.

Another material advantage derived by the country at large from the existence of our colony is the great assistance it has rendered in the settlement of the surrounding region. It will need no detailed statement to convince gentlemen of the immense aid rendered by such a colony in such a wilderness to the peopling of the adjacent Territories and to the success of enterprises like the overland mail, the telegraph, and the Pacific railroad. It is not too much to say that had the colony of Utah had no existence these enterprises must of necessity have been retarded for years longer, and might even yet be only dreams of the future.

And yet, notwithstanding our value to the country, it has always been a matter of extreme difficulty to obtain the ordinary legislation needed to protect our industry and property. It is only within a year that we have been able to secure an extension of the public land system over our Territory, a delay which has prevented us from availing ourselves of the liberal preemption and homestead laws enjoyed in the States and other Territories. We have borne these harsh and unjust discriminations with patience; but they deepen our disappointment at the attempts now made to impose upon us still greater hardships.

It is proper that I should now allude to the accusation that the people of Utah do not sufficiently honor the courts of justice. This statement is the exact reverse of truth. A well-regulated and impartial judiciary is regarded as the very foundation of civil government, and Utah has her system of territorial courts as well as those of the General Government. The error may have grown out of the fact that Mormons, in the settlement of disputes, prefer arbitration to litigation as being quicker and cheaper. The courts, however, are always open to those who prefer suits at law, and the judgments of these courts are respected and enforced. That Utah contains some bad men

* Extract from a discourse delivered by Daniel H. Wells, one of the prominent dignitaries of the Mormon church, on the occasion of the fourth anniversary of the entrance of the Mormons into the valley of the Great Salt lake:

"It has been thought by some that this people, abused, maltreated, insulted, robbed, plundered, murdered, and finally disfranchised and expatriated, would naturally feel reluctant to again unite their destiny with the American Republic."

"No wonder that it was thought by some that we would not again submit ourselves (even while we were yet scorned and ridiculed) to return to our allegiance to our country. Remember that it was by the act of our native country, not ours, that we were expatriated, and then consider the opportunity we had of forming other ties. Let this pass while we lift the veil and show the policy which dictated us. That country, that Constitution, those institutions were all ours; they are still ours. Our fathers were heroes of the Revolution. Under the master-spirit of an Adams, a Jefferson, and a Washington, they declared and maintained their independence, and under the guidance of the spirit of truth they fulfilled their mission whereunto they were sent from the presence of the Father. Because demagogues have arisen and seized the reins of power should we relinquish our interest in that country made dear to us by every tie of association and consanguinity?"

"Those who have indulged such sentiments concerning us have not read Mormonism aright, for never, no, never, will we desert our country's cause; never will we be found arrayed by the side of her enemies, although she herself may cherish them in her own bosom. Although she may launch both the thunderbolts of war which may return and spend their fury upon her own head, never, no, never, will we permit the weakness of human nature to triumph over our love of country, our devotion to her institutions handed down to us by her honored sires, made dear by a thousand tender recollections."

HO. OF REPS.

Extension of Boundaries—Mr. Hooper.

40TH CONG....3D SESS.

is unquestionably true; with our frontiers it can scarcely be expected of us to exclude all such. Yet there is no more justice in holding the citizens of Utah responsible for the acts of vicious individuals among them than there would be on the part of the Mormons in charging the whole people of the United States with the wrongs perpetrated upon them in Missouri and Illinois, or than there would be on the part of the civilized world in charging upon the citizens of this District the untimely taking off of the late Chief Magistrate. Nor can it be justly made an extraordinary offense if some shall have assumed the cloak of religion for evil purposes. When you will point us to a Territory where there is no hypocrisy or crime we will acknowledge our responsibility for this imperfection. Let him among you who is without sin cast the first stone.

But the important influence on the country of Mormon enterprise has not been confined to Utah. It may not be known to all who listen to me to-day that the disciples of its faith have borne a leading part in the settlement and improvement of other portions. The first discovery of gold in California in 1847-8, which excited the whole civilized world and precipitated upon the Pacific coast that avalanche of immigration which transformed a semi-wilderness into proud and populous States and carried the frontier of American settlements to the very ocean was made by a portion of the Mormon battalion of Colonel Cooke after their discharge from service. The first mint for coining that treasure into a circulating currency was erected in Utah for the convenience of her people, and that coinage is now sought for as a curiosity by persons from all portions of the globe. The first American immigrants who entered the harbor of Yerba-Buena, now San Francisco, came on the Mormon ship Brooklyn, bringing with them a printing press and library, thus founding the literature of the State, and introducing many improvements in the building of mills and other important enterprises. The first brick ever burned in California were the work of a Mormon.

And now, sir, having recounted some of the difficulties under which the Territory of Utah was settled it becomes my pleasing duty to epitomize the chief features of its present condition. I could refer you to numerous narratives of disinterested travelers—to the works of Burton, of Bowles, of Greeley, of Richardson, of Hepworth Dixon—for full details; but shall content myself, in view of my limited time, with a brief recapitulation. The stranger visiting Utah to-day will find not only a railway reaching to within fifty miles of its chief city, but good wagon-roads, many of them constructed with great labor, extending in all directions, and lines of magnetic telegraph aggregating over five hundred miles in length, and the work entirely of Mormon industry and capital. He will see over one thousand miles of canals, bringing the mountain streams into contact with the fields which it is their mission to fertilize; and can then better understand how it is that a population superior in numbers to that of some of the States is supported in comfort, including one hundred villages and thirty incorporate cities. Inquiry will instruct him that not only is the Territory free from debt, but that the local, county, and other scrip is so limited in amount and so promptly paid as to be on a par in value with the legal-tender currency of the United States. If a foreigner—a native, perchance, of any of those European countries from the humblest classes of which a large percentage of the citizens of Utah have been drawn—he will be amazed to know that seventy-five per cent. of the families of the Territory are sheltered by their own roofs and owners of the homes which they have created and which year by year increase the comforts which reward their industry and their frugality. He will see more than this, a population comprising one hundred thousand souls, and not

one adult of either sex among them who is not able to read and write his native language intelligibly.

To-day the material improvements of Utah exceed those of any other Territory in the Union. She has one hundred and fifty grist and saw-mills, three cotton and four woolen factories, and twenty-five tanneries, with numerous manufactories of shoes, hats, wagons, furniture, nails, and kindred branches of the mechanic arts. A hundred and twenty school-houses supply her eighteen thousand children with the opportunity for elementary instruction, and a hundred churches furnish the people with the means of congregational worship. Her vineyards and orchards are already providing fruit in abundance and of superior excellence; her fields produce the needful grains and roots, and even indigo and madder for domestic use. Her woolen mills draw their supplies from the flocks which whiten her hillsides, and her cotton mills owe their existence to the fields of cotton whose bursting bolls mimic the snows that glitter on the neighboring hills. The silk-worm is spinning for her people its shining thread. In the cities enterprise and skill have emulated the architectural achievements of older communities; cottages embowered in vines, fine dwellings and offices, spacious warehouses and elegant theaters, attest the intelligence and taste of the people. The foundations of the great temple now being erected in Salt Lake City may well excite surprise and admiration. In the tabernacle, capable of seating ten thousand souls, there is now being constructed by her own artisans, and almost entirely of domestic materials, the largest organ in America. These, sir, are some of the material evidences that go to refute all that has been uttered against Mormon thrift and intelligence.*

But, sir, the argument already becomes stale, for it is now patent to the world that the people of Utah are among the most thrifty of those which compose our common country. This crusade is directed against the Mormons as a sect. But what has become of the boasted tolerance of the age, and especially of the United States, which concedes to each individual and each congregation the right to worship God according to the dictates of their own consciences. It is said by some that the Mormons are fanatics, and by others that they are hypocrites. Even the Archangel Michael, when he strove with Satan, durst not bring against him a railing accusation; and the highest Christian authority has said, "Judge not, that ye be not judged." Of the sincerity of the Mormons it would seem that there could be no ground for doubt. Their unparalleled sufferings and surrender on various occasions of their sole possessions and even life itself rather than forsake their faith should close the lips of their slan-

*"How have these settlers in the wilderness done the things we see?"

"Simply, answers Young, by the power of work and faith; by doing what they profess, by believing what they say.

"Nearly all the forces which are found most powerful to sway men's minds in our lay societies—genius, reputation, office, birth, and riches—have been wanting in these Saints. No man of the stamp of Luther, Calvin, Wesley, has appeared among them. In intellect Joseph was below contempt. Brigham is a man of keen good sense. Pratt is a dreamer. Kimball is unlettered. Wells, Cannon, Taylor, Hooper—the brightest men among them—have shown no worldly gifts, no scholarship, eloquence, poetry, and logic, to account for such sudden and sustained success as they have met with in every land.

"The bee has been chosen by the Saints as an emblem of Desert, though nature has all but denied that insect to this dry and flowerless land. Young's house is called the 'Beehive'; in it no drone ever finds a place; for the prophet's wives are bound to support themselves by needle craft, teaching, spinning, dyeing yarn, and preserving fruit. Every woman in Salt Lake has her portion of work, each according to her gifts, every one steadfastly believing that labor is noble and holy; a sacrifice meet for man to make and for God to accept. Ladies make gloves and fans, dry peaches and figs, cut patterns, prepare seeds, weave linen, and knit hose."—*Extract from New America*, by William Hepworth Dixon.

derers in shame at such a charge. Well do I recollect, long before I cast my lot with the humble members of that church, an incident which deeply impressed me with the sincere faith of the people. My business led me to the levee of Nauvoo at the time of their expulsion; and when they were preparing for their departure they disposed of their clothing and their valuables to complete and decorate and furnish that magnificent temple to the living God which they believed themselves commissioned from on high to erect and consecrate. Not for themselves did they linger in that beleaguered city, nor with any hope of permanent resistance to the destroying mob, but because they were inspired by an enthusiastic sense of duty and a holy zeal more powerful than human impulse to complete the task assigned them by an invisible power, and to crown with order and symmetry the marvelous edifice.

And, sir, dark in contrast with this unselfish devotion to duty rises up before me the picture of the vandal violence that drove them from the sacred walls just as their work was finished and applied the incendiary torch to destroy the splendid structure. Nor, sir, would it be strange if a people so blessed amid persecution—so often protected from destruction and preserved amid dangers that threatened inevitable ruin—should become so intensified in their faith as to present to the irreligious an appearance of fanaticism. An extract from Gunnison happily illustrates one of these occasions. He says:

"During the following year, every month was so mild that they ploughed and sowed in each; but though the winter was auspicious and all things so favorable, they were so reduced in provisions as to eat the hides of the slaughtered animals and eagerly searched them out of the ditches and tore them from the roofs of the houses to boil them for the table, and they dug side by side with the miserable Utes for the wild roots used by them for food. But the most formidable animal they had to contend with as the crops were nearing maturity was the army of black, ungainly crickets—"a frightful bug," as a Liverpool sojourner called it when first he saw one, which, descending from the mountain sides, destroyed every green herb in their way. In vain did the sorrowful farmers surround their fields with trenches and fill them with water; the black host, leaping in, floated over and with wonderful instinct kept on their course of march, and, mounting up the wheat stalk, would cut it off at the curve, which was bent by the weight of the fruit more precious than golden seeds. Whole families might be seen standing guard with branches and boards in their hands, uttering loud shouts and endeavoring to turn back and beat off the invaders. In some instances they succeeded in changing the direction of the march along the streams, and destroyed many in the waters; but it was only a partial relief on a few points of attack.

"But better defenders soon came to their aid. These were the most beautiful birds of the valley. The glossy white gulls, with bright red beaks and feet, dove-like in form and motion, with plumage of downy texture and softness. After the first molting of the crickets they came in flocks to feast on the banquet which was so bountifully spread for their reception. In early dawn they rise from the nesting islands of the great lake, and gliding through the air, gracefully alight on the smooth and gentleslopes at the last of the terraces at the mountain's base and feast the livelong day."

The same year to which I have before alluded, and soon after the expulsion of the Mormons from Nauvoo, while they were prosecuting their slow journey across the wilderness of Iowa, there occurred vast flights of quails in the same direction, lasting many weeks. These pilgrims have informed me that large quantities of these quails were slain, and furnished the famishing pilgrims with ample supplies of food, reminding them vividly of the provision made for the Israelites in the desert, and impressing them deeply with a conviction of miraculous protection. It would not be strange, sir, I repeat, if a people possessing such remarkable traditions and experiencing such unexampled preservation shall have become filled with a conscientious zeal, akin to the divine fervor of the early disciples of Christianity.*

*"I have spoken to you of a people whose industry had made them rich and gathered around them all the comforts and not a few of the luxuries of refined

But, sir, the charge of fanaticism is as groundless as any of the others which have been hurled recklessly against the Mormons. If they are firm in their own religious faith, it is because they believe it to be inspired of God; and if not so inspired, they desire to be convinced of the error of their doctrine. They invite contact with general society, and a practical comparison of institutions. If mistaken in their creed they desire the opportunity of conversion. It is not the Mormons, sir, who evade the test, if it can only be made without the hardships of persecution. They have welcomed every advance that reunites them to society; and the construction of the great railroad that brings them face to face with the other civilizations and religions of the Old and New Worlds has been looked forward to with intense longing, and its completion hailed with undisguised joy. And it is at this very moment, when the test of contact is on the very eve of application, that the advocates of this bill, assuming themselves to be the champions of Christianity and Republicanism, shrink like timid children from the encounter and seek to intrench themselves behind the flimsy ramparts of political boundaries which they hope to erect for their defense.

Abandoning all appeal to the cowardly, who are seldom generous, I turn to the courageous, who are strong in the conviction of their own moral power, and tell them that if Mormonism is a fatal heresy they owe it to its own deluded disciples to neglect none of the legitimate means of argument and practice for their conversion. If Mormonism is an error there is no community on the face of the globe and no class of people so vitally interested in its refutation as the majority of the people of Utah, who are its victims. Rather than curtail the proportions of the Territory and cut off its settlements from contact with the railroad you should seek to enlarge its area, encourage its population by all classes of good citizens, giving the amplest protection of law by substituting for its present organization a more ample, complete, and sovereign form of government, leaving the issue with God and the inevitable forces of nature. We expect the hostility of all the non-producing classes who seek to subsist on vices which we do not practice. It is natural that those who stand agape for Government plunder should foment trouble and seek to embroil us with the

parent Government for the sake of the money they may make from contracts; but with a calm and just and intelligent spirit on the part of the people and their Representatives we are content to take all the risks of any contest in which we shall receive a guarantee of fair play.

But, sir, the confessed object of this bill is to entirely destroy the Territory of Utah and place its people, so far as possible, in the power of the hostile class that I believe are inspiring this action. It is admitted that if this bill shall pass the next movement will be to utterly abolish the territorial government. Once before has the State of Nevada—the foundation of which was laid at the base of the Sierra Nevadas by Mormon immigrants—taken a degree of territory from Utah with its people; now she seeks another, bringing her boundaries to the very threshold of its capital and within sight of its inhabitants; and the next step, as openly avowed, is to be final and absorb all the remainder. Thus the original object of the territorial organization, which was to give self-government to a homogeneous people and afford them the fullest guarantees of law, will be utterly destroyed. This, too, at a time when the good feeling prevailing among the people of Utah toward the rest of the country is so manifest to all eyes and so pleasing to all patriots and lovers of peace. Much of this good feeling, I am deeply gratified to state, is due to the recent impartial legislation and the kindness and courtesy which has uniformly been extended by this House to the Delegate to whom they have confided their interests on this floor. Is it possible that this policy is to be deliberately reversed and this budding confidence to be blasted by such an act of official injustice before it has an opportunity to blossom and bear fruit? Never will I credit an anomaly so foreign to the character of the American people, so hostile to the spirit of the age, so monstrous in its design, and so mischievous in its consequences, till I hear the vote counted and the result announced.

But, sir, let us for a moment contemplate the other alternative, and inquire what would eventuate from the success of this measure supposing such a success within the limits of possibility. Let us admit for a moment that this bill can become a law and the accumulated strength of its advocates be so increased as to enable them to complete their plans and sacrifice the small remnant left of the present territorial government. Let us imagine the people of Utah divided among States and Territories whose seats of government are remote and whose populations are measurably controlled by the adventurers who seek aggrandizement in rapid enterprises rather than by the slow and laborious processes of productive labor. Let us follow the machinations of these men till they have succeeded in securing so much of official control as will enable them to exasperate the temper of the Mormons by technical abuses so easy to practice, and till they have inspired the distant State authorities, already deeply imbued with prejudices, with a belief that these people are disloyal in spirit and criminal in act. Let us suppose the collisions which a temper like that which urges this bill will be sure to invite to actually take place, and the citizens to have been exasperated beyond the limits of forbearance, affording a pretext for such measures of force, both official and private, as shall render their peaceful residence in Utah impossible; imagine, if you will, the valleys of Utah again depopulated, and tell me where you are to find the immigrants who, uninspired by a peculiar religious faith and not bound together and controlled by a potential motive, will abandon the fertile prairies of the Missouri valley to cultivate those remote alkali lands, which can be made productive only by a costly and elaborate system of irrigation, and forsake the sunny climate of more favored regions for a land

where the seasons are in fierce and perpetual conflict and the constant care and labor of man is needful to give the summer a hard-won triumph.

The Mormons, unlike the inhabitants of all the neighboring Territories and States, are an agricultural and manufacturing people; and it is for this reason that they have been able to subsist in Utah. Drive them away, sir, and a temporary succession of mining adventurers may occupy their place for a short time and in small number until starved into abandonment; but the region, with small exceptions, will again lapse into sterility and become the undisputed domain of wild animals and birds. Already the tide of general emigration from Europe is beginning to diminish; the reforms of governmental administration in Ireland and the unification of the German States threaten seriously to interfere with those great movements of the masses which have given to America so large a proportion of her effective population. Of those immigrants that come how many, think you, will pass by the fertile prairies to locate in those rugged valleys, or after arriving pause to dwell there, while the unparalleled farms of Oregon lie but a day's journey beyond? Sir, Utah is the proper heritage of men who are bound together by ties stronger than those of avarice, and whose operations are directed by a spirit of unity which no other class of our immigrants possesses.

I have thus endeavored to present to the members of this House the facts and principles involved in this issue, and to measure, with the best judgment I can command, the consequences awaiting their action on this bill. To which side the balance of justice inclines it seems to me that none can fail to discover. It is a maxim founded on the common principles of our religious beliefs that to do right is always expedient. That it is right to exercise the power of unfriendly legislation against a community such as I have shown that of Utah to be, the disinterested judgment of the world will surely deny. As to expediency, aside from justice, I cannot see how any difference of opinion can exist. Let the future be judged from the past, and no rash and cruel experiments be substituted for an established order of things that has produced the happiest results. With the speedy and complete restoration of the seceding States to the Union I trust in God that all internal differences may vanish, and peace again reign within our borders uninterrupted and profound. On the part of Utah I am ready to pledge a conflict of energies for the rapid development of the resources of the land and for a friendly emulation in all manner of good works. Let the contest between her and her neighbors be as to, which shall exhibit the most prosperous condition and most rapidly expand into a moral and enlightened State. To this contest, sir, we joyfully invite them; but from any less kindly we trust the good sense and good feeling of the Representatives of the nation will assist to protect us.

I feel that I do not appeal to them in vain when I ask that their potent and united voices may be lifted up to those who would disturb the elements of our prosperity and advancement in that language which, long ago uttered by Him who spake as never man spake, stilled the tempest and gave tranquility to the waves—

"Peace, be still!"

And in the kindred language of our great leader of to-day, so beautifully paraphrased recently upon this floor by the distinguished gentleman from Ohio, [Mr. BINGHAM,] "Let us have peace!" Let us have peace by an act of peace, so that the land which but yesterday was stained with fraternal blood may grow green and beautiful under the hand of honest toil. Let us have peace that we may perfect the holy temple of our liberties until it shall fill the whole

life; expelled by lawless force into the wilderness; seeking an untrod home far away from the scenes which their previous life had endeared to them; moving onward, destitute, hunger-sickened, and sinking with disease; bearing along with them their wives and children, the aged and the poor and the decrepit; renewing daily on their march the offices of devotion, the ties of family and friendship and charity; sharing necessities and braving dangers together, cheerful in the midst of want and trial, and persevering until they triumphed. I have told or tried to tell you of men who, when menaced by famine and in the midst of pestilence with every energy taxed by the urgency of the hour, were building roads and bridges, laying out villages, and planting corn-fields for the stranger who might come after them, their kinsman only by a common humanity, and per-adventure, a common suffering—of men who have renewed their prosperity in the homes they have found in the desert, and who in their new-built city, walled round by mountains like a fortress, are extending pious hospitalities to the destitute emigrant from our frontier lines—of men who, far removed from the restraints of law, obeyed it from choice, or found in the recesses of their religion something not inconsistent with human laws, but far more controlling; and who are now soliciting from the Government of the United States, not indemnity, for the appeal would be hopeless, and they know it; not protection, for they have no need of it; but that identity of political institutions and that community of laws with the rest of us, which was confessedly their birthright when they were driven beyond our borders.

"I said I would give you the opinion I formed of the Mormons; you may deduce it for yourselves from these facts. But I will add that I have not yet heard the single charge against them as a community, against their habitual purity of life, their integrity of dealing, their toleration of religious differences in opinion, their regard for the laws, or their devotion to the constitutional Government under which we live, that I do not, from my own observation or the testimony of others, know to be unfounded."—*Extract from Colonel Kane's address.*

H. OF REPS.

Election Contest—Chaves vs. Clever—Mr. Clever.

40TH CONG....3D SESS.

earth with its glory and draw all nations into it. Let us have peace that by our sublime example we may teach the whole world of men how good and "how pleasant it is for brethren to dwell together in unity."

Election Contest—Chaves vs. Clever.

SPEECH OF HON. C. P. CLEVER,
OF NEW MEXICO,

IN THE HOUSE OF REPRESENTATIVES,

February 20, 1869.

The House having under consideration the New Mexico contested-election case—

Mr. CLEVER said:

Mr. SPEAKER: I came here to meet a report not a speech. When the gentleman from Pennsylvania [Mr. PETTIS] travels outside of the report and states facts which are not set forth in the report of the committee I think he does more than the Committee of Elections have authorized him to do. If he desires for one moment to connect me with any election frauds in New Mexico I will say that he or any one else who may believe any such thing is utterly mistaken. Sir, I was at the time of the election hundreds of miles away from the precincts to which the gentleman has alluded.

Mr. PETTIS. I disclaim any intention to impute to the gentleman any agency in those frauds.

Mr. CLEVER. I took it that the drift of the gentleman's remarks would leave such an impression upon the minds of members, and I have therefore taken the earliest opportunity to repel the charge.

But, Mr. Speaker, it is my purpose to ventilate this report, and I have prepared some remarks which I propose to submit to the House. If there is any disposition to travel outside of the record in the case let that disposition be manifest. But, sir, I believe that honesty and justice prevail in this House and in this country, and that the mere trickery of one or two individuals in the Territory of New Mexico cannot defeat the claims of one who has been fairly elected a Delegate to this House.

Mr. Speaker, the report of the Committee of Elections now under consideration, in my humble opinion, is founded upon a misapprehension of the law which should govern in this case and the facts as disclosed by the evidence. To the members of the committee who agreed to this report I desire to say that while I radically differ with them as to the conclusion they have arrived at I do not desire to be understood as intending to question their motives or to be discourteous.

In my argument I shall follow the order of this report and discuss every point therein made separately. Should I misquote the evidence or appear to be unfair by garbling disconnected extracts I hope the gentlemen having this case in charge will call my attention thereto. I do not desire to mislead any one.

I cite from the report, first page. Contestant "among other things charges:

Tierra Amarilla.

That at the said election in the county of Rio Arriba, in precinct No. 13, commonly called Tierra Amarilla, only 68 votes were cast for the sitting member, and that none other were found or counted by the judges of the election after the polls were finally closed; but that after the said counting, and before the probate judge sent an abstract, with the poll-books of the said county, to the secretary of the Territory, a poll-book was falsely and fraudulently prepared, by which it was made to appear that the sitting Delegate received 452 votes, and that the said fraudulent excess of 384 votes were allowed the sitting Delegate in the count, that gave him a majority of 540 votes in the Territory at such election, and that they should now be withdrawn.

The committee are of opinion, from the testimony of Miera and Salazar, that the allegation of the contestant in this respect is sustained by the evidence in the case, and that 384 votes erroneously allowed to the sitting member in the returns from precinct No. 13, formerly called Tierra Amarilla, in the county of Rio Arriba, should be deducted from the return made to and accepted by the territorial officials.

In regard to the election of this precinct, there were nine witnesses examined on the part of the contestant, of which the committee has seen proper to mention but two; and five witnesses were examined by the respondent, whose testimony seems to have been entirely ignored.

The first witness upon the stand for contestant is one Juan Ygnacio Miera.

And here, at the outset, it may be proper to observe that this witness, as well as Salazar, according to their own statement, live about eighteen leagues or fifty-four miles (Mis. Doc. No. 154, page 51,) from the precinct of Tierra Amarilla. Was there no one, not even among the eighty-two voters who the contestant avers did vote at said precinct, honest enough to give testimony in this case? Why had the county to be searched for fifty-four long miles before a witness could be found to testify as to the facts in this particular case?

If such a glaring outrage had been perpetrated upon the people and the contestant as heavers in his notice, does it not appear strange that the witnesses had to be taken and singled out from among those who lived fifty-four miles off, when, according to his own statements, he had twelve persons in the precinct who voted for him and who must have been his partisans, to say nothing of the sixty-eight persons who, according to his story, voted for respondent, most of whom, if the testimony of his witnesses can be believed, and the names given by them are correct, were with but a few exceptions Mexicans and his own countrymen?

The people of Tierra Amarilla as well as the rest of the New Mexican people are generally poor but strictly honest, and the fact that contestant had to go outside of that precinct to find his witnesses casts a suspicion upon their veracity, to say the least of it.

Now as to Miera: this witness, who is twenty-five years of age and resides at Abiquiu, went to Tierra Amarilla, as he testifies on page 30, (*ibid.*) because he chose to go there. "I desired to go there" "without having any other business."

This precinct, according to Miera, was settled in 1860, and contains seven settlements, two of which are abandoned, though first settled in 1867. He (Miera) has been there very frequently, and at one time remained there an entire month, and at other times for a few days at a time. He thinks he remained there once three months, but he is not positive as to the length of time upon the occasion last mentioned.

He remembers the days and the one month well, but as to the three months, which from the length of time should have impressed themselves more firmly on his memory, he testifies that he merely thinks so, and states this with a qualification, (page 31.)

However, he found it necessary to serve his cause to make out that for a reasonable length of time he had lived in a place fifty-four miles from his own residence, in order to make the idea that he really knew something of it more plausible.

Let us examine his testimony, and see if taken by itself it conforms to such rules as would enable it, uncontradicted by other evidence, to remove the presumption of the verity and correctness of a public record, as are the poll-books from Tierra Amarilla.

On page 31 (Mis. Doc. No. 154) witness says:

"Question. What length of time have you known the amount of population in the precinct of Tierra Amarilla?"

"Answer. Since the year 1861.

"Question. Is the population of that precinct a new or an old population?"

"Answer. It commenced being populated in 1860.

"Question. What means have you had of knowing the people in Tierra Amarilla?"

"Answer. I have been there very frequently, and have at one time remained there an entire month, and at other times for a few days at a time. I think I remained there once three months, but am not positive as to the length of time upon the occasion last mentioned."

When cross-examined he contradicts the above statement, (page 34, *ibid.*.)

"Question. How many settlements or plazas do you know in the precinct of Tierra Amarilla?"

"Answer. I know seven of them; two of them without inhabitants, and five with population. The towns of Puente, the plaza of Los Ojos, of Los Brazos, Encanada, and Las Nutritas are settled."

"Question. Which is the largest of the five?"

"Answer. Los Ojos and Las Nutritas are the two largest, but I do not know which of these two is the largest."

"Question. What is the population of Los Ojos and Las Nutritas?"

"Answer. I do not know; I can give no idea."

Thus, according to his own statement, he does not know the population of two of the largest settlements of that precinct, and this accords with his statement on page 32, (*ibid.*.) when he says:

"Question. Have you any means of knowing the number of legal voters at the election in the precinct of Tierra Amarilla in the year 1866?"

"Answer. I have no such means of knowing about that precinct in 1866."

Two days afterward, being recalled and having probably been well instructed, he again knows all about that precinct, and at this time more fully than before.

I give his testimony entire, but request the House to bear in mind that this is two days later than his first examination.

On page 50 (*ibid.*) we find him to say:

"Question. Look at the first eighty-two names on the poll-book purporting to be that of the election held last fall in Tierra Amarilla, and see if you recognize them as living in that precinct."

"Answer. I know the names of the 82 who first voted and who appear first on the poll-book, though some of them did not belong in Tierra Amarilla. There are five men named in these 82 votes who did not belong there, but they belonged in the county."

"Question. Now look over the balance of the names on that poll-book and see whether or not you recognize them as of persons living in Tierra Amarilla, and how many persons of the same name do you find in this list after the first 82 names?"

"Answer. I find but two names of persons who reside in Tierra Amarilla, who were there at the time of the election, but these did not vote. One was in the military service of the United States as a soldier, and the other had been discharged from the service, and he was not allowed to vote. I recognize 28 names on the poll-book after the number 82, which were enumerated among said first 82. I do not recognize, however, the surnames of these persons; only the Christian names."

"Question. State now the number of heads of families in the different plazas in the precinct of Tierra Amarilla."

"Answer. At the plaza of Las Nutritas there are about 25 or 26; in plaza Los Ojos there are some 20 or 21; in La Puente there are 10 or 12; in Los Brazos but 2, and in Calada there are 11 or 12. There are no more plazas or towns where there are any people."

"Question. Where have the inhabitants of the two settlements that were in Tierra Amarilla, but which are now depopulated, gone?"

"Answer. Some went into the towns or plazas now inhabited; some went to Cañones and some to Abiquiu, and others went to other inhabited settlements."

"Question. Of whom generally consist the heads of families? Have they many grown sons or not?"

"Answer. There are some old men, young men, and some women who are considered heads of families."

He now knows the heads of families in the two largest settlements, which two days before he did not know and could give no idea about.

He again contradicts himself in his *first statement*, and says on the same page:

"Question. What have been your means of knowing the number of heads of families in Tierra Amarilla?"

"Answer. I have had ample means, as I have been there very frequently, and my relations reside there. I have been in all the towns, (plazas.)"

"Question. How far apart are the towns and settlements in Tierra Amarilla?"

But further, he states that he recognizes twenty-eight names on the poll-book after the number "82," which he states positively were enumerated among the first eighty-two. But in the same breath he says that he does not recognize the surnames of these persons; he only recognizes the Christian names of them. In other words, he recognizes the names of Joseph, Charles, Henry, William, John, &c.; and from this fact he positively declares under oath that they are enumerated among the first eighty-two. A willing witness, indeed!

After having stated on page 34 that he does not know and can give no idea of the population of the two largest settlements of Tierra Amarilla, called "Los Ojos" and "Las

Nutrias," when recalled two days afterward, and cross-examined he pretends to know every voter in the precinct.

On page 51 (*ibid.*) he says:

"Question. Do you know each and every voter in the precinct of Tierra Amarilla at the last election?"

"Answer. I do.

"Question. Who are they, and what are their names?"

"Answer. Philip Madrid, Diego Madrid, Miguel H. Gallegos, Manuel Romero, Gabriel Velasquez, Francisco Martinez y Valdez, José Del Carmen Martin, Juan Pablo Baldez, Juan Pablo Martinez, Aniseto Velasquez, Juan Antonio Ruibal, Fernando Montano, Desiderio Valdez, José Ygnacio Ruibal, Andres Martinez, Eulogio Velasquez, Juan de Luna, Juan de Dios Jaramillo, Pedro Ruibal, Rinaldo Martin, Antonio Mestas, Jesus Ruibal, Ygnacio Velasquez, Juan Lopez, Serafin L. Chcon, Antonio Nerio Gomez, Antonio Nerio Martin, Manuel Gomez, Pedro Lopez, José Maria Lujan, Bentura Serrano, Domingo Abila, Juan Serrano, Francisco Martinez y Sanchez, Francisco Martin, Paz Martin, Manuel Martin, Enrique Mercure, Juan Floyad, Alejandro, an American, Santiago Canbel, José Maria Ruibal, Pablo Madrid, Nicolas Martin, Sabino Salazar, Antonio José Martin, Demesio Martin, Pedro Martin, Gabriel Valdez, Santos Samora, Jesus Maria Cordova; Thomas —, an American; Miguel Lobato, José Rafael Alire, Jesus Maria Velasquez, Bernardo Sanchez, Roque Sanchez, Ramon Sanchez, Francisco Abeita, Juan de Dios Ruibal, José Maria Valdez, Jesus Maria Archuleta, Antonio Archuleta, Juan Trujillo, Pablo Salazar, Juan Nepomuseno Valdez, Manuel Trinidad Samora, Pablo Velasquez, Ygnacio Martin, Eliseo Salazar, Juan Ygnacio Miera, Serafin —, (I do not know his surname, a discharged soldier.) I do not recollect the names of the others. I recollect Manuel Valdez, also Christobal Martinez.

"[Seventy-three names are reported by the witness.]

"Question. Are you certain that these are all the voters there on that day?"

"Answer. I am not certain these are all the voters; I may have omitted some names, but I am certain that those I have named were there and voted on that day. Possibly I may have named the same person twice.

"Question. Are you certain that Jesus Maria and Antonio Archuleta were there and voted on that day?"

"Answer. I am, for they live there.

"Question. Look at the poll-book and see if you see the name of Antonio Archuleta among the first eighty-two names on the list.

"Answer. I do not see his name, but I am certain that he voted."

Now, if you will please examine this list of seventy-three names you will find that five of them bear the Christian names of Manuel, four of Gabriel, two of Miguel, and four of them Francisco; the Christian names of six commence with José, and twelve with Juan; three are called Pedro, five Antonio, four Jesus, two Ygnacio, two Serafin, three Pablo, and the remainder are miscellaneous names.

He now knows all of Tierra Amarilla, fifty-four miles distant from his own residence, about which he knows nothing.

He lives at Abiquiu, and on page 51 (*ibid.*) he says:

"Question. How many heads of families live in Abiquiu, where you live?"

"Answer. About six.

"Question. How many families are there in all the settlements of Abiquiu?"

"Answer. I do not know."

He does not know how many families reside in the precinct of Abiquiu, where he lives, and perhaps tells the truth when he says, on page 52, "I know Tierra Amarilla as well as I do my own home."

This testimony of this witness was reduced to writing in the English language.

On page 33 (*ibid.*) witness states that he does not understand the English language.

On page 30 he says that Clever received 56 votes and Chaves received 12 votes; two votes were polled that were not cast for Delegate.

Without being capable of knowing what was written down in the English language he consults, as he says, on page 35, (*ibid.*) his memory, comes to the magistrate before whom the evidence is taken, and makes an explanation, (see page 31, *ibid.*)

"TUESDAY MORNING, February 4.

"Juan Ygnacio Miera resumed his testimony. The witness at the opening of the court stated through the counsel for contestant that he desired to explain his testimony of yesterday, he being under a misapprehension as to one or two of the questions propounded. He proceeded:

"I did not understand, or it was not explained to me, yesterday: I thought I was asked about the majority, and not the number of votes cast. I now say

that the majority of the votes cast was 56 for Mr. Clever; the whole number of votes cast for Delegate was 82; Colonel Chaves had 12 votes out of the 82. I do not know whether there were 66 or 68 for Clever. On yesterday I did not clearly recollect in what year the post of Tierra Amarilla was established. I recollect now. It was in the latter part of the year 1866, in the latter part of October or the early part of November."

Compare this with what he attempts to explain after consulting his memory, (see page 30, *ibid.*.)

"Question. What was the mode and manner in which the votes and ballots were counted and the result of the poll announced?"

"Answer. When the election closed at six o'clock in the afternoon the principal judge of election took the ballots out of the ballot-box and read them in presence of the people who were present. When he got through reading them he turned the ballot-box upside down, open, and struck it three times, to show that there were no more ballots in it. Mr. Clever had received fifty-six votes and Colonel Chaves received twelve votes. There were two votes polled that were not cast for Delegate."

And compare his explanation with his first answer and you will see that the memory he consulted must either have been confused or else he was testifying about a matter of which he knew nothing.

Again, on page 31, the witness is willingly led by the attorney examining him; and he says:

"Question. What was the size of the poll-book, and did each candidate have a column in which to number his vote?"

"Answer. It was a poll-book, but the paper was not very large. It was a small book of about four sheets. Each candidate had his name in the respective columns, and each voter was numbered opposite to his name."

On page 35, he says:

"Question. Did you, during the day of election in Tierra Amarilla, have the poll-book in your hands?"

"Answer. I did not."

And then flatly contradicts his statement on page 31, and says (page 35) when asked how many sheets were there in that poll-book that "there might have been two or three."

Now, compare the following statement of this witness and see if his testimony can be reconciled:

"Question. Have you told any one what your testimony would be in relation to this contested election?"

"Answer. I have not.

"Question. Did you not talk with Governor Arny, before he left for the States, as to what your testimony would be?"

"Answer. I have never conversed with him, nor told him what I would testify to.

"Question. Did you not give Governor Arny an affidavit about this matter?"

"Answer. I gave an affidavit, but took it before a justice of the peace; but not to Governor Arny.

"Question. Did not Governor Arny's son go with you to the justice's to obtain the affidavit?"

"Answer. They sent for me, and I went. The papers were made out when I arrived there.

"Question. Do you know who wrote the affidavit: William Arny or the magistrate?"

"Answer. I do not know who wrote it. When I arrived at the magistrate's I found it in writing, but do not know who wrote it.

"Question. Was the affidavit in English or Spanish?"

"Answer. It was in Spanish. I do not read English.

"Question. Did you sign an English copy of said affidavit?"

"Answer. The affidavit I signed and testified to was in Spanish.

"Question. If you did not speak to any person about this matter, how could any person write out an affidavit about it?"

"Answer. I did not talk with any person about it; but they knew that I was at the election, and I suppose they knew what the facts were. Eliseo Salazar, who was present with me at the election in Tierra Amarilla, probably said something about it. I believe the affidavit made by me was the same as that taken also by Eliseo Salazar."

And on page 36:

"Question. Was Don Eliseo present at the time you made the affidavit mentioned by you on the cross-examination?"

"Answer. He was not.

"Question. Did Eliseo make a like declaration with yourself?"

"Answer. Not to my knowledge.

"Question. What did you understand by your testimony to-day in relation to Don Eliseo's making an affidavit?"

"Answer. I suppose the affidavit was made out by Don Eliseo."

But further: Miera arrived in Tierra Amarilla, which contains according to his statement, seven settlements (two uninhabited) and which are a mile or more apart, at about five

o'clock in the morning of the day of election. At nine o'clock of said day he was at the polls, (see pages 33 and 34:)

"Question. How long prior to the election did you and Salazar go to Tierra Amarilla?"

"Answer. We arrived at Tierra Amarilla about five o'clock on the morning of the election.

"Question. How high was the sun on your arrival there?"

"Answer. The sun was not yet up.

"Question. Did you leave the polls at any time during the day until they closed in the evening?"

"Answer. I was at the polls all the time during the day, and was not absent more than fifteen minutes at any one time.

"Question. How high was the sun when the polls closed; was the sun yet down?"

"Answer. It was just before sundown when the polls closed. I did not go out of the door, but from the window I saw that the sun was still shining.

"Question. How long were the judges of election in counting the votes after the polls closed?"

"Answer. I do not know how long. I had no time-piece.

"Question. Did you not state on your direct examination that the votes were counted immediately after the polls were closed, and that after this you left?"

"Answer. When the officers of the election had finished counting the votes I left with Mr. Eliseo Salazar and others, and I do not know how many hours or how many minutes the officers were engaged in counting the votes.

"Question. Was it before or after dark that you left the place of election?"

"Answer. It was dark when I left."

On page 80 Salazar says:

"Question. When did you leave Tierra Amarilla for Abiquiu after the election?"

"Answer. The day following the election.

"Question. Who accompanied you to Abiquiu?"

"Answer. Juan Ygnacio Miera."

Now, I ask, how could Miera know who was or who was not at Tierra Amarilla? He arrived at five o'clock. The precinct is a large one; the settlements are many miles apart. He was at the polls all day, according to his statement, and yet he is found to say on page 35:

"Question. Were there not at the time of the election a number of persons cutting hay for the Government in the precinct of Tierra Amarilla?"

"Answer. At the time of the election there were not.

"Question. At the time of the election were there not persons there who were furnishing fruits to the troops in Tierra Amarilla?"

"Answer. There were not."

Miera and Salazar contradict one another, because Miera says on page 32, (*ibid.*):

"Question. At what place were you during the first three days after the last general election in the precinct of Tierra Amarilla?"

"Answer. At Abiquiu; but the first day I remained in Tierra Amarilla; the other two in Abiquiu."

On page 34 witness says:

"Question. How high was the sun when the polls closed? Was the sun yet down?"

"Answer. It was just before sundown when the polls closed. I did not go out of the door, but from the window I saw that the sun was still shining."

And further, on same page, witness says in the same breath:

"Question. Was the day fair or cloudy on election day?"

"Answer. I do not recollect whether the day was cloudy, or whether it rained, hailed, or snowed."

This, his last statement, seems to be confirmed by the testimony of Francisco Martinez y Sanchez, on page 151, (*ibid.*):

"Question. Did you or did you not see Juan Ygnacio Mora at the polls on the day of the last general election held at the precinct of Tierra Amarilla? If so, state at what time he came to the polls and at what time he left, if you recollect.

"Answer. I saw him at the polls; he was there from in the morning until about three o'clock in the afternoon; he commenced drinking and annoying us to such an extent that I was compelled to put him out; about half an hour afterward I went out and found him holding on to a post, and very sick and intoxicated; he returned to the polls a little before sundown, very drunk, and went away very shortly afterward."

The original depositions will show that "Mora" is a misprint; the word should be "Miera."

Witness says, on page 32:

"Question. If any means, words, or inducements have been made use of to induce you not to appear here and give testimony in this case, state by whom such was done, and when.

"(Objected to by counsel for Clever.)

"Answer. Words and means were so used on yesterday. I was told that no obligation rested upon me to attend as a witness upon this investigation. Don Diego Archuleta promised to make himself re-

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sponsible for any default of my non-attendance. This was at the pueblo of San Juan yesterday.

"Question. What reasons did Don Diego give to you that you would not be responsible if you did not appear as a witness?

"Answer. The reason he gave was that the appointment of the deputy marshal was revoked and that he, the said marshal, had no right to summon me."

In this he is contradicted by Diego Archuleta, who says on page 120, (*ibid.*.)

"Question. Do you know Juan Ygnacio Miera, the witness who has testified in this case?

"Answer. I do.

"Question. Did you see him and have a conversation with him on the first day the testimony was taken here, the 3d day of February?

"Answer. I saw him in San Juan. When I met him in that place he complained to me that he was threatened with the penalty of twenty-five dollars should he fail to appear here at this court. I asked him by whom. He said by the deputy marshal, Señal. I told him that Señal was deceiving him; that he was no longer deputy marshal, for his appointment had been revoked.

"Question. Did you in any manner counsel or advise him or offer him any inducements not to attend and testify in this case?

"Answer. No, sir; I thought his evidence would amount to nothing."

The memory of this witness seems to be exceedingly bad. On page 30 he says:

"Question. At what house was the election held, and who were the judges of election, and who the clerks?

"Answer. The election was held at the house of Bernardo Sanchez in the plaza of Los Ojos. Juan Lopez, Francisco Martinez and Bernardo Sanchez, were the judges, and Philip Madrid and Miguel Gallegos were the clerks of said election."

Philip Madrid, one of the clerks of the election, (on page 15, small pamphlet,) says that the election was held at the home of Francisco Martin. Now, I submit in all candor to the members of this House the question: is that witness to be relied upon; can his testimony be reconciled; would a sworn jury entertain it for a moment: will any one say that a solemn record could be impeached by such evidence?

About the precinct of Tierra Amarilla, contestant in his notice of contest says that fraudulent poll-books were prepared after the counting of the votes, and attempts to prove his allegation by Miera. Let us see how he succeeded. Page 31, (*ibid.*.)

"Question. Would you know the poll-books again were you to see one of them?

"Answer. Possibly. [Here the poll-list of the election was handed to the witness for identification.] This is not the same poll-book I saw at the election in Tierra Amarilla. [Poll-book marked "A" in presence of witness.]

Jesus Maria Ruibal, clerk of the probate court for Rio Arriba county, called to testify at the instance of contestant himself, and whose testimony he is not allowed to impeach, says, on page 36:

"Question. What is the number of the Tierra Amarilla precinct?

"Answer. Number 16.

"Question. Did you send a poll-book to the precinct of Las Truchas?

"Answer. I sent two. I sent two poll-books to each precinct.

"Question. By whom did you send those to Tierra Amarilla?

"Answer. I sent them by Don Philip Madrid, who happened to be here. Don Philip was not a clerk at the time I sent them.

"Question. After the election was held, how many poll-books were returned from Tierra Amarilla to your office?

"Answer. The two were returned which I had sent there."

And on page 39:

"Question. Look at this book that purports to be the poll-book of Tierra Amarilla; [the poll-book handed to witness:] has this the same number of sheets, and no more, that you furnished to Tierra Amarilla?

"Answer. This is the same book, containing six sheets, which I sent to Tierra Amarilla, and contains no more and no less sheets, and as I stitched myself."

The testimony of Don Juan Antonio Ruibal, probate judge for Rio Arriba county, found on pages 46 and 47, (*ibid.*.) who was called to testify by the contestant, sustains the correctness of the poll-books from said precinct. The depositions of Don Jesus Maria Señal y Baca, page 118, (*ibid.*.) and Diego Archuleta, page 119, (*ibid.*.) fully confirm the evidence of Jesus Maria Ruibal, probate clerk, and Juan Antonio Ruibal, probate judge.

The testimony of Francisco Martinez y Sanchez, judge of the election, pages 149 to 151, (*ibid.*.) and Philip Madrid, one of the clerks of said election, (Mis. Doc. 14, pp. 14 to 16, *ibid.*.) fully sustains the returns from that precinct.

Elisio Salazar, another witness for contestant, who was a candidate for office and who smarted under a defeat, was also examined by contestant, and his testimony seems somewhat more regular than Miera's. Neither is he a resident of that precinct, but as Miera had so contradicted himself that it was feared his testimony would be rejected as unworthy of belief he, Salazar, had prepared himself more fully to meet the troublesome emergency. He has the most of his testimony in writing so as not to make a mistake, some of which had been made out but a few days previous to the taking of depositions, and he was aided in so doing by one Antonio Maria Vigil; see pages 78, 80, (*ibid.*.) Now, what is most strange in this is that the eighty-third and eighty-fourth sections of the compiled laws of New Mexico, found on page 452, provide:

"Sec. 83. That the said judges shall close the election at six o'clock in the afternoon, and immediately thereafter shall open the ballot-boxes and publicly count the votes cast for each candidate, certifying the poll-books as provided by law: *Provided*, That said judges of election shall order that a copy of the certificate be entered in the poll-books, then to be signed by them and clerks, and transmitted to the justice of the peace of their precinct: *Provided*, further, That the said judges of election be required and obligated to give certified copies to the parties interested that may solicit the same: *Provided*, That these copies shall not exceed four in number.

"Sec. 84. That the said copies mentioned in the preceding section shall be as valid as the original certificates from which they were taken; and said copies shall be used and taken as proof in any contested election in this Territory as though they were the originals: *Provided*, That when any person or persons shall solicit of any justice of the peace a copy of the certificate on file in his office the said justice of the peace shall give a certified copy thereof free of charge."

Now, Salazar says (see page 18, *ibid.*.) "that he went to Tierra Amarilla for the purpose of watching the election, looking out for the election, and to challenge illegal voters, and that he was a candidate for senator." He came to watch the election—meaning that watching was necessary. Being a candidate for senator implied that he would be a man of some intelligence, and is presumed to have known the laws of the Territory. Being thus distrustful, why did he not ask for a certificate? Why does the contestant omit or avoid to produce the certificate filed with the justice of the peace in conformity with the law just read? The legal presumption is that the officers complied with the law; and this presumption is strengthened by the fact that no evidence has been presented creating a doubt as to such compliance. But contestant is satisfied with the evidence of witnesses, living fifty-four miles away from the scene of action. Compliance with law is nothing. The motto "*O homines semper ad servitutem paratus!*" is all that is desired. And this accords with the objection made by counsel for contestant when it was proposed to examine a judge of the election of the precinct of Tierra Amarilla who had been cited by them to appear and testify as to the vote given in that precinct. On page 117 we find the following:

"The counsel for Charles P. Clever offered to introduce as a witness in the above entitled cause Francisco Martinez y Sanchez, one of the judges of election at the last general election in the precinct of Tierra Amarilla, county of Rio Arriba, the name of said witness being included in the notice served by the said J. Francisco Chaves on Charles P. Clever, and being in attendance in obedience to a subpoena served upon him in conformity with the said notice. To his examination as a witness counsel for Chaves objected, and the court sustained the objection, and the said witness was not permitted to be examined. To which counsel for Clever protested and asks that this his protest be spread on the record. Upon the offer of the counsel of Charles P. Clever to introduce the Francisco Martinez y Sanchez the counsel for J. Francisco Chaves opposed the introduction of said witness because no notice had been served upon the contestant of an intention to examine the said witness on the part of the said Charles P. Clever."

Why this objection? Were the judges of

election, necessarily residents of Tierra Amarilla, less qualified to expose the fraud contestants to have been committed than witnesses living fifty-four miles away from the precinct? I leave it to the members of this House to make their own deductions.

Miera is positively contradicted by the probate judge and his clerk, as also by the testimony of Señal y Baca, Archuleta, and others, to say nothing of the testimony of Francisco Martinez y Sanchez, judge, and Philip Madrid, clerk of the election, who testify positively that 464 votes were cast, of which respondent received 452.

Sanchez says, page 149, (*ibid.*.)

"Francisco Martinez y Sanchez sworn:

"Question. What is your age, where do you reside, and how long have you resided in your present place of residence?

"Answer. I am forty-one years of age. I live in La Tierra Amarilla, in the county of Rio Arriba, and have resided there for the last seven years.

"Question. Where were you on the day of the last general election held in this Territory for Delegate to Congress?

"Answer. I was in Tierra Amarilla, and was one of the judges of the election of the precinct of Tierra Amarilla.

"Question. Were you present from the opening of the polls until the closing of the same?

"Answer. I was present from the opening to the closing of the polls.

"Question. Were you present when the votes cast at that precinct were counted? If so, state if you recollect how many votes were cast at that precinct, and how many votes were cast for Charles P. Clever and how many for J. Francisco Chaves.

"Answer. I was present when the votes were counted; there were 464 votes polled on that day at that precinct; Clever received 452 votes, to the best of my recollection, and J. Francisco Chaves received 12 votes.

"Question. Was the result of the election publicly announced to the persons present, and on such announcement being made was there any dissatisfaction expressed at the result announced by any person present?

"Answer. The result of the election was publicly announced, and no person present expressed any dissatisfaction as to the result of the election."

Philip Madrid says, page 15, (*ibid.*.)

"Answer. I am thirty years of age, a laborer, and I reside in Tierra Amarilla.

"Question 2. Where were you on the day of the general election in the year 1867, held in this Territory?

"Answer. I was at the Tierra Amarilla, and clerk of the election.

"Question 3. Were you present at the opening of the polls to the closing of the same on that day?

"Answer. I was.

"Question 4. At what time did the polls close?

"Answer. At six o'clock p. m.

"Question 5. Who were the judges and clerks of election on that day?

"Answer. Bernardo Sanchez, Francisco Martinez y Sanchez, and Juan Lopez were the judges of the election, and Miguel Gallegos and myself were the clerks.

"Question 6. If you remember what were the number of votes cast at that precinct on that day for Delegate state it.

"Answer. Mr. Chaves received 12 and Mr. Clever received 452.

"Question 7. Where were the votes counted, and were they counted in your presence?

"Answer. They were counted at the house of Francisco Martin, where the election was held, and were counted in my presence.

"Question 8. In what manner were the votes counted?

"Answer. The tickets were taken from the ballot-box and strung on a string.

"Question 9. After the votes were counted what was done with the tickets and poll-books?

"Answer. They were all placed in the ballot-box, and the box placed in the hands of one of the judges of election to be delivered to the probate judge, but as the judge had no horse the box was delivered to me to be delivered to the probate judge.

"Question 10. When and to whom did you deliver the ballot-box and poll-books?

"Answer. After the election; but I do not recollect the day I delivered them, but it was in the same week I delivered them to Juan Antonio Ruibal, who was then judge of probate."

Don Antonio Ruibal, probate judge, says, page 47, (*ibid.*.)

"Cross-examined:

"Question. Who delivered you the poll-book from Tierra Amarilla?

"Answer. Philip Madrid.

"Question. Did you see this poll-book before it was sent to Tierra Amarilla?

"Answer. I did.

"Question. Was it in any way changed or altered by him until it was returned to him?

"Answer. It was not.

"Question. Did you examine it after it was returned to you by Philip Madrid?

"Answer. I did not examine it until the day I counted the votes.

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"Question. Could it have been altered or changed after it came to your hands, and before the votes were counted, without your knowing it?"

"Answer. No."

"Question. Look at it and see if it appears as it did when you counted the votes as probate judge?"

"Answer. It is in the same condition."

And remember that Ruibal is the contestant's witness, and the statement I have just read is from his cross-examination.

Jesus Maria Seña y Baca says, page 118, (*ibid.*.)

"Question. Were you present at the house of the probate judge, Juan Antonio Ruibal, at the time the poll-books were received from the precinct of Tierra Amarilla, in this county? If so, state on what day and what time of the day they were received, and who brought them."

"Answer. I was present when those poll-books were received, on the day I left for Santa Fé. I am not certain as to the day, but I think it was Thursday. The messenger was Philip Madrid, one of the clerks of election at Tierra Amarilla. It was in the forenoon, between ten and eleven o'clock, that they were received. Juan Antonio Ruibal, Jesus Maria Ruibal, I think—I am sure that Don Diego Archuleta and Juan Garcia were present."

"Question. Did you see the poll-books when they were delivered to the probate judge at or about that time, and do you think that you would recognize them again if you saw them?"

"Answer. I saw the poll-books delivered to the probate judge. I think I would recognize them if I should see them."

"Question. Look at Exhibit A, now shown you, and see if you recognize it as the book, and by what do you recognize it?"

"Answer. I recognize this to be one of the books; there were two of them, as one was delivered by Philip Madrid, one of the clerks of the election, to the probate judge; I recognize it by the paper, but by no particular mark, because I did not examine it particularly, as I only wanted to see how the election had gone."

"Question. Did you look at the certificate of the judges? If so, look at it again, and see if the certificate appears now as it did then, as to the number of votes and appearance."

"Answer. It looks to me to be the same certificate, with the same number of votes; I observe no change in it; I took the number of votes from the poll-books."

Diego Archuleta says, page 119, (*ibid.*.)

"Question. Where do you reside now, and where did you reside during the last election?"

"Answer. In the county of Rio Arriba, Territory of New Mexico, Plaza de Luceros."

"Question. What is your age, and what are the offices, both under the Mexican Government and that of the United States, which you have held?"

"Answer. I am fifty-four years of age; I was first a captain in 1841 under the Mexican Government, and breveted to the rank of lieutenant colonel in the same year. In 1844 and 1845 I was delegate to the Mexican Congress from New Mexico. In 1846, at the time General Kearney entered New Mexico, I was colonel and second in command of General Armijo. In 1850, before the territorial government was organized, I was appointed district judge of the first district. In 1857 I was appointed Indian agent for the Capote Utes. In the rebellion of 1861 I was in command of six companies as lieutenant colonel in Fort Union. I was afterward appointed agent for the same Indians. I have been a member of the Legislative Assembly, both houses. I am now a member of the territorial council."

"Question. Were you at the house of Juan Antonio Ruibal, the then probate judge of the county of Rio Arriba, at the time the poll-books from Tierra Amarilla were received? If so, who delivered them; on what day were they delivered, and what time of day?"

"Answer. I was at the house of Mr. Ruibal when Philip Madrid delivered the poll-books from Tierra Amarilla. It was on the 6th of September, between two and three o'clock p. m."

"Question. Who, besides yourself, was present at the time of delivery, and to whom were the books delivered?"

"Answer. Juan Garcia, Jesus Maria Seña y Baca, and myself. The books were delivered to Juan Antonio Ruibal, the then probate judge."

"Question. Did you see the poll-books, and do you think you would recognize them were you to see them again?"

"Answer. I saw them, and think I would know them if I should see them again."

"Question. Look at Exhibit A, now shown you, and see if you recognize it as one of the poll-books then delivered; and if so, by what do you recognize it?"

"Answer. I have no doubt but that it is one of them. I know it by size, and I am certain it is one of them, because I had them in my hands."

"Question. Did you see the certificate of the judges of election to the poll-books? If so, state whether this appears to be one of them, from the number of votes and general appearance, or not."

"Answer. I saw the certificate. It is the same I saw."

"Question. Look at it and see if it is certified to by the judges and clerks of election?"

"Answer. It is."

"Question. What is the number of votes, as appears by this certificate, given to the respective candidates to Congress?"

"Answer. Chaves received 12 votes, Clever received 452 votes, as appears by the certificate."

"Question. Look at the names and numbers registered on the poll-book referred to, those in black ink as well as those in blue, and see if they appear to be in the same handwriting or not."

"Answer. I think that they are written by the same hand; the only difference is in the color of the ink."

Five witnesses rebut the allegations of fraud and sustain the verity of the official record, and three of these witnesses were public officers, who must necessarily have the best means of knowing all the facts of the case. They swear clearly and positively as to these facts, and they are not only unimpeached, but not the slightest attempt has been made or could be made to shake their veracity. And yet the committee have utterly ignored all of this evidence, and for all that appears in their report this House would be ignorant of its existence. The committee say that the testimony of Micra and Salazar sustain the allegations of fraud and should be conclusive here; but they omit to tell you that five credible witnesses contradicted *in toto* these two wandering, willing witnesses. The preponderance of unimpeached testimony, then, is largely in favor of the returns and their correctness, and a part of this testimony comes from the contestant's own witnesses.

It is therefore difficult to determine how the committee could arrive at the conclusion that the point made by the contestant is sustained. What principles of law or rules of evidence were applied to arrive at that conclusion I sincerely confess I am unable to imagine.

There is a peculiar feature in this case to which I shall briefly call the attention of the House. It will be remembered that upon the presentation of my credentials, in November, 1867, the honorable Speaker stated that he had received from the territorial secretary a letter notifying him that he, the secretary, had been compelled by force to sign his name to such credentials. The office of territorial secretary is an honorable one and its incumbent, to some extent, has to exercise official functions in counting returns for Delegate to Congress. Decency requires that he should interfere no more than is required of him by law in the performance of those official acts. The judge who would interfere in the management of cases coming before him for adjudication is certainly unworthy to wear the judicial ermine, and when a secretary is found to interfere to such an extent as we find that Secretary Heath has interfered in this case it is fair to presume that there must be a motive in so doing.

Now, we find that the depositions of the territorial secretary occupy nearly one half of the two printed pamphlets of testimony in the case. We find him not only as secretary and witness, but we also find him as attorney, sole attorney, and attorney for the attorneys of the contestant. We also find that without having been summoned as witness *duces tecum* he has taken possession of the records under his charge, belonging to the archives of his Territory, and transferred them to Washington, (see page 79.)

"The poll-book of Tierra Amarilla is now demanded by counsel for Mr. Clever, and it appearing that the same had been sent to Washington with testimony previously taken the counsel for the contestant enters his objections to the testimony of this witness and proceeds with the cross-examination under protest."

"To this counsel for Mr. Chaves states that the poll-book for Tierra Amarilla, being a part of the record in the testimony taken in Canada, in Rio Arriba county, and not having been introduced upon the examination-in-chief here, it was not competent for counsel for Mr. Clever on the cross-examination of this witness to call for it. Said poll-book has been transmitted to Washington city as part of the record and testimony in this case previously taken in La Canada, in Rio Arriba county."

That the Secretary, witness, &c., was also attorney is apparent from what we find on page 60, (*ibid.*.) as follows:

SANTA FÉ, NEW MEXICO, February 13, 1868.

SIR: The undersigned, attorneys for J. F. Chaves, in case of contested election to a seat in Fortieth Congress, finding it impossible to personally attend the taking of the evidence in said contested election

at La Junta, on the 14th instant, respectfully request that you represent us at that time and place and superintend the taking of testimony.

Very respectfully, yours,

BENEDICT & ELKINS,
Attorneys for Chaves.

It is shown in his testimony, and it did so appear before the committee, that the poll-books of every precinct concerning which contestant complains were annexed to the depositions, sealed up by the judge before whom the depositions were taken, and transmitted to Washington. When the respondent desired to explain and correct testimony concerning these poll-books the cool answer was, "*They have gone to Washington.*" Now, I submit to the members of this House in all candor if it was just to thus deprive me of an opportunity by evidence to fully ventilate the record evidence produced here? But the Secretary goes even further. Although he is one of the attorneys of record for contestant, and had also given his evidence positively and pointedly, he still thought there might be some difficulty about his case, and therefore induced his co-attorneys to address a letter to my friend, the honorable chairman of the Committee on Elections, requesting him to order the secretary as a witness on to Washington. Mr. DAWES has kindly consented to my taking a copy of that letter, which I now send to the Clerk's desk with the request that it be read.

The Clerk read as follows:

SANTA FÉ, January 31, 1868.

SIR: The undersigned, attorneys for Colonel J. Francisco Chaves, in case of contested election between him and C. P. Clever, esq., feel it a duty incumbent upon us, after having made a thorough examination of the poll-books of the different localities where frauds occurred at the September election for Delegate to Congress from this Territory, to inform you, both as Colonel Chaves's attorneys and his personal and political friends, to say that from the remarkable character of the poll-lists no adequate idea can be obtained of them, and the character of frauds patent upon them, through evidence or copies. We have therefore most earnestly to request that General H. H. Heath, the territorial secretary, who is perfectly conversant with every minutia of their character, be ordered on as a witness, with such official papers and returns of said election as bear upon the case, satisfied as we are that an examination of them by yourself and your committee, in connection with the evidence now being taken, will insure justice in the premises.

We would further state that General Heath has leave of absence from the State Department, but does not wish to go to Washington so soon as we desire without being ordered on.

Whatever reply you may be pleased to make to the above request we respectfully ask be telegraphed to Denver City, Colorado Territory, to be forwarded to us by letter, the expenses of which will be paid by Colonel Chaves or General Heath.

Very respectfully, your obedient servants,

BENEDICT & ELKINS,
Attorneys for J. F. Chaves.

HON. HENRY L. DAWES,
Chairman Committee on Elections,
House of Representatives, Washington, D. C.

Mr. CLEVER. It does seem that the disinterested secretary was very willing to pay expenses if ordered on to Washington. I now send to the Clerk's desk a paper, without making any comment thereon, except to say that it is signed by Hon. Francisco Perea, a first cousin of the contestant, who was the Delegate from New Mexico in the Thirty-Eighth Congress, and who has many friends and acquaintances on the floor of this House. He is one of the most respected and influential citizens of our Territory; one whose strict integrity has never been called in question. This paper is exemplified under the seal of a United States court, and bears date October, 1867, shortly after the election for Delegate.

The Clerk read as follows:

TERRITORY OF NEW MEXICO,
County of Bernalillo, ss:

This day personally appeared before me, the undersigned, clerk of the district court of the United States for the second judicial district of the Territory of New Mexico, Francisco Perea, and being duly sworn says, that some time about the day of September, A. D. 1867, he was present when several of the political friends of Colonel J. Francisco Chaves were gathered together, and while they were so gathered together it was stated by some of the political friends of Mr. Chaves that he, Chaves, had gone to Santa Fé to superintend the counting of the votes for Delegate

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to the Congress of the United States, and that said Chaves would get the certificate, as he had carried money with him with which to bribe the secretary; that to the best of the remembrance and belief of this affiant, Christoval Armijo, who was a warm political friend of Mr. Chaves in the late election and a man of wealth, was one of the persons who made use of the statement that Mr. Chaves had taken money with him to Santa Fé to bribe the secretary with.

FRANCISCO PEREA.

Subscribed and sworn to before me this 9th day of October, A. D. 1867.

[L. s.] BENJAMIN STEVENS, Clerk.

Mr. CLEVER. Now, when in the study of nature we wish to investigate the particular character of individual organization we place it under microscopic examination and by the effect of the well-known principles of optics make startling discoveries of hitherto unknown elements of life. So under the microcosm of political chicanery and the concentrated light of the documentary evidence just read we are startled by the delineation of the moral structure of the specimen of official organism now under examination.

But, Mr. Speaker, I had almost forgotten that the secretary of New Mexico had written to you a letter stating that he had signed the credentials presented by me under duress. Let us see if this accords with the positions he has occupied according to his own evidence.

On page 52 (Mis. Doc. No. 154) he testifies as to the "military positions" he had occupied. He was asked—

"What were those military positions?"

"Answer. Lieutenant, captain, major, brevet lieutenant colonel, full colonelcy, brevet brigadier, and brevet major general."

Is it possible that a person who has held all these positions could be made to sign an official document against his own will? He must either have written to you what was not the fact or else the Government was very much deceived in confiding to him trusts and responsibilities which he says had been conferred upon him. But that the secretary is a man of undaunted valor will more fully appear from a letter he wrote, a copy of which I send to the Clerk's desk to be read. I have seen the original and am satisfied that it is in his own handwriting. I also send a letter addressed to my friend, Mr. DAWES, by General Townsend, and ask that they both be read.

The Clerk read as follows:

ADJUTANT GENERAL'S OFFICE.

WASHINGTON, June 12, 1868.

SIR: The Secretary of War directs me to furnish you the inclosed copy of a letter signed H. H. Heath, and dated Dubuque, Iowa, April 9, 1861, in compliance with your request of this date.

I am, sir, very respectfully, your obedient servant.

E. D. TOWNSEND.

Assistant Adjutant General.

Hon. H. L. DAWES,

Chairman Committee of Elections.

DUBUQUE, IOWA, April 9, 1861.

MY DEAR SIR: I for the first time this morning learn from the papers that you are in position in the new confederacy. Accept, my dear sir, my congratulations, not more for your accession to honorable position than your felicity in having a home in a region where honor and principle go hand in hand and fanaticism and madness are thrust out. I, too, would have been there, where my heart ever is, had your president responded as promptly to me as my proffer of service was tendered to the new government. But I have not heard from him on the subject, though I do not yet despair of doing so in his own good time. I simply offered my military or civil services to him, in both of which branches I have had some experience. You may not be aware that I was the first publisher of the first paper ever started north of the Potomac expressly to defend southern rights. I mean the Southern Press, in Washington, in 1849 or 1850—the latter year I think. Since then I have been ever faithful to the interests of that section, and although a northern man by birth I have never been anything but southern in my feelings. I need not attest to you the course pursued by me during the Lecompton struggle as editor of the Northwest, nor either how I supported southern men and northern, too, who supported them. In doing so, it is true, I lost all I had in the world, and the post office here for three years, and from which I have been ejected as one of the first sacrifices to Republicanism, has only served to aid me in liquidating a portion of the indebtedness contracted during the exciting period of the first half of Mr. Buchanan's administration. If I were foot-free here, had I the means, in other words to support myself and wife for one year South, I would not remain out of the southern confederacy one day longer than would suffice to

take me thither. As it is, however, I dare not with a wife in delicate health leave here upon an uncertainty. I shall be one of your fellow-citizens again, however, if I am spared; and until then God prosper the southern confederacy. Our Episcopal liturgy you know has a prayer for the President of the United States. No man assuredly needs prayers said over him more than Mr. Lincoln, and so I respond amen, but while the rector is repeating in the prayer "the President of the United States," I am hastily interpolating "also the president of the confederate States;" so that you see our friend, President Davis, is not quite forgotten before the Father even in the ultra North.

There are all sorts of rumors of war just now. The New York Tribune and Times have at last I apprehend goaded the new President on to a policy that must lead to a collision. Let it come, if so it must. There are tens of thousands of loyal hearts at the North who never will accede to coercion, and not only so, they never will pull a trigger against the South. Before I would march against my brethren of the South I would suffer myself to be hanged on the first tree before the eyes of my own wife. Indeed, there are many Republicans who declare their abhorrence of the policy of secession, and I think the sentiment is on the increase, particularly in the Northwest, the interests of which are so entirely linked with the South. But while old Abe grants the lion's share of the spoils to the Northwest, he lends his ear to the treacherous advice of New England's fanatics, and will through them profitably drive the two nations into war. God grant that in any event your government may maintain itself, now that it has undertaken to do so upon her own account, as against all foes from whatsoever quarter they may come. Do me the favor to show this already too lengthy epistle to my friend Colonel Clement; and, wishing you every prosperity,

I remain very truly, as ever, your friend.

H. H. HEATH.

H. ST. GEORGE OFFUTT, esq., Montgomery, Alabama.

P. S. It would give me great pleasure to hear from you at your convenience.

ADJUTANT GENERAL'S OFFICE.

WASHINGTON, June 12, 1868.

Official copy of a letter on the files of the War Department.

E. D. TOWNSEND,

Assistant Adjutant General.

Mr. CLEVER. It must be presumed that the secretary of New Mexico, prior to entering upon the discharge of the duties of his office, must have taken the oath prescribed by the act of July 2, 1862, which oath requires him to declare, among other things, that he has "voluntarily given no countenance, counsel, or encouragement to persons engaged in the rebellion; nor sought any office under any pretended authority in hostility to the United States." I beg the members of this House to compare the letter just read with the oath the secretary was required to take before he could exercise the functions of his office, and then determine in their own minds whether that man is worthy of belief, notwithstanding he is clothed with official authority and has given his testimony under the sanctity of an oath. Would the man who would have "suffered himself to be hanged on the first tree in the presence of his own wife before he would march against his brethren of the South" suffer himself to be forced into the signing of an election certificate? Will you believe the man who took the test-oath after having expressed himself as he did when he comes to testify before you, especially considering the circumstances I have set forth?

The secretary of the Territory is the custodian of the archives of the Territory, and the poll-books are under his charge, and possibly the statement of the contestant's attorneys, "that General H. H. Heath, the territorial secretary, who is perfectly conversant with the minutiae of their character," may mean more than was intended to have been communicated to the honorable chairman of the committee. He who upon his bended knees, before the altar of his country and his God, could interpolate along with the benediction for the lamented Lincoln, a blessing on the country's arch-traitor and enemy, is unworthy to be the custodian of the archives of a sovereign Territory! He who could even by thought or word mutilate or pervert the ritual of his church to the purpose of applauding the rebellion, or sympathy with treason, is a fit instrument for bribery, corruption, and fraud. Gentlemen, I leave the history of the whilom rebel sympathizer, his character, his evidence, and his sacredly kept

records of state to your consideration and for your reflection, and hope you will accord to them such measure of credence as their character may call for and justify.

The report of the committee on page 2 contains the following:

"It was also charged by the contestant that in precinct No. 12, commonly called Santa Clara, in the county of Mora, the sitting member received 56 votes only, a majority of 37 over him, the contestant, and yet that the poll-books were falsely and fraudulently made to appear that the sitting Delegate received 190 votes, and the contestant 19, and that such excess, which was 134 votes, was fraudulently counted and allowed to the said sitting Delegate."

The committee are of opinion, from the positive testimony of José Angel Padilla and the appearance of the poll-book itself, which was in evidence before the committee for inspection, and the fact that the vote in the precinct in September, 1867, was over five times as large as the election preceding, and twice as large as the one succeeding, that at least 134 illegal votes were cast in such precinct called Santa Clara, in the county of Mora, and having been allowed to sitting member, should be deducted from the vote credited to him in the return made to and allowed by the secretary of the Territory."

It seems, in the point made above, that the committee have determined, from what they style "the positive testimony of José Angel Padilla, and the appearance of the poll-book itself." The animus of the witness José Angel Padilla, upon whose testimony the committee seem to have formed their opinion, and which is styled by them "positive testimony," is found on page 107, (*ibid.*) and is as follows:

"Question. Have you been threatened by any of the partisans of Mr. Clever on account of the affidavit you made in this case at La Junta, in February last?"

"Answer. I have been so threatened and for the reason named. I have been threatened with having all the injury done to me that those opposed to me politically could do on account of that affidavit, and came near getting into a serious difficulty with one of Mr. Clever's partisans and friends, who assaulted me on that account. Mr. Fernando Nolan, one of the clerks of the election at Santa Clara, on the 2d of September, 1867, was present on the latter occasion, an accomplice in the assault, and Nolan himself threatened me with future injury."

The tone of this witness' testimony does show that animus, but I omit to read the same, as his testimony was taken *ex parte*, as appears on page 91, (*ibid.*) showing that notice was served and accepted on the 15th day of May, 1868, to take testimony in the county of San Miguel on the 25th day of May, 1868, when notice to take testimony had previously been given to contestant and served upon him by the marshal of the Territory on the 12th day of May, 1868, (see page 181, *ibid.*) to take testimony on the 22d day of May, 1868, at the county of Santa Ana. The testimony of José Angel Padilla must be precluded if law prevails in this case, for the reason that the contestant could not take testimony, according to the act of Congress, within five days after the taking of testimony by respondent. (See Statutes-at-Large, volume 9, page 569.) Respondent having given notice to contestant, which was served upon contestant's attorney three days prior to contestant's notice, by law Padilla's testimony must be excluded.

If law is respected and Padilla's testimony is excluded there remains nothing upon which to found the opinion of the committee except the inspection of the poll-book itself, which, having been in the custody of the territorial secretary, might or might not be the poll-book from that precinct. This I leave for the members of this House to determine. I have no faith in the identity of poll-books that have passed through the hands of Mr. Heath; but you gentlemen may have. The man who would not pull a trigger against his brethren of the South, and not receiving an appointment from J. Davis comes North to hold office, is no friend or companion of mine. The smoothness of the testimony of José Angel Padilla proves its fallacy, and, unhappily for him, he is contradicted by several witnesses, namely, Benigno Baca, page 28, and Manuel Abeita, page 32, (small document,) who sustain the returns. Why the committee have rejected the testimony of the last two-named witnesses, whose character for truth and veracity has not been

impeached or attempted to be impeached, discrediting or ignoring their testimony, and only give credence to the testimony of Padilla, whose character for truth and veracity has been impeached, I am at a loss to imagine. If the rule of evidence that a preponderance of testimony should prevail has any applicability here I should think that the returns of the probate judge should not be impeached except upon the most satisfactory evidence. Secretary Heath's poll-books may show differently, but I believe that two honest native citizens of New Mexico are entitled to a greater measure of belief than he or all the poll-books he can furnish to this Congress.

The report of the committee says:

"It was also charged by the contestant that in precinct No. 11, known as La Junta precinct, in Mora county, the place of voting was illegally and fraudulently placed beyond the settlements and resident voters of the precincts and held in a shed erected for that purpose upon an open plain, and that persons who were desirous of voting for him were grossly and violently assailed by the friends of the sitting member, and by such means were intimidated and entirely prevented from voting, and that after the polls were closed the returns were so changed as to fraudulently increase the vote of the sitting Delegate 100, and that the great majority of persons who voted at such poll were camp followers and had no legal right to vote under the laws of the Territory.

"The committee are unable to find any good reason for the fixing of a place so unusual as was the one in this instance for the holding of an election, and do believe from the evidence that coarse, improper, vulgar, and threatening language was used by the friends and followers of the sitting member, and evidently for the purpose of intimidating and preventing persons from voting for the contestant, yet the committee cannot for such reasons recommend the throwing out of the whole vote of such precinct; Yet from the testimony of Walter Fosdyke, and the appearance of the poll-book itself, they are of opinion that the poll-book was fraudulently altered and changed after the polls were closed and before it passed into the possession of the secretary of the Territory, so as to increase the vote certified by the judges and clerks of the election (Mr. Fosdyke being one) in favor of the sitting Delegate from 538 to 638, and that the same having been wrongfully allowed the sitting Delegate by the secretary of the Territory should now be deducted."

If the committee was unable to find any reason for fixing a place for the election at the point it was held, I desire to call their attention to the testimony of Mr. William Kroenig, (pages 76 and 77,) a witness introduced by contestant. As to the words "friends and followers of the sitting member" "using coarse, improper, vulgar, and threatening language," I desire to say that I was many miles away from that precinct on the day of the election; and while the language of the report of the committee has the appearance of harshness, I cannot but believe that it was unintentional. Touching the character of my friends and adherents in the election referred to for decency and honesty I may well challenge comparison with those of my honorable competitor.

As regards the precinct of La Junta, the committee seem to have come to their conclusion upon the testimony of Walter Fosdyke and the appearance of the poll-books, again ignoring the rebutting evidence produced by respondent. This witness was one of the judges of La Junta precinct, and appears to testify with a vengeance. He, too, seems to be the victim of malicious persecution, but after examining his evidence closely it will be easy to discern the reasons for unfriendly conduct toward him. On page 104 (*ibid.*) we find him to say:

"Question. Have any of the prominent supporters and partisans of Mr. Clever exhibited any hostility toward you on account of the testimony given by you in this case in February last at La Junta?"

"Answer. In what, decidedly."

"Question. In what manner has this hostility been manifested?"

"Answer. Both personally and financially."

It is very seldom we find honest people to be persecuted for telling the truth; falsehood is always detested. This witness was examined twice, and in his first examination he speaks of poll-books throughout. On page 63 (*ibid.*) he says:

"Question. Would you recognize one or both of the

poll-books of that election with the certificates attached, which you signed, if presented to you?"

"Answer. Yes, sir."

"Question. Look at this poll-book marked 'A,' and see if you recognize it as one of the poll-books of that election."

"Answer. I recognize this as one of the poll-books, except three sheets tacked in the center of the book, which I do not recognize. My name is attached to the certificate in my own handwriting. This certificate was read off to me by the clerk, Nelson. I did not read the certificate that night. It was written by the clerk and handed to me for my signature, which I gave him. My impression is that the 638 votes that are here registered on the certificate were not read off according to register by the clerk. Had they been I should have detected the mistake at the time. The three sheets tacked in in the center were inserted after the poll-book went out of my hands and my signature had been attached to the certificate, and that is the reason why I do not recognize them as part of the poll-book."

On page 104 (*ibid.*) he contradicts his statement, and says:

"Question. Were there two poll-books of the election on the 2d day of September, 1867, at the La Junta precinct made?"

"Answer. There was but one."

On the 17th day of February, 1868, this witness was brought upon the stand and was solemnly sworn "that the evidence he should give in this cause be the truth, the whole truth, and nothing but the truth." Under this solemn injunction it was his duty to relate all he knew of the facts, without concealing or adding anything. He was again brought upon the stand on the 26th of May, 1868; and on page 101 (*ibid.*) he makes these answers:

"Walter L. Fosdyke sworn:

"Question. Have you been examined in this case before?"

"Answer. Yes, sir."

"Question. At your first examination at La Junta did you give all the facts connected with the election for that precinct in September, 1867?"

"Answer. No, sir."

This, his last answer, is given unqualifiedly and can leave upon a discriminating mind but one conclusion, namely: that at his first examination he did not state the whole truth, as required by his solemn obligation, but did conceal a portion of the truth. Now, then, if he was capable of concealing the truth he must be capable of perverting the truth; if he did withhold or diminish the truth of facts the presumption is that he was capable of augmenting falsehood, and his testimony must certainly be taken with a great deal of caution when it operates upon the rights of others. His testimony as found on pages 101 to 104 (*ibid.*) is of such a character that if true it could not have escaped his memory. Had the committee fully weighed that testimony they would have found that this witness deserved but a small degree of credibility.

Mr. H. H. Heath again appears upon the stage as an attorney, interpolates in his leading question, and makes this witness show the full extent of his *animus* in giving his testimony, hurling his anathemas against the other witnesses who have testified in this cause. On page 102 (*ibid.*) we find the following:

"Question. Have you read the evidence given by the other two judges of the election and a clerk of the election, as taken at an *ex parte* examination at Santa Fé in February last?"

"Answer. I have."

"Question. Was that evidence in accordance with the facts, so far as it related to the result of the voting in the La Junta precinct?"

"Answer. It was not in any essential particular."

"[Here the witness insisted upon giving testimony as to the truth or falsity of the evidence given by those two co-judges at Santa Fé, as published in the Santa Fé Gazette, in his own terms. Counsel for Colonel Chaves referred the question whether Mr. Fosdyke be permitted to state in his own language his knowledge of the truth or falsity of the evidence of those two judges as given at Santa Fé, and his honor decided that Mr. Fosdyke be allowed to so give his testimony.]

"Answer. I say that those two judges have sworn falsely, knowing the facts relative to the result of the election at La Junta to be different from what they swore to, and they have absolutely perjured themselves. The facts of the case are precisely as given in my former testimony."

This witness's two co-judges, Juan Estaban Trujillo and Benito Romero, as also Juan Baldouados, one of the clerks of said election

in said precinct, all of whom testify that 643 votes were polled at that precinct on that day and positively contradict Mr. Fosdyke, are styled by him as perjurers. These men are old men, near the verge of the grave, are the contestant's own countrymen, could have no earthly interest in this cause save that to tell the truth, and whose character for truth and veracity it has not even been attempted to impeach except by Mr. Fosdyke, are denounced by the latter in the bitterest possible terms.

But, Mr. Speaker, let us, for the sake of argument, reverse the case. Suppose the grand jury should indict Mr. Fosdyke in this particular case and cause him to be brought before the bar of the court to answer the charge, and upon trial was confronted with the three witnesses above named, would the plea that they were Mexicans and ignorant avail himself any? Mexicans, sir, with a few exceptions, have as much regard for the sanctity of an oath as the people of any other country. Fosdyke positively contradicts himself. No contradiction can be pointed out in the testimony of the other three witnesses, and therefore the presumption of their being truthful men is largely in their favor.

I might go on and point out many more irreconcilable inconsistencies in Fosdyke's testimony, but time does not permit me so to do. On page 102 (*ibid.*) he states that he has seen the testimony of Mr. Mink, which he also denounces as false; but unfortunate for Mr. Fosdyke Mr. Mink never gave any testimony, as no depositions of his are found in the printed evidence.

Now, as to the poll-book. Mr. Fosdyke says on page 63 (*ibid.*) that he recognizes the one before him as one of the poll-books, except three sheets tacked in the center of the book. He states that he recognizes only five hundred and forty-three names, the number of votes polled. Examining the poll-book itself it appears that in order to have five hundred and forty-three names nearly eight pages of the three sheets are consumed. If his statement that three sheets were tacked in was true there would remain only two hundred and forty-two names, so that it is easily discernable that Mr. Fosdyke's power of recognition is liable to mistake, to say the least of it. As to the change of the figure five in the certificate to the poll-book, I desire to say that he who can interpolate something in a prayer for purposes of his own might interpolate in poll-books.

That the vote for Delegate in that precinct was much larger than for county officers is fully explained by the testimony of Trinidad Lopez, who, on page 72, (*ibid.*) says:

"Question. Did you not have an agreement with Mr. Mink on the day of the election to the effect that if he would cut from the tickets the names of the county officers and vote for the Delegate alone you would not oppose Clever for Delegate?"

"Answer. I had an agreement with Mr. Mink that if he would cut off from his ticket the names of the county officers I would not delay the election by swearing men on the side of Mr. Clever. That is, if Mr. Mink would cut off the names of the county officers from his tickets which he had for distribution I would not challenge his voters."

Such an agreement may seem strange, but it is explained by the testimony of one Juan Estaban Trujillo:

"Question. How did Trinidad Lopez conduct himself on the day of election; as a quiet and peaceable man or otherwise?"

"Answer. He was there speaking very loud and excited, but do not know whether it was from the effects of liquor or not."

"Question. Did he challenge the votes of any old-looking men on that day and have them sworn as to their age before he would permit them to vote, or not?"

"Answer. He did challenge one man that was turning gray as to his age."

Mr. Fosdyke being positively contradicted by three witnesses, taken in connection with his own contradictions, it is impossible for me to comprehend why the committee could base their opinion upon the testimony of Walter Fosdyke alone, ignoring the testimony of two judges and one clerk of the election. Their

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testimony, found on pages 140, 141, 142, and 143, (*ibid.*) reads as follows:

"Juan Baldonados sworn:

"Question. What is your age, where do you reside, and how long have you resided where you now live?"

"Answer. Thirty-four or thirty-five years of age; in the La Junta; about nine years.

"Question. Where were you on the day of the last general election held in this Territory for Delegate to Congress?"

"Answer. In La Junta.

"Question. What position did you occupy on that day in the election? If any, state.

"Answer. As clerk of the election.

"Question. Were you at the election from the opening of the polls until the closing of the same?"

"Answer. I was.

"Question. When the polls were closed were the votes cast at that election counted and the result announced?"

"Answer. Yes, sir.

"Question. How many votes were cast at that election? And if you know, state how many were cast for Clever and how many for Chaves.

"Answer. Six hundred and forty-three. Mr. Clever received 638 and Mr. Chaves received 5.

"Question. Was the result of the election announced and published to the persons there present?"

"Answer. It was announced in high voice.

"Question. Was there any dissatisfaction expressed when the election was announced by any of the persons present?"

"Answer. No discontent expressed.

"Question. Were the officers of the election present when the result of the election was announced and published?"

"Answer. They were all present.

"Question. Who swore in the officers of election?"

"Answer. The justice, George Gregg, [person present who is register of the court of examination.]

"Question. Was that election a quiet or disorderly one?"

"Answer. It was very quiet.

"Question. Did you see Trinidad Lopez there on the day of the election?"

"Answer. I did.

"Question. Was he under the influence of liquor or was he sober?"

"Answer. I noticed him considerably excited, but do not know whether he was under the influence of liquor or not.

"Question. Did you see any man during the election prevented from voting by violence or otherwise?"

"Answer. I did not.

"Question. What was done with the poll-books and the ballots after the tickets had been counted?"

"Answer. The ballots were placed in the box, and a paper pasted on the under side of the lid covering the aperture, with Mr. Nelson's name (the other clerk) written on it. The box was closed and a paper placed over the aperture on the top, and Mr. Nelson's name inscribed on the top. The poll-books remained in hand of Mr. Nelson and Mr. Fosdyke.

"Question. Who is Mr. Fosdyke and what position did he occupy in that election, if any?"

"Answer. He was one of the judges of election.

"Question. Did you use during the election ink of different colors?"

"Answer. We did; the ink we commenced with gave out, and we got ink from Mr. Tipton, and some paper also.

"JUAN BALDONADOS."

"Juan Estaban Trujillo sworn:

"Question. What is your age, where do you reside, and how long have you resided where you now live?"

"Answer. I am fifty-two years of age; I live in the La Junta, and have lived there about ten years.

"Question. Where were you on the day of the last general election held in this Territory for Delegate to Congress?"

"Answer. In the Junta, precinct No. 11, county of Mora.

"Question. What position, if any, did you hold on that day?"

"Answer. I was one of the judges of the election.

"Question. How many votes were polled at that precinct on the day of election?"

"Answer. Six hundred and forty-three.

"Question. How many were cast for C. P. Clever, and how many were cast for J. Francisco Chaves?"

"Answer. Six hundred and thirty-eight for C. P. Clever and five for Mr. Chaves.

"Question. Were you present when the election was closed and when the votes were counted?"

"Answer. Yes, I was.

"Question. Was the result of the election announced and published to the people present after the votes had been counted?"

"Answer. Yes, sir.

"Question. Was there any dissatisfaction manifested when the result of the election was announced by persons present?"

"Answer. No dissatisfaction was expressed.

"Question. What was done with the poll-books and ballots after the votes had been counted?"

"Answer. The tickets were placed back in the box and a piece of paper was pasted over the inside of the aperture and one on the outside of the aperture through which the tickets were placed in the box, and Mr. Nelson's name written on both pieces of paper; and the book and poll-book remained in the hands of Mr. Fosdyke, who was judge, (I cannot pronounce the name,) and of Mr. Nelson, the clerk.

"Question. By whom was the judge of election sworn in?"

"Answer. The justice, George Gregg.

"Question. Did you or did you not sign the certificate attached to the poll-book setting forth the number of votes polled at La Junta, together with Mr. Fosdyke and the other judge of election?"

"Answer. Yes, sir, I did; and at the time all the judges were present, and signed at the same time.

"Question. Did you see any man prevented from voting on that day by violence used by any one present or officer of the election?"

"Answer. I did not; there was no one prevented from giving his vote in that election.

"Question. Did you see Trinidad Lopez at or near the polls on the day of election?"

"Answer. I did see him.

"Question. How did Trinidad Lopez conduct himself on the day of election—as a quiet and peaceable man, or otherwise?"

"Answer. He was there speaking very loud and excited, but do not know whether it was from the effects of liquor or not.

"Question. Did he challenge the votes of any old-looking men on that day, and have them sworn as to their age before he would permit them to vote or not?"

"Answer. He did challenge one man that was turning gray, as to his age.

his
"JUAN ESTABAN X TRUFUILLO."
mark.

"Benito Romero sworn:

"Question. What is your age, where do you reside, and how long have you lived in your present place of residence?"

"Answer. Forty-one years. I reside in the county of Mora, in the precinct of La Junta, and have lived there for seven years.

"Question. Did you or did you not attend the last general election held in La Junta for Delegate to Congress?"

"Answer. Yes, sir, I did attend the election, and as one of the judges of said election.

"Question. Were you present at the opening of the polls and at the closing of the same?"

"Answer. Yes, sir, I was.

"Question. Did you or did you not attend the counting of the votes cast at that election in company with the other judges of said election, and were the votes not counted very soon after the closing of the polls?"

"Answer. I did attend the counting of the votes, and they were counted very soon after polls closed.

"Question. How many votes, according to that count, were polled on that day at the La Junta precinct; and how many were for Clever and how many were for Chaves?"

"Answer. Six hundred and forty-three were polled on that day; for Clever 638, and for Chaves we only found 5.

"Question. Was the result of the election publicly announced to the persons there present by the officers of the election; and if any expression of discontent was exhibited by any person present at the result of the election as announced, please state?"

"Answer. The result of the election was publicly announced after the count was over, and when the result was publicly announced no person expressed dissatisfaction thereat.

"Question. How many inkstands were used during the election and at the counting of the votes?"

"Answer. During the election there were two inkstands, each clerk having one. When the election closed and they retired to the house of Julien Tipton they had but one, which was furnished by the son of Mr. Tipton.

"Question. Did you sign the certificate of election attached to the poll-books together with the other judges of said election?"

"Answer. I did; the judges were all present when we all signed the same.

"Question. Was the certificate attached to the poll-books read to you and the other judges before it was signed?"

"Answer. It was read by Mr. Nelson on request of us that it should be read in Spanish.

his
"BENITO X ROMERO."
mark.

The returns from the thirteenth or Moreno precinct, in the county of Mora, and those from the fourteenth precinct or Valle de Misouri, in the county Socorro, were made under color of law and under the authority of the laws of an organized Territory. The Territory of New Mexico is large in extent, and the precincts in said Territory must necessarily be large. Settlements are constantly extending, and if there is to be, according to the opinion of the committee, but one voting place in each precinct, many an honest citizen will be prevented from voting. No allegation of fraud or illegality as to the votes cast has been made by the contestant, and inasmuch as the committee has ruled out technical points made by myself I am of the opinion that the rule should operate both ways. The Territory of Wyoming has only an existence in law. No organization under that law has as yet been effected. There are no counties nor precincts, no authority to hold an election therein as at

present constituted. Yet the committee have recommended the admission of her Delegate. While I believe the committee to be right in their recommendation, I must object, however, to Wyoming enjoying any more privileges than New Mexico.

The question as to the Rio Bonito precinct, in the county of Socorro, stands upon a different footing. That precinct was organized by the Legislative Assembly of the Territory of New Mexico by act approved January 15, 1858, and there exists no act upon the statute-book for its repeal. The statute reads as follows:

"SEC. 4. That the ninth precinct, 'Rio Bonito,' shall comprise all the inhabitants residing within thirty miles of Fort Stanton."

No allegation of fraud or illegality as to the votes cast in this precinct has been made. The precinct, judging from the number of the votes polled at the election, (182 votes,) must be a large settlement. It will appear from the testimony of Mr. Shaw, found on page 38, (Mis. Doc. No. 14) that Rio Bonito had been recognized as one of the precincts of Socorro county. Here is his testimony:

"Question. Where did you reside, and what position did you occupy in 1867?"

"Answer. I resided in the town of Socorro, county of Socorro, and occupied the position of probate judge of said county.

"Question. Had precinct No. 13, of the county of Socorro, been recognized by your predecessors, and was it recognized by you as an established precinct of that county?"

"Answer. It was so recognized by me, and had been recognized as such by my predecessors; that is, the Rio Bonito precinct; I do not know the number.

"Question. While you acted as probate judge were election returns made to you for justices of the peace and constables for that precinct?"

"Answer. They were.

"Question. Why does this precinct now appear as being precinct No. 13?"

"Answer. The clerk of my court informs me that there was another precinct No. 9, and that the precincts of said county run up to No. 12, and this number was given to it so as not to conflict with any other.

"Question. Did you appoint judges of election in 1867 in the said precinct of Rio Bonito?"

"Answer. I did; the poll-books were sent from my office in due form.

"Question. Now, Mr. Shaw, look at that pamphlet of the laws of the Territory of New Mexico, passed by the Legislative Assembly in 1857-58, and approved on the 15th day of January, 1858, and see if you find the act establishing the precinct of Rio Bonito.

"Answer. I do find such act and the limits are, 'all the inhabitants residing within thirty miles of Fort Stanton,' as appears by said act."

All the precincts in the Territory are mentioned by some specific name, and numbers are added for the sake of convenience. Will any one who has any pretense to or knowledge of law (except Secretary Heath) for a moment pretend that the erroneously numbering of these precincts in the different counties reveals such precincts? Such an idea, in my opinion, is preposterous. This precinct was recognized; local officers were elected and commissioned, justices of the peace exercised their functions therein and executed the laws of the country without any interference on the part of any authority. Under the execution of law and the exercise of rightful authority by such justices of the peace rights have passed from individuals to individuals, property has been transferred and conveyed, rights have accrued, and under the law of the Territory marriage contracts have been celebrated. Suppose that the judicial tribunals of New Mexico were to adopt the opinion of the committee as a rule of action, what would be the result? Acquired rights would be annulled, property relations set aside, marriages declared void, and poor, innocent beings, the offspring of loving hearts, declared illegitimate or bastards. And here, Mr. Speaker, permit me to say that before I would lend a hand to such a procedure I would rather give up ten seats in Congress.

The committee say that they are satisfied from the testimony of Mr. Heath, the secretary, and the statutes of the Territory that at the time of the election that precinct had no legal existence. Most of the testimony of the illustrious secretary is about the law of the Territory—whether he desired to lecture Congress

I do not know—certain it is that lawyers generally believe the law to prove itself. The passage of an act renumbering precincts cannot be construed as recognizing their non-existence at the time of such renumbering, and the act of 1868 could have no bearing upon the status of the Rio Bonito precinct in September, 1867. The laws then in force must govern. The testimony of H. H. Heath is not law, nor should his construction of law be regarded as authority.

The committee in their report further state:

"It was also charged by the contestant that the returns from the several precincts in the county of Doña Ana were in most cases arbitrarily and illegally changed, to such an extent as to alter the result from the return of the judges of the various precincts, which gave a majority for the contestant of 169 votes, to a majority of 144 votes for Clever.

"The committee are of opinion, from the testimony of J. F. Bennett, who acted as a clerk for the probate judge and justice of the peace at the county seat of Doña Ana, upon the sixth day after the election, upon the first Monday of September, 1867, that the action of the said probate judge and those acting with him was unauthorized and void, and that the 393 votes that were thus arbitrarily and illegally deducted from the lawful return in favor of the contestant should be restored to him and allowed, as well as the 80 votes in the same manner withdrawn from the vote returned in favor of the sitting Delegate."

This question involves a construction of statutes. Section seventeen, page 434, of the compiled laws of New Mexico, provides:

"Sec. 17. Within six days after the election the probate judge shall call to his assistance one of the justices of the peace of the county and publicly examine and count the votes polled for each candidate, giving notice thereof two days previous, which notice shall be posted up at the court-house for the information of the people where the examination is to be held, and any citizen shall have the right to question the legality or illegality of any vote."

Our first inquiry is: what is the meaning of section seventeen, above referred to. The probate judge within a certain time shall call to his assistance a justice of the peace of the county and examine and count the votes. If it was intended that he should only *count* the votes, why is the word "*examine*" inserted in the statute? Would it be reasonable to construe that the lawgiver meant the probate judge to pass merely an ocular inspection of the ballots and poll-books; or is it more reasonable to presume that it was the intention of the Legislature to *examine* a case or a question brought before the probate judge in a judicial capacity? But if we construe that portion of the statute in connection with the last sentence, "*and any citizen shall have the right to question the legality or illegality of any vote,*" we are forced to the conclusion that something else than a mere ocular inspection of the votes polled was intended.

Where a right is granted a remedy for the enforcement of that right is implied. To say that A shall have the right to present himself before the probate court and say, "Mr. Judge, B, who is not a citizen of the United States, and is by the organic act prevented from voting in this Territory, did vote; and for that reason I come here to question the legality of his vote," and the probate judge to answer him, "Mr. A, I am glad to see you; I am glad you manifest a spirit to uphold our laws; will be glad to see you at my house after court adjourns, but here I am a mere mummy and can decide nothing," seems to me to be an absurd construction of the statute. Again, the statute uses the language, "*to question the legality or illegality of any vote.*" If the statute only intended to give to a citizen the right to object to votes and have that objection recorded, why is not this language employed: "*to object to the legality of any vote.*" But it says, "*to question the legality or illegality of any vote;*" doubtless meaning that one party might object to a vote as illegal, while another party may maintain that that vote is legal. This, then, brings a legal controversy before the court, and to say that the probate judge has no right to decide that controversy seems to me to construe a statute different from its obvious meaning.

But if we compare the above-mentioned section of the statute with another section of the same statute it will be found that the construction I give to the seventeenth section is correct. The twenty-sixth section of the same act (see page 438, *ibid.*) provides:

"Sec. 26. The probate judges of the respective counties, to whom is forwarded a transcript of the votes, within ten days after the time limited for the examination of the votes, shall forward to the secretary of the Territory by a special messenger a true extract of the votes polled in their respective counties for Delegate to Congress, members of the legislative council, and house of representatives, accompanying with said extract a poll-book of each precinct."

Thus it will be seen that the probate judge is required to forward not an *abstract* of the aggregate vote polled in each county, but an *extract* of the votes polled in their respective counties for Delegate to Congress, to the secretary of the Territory. Construe the two sections together and it will be found that it must have been the intention of the lawgiver that the probate judge should have power to examine the ballots or votes cast, entertain questions about their legality or illegality, and after having decided upon the controversy brought before him and purged the returns of illegal or fraudulent votes to forward an "*extract*" thereof to the secretary.

By the rules of law courts are to take judicial notice of the meaning of words in the vernacular language. According to Webster "*extract*" means that which is extracted or drawn out, or that which is taken from an aggregate. If, then, the probate judge is required to furnish an *extract* and not an *abstract*, it logically follows that he may omit something; and if we inquire what that omission might be we must come to the conclusion that it should be the votes whose legality or illegality was questioned before him and the illegality of which he decided in his judicial capacity.

But in order to ascertain the degree of fairness with which the probate judge of Doña Ana county proceeded in this instance let us examine the testimony of J. F. Bennett, to which the committee in their report have alluded. On page 170 (Mis. Doc. 154) he says:

"Question. When the votes were counted, as you have heretofore stated, after the last general election for Delegate to the Fortieth Congress, was there many people in the court-house, and how many people were there to hear and determine the good and bad votes in that election?

"Answer. There were present at the counting and summing up of the votes cast at the last general election at the court-house in La Mesilla, Doña Ana county, one hundred and fifty or two hundred persons.

"Question. Did the best and oldest citizens of Doña Ana county come here to see that those votes were rightfully counted?

"Answer. Many of the best and oldest citizens of the county were present at the count, and I presume they were there for that purpose."

And on page 169:

"Question. What was the manner of determining the legality or illegality of the votes through means of the sworn evidence of those citizens?

"Answer. When the voter's name was called by the probate judge, if none of the bystanders made objection, it was taken for granted that the person was a qualified voter; but if an objection was raised to any voter the person making such objection was asked the grounds upon which he based his objection, which was by him stated, when he was required to produce at least two credible witnesses to substantiate his objection, under oath; and when two or more such witnesses testified under oath that any such voters were not qualified voters, such voters, and none others, were rejected."

The larger portion of what is now known as the county of Doña Ana was acquired by the United States under the so-called Gadsden-purchase treaty, proclaimed June 30, 1854. At the time of the acquisition there were but few and scarcely populated settlements in the county. Many of these persons, comprising at least thirty-three per cent. of the male adult population of said county, moved thither after the proclamation of the treaty from the neighboring States of Chihuahua and Sonora, republic of Mexico. They were not citizens of the United States; but few of them were ever naturalized.

On page 174 (*ibid.*) Mr. Bennett says:

"Question. How far does your actual knowledge of the qualified voters of the county of Doña Ana extend, and on what ground do you base your belief that thirty-three per cent. of the people of this county are not qualified voters?

"Answer. I have been a resident of Doña Ana county since the fall of 1862, and my belief that thirty-three per cent. of the people of that county are not qualified voters is based upon the fact that I am pretty generally acquainted with the people of said county. Have been present on many occasions when United States and territorial grand and petit juries have been empaneled, and was present when sworn evidence was produced before the probate judge and justice of the peace when they counted and examined the votes polled at the last general election, when about 500 votes polled at that election were upon such evidence declared illegal. My official duties have also brought me in contact with all the people of the county, thereby enabling me to form what I believed to be a pretty correct opinion as to their citizenship."

And on page 1768, (*ibid.*):

"Question. What was the principal cause for rejecting votes from the count at that time?

"Answer. The principal cause for rejecting votes from the count at that time was upon the grounds that the persons casting the ballots were not citizens of the United States; others were rejected upon the ground of being minors.

"Question. What means had the probate judge and justice of the peace of ascertaining these facts?

"Answer. The sworn testimony of citizens of the county present at the counting and summing up of the votes."

Now, I maintain that the laws of the Territory confer upon the probate judge the power to reject illegal votes at the time and in the manner as was done by the probate judge for Doña Ana county. In that respect he constitutes the canvasser of the votes. That his action in the premises was fair and proper and not arbitrary, as the committee aver, is shown by the testimony of Mr. Bennett, examined at the instance of contestant. The action and returns of the probate judge are presumed to be correct until the contrary is shown by competent testimony. I claim that under the laws of New Mexico and the rules of evidence it was the duty of the contestant to prove affirmatively that the votes rejected by the probate judge were legal votes and that their rejection by the court was erroneous, as in this event the *onus probandi* rests upon the contestant.

Let us reason further. By the organic law of the Territory it is provided that after the first election shall have been held the time, place, and manner of holding elections shall be as prescribed by law. Suppose the Legislature had provided by enactment that at a given time the probate judges of each county should appear at the court-house in their respective counties and open polls; that they might or might not admit persons to vote; that they might examine the legality of every vote prior to receiving the same, &c.; could you refuse here to receive the returns of the probate judges prepared in the manner indicated? Congress has delegated certain powers to the Legislatures of the Territories; the enactments of the Legislature, if they conform to the Constitution and laws of the United States, are law until repealed by Congress. No one will pretend that in the enactment of the election laws of New Mexico the Legislature went beyond its delegated powers; that is, "*to legislate on all rightful subjects of legislation.*" By express provision of the statutes of New Mexico probate judges are authorized to reject whole returns; he shall examine and hear questions of legality or illegality of votes cast. The probate judge of Doña Ana county complied with these enactments; his acts were judicial acts, presumed to be legal; and I repeat that nothing but positive affirmative proof of the legality of the votes and returns by him rejected can invalidate the returns made by him to the secretary.

The returns from one or two precincts in that county were rejected by the judge for the reason that they were not signed by the officers of the election. If the opinion of the committee prevails probate judges in New Mexico may hereafter count from any lists of names without legal authentication whatever. All this

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goes to show that the Legislature must have intended to clothe that officer with certain judicial functions in matters of elections; and unless his decisions are shown to be erroneous I contend that the adjudication of that officer must hold good.

As to the mode and manner in which the returns from Mora county were forwarded to the secretary of the Territory, I shall say nothing except to read the testimony of Don Vicente Romero, probate judge, one of the best citizens of our Territory, (see page 143, *ibid.*.)

"Present, as on yesterday. Don Vicente Romero now appears and asks leave to explain as to the manner in which the poll-books were forwarded, as he misunderstood the question as explained to him on yesterday; which leave is granted by the court.

"Answer. I accompanied the person who carried the books from his house to Fort Union, where they were delivered to Harry Harriss, the postmaster, for the purpose of having them forwarded to Governor Mitchell. I sent them by mail and accompanied the mail man to Fort Union for the reasons that there were rumors in circulation that there would be an attempt made by the Chaves party to take the books and destroy them; and in order to have them more securely conveyed, I requested Mr. Harriss to forward them in the most secure manner, and to have them indorsed in such a manner as to induce the belief that they were not poll-books. The ballot-box from the La Junta precinct, when I received it, was wrapped with yellow paper, and the paper sealed, and the top of the box and over the aperture was pasted white paper in the form of a cross, with Mr. Nelson's name on the paper."

Henry V. Harriss, esq., the postmaster at Fort Union, on pages 87 and 88, (*ibid.*.) called on the part of contestant, testifies as follows:

"Question. Did you or did you not, at any time after the last election, see the returns of the election in the county of Mora, in bulk or separately? If so, state how, and in what manner, and when.

"Answer. I saw what I supposed to be the returns in bulk; they were given to me by Vicente Romero to be delivered in Santa Fé.

"Question. Did you deliver them yourself in Santa Fé; if so, to whom?

"Answer. I did not.

"Question. Were they sent to Santa Fé?

"Answer. They were.

"Question. By whom, and how?

"Answer. I sent them there by the southern overland express.

"Question. To whom were those returns addressed in Santa Fé?

"Answer. I do not recollect to whom they were addressed when they were handed to me; but I put another wrapper over them and directed them to Governor Mitchell, at Santa Fé, New Mexico. They were sealed when handed to me.

"Question. What was the direction and inscription, if you recollect, as you transmitted the package?"

"Answer. Governor Robert B. Mitchell, Santa Fé, New Mexico—value, \$5,000."

"Question. What kind of paper was that package wrapped in?

"Answer. It was wrapped in post office paper, the same as used in mailing letters. I put the outside wrapper on myself and addressed it as above.

"Question. Was the package handed to you by Vicente Romero, purporting to have been the returns of the last general election held in this county, examined by you?

"Answer. I did not examine it.

"Question. Did you send that package by what you deemed to be the most safe conveyance?

"Answer. I did."

As the law providing that the returns shall be forwarded by the probate judges to the secretary is only directory, intended only to secure the speedy and safe transmission of such returns, and as it is conclusively shown that the intention of the probate judge in forwarding the returns as he did was to prevent the Chaves party from capturing them, and no evidence having been adduced that these returns have been tampered with, but, on the contrary, that they safely reached the hands of the secretary without having even been opened by Governor Mitchell, I dismiss the subject.

The committee, on page 4 of the report, say.

"And the additional fact in evidence that in two districts or precincts in said county the vote of 1867 amounted to 948, although in 1866 the same precincts were in one and polled but 337 votes."

In 1866 there was no general election held in the Territory. The testimony throughout shows that the vote in the different counties and precincts where no general election is held is very small, sometimes only one third or one fourth. Contestant has used H. H. Heath long enough; now I beg to be permitted to use him for a moment.

We find on pages 39 and 40 (Mis. Doc. No. 14) the following:

"NOVEMBER 13, 1868.

"Present as on yesterday.

"Taking of testimony resumed.

"H. H. Heath sworn:

"J. F. Chaves, by S. B. Elkins, attorney.

"H. H. Heath, attorney for attorney, now presents a protest herein, as of yesterday, which is overruled.

"Question 1. Are you the secretary of the Territory of New Mexico?

"Answer. I am.

"Question 2. Have you in your office the returns of the election held in the county of San Miguel, during the year 1867 and 1868? If so, state the difference of the vote in that county of the year 1867 and 1868.

"Answer. The returns named are on file in my office, and I have them here. The vote cast for Colonel Chaves in 1867 was 2,137, and that for General Clever 999, being a total vote for Delegates of 3,136. The Republican vote in the county of San Miguel in 1868 was respectively for the candidates 1,202, 1,204, 1,073, and 1,139."

And he hastily interpolates as he did interpolate in the prayer—

"there having been, as I believe, no Democratic candidate in the field.

"Question 3. What was the highest number of votes cast for any one Representative?

"Answer. Twelve hundred and four.

"Question 4. Look at the extract of the returns from Peña Blanca for the years 1867 and 1868, county of Santa Anna; if so, state what is the difference in that precinct of Peña Blanca?

"Answer. The vote for Delegate in precinct No. 1 in the year 1867 was 165; and in 1868 the number of votes cast for representative was 118.

"Question 5. Have you in your office the roll-books or abstracts of the vote cast in precincts Nos. 13 and 14, as returned to your office, from the county of Socorro, in the year 1867?

"Answer. I have not.

"Question 6. What disposition did you make of said poll-books and abstracts?

"Answer. That abstract and those poll-books were transmitted to Washington city, with the evidence taken at La Junta, in February last, to the best of my recollection, with the testimony which I gave at that examination.

"Question 7. Were those poll-books and abstracts made exhibits in that testimony or not?

"Answer. They were.

"Question 8. Was a subpoena *duces tecum* served upon you to produce that abstract and poll-books or not?

"Answer. I do not recollect whether I was subpoenaed *duces tecum* or not. I was the acting attorney upon that examination for the attorney of Colonel Chaves, and had been subpoenaed as a witness upon that examination, and know that those poll-books and abstract were necessary to my evidence, and therefore took them."

Here, then, you have the testimony of the secretary, witness, attorney, sole attorney, and attorney for attorney, (*objecting to the taking of his own testimony*.) showing that in the county of San Miguel the vote at the local election had fallen off nearly two thirds from the vote of the general election in 1867.

The lists of registry furnished by the secretary of the voters who registered in 1868 shows more plainly what little interest our people take when there is no general election. On page 8 (Mis. Doc. No. 14) the following certificate is found attached to the registry list:

Yo, Trinidad Lopez, miembro de la comision de registro por el precinto No. 11, del condado de Mora, certifico que los nombres puestos en la antecedente lista de registro no acaido personalmente subscritos por ellos mismos y acaido puesto en su ausencia, con la excepcion de dies u dose.

TRINIDAD LOPEZ,
G. W. GREGG.

Which, translated into English, reads:

"I, Trinidad Lopez, member of the board of registers for the precinct No. 11, of the county of Mora, do hereby certify that the names inserted in the foregoing list of registry were not personally subscribed by the parties themselves, but have been placed on the list in their absence, with the exception of ten or twelve.

TRINIDAD LOPEZ,
G. W. GREGG.

Now, in the precinct where the committee concedes that a large number of votes were polled only twelve persons appeared to register for a local election.

I dismiss this subject, only remarking that in my opinion there can be found no evidence in this case warranting the remark contained in the report of the committee.

On page 4 the report, speaking of the precinct of Bernalillo, states, "and that although there is no evidence that the return was either

incorrect or fraudulent they recommend that such majority of 139 be withdrawn from the contestant's vote as returned to the secretary of the Territory."

I may be ignorant of what the word "evidence" means; but on this point I will read a portion of the evidence. On page 129 (Mis. Doc. 154) Mateo de Luna says:

"Question. State, if you know, by whom the ballots were generally passed in to the judges.

"Answer. The most of them were handed in through a vacant square for a glass in the window by Mariano Otero to one of the judges, and he would cry out the name of the person to the judges."

Section twenty-two, page 436, Compiled Laws of New Mexico, provides that "all votes shall be by ballot, each voter being required to deliver his own vote in person." Most of the votes being handed through a vacant square for a glass by one Mariano Otero, and not delivered by the voter himself, seems to me to be a fatal defect as to the votes so handed in.

Mr. Luna continues, (same page:)

"Question. Did you see any person prevented from voting on that day through threats or intimidation? If so, state about how many.

"Answer. I did not hear any threats or menaces used, but I did see many persons having tickets to vote for Mr. Clever pushed away from the window and prevented from voting."

And on page 130 (*ibid.*) Mr. Luna says:

"Question. Were the tickets opened by any one during the day and the names of the candidates on the ballots called off?

"Answer. The tickets were handed in doubled up and placed in the ballot-box unopened, one of the judges simply saying, 'This is for Chaves.' I requested them to permit me to examine some of the tickets, but they declined to do so.

"Question. How many men, more or less, on that day, did you see pushed away from the window and prevented from voting?

"Answer. The greater part of the voters were prevented by the people standing in files about the window.

"Question. Did you see any ballots thrown away by any of the judges of election on that day? and if so, state how many."

[Objected to by counsel for Mr. Chaves, and objection overruled.]

"Answer. I saw the judge who received the ballots throw one out through the window, and another he threw down on the floor, which I picked up from the floor and asked the judge why he had thrown it away. The judge stated it was not valid. I then appealed to the presiding judge, and he told me that they were complying with the law. The ticket was for Mr. Clever."

The judges were complying with the law when, throwing away the tickets handed in for the sitting Delegate, and without opening any tickets counted them by crying out, "This is for Chaves." I shall abstain from discussing this point and the committee's remarks any further.

The committee further say that no testimony has been offered as to the alleged illegality of 77 votes in precinct No. 7, known as Los Alamos. The poll-book from that precinct was before the committee, brought there by contestant himself, the inspection of which will show that there are no signatures to the return, neither those of the judges or the clerks of election. [Here the poll-book is shown.] Not knowing the principle of law or evidence upon which the committee base their opinion, I am compelled to leave this point without further comment.

On page 5 of the report the committee say:

"Your committee are of opinion that the evidence upon the part of the sitting Delegate is insufficient in support of his allegation with reference to the 32 votes claimed to have been cast by aliens in the county of Santa Fé, and the same is not allowed."

The treaty of Guadalupe Hidalgo contains a clause providing that those Mexican citizens residing in the ceded territories who do not desire to become citizens of the United States may, within one year after the ratification of the treaty, elect to retain their character as Mexican citizens. Under this provision of the treaty Colonel Washington, civil and military Governor of New Mexico, issued a proclamation, a Spanish copy of which is found on page 146, (Mis. Doc. No. 154,) ordering that all Mexicans at that time residing within the limits of the Territory of New Mexico and who

desired to retain their character as Mexican citizens (or citizens of the republic of Mexico) should, within a certain time, make the declaration provided for by the terms of the treaty. Many of the Mexicans, misled by emissaries sent from the Mexican States to New Mexico, did make the declaration to so retain their citizenship of the republic of Mexico. It is shown in evidence that 82 of them voted at the last election in the county of Santa Fé for contestant; but to cite here the testimony of the witnesses on this point, and to elucidate the legal import of that testimony, would occupy too much of the time allotted to me for argument. While I believe the committee to have had sufficient evidence before them to reject the 82 votes cast for contestant in Santa Fé county by citizens of the republic of Mexico, I do not insist that they shall be disfranchised or injured, as many of them are my personal friends, and most of them are respected and honest men. I know they were deceived when they signed the declaration.

During the last session I introduced a bill to restore them to citizenship, and I hope that the committee, or some one of them, remembering the position they have taken in this case, will be foremost in assisting to have a law of Congress passed restoring them to citizenship, to which by their conduct, interest, and circumstances they are entitled. These so-called Mexican citizens during the late civil war stood by the Government of the United States as well as all of the inhabitants of New Mexico, and a proper consideration of their case will soon disembarass elections as well as judicial tribunals in New Mexico. I desire the committee as well as the members of this House to know that I can afford to be generous as well as just.

The report on page 5 states:

"Your committee are of opinion that the secretary of the Territory was warranted in omitting the sitting Delegate's majority of 23 in his count upon which certificate was issued, touching the vote in precinct No. 5, and known as Barelás, in the county of Bernalillo, although the committee believe that it is probable that the sitting member received in said precinct a majority of 23 votes, but which must not be allowed now for the reason that your committee give for disallowing the contestant his majority claimed in Bernalillo, precinct No. 1, in the county of Bernalillo."

The committee is mistaken in saying that the secretary was warranted in omitting the sitting Delegate's majority of 23 in his count, &c., because that majority or any vote from that precinct never came before the secretary. The probate judge excluded that precinct on account that no poll-books properly signed came before him. But the testimony shows that such a majority was given in that precinct for the sitting Delegate, and therefore should have been allowed him by the committee. The committee undertakes to trade off this majority for the reason that the committee gave for disallowing the contestant his majority claimed in Bernalillo, precinct No. 1, in the county of Bernalillo. The evidence on this point is positive. Aaron Zeckendorf, on page 125, (Mis. Doc. No. 154,) testifies that a certificate in conformity with the laws of the Territory was obtained, which he produced, and which is in the words and figures following, to wit:

"Question. Was this certificate signed by the judges of election in your presence?"

"Answer. Yes, sir."

"Question. State the contents of the certificate."

"Answer. Its contents are as follows:

"We the undersigned judges and clerks of the election held on the 2d day of September, 1867, in the precinct of Barelás, in the county of Bernalillo and Territory of New Mexico, certify that the following named persons received the votes set opposite their names for the offices as stated respectively:

"For Delegate in Congress—Charles F. Clever, 89 votes; Francisco Chaves, 61 votes.

"For Senators—José Ynez Perea, 83 votes; Andres Romero, 53 votes; José Antonio Lujan, 83 votes; Miguel Anto Lobato, 83 votes; W. H. Henrie, 53 votes; Vicente Chavez, 53 votes.

"Judge of Probate—Scriñ Ramirez, 83 votes; Thomas Gutierrez, 53 votes.

"Sheriff—Matío de Luna, 81 votes; Manuel Garcia, 55 votes.

"Coroner—Green Wilson, 83 votes; James A. Jeremiah, 83 votes.

"Jues de Paz—Ambrosio Garcia, 82 votes; José Candelario, 53 votes.

"Constable—José Antonio Martin, 82 votes; Lorenzo Candelario, 53 votes.

BLAS MATA,

FRANCISCO SPODACA,

GREGORIO VARELA,

Judges of Election.

JUAN ARMIJO,

Clerk of Election.

BARELAS, N. M., September 2, 1867.

"Question. State whether the above is a true and correct copy of the certificate handed to you by Benjamin Stevens after the votes had been counted at the Barelás precinct."

"Answer. It is."

"Question. Was that certificate explained to the officers of the election in Spanish before it was signed by them?"

"Answer. It was, in the Spanish language."

"Question. Do you understand the Spanish language?"

"Answer. I do, sufficiently to know that the certificate was explained to them before they signed it."

This certificate, as I have stated, was obtained under the laws of New Mexico, and under those laws it is made evidence. The committee disallows the majority given in this precinct to the sitting Delegate, for the reason as they say, "that they have disallowed the contestant his majority in Bernalillo precinct." The election in these precincts should stand or fall according to their own merits. I have shown that the election in Bernalillo precinct was a farce. I most earnestly but respectfully object to the committee's attempting to trade off the vote given *bona fide* in Barelás precinct for the farce enacted in the precinct of Bernalillo.

According to the testimony of H. H. Heath, secretary of the Territory, page 40, (Mis. Doc. No. 14,) 165 votes were cast in the precinct of Peña Blanca, county of Santa Aña. As to the voting in that precinct, Roman Baca, a witness uncontradicted, says, page 181, (Mis. Doc. 154:)

"Question. Where were you on the day of the last general election held in this Territory for Delegate to Congress on the first Monday of September, 1867?"

"Answer. I was in the precinct No. 1 of said county of Santa Anna, Peña Blanca.

"Question. Were you at the polls that day from the opening to the closing of the same? If so, state at what time they were opened; and at what time they were closed and in what manner the election was conducted."

"Answer. I was present at the opening of the polls, which took place about nine o'clock a. m. I remained at or near the polls until noon, at which time a recess was taken for dinner. When I returned from my dinner the voting had commenced. The polls were closed, I think, about six o'clock. Some voted for the candidate of their choice; others, from what I saw and believe, voted against their will. The ballots were handed by the voters to Antonio Sanchez, one of the judges of the election, and by him to David Baca, another of the judges, who called off the names of the candidates to the clerks. He sometimes mis-called the names, calling the names of Chaves when he should have called that of Mr. Clever."

And on page 182 (*ibid.*) Mr. Roman Baca says:

"Question. Did you see any men not allowed to vote on that day who wished to vote for Mr. Clever who were told by the judges that if they would vote for Mr. Chaves they could vote?"

"Answer. I saw three men offer to vote for Mr. Clever whose votes were not taken, but were told that if they would vote for Mr. Chaves they could do so."

"Question. Did you or not hear a majority of the voters say on that day that they desired to vote for Mr. Clever, but through fear of Tomas Cabeza de Baca they had to vote for Mr. Chaves; that Baca would persecute them if they did not vote for Mr. Chaves?"

"Answer. I heard a large number say that they wished to vote for Mr. Clever, but were afraid to do so on account of threats made by Tomas Cabeza de Baca, and some did not vote or come near the polls on that day through fear of Mr. Baca, as they said, and I believe."

"Question. At the closing of the polls did the judges of the election call off the names of the several candidates voted for, as shown by the tickets in the ballot-box?"

"Answer. When the polls were closed the tickets were taken from the ballot-box and counted, but the names of the candidates were not called out, or any count of the votes cast for each one. The tickets were placed back in the box and the box taken away by one of the judges of the election, David Baca."

"Question. To what party did the officers of the election belong—to the Clever or Chaves party?"

"Answer. They belonged to the Chaves party. Antonio Sanchez, one of the judges, a short time after the election stated under oath in my presence in the district court that he was a citizen of the republic of Mexico."

"Question. Did you know of any persons being threatened by Tomas Cabeza de Baca that if they voted for Mr. Clever he would take their houses from and deprive them of the use of wood and pasture which they had always, and therefore they were compelled to vote for Mr. Chaves?"

"Answer. Several told me previous to the election that they had been so threatened, and although Mr. Clever was their choice they could not vote for him through fear of Mr. Baca; they must obey his order."

"Question. Were not Mr. Clever's friends previous to and on the day of the election threatened with violence and grossly insulted on account of supporting him?"

"Answer. They were and have since the election."

"Question. When persons who wished to vote for Mr. Chaves were challenged did not the judges refuse to administer the oath to them as to their qualifications, but allowed them to vote?"

"Answer. They did."

The committee seem to have taken no notice whatever of this testimony. The evidence of Baca shows that there were not only threats and gross irregularity, but absolute illegality in the voting in this precinct. Had the committee duly weighed this evidence they might have come to some different conclusion.

Thus far I have spoken only as to the legal aspect of this case. I believe that I have shown conclusively to every legal mind, as I said at the outset, that the report in this case "is founded upon a misapprehension of the law which should govern in this case and the facts as disclosed by the evidence."

An effort has been made to show that there exist in the Territory of New Mexico two parties divided on national politics. Such is not the case, at least such was not the fact at the election in September, 1867. A few demagogues for the purpose of their own aggrandizement may make such a proclamation. The people of New Mexico at the time of the election voted solely for the two candidates as the one or the other was regarded as the better promoter of the interests of the Territory in the national councils, or follow the lead or obey the behests of certain "lords of the soil" whose influence was exerted in behalf of their patriotic friend and relative.

The attempt to tack on to the great Republican party of the nation one of the old purely personal and local parties of New Mexico and long time and bitter animosities and antagonisms of such party will be a most potent agent in preventing the formation, growth, and supremacy of a Republican party in the Territory. I have made mention of this state of things because I know that an effort has been and is being made to so prejudice the members of this House as to induce them to be ready to lend a willing ear to anything that seems to confirm the contestant's right to a seat in this House. This, of course, has no bearing upon the merits of this case, judging of them by the law or by the evidence. But I wish to call attention to the fact that the efforts to excite prejudice is apparent throughout the testimony and in the efforts of parties connected with the case; and I have desired to show that there is no foundation upon which to base such a prejudice. In both the Chaves and Clever parties there were individual representatives of the most extreme views of each of the great national parties, and it would be as absurd for me to claim that my election was a triumph of either of those parties as it is now for the contestant. That no regard to our political divisions here were paid in the election is shown throughout the testimony, as all of the witnesses speak of the Chaves and Clever parties.

On page 46 (*ibid.*) Don Antonio Guadalupe Corduva, an honest and intelligent citizen, gives the following answer:

"Question. To what political party do you belong? Do you know the difference between a Democrat and a Radical?"

"Answer. I do not; I belong to the Chaves party. I did belong to the Clever party, but now belong to the Chaves party."

It will thus be seen that the last election for Delegate to Congress was not carried on upon any party issue, and that personal preference and local issues were the only questions involved. You can no more make out of my hon-

HO. OF REPS.

Naturalization, &c.—Mr. Robinson.

40TH CONG....3D SESS.

orable contestant a Republican than you could make out of me a Democrat. When the Chaves party found itself defeated, believing that party prejudices might advance their cause in Congress, like the wolf in sheep's dress, they raised the cry of party. I, Mr. Speaker, had to leave my country on account of my sentiments of Republicanism. I went to New Mexico shortly after the close of the Mexican war, in one hand an ox whip and in the other an ax to cut a road for my team to carry supplies to our suffering soldiers in that distant Territory. In that country I found an honest and a hospitable people, and I did link my destiny with them.

It should astonish no one that there are still found in that Territory a few nabobs or proud, hereditary, domineering, rich men, who still, dreaming of days long gone by, in order to retain their power should even furnish money to bribe an official and thus devise means to prevent a stranger—an ox-driver, as they called it in New Mexico during the political campaign, but what is now denominated a carpet-bagger—from representing them in the councils of the nation. If you desire to maintain and perpetuate the influence of a few men whose power is only a remnant of the feudalism that prevailed under the old peon-driving monarchy of Spain you will vote to give the contestant this seat. If you desire to extend the area of civilization, to encourage emigration to and to promote the growth and wealth of this remote portion of our domain, you will reject the evidence which has passed under the manipulation of the political adventurer who by some strange accident holds position in the Territory, and carry out the will of the people of New Mexico as expressed in the election, and confirm the right of the sitting member to his seat.

Naturalization, Ireland, Fenianism, Right of Expatriation, Protection to Citizens, &c.

SPEECH OF HON. W. E. ROBINSON,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

March 2, 1869.

The House having under consideration the President's message relating to naturalized citizens imprisoned in Ireland, &c.—

Mr. ROBINSON said:

Mr. SPEAKER: On the 3d of February, 1868, I introduced a bill to establish a uniform rule of naturalization, to allow *bona fide* residents of this country who had no home and intended to have none except in this country to become citizens, leaving the right of suffrage to be determined by the States, which usually require a year's residence before voting. At that time neither party had made their nominations for the Presidency. Leading Republicans—the distinguished dead of Pennsylvania, Mr. Stevens, the eloquent Senator from Illinois, Mr. Yates, the powerful head of the New York Tribune, Mr. Greeley, with other Republican Senators, Representatives, and editors—were known to be in favor of some such bill as I then introduced. When I proposed that bill I had no doubt of its passage or the passage of some bill substantially like it. It had been discovered that all men were created equal and had an inalienable right to self-government. The sky of my confidence was serene and cloudless through the May of Chicago and the July of New York, and up to election day in November. That bright sky is now clouded. It seems, in place of facilitating naturalization and conforming that department of citizenship to the doctrine of manhood or universal suffrage, that every obstacle is to be thrown into the path which leads to the ballot-box, at least for those who have the misfortune to have been born in Ireland or with a white skin.

It is a curious, if not also a lamentable fact, that before every election appeals are made to naturalized voters with such prodigality that the more unsuspecting seem bewildered in their efforts to distinguish between their real and pretended friends. It is natural for them therefore to suspend their judgment till after election to see whether the tone of compliment in either party may change. Far be it from me to try to make capital for this or that party out of the question now before the House, but I must be permitted to say that no party can ever gain the confidence and support of the naturalized citizens, however prodigal they may be before election in what at home is called "blarney," if after election they blacken their character and try to abridge their privileges. Now, I contend:

1. That naturalization, in place of having more restrictions thrown around it and made more difficult, should be made easier and less expensive.

2. That under our advanced ideas of "manhood suffrage" our naturalization laws are unjust and illiberal.

3. That the best plan to prevent naturalization frauds is to let every *bona fide* resident of our country vote for the officers who are to make and execute laws for the government of his person and property.

4. That obstructing immigration is as much a crime now as it was when the immortal signers of the Declaration of Independence charged it as such upon King George.

5. That throwing obstacles in the way of naturalization is obstructing immigration. You cannot induce large immigration of Europeans if they are classed lower than Africans. That we should so far encourage immigration as to offer free passage from all European countries to the United States to every proper person of sound mind and body, either in our national vessels or by a paid steam marine, and a free voice in the choice of those who shall govern them here.

6. That the people of Ireland and Germany, the two great sources of our population, are sound republicans, and need no state of probation to teach them how to vote.

7. That the only excuse ever offered for a five-years' probation for aliens, or any probation at all, was that they might learn how to vote, and this excuse has been rendered absurd by our recent legislation to secure universal manhood suffrage and admitting the most ignorant to the ballot-box.

8. That the useless provision in our Constitution prohibiting any naturalized citizen from being President or Vice President of the United States should be abolished, leaving the American people free to choose the best men for these offices, irrespective of birth or previous condition.

9. That every proper person settling in this country should be allowed to become a citizen as soon as he produces evidence satisfactory to any court of record that he has no residence, either present or prospective, elsewhere, and that it is *bona fide* his intention to remain in the country and be true to the Constitution.

10. That the subject of voting should be left with the several States, or if regulated by Congress should be on one year's residence in the State in which the vote is cast, and if an alien by birth six months' previous citizenship.

11. The best way to prevent any person breaking over a fence to get at the enjoyment of any inalienable right is to take away the fence. Why should earth, air, water, or suffrage be monopolized?

12. That every effort to confine naturalization to the United States courts is simply an effort to render naturalization impossible, and is therefore a revival of the creed of Know-Nothingism; and

13. That the obstacles already thrown in the way of naturalization, by State laws requiring additional time and unequal registration,

have prevented some twenty per cent. or more of those legally entitled to naturalization and suffrage from the enjoyment of those rights under our laws.

From the earliest times we have had this anti-immigration policy. Not contented with the wise provision in the bill of 1790, made by Congress under Washington, requiring only two years' residence in the country and one year in the State, it was increased to fourteen years. Our minister to England, Rufus King, thought our country would be disgraced if such men as Thomas Addis Emmett were allowed to emigrate to this country, and protested to Lord Castlereagh against it. This anti-Irish feeling cropping out here now, if successful at any time, would have ruined as it would now ruin the country. Had the wishes of such men as Rufus King prevailed what would have been the destiny of our country? Say, for instance, if these loyal leaguers of a former day had stopped immigration in 1790? Our free population then was three million two hundred and fifty thousand. Their descendants, it is estimated in a report made by the chairman of the Committee on Foreign Affairs [Mr. BANKS] to this House January 27, 1868, would now be less than ten millions; and less than fourteen millions, the whole colored population included. The balance of the people, some twenty-four millions, are immigrants or descendants of immigrants arriving in this country since 1790. Had these anti-immigration men had their way we would be a mere pigmy in the family of nations. Twenty-two millions of our people would have given their resources, genius, fame, and power to other countries. They would be aliens here. We should have had no Grant and no Sheridan. Steamboat navigation and the electric telegraph, reaping machines and cylinder presses, would have been European and not American discoveries. Fulton and Morse, McCormick and Hoe, would have made other nations famous. The same spirit if now indulged would compel other Fultons and Morses, McCormicks and Hoes, to be born abroad.

This whole outcry of naturalization frauds, principally aimed at New York and Brooklyn, and at their residents of Irish birth and descent, is wicked and dishonest. More frauds are perpetrated in other parts of the country than in New York and Brooklyn. These two cities have never had their just share of power or their full vote either in the State or nation. In other parts of the country one out of every four or five vote; in New York city and Brooklyn only one out of every five or six vote. These cities are the heart, the brain, the enterprise of the country. They have more schools, more education, more refinement, more wealth, more intellect, more newspapers, than any other population of equal number in the world. Governors elsewhere would hardly be competent for New York constables! Judges from rural districts would lack talent safely to cross Broadway in omnibus times! These two cities contribute more than their quota of soldiers to our armies, money to our Treasury, and character to the country, more than any other equal number of population elsewhere in the Union. The number of fraudulent native voters is larger than that of fraudulent naturalized voters. A native fraudulent vote is easier than a naturalized fraudulent vote. I presume that more fraudulent Republican votes were cast in the southern States within the last twelve months than all the fraudulent Democratic votes cast in New York since the foundation of our Government. More fraudulent votes by unnaturalized colored men, I presume, were cast in our last November election than all the fraudulent white naturalized votes cast in New York since the first grand fraudulent pipe-laying in that city over a quarter of a century ago.

And what does the whole of this naturalization fraudulent vote amount to? What has caused all this commotion throughout the coun-

try? The heavens seem darkened, the thunder rolls in rapid succession after vivid flashes of lightning, earth and sky are mingled together, and yet after all the cause of this terrific commotion is simply that a respectable white inhabitant of the United States, having no other country but the Union, owing allegiance to no other flag, toiling for the country's good and willing to die in her defense, has offered a ballot as his neighbors, no more honest, patriotic, or intelligent than himself, have done. Disguise it as you will, sugar it over as you may, that outcry of fraudulent naturalized voting is aimed at white manhood suffrage, and that hatred which bubbles over in reams of bills to amend our naturalization laws and runs around with peripatetic committees to investigate frauds are aimed at Irishmen here. And yet, sir, Ireland has been the source of our wealth and power. A great majority of our people, more than half of this Congress, are Irish by birth or blood, and the minority would disfranchise the majority if they had the power.

Are gentlemen honest in this shout for manhood suffrage? No, sir; they are not sincere. Strip all pretense away and the fact stands out naked that every effort of this party contending for manhood suffrage while shrieking against naturalization is nothing more nor less than a distrust of their own race. Everywhere they are throwing down the barriers to negro suffrage, and everywhere blocking the way to white suffrage. With what face can men stand up here and talk of universal or manhood suffrage while they are straining every energy to thwart, obstruct, and curtail naturalization, and to make it as difficult and expensive as possible for the poor and honest workingman to reach the polls?

According to a statement which I have received from the statistical bureau of the Treasury Department there arrived here from foreign countries from July 1, 1863, to June 30, 1868—five years—1,476,789 passengers, or in round numbers, 300,000 a year; of these 177,676 were citizens of the United States, and 12,819 were foreigners who did not intend to remain, leaving the total actual immigrants 1,286,294. Here is a number of men equal to some entire countries of Europe who have no voice in the election of those who are to govern their country; a whole nation disfranchised, and disfranchised for no crime. Thousands of them are men of great learning, professors, clergymen, literary men, engineers, writers for the press; and not one of this vast number allowed to vote, though they are educating your children, preaching to your congregations, editing and reporting for your papers, able to teach your sons the way to learning and yourselves the way to heaven, but not permitted to cast a vote, which you would monopolize for the lowest and most ignorant of the descendants of Ham.

I will mention two distinguished men who have immigrated within the past year. Rev. James McCosh was sent for to Ireland, and brought over here and inaugurated president of Princeton College. Within the limits of mental philosophy throughout the world no mind soars above his. The colored man who shaves the students or blacks their boots or opens their oysters can have the Constitution of the United States changed to allow him to vote immediately, under the hypocritical party watchword of manhood suffrage, while Dr. James McCosh, the head of the college, must remain disfranchised for four years and six months longer, perhaps for his lifetime, that he may learn from this colored fellow-citizen how to deposit a ballot.

Rev. Dr. John Hall, of the Fifth Avenue Presbyterian church, New York city, was sent for to Ireland. Sunday after Sunday that church is thronged with the wealth, beauty, and intellect of that great city, who hang spell-bound on the witchery of his words; and yet there are loyal leaguers in that very church

who clamor for the right of manhood suffrage in their colored coachmen and flunkies, and labor to keep their own pastor disfranchised for four years longer. I will not stop to torture my friend from Ohio, [Mr. SCHENCK,] who thought to overwhelm me with his sarcasm a few days since, in merely suggesting to me that perhaps I would insist on sending over to Ireland to bring immigrants over, by reminding him that here are actual cases where Princeton College and the Fifth Avenue church of New York did send over to Ireland for two immigrants to instruct them in science and religion, and nobody but a fool supposes the country will be the worse for it. Now, these are but two out of the million and a half of immigrants coming to us within the last five years. There were thousands of others of great mental and moral worth—teachers, preachers, editors, poets, philosophers, artisans, mechanics—and better than all, and as well deserving of the right to vote, the honest laboring masses; all kept five years disfranchised by a party shouting itself hoarse in the very acme of their inconsistency for manhood suffrage. Professor Agassiz, Professor Lieber—who, I am sorry to learn, is here urging further restrictions in naturalization against his fellow-immigrants—Archbishop Hughes, General Siegel, General Schurz, Garibaldi, General Meagher, John Mitchell, General Corcoran, Robert Bonner, General Shields, Ericsson, George H. Stuart, A. T. Stewart, James McCosh, Richard O'Gorman, Thomas Addis Emmett, and John Hall, many presidents of our colleges, hundreds of our most distinguished divines, one half of our editors and reporters, have been or are kept five years disfranchised under manhood suffrage on the plea that they must watch field-hands and plantation servants for five years to learn the art of dropping a piece of paper in the ballot-box for the election of their political servants!

As a general rule one out of every five of the common run of population votes, but in that population the number of children largely predominates. Now, in this immigration of 1,476,789 souls only 270,567 were under fifteen years of age; 1,206,222 were over fifteen. There are also more males—about one fourth more—than females in an immigrant population. I do not think it would be out of the way to say, after deducting women and children and allowing for deaths, that there are half a million white men who have arrived here within the past five years now over twenty-one years of age who are not allowed to vote in the only country they can call their own. These disfranchised white men hold the balance of power in every northern and western State in the Union, and this probably accounts for their disfranchisement; but the party that stakes its hopes upon their disfranchisement will come to speedy and certain grief.

Did it ever enter into the heads of any of our committees investigating naturalization frauds to inquire how far short the naturalized voters fall in securing their just proportion of votes? New York and Brooklyn have never polled seventy per cent. of their male inhabitants over twenty-one years of age, and yet these screech owls of party are deafening the public ear and filling the echoing air with shrieks of woe at the number who do vote. Fraudulent naturalization! Why, sir, take the entire number of naturalized voters, those alleged to be fraudulent and all, and I was going to say that it would not amount to seventy per cent. of those entitled to naturalization. Instead of screeching against over-naturalization you should be urging more thorough naturalization. Instead of obstructing it and defeating it by your teeming propositions to amend, you should be encouraging and increasing it, for it is a bad country where its citizens do not perform the duties of citizenship. There ought to be, according to the average of our immigration, at least one hundred thousand citizens naturalized every year.

I venture to say they do not average seventy thousand, and yet the dishonest party shriekers keep the country in turmoil and agitation because about three quarters of those who should vote actually do vote!

On the 18th of May, 1868, I offered a joint resolution providing that the American people might have a free choice in the election of their President and Vice President. Is it not strange that any ignorant field-hand or city loafer of any color, education, or standing is eligible to the Presidency and Vice Presidency, and yet Agassiz, Shields, McCosh, Hall, Schurz, and Seigel are not eligible. Sheridan, had he been born two or three years closer to his parents' marriage, could not be President of the United States if all the people in the United States and every Electoral College voted for him. It always has been, and always will be believed by many that General Jackson was born in Ireland. Did it make him any less a good President whether born in Ireland or South Carolina? There may come a time when another Grant will arise, who, though born in the country of Shields or Schurz, would be the most desirable man for President, and if so why should the people be debarred from electing the best man? I acknowledge that I dislike this everlasting amending, or rather altering, of our Constitution. I wish our Framers had provided that it should not be amended over once in twenty years, nor then without a previous yearly publication of the proposed amendments for five years in the papers published in the capital. But if any amendment at all should be made it is this which I proposed nearly a year ago.

I have also contended that we should send to Ireland and bring over free every good emigrant willing to come. This, I think, will yet be done. Every immigrant is, over and above his expenses, worth \$1,000, if not double or treble that sum. How much was Ericsson worth, who invented the monitor to meet the Merrimack just in time, perhaps, to save the Union from destruction? Could we have afforded to dispense with him for \$1,000? How much was Fulton's father or Morse's grandfather or Hoe's father worth? Immigration every year is worth to us in workmen, if none of them or their children should be inventors or otherwise distinguished, \$300,000,000. By paying their expenses over, which under proper management need not cost more than ten to twenty dollars apiece, immigration would double and treble itself, and thus add to our national wealth \$1,000,000,000 a year. This we should do for the sake of humanity. There they are enslaved and starving. Here we could enfranchise and clothe and feed them, or rather they would take care of themselves here. We should either do this or annex Ireland. I rather think even this will come. I have no doubt that Ireland will soon be either an independent republic or a part of this Union. We could afford to let the Alabama claims sleep if England would quietly acquiesce in this. It would be for her benefit as well as ours. Ireland to her is a burden, to us she would be a blessing; to her she is rebel, to us she would be faithful and true. She is nearer to us than California or Oregon—much nearer than Alaska. Homogeneity makes her nearest to us; heterogeneity makes her farthest from England. The cable cord of intelligence stretching between us binds us in unison, and the wire that is insulated from the rest of the world thrills unceasingly with electric love from shore to shore.

Let me say a few words here, once for all, in defense of Ireland and her sons against the abuse so often aimed at them. Unworthy would I be of calling her mother if I failed to raise a filial voice in her praise or if I omitted, amid the darkness that broods over her destiny, to call attention to the light that still plays upon her history. To others be the unwelcome task of chronicling her misfortunes,

her degradation, and her misery. Be it mine to evoke from her still tuneful harp one note of praise, and to pluck another leaf of laurel from the tree of time with which to adorn her still radiant brow.

Poor forsaken Niobe! Far away beyond the billow she sits to-day a crownless queen, yet still in the queenly majesty of centuries greatness ruling with the scepter of affection myriads of her loyal children. From every clime and every sea, from a multitude greater than any monarch governs, comes the polyglot song of her praise; and throughout the world the hope is still cherished by her children that the night of her sorrow is past and the morning of her glory is advancing to the full noon of freedom and independence.

Strange it is that we know so little of Ireland in this country. Indeed, so far as her history is concerned, except from the prejudiced pens of English writers, Ireland is as little known to the people of the United States as is Japan. Too many of her own sons are responsible for this. Too many of them are afraid to toast her green immortal shamrock.

Of all most sickening spectacles or sounds to me the most sickening and offensive is to see or hear an Irishman mouth over and cover up his honest Irish brogue with a mixture of Yankee and cockney dialect; to disguise with some contortion or prefix the grand old name of Patrick which his pious parents had given him. While I am not in favor of having Ireland's sons all the time shouting their mother's praise offensively into unwilling ears, yet I do love to see a man proud of his native country while willing to die for the country of his adoption. And to the credit of the poorer and honester classes of Irishmen be it spoken that they are seldom guilty in this respect. It is generally those who would rub elbows with a mushroom aristocracy, or those who are Irish only by descent—and such a descent!—that turn up their ignorant noses at this or that as too Irish for them! I love the filial feeling which breathes in the lines of that great Irishman, Oliver Goldsmith:

"Where'er I roam, whatever lands to see,
My heart untraveled fondly turns to thee.
To thee my (mother,) turns with ceaseless pain,
And drags at each remove a lengthening chain."

And let not America be jealous on account of this love of Ireland. We were born of Ireland, we are wedded to the Union, and believe me no true woman will ever be jealous of her husband's love for his mother. The man who does not love his mother is not worthy of wife or children, and that Irishman will make the best American who kindles his patriotism oftenest at the fire of filial affection. We all hear daily and hourly of Ireland's degradation and misery. From every ship entering our harbors we see masses of humanity flung like sea-weed on our shores, and this daily and hourly spectacle of human wretchedness stamps too broadly on the American mind the outlines of that picture which represents Ireland; but who cares to turn his attention to the elevation which even the lowest of these masses suddenly obtain in a country where "there's bread and work for all," or cares to consider that other fact that the world for centuries has been and is now and will be more and more each succeeding generation governed by Irish intellect? That in peace and war, in the camp and the Cabinet, in literature and the fine arts, in the studio of the painter and sculptor, on the stage, in music, oratory, and poetry, Ireland stands to-day as she has stood in days gone by, foremost in rank and highest in fame?

"When the Saxon degraded and trampled lay down
And trembled to every foeman that came,
The universe rang with her lofty renown
And fancy stood mute in the light of her fame."

I have contended and do still contend that numerically the strongest element in American society is Irish; that in the texture of American intellect some of the firmest fibers are Irish; that in the reservoir of American blood the

Irish contingent is not the thinnest nor the coldest. What names are more honored in Maine and Massachusetts than Kavanagh and Knox and Sullivan? What name is more proudly remembered in New Hampshire than Matthew Thornton? What colony has given to the Union better names than the Irish colony of Londonderry in New Hampshire? What name is more honored amid Vermont's green mountains than that of "The spouse of Molly Stark?" What names would New York take in exchange for her Clintons and Emmetts and Montgomerys? What would the list of Pennsylvania's great names look like if General Wayne, Charles Thomson, Commodore Barry, Moylan, Taylor, Wilson, Kane, Meade, and other Irish patriots were stricken from it? What would little Delaware be without her Reads, McKears, and McDonoughs? What would Maryland be without her Carrolls; or South Carolina without her Rutledges and Lynches and McDuffies and Calhouns? What would Tennessee be without her Andrew Jacksons and Polks and Johnsons; or North Carolina without her Grahams and Gastons and Moores; or Ohio without her McLeans and Phil. Sheridans; or Louisiana without her Porters; or Texas without her Houstons? Yet these are but a fraction of the numbers of Irish names scattered starlike in the firmament of glory which overarches the States of our Union!

Nay more, if we consider the mere physical forces of Irish sinew now tugging at the oar of labor in our country, what would the United States be in mere physical development without this power? Why, look at the force of three hundred thousand fresh, willing, and able laborers added every year to the dynamics of our country; and yet while God is lavishing these riches upon us there are parties who would obstruct and turn away this tide of wealth which flows without ebbing upon our shores. Just imagine what this population of three hundred thousand a year means—most of them adults, young men and young women, three fourths of them unmarried, yet nearly all marriageable—bringing money with them, too, averaging over one hundred dollars each. The decay of age and the weakness of infancy lopped off from both ends, and the vigor of humanity ready to make itself available and useful for mental, moral, and physical development. A whole city of people, larger than any city in the Union save three, added yearly to our population, ready made and in working order. What a calamity to have such a city sunk by an earthquake, but not a greater calamity to this country than to have immigration cease for a single year.

The native genius of America might plan railroads, canals, and cities, but the physical power is necessary to put that planning into execution, and Ireland is the great deposit of physical power on which America has drawn at will and without protest. This force is on every railway and canal. It is tunneling the mountains and lifting up the valleys to form easy highways for the footsteps of commerce. It is on every round of the ladder, following the progressing height of public buildings. It is this moment standing on the solid granite which in the next moment is flying in the air from successive explosions which shake the earth with their concussions. In the valleys, on the mountains, by the lakes, along the rivers the mental and physical forces of Ireland are at work, through toil and turmoil, sweat and exhaustion, amid dangers and difficulties, and brushed by the passing wing of death, building up and perfecting the grand architecture of this country's destiny.

Poor forsaken Niobe! Her tale is a tale of woe as well as a story of pride. Her sons, like her poetry, are a curious mixture of melancholy and of levity. The tear and the smile blend together like the rainbow's colors; shining in sorrow, sad mid pleasure, her sun is clouded as soon as it has arisen. Her patriots, names

she dares not breathe. They sleep unhonored in nameless tombs. Their memory is kept green only by the tears which she sheds upon their holy graves. They longed to see the day of their country's glory, and when that was denied them the next dearest blessing was the pride, the honor of dying for her. And still the sacred fire of patriotism is kept alive; one after another of her sons mounts the scaffold or welcomes the prison. In this noon of the nineteenth century, while English hypocrites have been lecturing us upon mercy to our fallen prisoners, her ermined tyrants have been passing sentence upon scores of patriots whose only crimes have been fidelity to their native land and devotion to her cause—patriots in the luster of whose lives the fame of their Hampdens and Sidney's fades into insignificance; patriots sentenced to punishment worse than death because they love the green above the red:

"For they're hanging men and women there
For wearing of the green."

No matter how we may differ about the wisdom and feasibility of their actions we cannot deny to these young men now sacrificing their liberty for that of Ireland the homage due to them as followers in that long train of radiant demigods which embraces the names of Emmett and Fitzgerald, Kosciuszko, Tell, and Washington, and which will embrace the names of Barry, Casey, Dillon, Duggan, Hayes, Lynch, Kennealy, O'Connell, O'Donovan-Rossa, and O'Ryan, now suffering cruel imprisonment as a punishment for their patriotism.

If we, as Americans, knew more of Ireland and her people we should feel less alarm about admitting them to citizenship. I wish we had some well-digested epitome of Irish history for our schools. We are more interested in her history than in that of England or of any other country in the world. Her people are ours and ours will soon be hers. A majority of the American people are Irish by birth or descent. Ireland is a greater nation to-day than England, not in compact, but in diffused power. She has recently had more of her sons as soldiers, with arms in their hands and knowledge to use them, than any other nation except the United States.

Half the British army are Irishmen. Their most distinguished officers have been Irish. The writers for British magazines and English newspapers have been Irishmen. England's architects, sculptors, painters, astronomers, actors, composers, and dramatists have been Irishmen. England's chief orators, poets, statesmen, and generals for the last century have been Irishmen—rather poor Irishmen? too, yet good enough to lead and govern England. Other countries, too, are enriched with Ireland's blood. Spain's uplifted lance has been most powerful in the hands of an O'Donnell; the spear of Austria shone brightest in the line of battle in the grasp of a Nugent; at the head of the Army of the Potomac the sword of the Union flashed fiercest from the scabbard of a Meade, and the star of hope on the helmet of America outshone all others along the valley of the Shenandoah where Sheridan rode.

The history of Ireland is an ancient and an honorable one. She had lived through two thousand years of glory before England was known. Fifteen hundred years before the commencement of the Christian era she was skilled in art and science. Nearly a thousand years before that era her Parliament sat at Tara, and had abler men than any English Parliament ever had, except such English Parliaments as had their dullness redeemed by the presence of one or more Irishmen. That Parliament framed wiser laws under Ollamh Fodhla than England now has under Disraeli or Gladstone. The psalter of Tara, which for two thousand years was a guide for kings and priests, was superior to the British constitution. Its laws provided for national hospitality, diffusion of knowledge, subdivision of land, and punishment of crime. England claims trial by jury as an invention of Anglo-Saxonism, but Ireland

had it a thousand years before the Anglo-Saxon ceased disputing with hogs for the roots and nuts of the forest. Chivalry, honor, rank, music, poetry, and martial courage were fostered and promoted as social customs. While Roman, Dane, Saxon, and Norman overran and conquered England they were vanquished and expelled from Ireland. With the Romans the Irish waged a war of four hundred years and drove them back over the Alps, at the base of which the last pagan king of Ireland, victorious over the Romans, fell from a stroke of lightning.

The Irish were the first of western nations to receive Christianity, and the only one where the conversion was made without shedding of blood. St. Patrick, in the early part of the fifth century, achieved this honor for Ireland. Soon afterward Ireland became a nation of missionaries, who taught the people of western Europe astronomy, architecture, literature, languages, morals, music, and poetry. The youth of France, England, Scotland, and other countries flocked to her colleges for their instruction. In the gloomy night of barbarism, through the dark ages of Gothic ignorance, Ireland was the light-house on the shores of time from which religion and learning penetrated Europe; and hence she received the name of the Island of Saints, as her missionaries carried knowledge of letters everywhere with veneration for the Cross.

During the ninth and tenth centuries the Irish waged a war with the Danes, who had overrun England and governed her with a line of their kings; but they failed to conquer Ireland, and were finally driven from the island after the battle of Clontarf.

In the twelfth century England invaded Ireland; but after a four hundred years' struggle England had hardly power to preserve its rule in one eighth of the island, known as "the Pale," and not till nearly the close of the seventeenth century did England gain a solid footing in Ireland. How her possession there has been maintained let centuries of oppression, bigotry, persecution, confiscation, and blood answer. Still, through the thickest gloom Irish intellect blazed up and Irish patriotism still renewed its vows at the altar of independence. Curran, Grattan and O'Connell appealed to reason; Fitzgerald, Emmett, O'Brien, Meagher and Mitchell appealed to the sword. Reason was trampled down and profaned in her temples; the sword was broken; her priests and prophets, however, still worship at her altar and foretell her independence. The stars of heaven will sing together for joy, and the nations of the earth will clap their hands at the advent of her regeneration.

But Ireland is not all of Ireland. Her sons and their descendants in other nations are multiples of those at home. The thousands of her people that flocked to France and the Continent after the treaty of Limerick have given to these countries much of their best blood. Other thousands more recently have gone to Australia. Many found homes in the South American republics, which they helped to establish; but it is with the greatest pride that we point to America as the country in which the Irish have found their happiest and most congenial home. Until quite recently this country has been the theme of England's ridicule. Her tourists traveled over it and saw nothing but a wide and rude territory, rendered more uninviting by uncivilized society. While pirating from the productions of our literary men there was a perpetual sneer upon her lip and a flippant taunt upon her tongue as she scornfully reiterated her question, "Who reads an American book?" But recently, while missing no opportunity to cripple our energies and to dwarf our power, she has set herself to work to prove that we are her child! Some ignorant English writers started the foolish idea that England was Anglo-Saxon; and then they set to work to Anglo-Saxonize us, too, and adding our population

to hers, she baptizes us all into the Anglo-Saxon family, claims that as the governing race of the world, and subscribes the absurdity with her Q. E. D!

To all this I reply that the English element is the weakest in this country. The English colonies of Virginia and Massachusetts, and all their descendants for a century after their arrival, did not number as many souls as landed from Ireland from a single ship at Castle Garden, in New York.

In 1850 Boston had a population of 138,788, and of these 52,923 were natives of Ireland, and one half of the people of Boston between five and fifteen years of age were born of foreign parents. More than one half of the children born in Boston in 1859 were of Irish parents. This was ten years ago. I presume it is entirely within the truth to say that there are seven of other races for every one of the Anglo-Saxon race in this country, and that the proportion is rapidly increasing in favor of the Celt. Take, for instance, the last national census of the State of New York and see how curiously our population is mixed and mixing itself. The population of the State in 1860 was 3,880,735; of this 2,879,455 were natives of this country, born of native and foreign-born parents, and 1,001,280 were foreign born. In the county of Kings the natives were 165,157, the foreign born 109,077; of the population of the State all the other States in the Union contributed 279,635, while Ireland gives us 498,072, or nearly double as many as all the other States together. The little State of Connecticut gives us 53,141; Massachusetts, 50,004; Vermont, 46,990; New Jersey, 36,499; Pennsylvania, 30,232; California, 451; Kansas, 26; Oregon, 17; Texas, 140; and the sea, 375. Ireland also gives New York about double as many as all other foreign countries together. Thus:

Ireland.....	498,072
England.....	106,011
Scotland.....	27,641
Wales.....	7,998
Holland.....	5,354
Italy.....	1,852
Russia.....	1,013
Asia.....	206
Australia.....	68
Greece.....	35
Germany.....	256,212
British America.....	55,273
France.....	21,286
Switzerland.....	6,166
Poland.....	2,236
Denmark.....	1,136
Spain.....	800
Africa.....	69
China.....	77
Turkey.....	39

In the State of New York there were in 1860 583,594 native voters and 239,832 foreign-born voters, and in the county of Kings we have 29,933 native voters and 28,234 foreign-born voters, a very large majority of foreign-born voters being Irishmen, with 53,435 aliens—disfranchised white residents—competent in every way to vote as well as their neighbors, but who are studying hard for five years to learn how to get a piece of paper through a hole in the top of the ballot-box.

From statistics such as these the admirers of Anglo-Saxonism will see that its day in this country, if it ever had a day, is rapidly passing away, and that the star of the Celt is in the ascendant.

It is perhaps difficult to tell with any certainty, from the intermingling of the kindred nations of the Caucasian race, who are Celts and who are Saxons. But it is not difficult to determine which race is most desirable for this country. The Anglo-Saxon race migrated westward from the shores of the Baltic. They were a fair-haired, blue-eyed, and florid-complexioned race. They were not an inventive race; they were low in the scale of the fine arts. In general they had no ear for music, and mistook noise for it. Their self-esteem was great; they looked upon themselves as superior to all other races, yet in Britain they were enslaved by a Norman dynasty; on the Continent they were broken, crushed, and en-

slaved by the Hapsburgs and Brandenburgs. In Sweden, Denmark, Holland, Norway, Holstein they were sunk into insignificance and became the degraded pieces of clay upon which the conqueror planted his unobstructed foot. They made poor soldiers, principally because of the awkwardness of their form and the slowness of their movements, although occasionally under Celtic drill they became passable food for powder and not altogether indifferent sheathing for steel. The Anglo-Saxon and the dark ages were synonymous and coincident, each producing the other. He found Europe in a blaze of Celtic light; he enveloped it in a pall of Gothic darkness! And such is the Anglo-Saxon race, to which some writers would degrade the Americans.

The Celt, the original race of western Europe, the original type of the people of Greece, Rome, France, Ireland, Scotland, Wales, and Brittany, has written his own renown in the world's history. He has played at the game of war for nearly four thousand years. War is his favorite pastime. In stature and weight inferior to the Saxon, yet in muscular energy and rapidity of action far superior. His natural weapon is the sword. He is jealous on points of honor; extreme in self-respect; an admirer of beauty of color and beauty of form, and therefore liberal in his patronage of the fine arts. Inventive and imaginative he dictates the laws of fashion and refinement to the world. He has a fine taste and a musical ear. He is warm-hearted; full of deep sympathies. The great and leading family is France, then Ireland, Scotland, Wales, and other nationalities which are giving to the United States a large majority of its people. Hereafter the destinies of this country are in the hands of the Celt, and chiefly of the Irish Celt.

In illustrating the difference between the Saxon and the Celt, Knox, in his work on the different races of man, instances their favorite books: The Maid of Orleans, by Voltaire, representing the Celt, witty and refined in spite of its objectionable features; the Saxon represented by Hudibras, coarse and brutal, and abounding in that pleasant and comfortable feeling which measures the worth of all things from a bishopric to a bale of cotton by its value in money:

"For what's the worth of anything
But as much money as 'twill bring?"

War is the pastime of the Celt. Who have been the warriors and conquerors in the battles waged among men for the last thousand years? What was Alfred the Saxon to Charlemagne or Brian Boru, the Celts? Who was the Anglo-Saxon rival in arms of Napoleon, the Celt? What generals has Anglo-Saxonism produced equal to Hugh O'Neil, Phelim Roe, Gough, Napier, or Wellington, or Ulysses S. Grant, or Stonewall Jackson, or Philip H. Sheridan, or Winfield S. Hancock? It was French bravery that redeemed the Crimean war from utter ridicule. Take away French, Scotch, Irish, and other Celtic generals from the records of war and you impoverish history.

Believe me, I am not one of those who would make the battle-fields on which hostile humanity has met and melted into blood the only spots worthy of room in geography. There are other spots of earth worthy of veneration and other heroes worthy of the highest honors. I would rather pluck a thorn from the heart of grief than win a laurel crown from the blood of the bravest. I would rather hush one groan in the bosom of suffering humanity than hear the shouts of a thousand blood-stained victories. I would rather be told of the drying of one tear on the widow's cheek or from the orphan's eye than see rivers incarnadined with blood, to reflect from their crimson waves the blushing honors with which war glorifies its heroes. I would rather crown the mechanic, the artisan, the inventor, the benefactor, with honors and laurels than deify violence and idolize human butchery.

HO. OF REPS.

Naturalization, &c.—Mr. Robinson.

40TH CONG....3D SESS.

But, alas! what is history but the lives of warriors? What is France but Charlemagne and Napoleon? What is England but Marlborough and Wellington? Marathon, Plataea, Mycale, Canae, Hastings, Bannockburn, Poitiers, Agincourt, Blenheim, Fontenoy, the Boyne, Lexington, Ticonderoga, Yorktown, Cremona, Marengo, New Orleans, Waterloo, Buena Vista, Bull Run, Antietam, and Gettysburg—what are they all but a few of History's footprints on the pathway of Time?

And if martial daring; if marching up to the cannon's mouth; if offering a fearless bosom as a sheath for the sword; if coolly receiving or impulsively delivering the charge when the steel instrument of Bayonne rips the quivering flesh and pierces the palpitating heart; if pushing these same bayonets through a hissing cloud of lead and fire into an opposing wall of quick and living flesh, if these be glorious deeds, then the Irish Celt is not inglorious. If glory's footsteps are traced in crimson; if the music by which she marches are the yell and shout of the onset, the clangor of conflicting arms; if the incense of her altars is the curl of the cannon's smoke which lifts itself lazily from the earth as if burdened with the doom of the dying, then have Irishmen spent no holiday trifling in glory's service. Clontarf, Ballinabewee, Benburb, the Boyne, Aughrim, and Limerick, are scenes where glory has drawn from Irish hearts artificial seas of blood on which her red flag floated unseen from shore to shore. The red footfalls of Irish bravery have kept time to the music of war's death-march on the burning sands of India. The clang of its armor and the shouts of its victories have multiplied themselves in the echoes of the Alps. Beneath their own green flag at Clontarf and Benburb; beneath the tricolor at Cremona and Fontenoy; beneath the cross of St. George at Waterloo, Lucknow, and Balaklava, and beneath that brighter and more dearly-beloved banner of our Union, its azure robe glittering with increasing and brightening stars at Quebec and Princeton and Yorktown, at Niagara and New Orleans, at Palo Alto and Chapultepec, at Buena Vista and Churubusco, at Fair Oaks and Malvern Hill, at Fredericksburg and the Wilderness, at New Orleans and Vicksburg, at Antietam and Gettysburg, down the Peninsula and up the Shenandoah, all the weary way from Bull Run to Richmond, Irish valor vindicated itself and Irish courage shone triumphant. There is no secret in chemistry by which war's deep draught can be purged of Irish blood, no perception of vocal criticism to separate from war's music the sounds which Irishmen have mingled with it; no history of earth's red deluge can be written upon whose pages you may not read the immortality of their fame.

A man prejudiced against everything Irish may stand by the tombs of Boyle and Berkeley, Swift and Sheridan and Goldsmith, and deny to Ireland the homage due to genius. He may have listened to Miss O'Neill and Catharine Hayes, or witnessed the living delineations of Kean, Macklin, and Macready, and deny to Ireland all honor in music or the drama. He may have listened to the song of the bards, have heard Anacreon's sharp restrung to sweeter melody than its own original, and have drunk in "the loves of the angels," and refuse to Ireland all credit for poetry. He may gaze upon the names of Burke and Canning in Westminster, and deny that Ireland ever produced a statesman. He may listen to the still living echoes of Grattan's, Curran's, and O'Connell's voices, walk heedlessly over the ashes of Tone, Emmett, and Fitzgerald, or sit in the solitude of Van Dieman's Land with Mitchell, Meagher, and O'Brien, and deny to Ireland the virtue of patriotism; but he cannot, no man can, see in history Brian at Clontarf, O'Neill at Ballinabewee, Owen Roe at Benburb, Sarsfield at Limerick, Wellington at Waterloo, Gough and Napier in India, Montgomery at Quebec, Jack-

son at New Orleans, Shields at Cerro Gordo, Meade at Gettysburg, or Sheridan along the Shenandoah; he cannot, no man can, follow Con, and Nial and Dathi over Gaul and the Continent, read through the wars of Cromwell and William, the continental wars; through our own revolutionary struggle, the second war, the conquest of Mexico, and the battles for the Union; he cannot, no man can, trace through history's pages the bloody records of Cremona and Fontenoy, I care not how prejudiced, and say that the Irish Celt lacked courage, showed want of military genius, or failed in heroism, whether the green flag, the tricolor, the fiery cross, or the radiant stars and stripes floated over him on fields where he bravely conquered or undaunted fell!

I have before me a letter from Winfield Scott, in which he says of the Irish under him in the Mexican war, of whom there were over two thousand, that "not one ever turned his back upon the enemy, or faltered in advancing to the charge." I have also before me a letter written by one of the most distinguished generals in our late war, who had many opportunities of witnessing the bravery of the Irish brigade, the Corcoran legion, and other Irish brigades or regiments, in which he says:

"My admiration of the Irish as soldiers is unbounded." * * * * "No race in the world is superior to them."

I have, too, before me a letter of John Quincy Adams, in which he says:

"I cannot, however, deny myself the pleasure of thanking you for the testimony which you have borne to my long-cherished, deeply-rooted respect and affectionate attachment to the people of Ireland and the cause of their national independence, a respect and attachment coeval with the fall of Montgomery before the walls of Quebec in the war of our Independence, confirmed and cemented by the virtues which I have witnessed through the course of a long life by personal acquaintance with numerous natives of the Emerald Isle."

What the Celt has done in history, or what he will do for this country, I have not time to tell nor daring to prophesy. Twenty-two of the signers of the Declaration of Independence were natives of or descendants from Celtic countries. So, too, were many of the framers of the Constitution. The heroes of our Navy and Army, O'Brien, Barry, Blakely, McDonough, Perry, Stewart, Shaw, Porter, Farragut, Montgomery, Wayne, Sullivan, Knox, Moylan, Stark, Clinton, and many others whom I might enumerate, were Celts. I believe Major General Benedict Arnold was an Anglo-Saxon, and was not descended from Irish ancestry!

Sir, I have been accused of speaking too often in this House in favor of Ireland and of Fenianism. The records of this House will show that during the time I have been in Congress I have not even once said a word on Fenianism. I have introduced no bill, offered no resolution, made no remarks on Fenianism. Nor have I said a word upon Ireland, except a speech of some fifteen minutes, at the suggestion of the chairman of the Committee on Foreign Affairs, [Mr. BANKS,] on a resolution from that committee expressing the sympathy of the American people with the people of Ireland and Crete, which afterward passed the Senate with Ireland left out. I have spoken frequently, not however too often, on the protection we owe to our citizens traveling abroad; but that is neither an Irish nor a Fenian, but a great American question. But, sir, if I had found time to say a word for Ireland, after attending to all matters in which my constituents were interested, why should I be censured for it? What has Ireland done, that for one of her sons in Congress,

"'Tis treason to love her, and death [political] to defend."

I trust I shall never forget to say a good word for Ireland, if I have time, after discharging my duties to my constituents. Why, sir, my district, for intelligence, wealth, industry, education, schools, and churches, for merchants, min-

isters, the medical and legal professions, is perhaps the best district in the United States, equal to almost any in all characteristics mentioned. The population of that district is perhaps less than one fifth of New England birth or origin, less than one fifth of English and their descendants. The remaining three fifths or more are German and Irish by birth and descent. By the last State census of 1865, which is generally believed to be lower than the facts would warrant, in Kings county, of which my district embraces about one half, there were 197,243 persons natives of the United States, and 112,869 persons natives of foreign countries, with about 1,000 born at sea or at places unknown; in all 311,090. Of these 59,444 were born in Ireland, 28,310 in Germany, 15,555 in England, 2,797 in Scotland, 1,461 in Canada, 1,195 in France, 241 in Holland. Of the voters in Kings county there were 29,950 native-born and 28,274 naturalized, in all 58,224 votes, while there were 53,435 aliens, unjustly kept so by the law requiring five years' probation. Let me say also that 1,482 Irish, 1,000 Germans, 364 English, 812 Scotch, and 782 aliens, and 1,216 of unknown birth, mostly perhaps aliens and generally Irish, enlisted in the armies of the Union. Consequently in 1865 there were 12,367 widows to 3,135 widowers in my county, showing that many had fallen in battle in defense of the flag of the Union. There were 13,297 families in the county without a single child, 13,418 families with one child each, 12,530 with two children each. The remainder of the 63,146 families ranged from three to twenty-two children in each family.

Now, whichever race has the most children in each family commands the future of Brooklyn. But take it as it is, whom do I represent as member of Congress chosen by this mixed population? I am proud of the New England minority in my district, but I am not ashamed of the Irish majority. Those seven hundred and eighty-two aliens who rushed to the defense of the country which had no claim upon them, those thousands of widows whose husbands fell on many a Union battle field, deserve to be remembered by Brooklyn's Representative on this floor. Surely, the fifty-nine thousand four hundred and forty-four natives of Ireland in my city who pay taxes, work, and fight for the country ought not to be ignored or obscured or eclipsed by the much smaller number of New England's sons. All the other States in the Union do not furnish to Brooklyn half as many of her population as she receives from Ireland alone. If I have therefore attended reasonably well to the general interests of my constituents I should not be blamed for saying a word for Ireland, from which more than one half of my constituency springs, and which is loved to-day as no nation except the United States ever was loved by all her sons, except a very despicable and recreant few.

Nor would it have been out of the way for me to have said a kind word of the Fenians if I had time after attending to my other duties. If I did not speak for them it was not because I was afraid to espouse their cause, but because they did not want speaking. They believe more in work than in talk. They would rather fight than speak. They would prefer to be reckoned men of deeds rather than men of words. But when they need defenders no man need be ashamed to become their advocate. Their cause is the cause of freedom through all ages, climes, and countries. Every tyrant dethroned, every bad Government revolutionized, was but an exhibition of Fenianism, and every one of their defenders shouted something as offensive as the cry of Fenianism.

It was Fenianism that watched the cradle of Moses and directed the footsteps of Pharaoh's daughter to the doomed infant's side. It perched upon the banners of the Israelites fleeing from their oppressors through the divided waves of the Red sea. It flashed through the pillar of

fire and fringed the curtain of cloud by which the oppressed were guided and guarded. It tempered and strengthened and brightened "the sword of the Lord and of Gideon." It sanctified the sword in the hand of Agamemnon and inspired the muse of Homer to hymn his praise. It stooped with Samson between the main pillars of the temple and danced for joy upon the ruins in which the tyrants were buried. It aided Lycurgus to offset kings with senators and made Sparta a nation of soldiers. It throbbed in the heart of David, the youthful patriot, nerved his arm and guided the stone from his sling which smote down the Philistine oppressor of his race. It builded with Solomon, prophesied with Isaiah, and wept with Jeremiah over the oppressions of the people. It flung to the breeze the banner of rebellion and freedom under Aristomenes, whom defeat and treachery could not conquer nor adverse fortune overcome. It inspired Solon to substitute his own for Draco's infamous laws. It flamed before the astonished eyes of Belshazzar, in the royal palace of Babylon on the deserted banks of the Euphrates, the Fenian motto, "*Mene, mene, tekel, upharsin.*" It inspired Cleisthenes to oppose Isagoras and to secure for Athens a complete democracy in place of an aristocracy. It inspired the Athenian triumvirate to oppose the Persian hordes whose armaments darkened the stormy Ægean, crowned the cause of freedom with victory through Miltiades at Marathon, deified defeat under Leonidas at Thermopylæ, and scattered the hosts of despotism by Themistocles and Eurymedon at Salamis, Platea, and Mycale. It seized the spies and heralds of Darius, demanding earth and water from Athens and Sparta as insignia of submission, and threw them into the wells and ditches to find there the elements demanded. It "wielded at will that fierce democracy" of Pericles against Cimon and his aristocracy. It inspired the tongue of Lucretia to accuse Tarquin with whom the tyrant was banished and royal dignity abolished. It attacked and expelled through Thrasylbulus the thirty tyrants from Athens, and restored democracy to the city; it struck successfully for Theban independence by Epaminondas at Leuctra; it marched with the advance of the younger Cyrus and covered the Anabasis of Xenophon; it fired the tongue of Demosthenes against Philip and Alexander, roused Macabæus to drive the Syrians from Judæa as it would now drive the oppressors from Ireland; it inscribed upon the banners of the Scipios that other Fenian motto, "*Delenda est Carthago!*" It instigated Cicero against Verres and Cataline, and was suspected of complicity with Brutus and Cassius in the conspiracy against Cæsar. It nerved the arm of Boadicea in her gallant but disastrous struggle for her country's independence. It inspired Alfred to drive the Danes from England. It preached the Crusades through Peter the Hermit, and roused the lion in the heart of Richard at Ascalon. It was the chief baron who wrung Magna Charta from John at Runnymede. It guided the arrow of Tell which clove the apple without touching a hair on the head of his darling boy, and winged the other for the heart of Gesler, through whose fall the independence of Switzerland was secured. It laid "the proud usurpers low," and tyrants fell at every blow, with William Wallace at Falkirk and with Robert Bruce at Bannockburn. It welcomed "to their gory bed or to victory" every Scotchman whose blood dyed the heather for the freedom of the soil on which it grew. It clothed itself in beauty in the young Maid of Orleans, and multiplied itself into everlasting maledictions upon England for her cowardly and cruel taking off. It stood at the helm and filled the sails of Columbus. It rebelled with Wat Tyler and stirred up O'Neill against Elizabeth. It preached through Milton and sung through Shakespeare. It crouched under the bridge which trembled beneath the hoofs of Charles's troopers and slept in the cave of West Rock with the regicides, inscribing over its entrance that Puritan

Fenian motto, "Resistance to tyrants is obedience to God." It tipped with diamond the pen of Jefferson to write the great Fenian creed in the Declaration of Independence for life, liberty, and the pursuit of happiness. It baptized in flame the tongues of Hancock and Adams and Patrick Henry, and flashed its lightning from the sword of Washington. It stirred up the rebellion of '76 and gave us Washington and Jefferson. It stirred up the rebellion of '98 and gave us Fitzgerald and Emmett and Wolf Tone. It kindled the fire on Prague's proud arch and crimsoned the waters murmuring below it, and shrieked through freedom at the fall of Kosciusko. It flew in murmurs along the banners and whispered "vengeance or death" as the "watchword and reply" where its devotees and martyrs fought and fell for Sarmatia. It mounted the scaffold with Robert Emmett, and from the dying words of its chosen champion prophesied the resurrection of his country in whose morning effulgence the radiant epitaph on his monument, written if need be in the crimson of the hearts of tyrants, shall be read by all men. Just half a century afterward it stood beneath that same scaffold with Thomas Francis Meagher, "within one heart-beat of eternity," and poured upon his tongue the most affluent prodigality of its eloquence with which he preached the evangel of liberty. It inspired O'Brien of Maine, the first American naval hero, and his four brothers, the original Fenians of Maine, to seize and man a lumber sloop, our first war vessel, and with pickaxes and pitchforks to board and take the British armed schooner, and with the armament thus taken to fit out the sloop Liberty with which to take the schooner Diligence, and with the Diligence and Liberty to take the enemy's fort in New Brunswick, capturing its garrison, guns and ammunition. It inspired another American-Irish Fenian, John Barry, the first commodore of the American Navy, to attack and capture on the Delaware with four small row-boats an English vessel of ten guns. It filled the sails of the Bon Homme Richard while her gallant commander, Paul Jones, an American-Scotch Fenian, swept the seas to the terror of the whole British nation. It locked the Protector and the Admiral Duff yard-arm to yard-arm, kept time by the watch for an hour while the battle lasted, and then blew up the Duff, but saved the men. It so animated Hull, of our Old Ironsides, that he burst his garments as he shouted his command for that terrific "fire" which almost literally annihilated the Guerriere; and it spoke through our gallant Lawrence from the deck of the Chesapeake that immortal Fenian motto, "Don't give up the ship." It heralded the coming morn of a nation's independence at Lexington and Bunker Hill and Quebec. It marked out Washington as "the boon of Providence to the human race." It retreated with him from Long Island, crossed with him the Delaware, mounted sentinel and gave the watchword at every headquarters. At Brandywine and Germantown, at Monmouth and Camden, at Ticonderoga and Saratoga, at Trenton and Princeton, where Washington triumphed and Mercer fell, whether the sun of victory or the eclipse of disaster shone or brooded on our banners, Fenianism was there, and on the field of Yorktown it counted the arms which the army of Cornwallis stacked upon that field where monarchy surrendered then as it shall again surrender to Fenianism. It was Fenianism that inspired every patriotic emotion in its original home in Ireland, from Fionn McCool down to the latest champion of freedom through long centuries of oppression, cruelty, and wrong. It rallied its forces at Ballinabewee, Benburb, Limerick, and Ballinahinch. It made the Geraldines more Irish than the Irish themselves. It gave the light of hope through the long ages of despotism which brooded over Ireland to O'Neill, O'Donnell, O'Doherty, and O'Toole,

to Sarsfield and Tone and Fitzgerald and Emmett and Curran and Grattan and O'Connell and Meagher and Smith O'Brien and Mitchell; and as the despot led his victims to the scaffold at Manchester it breathed its noblest prayer from the lips of the martyr O'Brien, "God save Ireland." It consecrated the scaffold with their names, and clothed the cause in which they died with aglorious immortality. It sometimes worked out its own ends through kings and tyrants, and used them for their own destruction. Sometimes it was for Sparta, sometimes for Thebes, sometimes for Athens, sometimes for and against the same Power, but always for liberty. It is the oxygen of the universe which feeds the flame of freedom everywhere. It is the electricity which shakes and purifies the atmosphere, which but for its presence would be the inspiration of death. It crouches to-day beneath the throne of every despot throughout the world and lines with the garment of Nessus the crown of every tyrant. It is oxydizing the iron of every prison bar. It sits with every prisoner in his lonely cell, softens into down the stoniest pillow which the tyrant puts beneath his head, and fills his soul with music sweeter and more heavenly than ever breathed or died in sickening sentimentality in the palaces of kings and the castles of nobles. It marches round the world to-day keeping step to

"Earth's heavenliest music, the breaking of chains."

It breathes consolation in the ear of every political prisoner in Kilmainham, Mountjoy, Pentonville, and every other bastille throughout the world, and whispers to O'Donovan-Rossa, McCafferty, and Halpin that the hour of their deliverance is approaching, while it conducts Warren and Costello again to liberty. With drooping wing and soiled plumage it perches to-day on the Dome of our national Capitol and laments the Circean sorcery which seems to lull the manhood of our people's representatives into worse than Lethean forgetfulness of the rights and sacredness of American citizenship. It floats down the Rhine and up the Danube. It sleeps upon the Shannon, murmurs in the ripples of the Seine, flashes freedom's light upon the Tagus, and dances in the rays of the sun shooting from every wave-let's crest upon the Ægean; and even on the Thames with bated breath and closed nostrils it waits for the breeze of purification. It soars with the eagle, sings with the lark, foams on the ocean, flows with the rivers, shoots with the meteors, flashes with the lightning, peals with the thunder, and dances in the stars:

"Lives through all life, extends through all extent,
Gives undivided, operates unspent."

"And what shall I more say? For time would fail me to tell of" all those who through the faith of Fenianism "subdued kingdoms, wrought righteousness, obtained promises, stopped the mouths of lions, quenched the violence of fire, escaped the edge of the sword, out of weakness were made strong, waxed valiant in fight, turned to flight the armies of the aliens," "and others were tortured not accepting deliverance," "and others had trial of cruel mockeries and scourgings; yea, and moreover of bonds and imprisonments. They were stoned, they were sawn asunder, were tempted, were slain with the sword; they wandered about in sheep-skins and goat-skins, being destitute, afflicted, tormented; of whom the world was not worthy. They wandered in deserts and in mountains and in dens and caves of the earth."

Mr. Speaker, I am not ashamed of the record I have made here. "Solitary and alone" and amid the sneers of an unthinking press "I set this ball in motion." March 4, 1867, I first took my seat on this floor. In 1842, twenty-seven years ago, I had prayed the attention of Congress through Henry Clay, (see Senate Journal, second session Twenty-Seventh Congress, page 176,) in a long petition embracing

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the points in the bill passed into law by this Congress and in the treaties made with Prussia and other Powers, and with England, now pending in the Senate of the United States. In 1848 I urged the attention of the authorities here to the outrages perpetrated upon Bergen and Ryan and other American citizens imprisoned without cause in Ireland in that year, and we succeeded in securing their release. On the 7th of March, 1867, within three days after taking my seat here, I made my first motion on this subject, calling for information on the imprisonment of our citizens. That resolution was answered March 20, 1867, and the information refused. I followed the matter up in committee and in the House. July 10, 1867, I had up the case of Meany and Nagle, since released. On November 21, 1867, Congress came together, and I again brought the question before the House the first day of its meeting, and on the 21st and 25th of November and the 2d day of December, 1867, I made speeches on this question. It is somewhat curious now to look at the reception given by the press to this subject.

The Washington Daily Chronicle of November 22, the day after my first formal speech upon it, says:

"The irrepressible representative of the Fenians, RICHIEU ROBINSON, of New York," * * * "desired to talk, but failed to get permission."

The New York Times of December 3, the day after my second speech, says:

"ROBINSON opened his batteries." * * * "The House is already tired of this subject, and listened with impatience."

The Brooklyn Union of December 10, 1867, begged that—

"Honest citizens, who prefer to attend to their own business, free from embarrassment arising from the acts of their disorderly adopted fellow-citizens, which they are not willing to and will in no case incur," &c.

I might go on and quote columns of such ridicule with which we entered upon this great struggle. Nor was this ridicule worse than the indifference manifested by the leading newspapers. Not one of them, so far as I saw, for weeks had a single editorial of encouragement. The New York Herald, of all the great dailies, was the only paper to speak favorably of the subject I had introduced, and showed that it was neither Fenianism nor Irish affairs, but the great American question of protection to American citizens which I was urging. Ridicule and neglect, however, had no influence on me; I continued the agitation, as the reported proceedings of this House will show. In the meantime the weekly press, particularly the Irish-American papers, had taken up the subject. Thousands of speeches, by myself and others, in pamphlet form were circulated over the country. Immense mass-meetings were called in Washington, New York, Brooklyn, Philadelphia, Baltimore, Cincinnati, Cleveland, Chicago, and St. Louis, and all the large cities throughout the Union, and were addressed by Governors of States, Senators of the United States, and other distinguished men. Many of the State Legislatures indorsed the movement by joint resolutions. The authenticated proceedings of these meetings and Legislatures, duly signed by the officers—in some of which my name was favorably mentioned—to the number of sixty or seventy, came before the Committee on Foreign Affairs. Public attention was aroused. Congress passed a law embodying the right of expatriation and protection to our citizens, though not in as good a shape as it left the House. Treaties followed with Prussia and other continental Powers, and finally England yielded her long-cherished doctrine of perpetual allegiance, and accepted the American doctrine.

In closing my speech on December 2, 1867, I said:

"I can only say that when this thing is accomplished, when the true doctrine which we announce here to-day, and will hereafter insist upon, shall

become incorporated in international law, and its vitality shall be recognized throughout the world, though I may have departed before that time, my memory may live among those who have advocated it."

I knew how long cherished this doctrine of perpetual allegiance was to Europe. I knew we had gone to war upon it, and had concluded a peace with England without settling it. I knew what apathy had seized the press, what lethargy had deadened the people. I felt the ridicule which from all quarters came pouring upon us, but beyond the cloud we saw the sunshine. We believed that this Congress would declare the inalienable right of expatriation, and felt that in five or ten or twenty years Prussia and England, the two countries from which we had most to fear, the latter having even then over a hundred American citizens in her prisons, and the former imprisoning on their return all our naturalized citizens born in her dominions, for military service due to her, would acquiesce: but in two years England and Prussia accept our doctrine! The United States has by bill declared the doctrine which she will maintain against the world. Prussia has already ratified a treaty with us, and emptied her jails of our citizens, and England has surrendered her centuries wrong to America's right. And Meany and Nagle, Warren and Costello are to-day released from British dungeons.

Am I not pardonable if I am now a little egotistical? While I have attended to every public matter of tariff, taxes, Hell Gate obstructions, suspension bridges, appropriations, river and harbor improvements, and general political and financial legislation, I have been somewhat instrumental in carrying this the greatest triumph of the age, which will live when the petty struggles of party over impeachment, reconstruction, and other measures of the day will be forgotten, or remembered only to be deplored. Might I not say that, as additional duty, I have helped a work which the future millions of Brooklyn will be proud to say was urged forward to success by one of Brooklyn's Representatives.

Why, just compare results! There are many distinguished men who claim that the freeing of four million colored people from nominal slavery is worth all the life and treasure expended during our recent war. One million of American citizens dead on the field of battle, hundreds of thousands crippled and diseased through life, \$3,000,000,000 squandered, debts incurred, and taxes imposed under which the country will stagger for generations to come; and four millions colored people nominally freed from slavery! This measure has cost no increase of national debt, no battles have been fought, no lives lost, and yet it emancipates one hundred-millions of men from slavery quite as galling as that of African slavery—a slavery which denied to man the right of locomotion, the right to call himself his own, and to go where he pleased, and punished with imprisonment and other severe penalties the fugitive slaves returning within reach of their former masters, and all this accomplished for the Caucasian race—the race which has produced Milton and Shakspeare, Burns and Moore, La Fayette, Kosciuszko, Tell, and Washington.

Sir, I regret nothing that I have done here. Had I ignored the rights of our adopted citizens I might have secured a reelection. The two acts charged against me and working the defeat of my nomination to next Congress were casting my vote for the present Speaker and talking so much on Ireland and Fenianism. As for my vote for Speaker, we had no party caucus regularly called. I had known the present Speaker as a friend of Ireland's nationality. I had read his speeches on that subject in Chicago, and willing to show my respect for a friend of Irish nationality, when I betrayed no principle nor trust of my party, I acted as I did. The other Republican officers of this House were elected unanimously. Recently

the present Republican Doorkeeper received all the Democratic votes on this floor. Tomorrow, this Speaker will receive a unanimous vote of thanks from the Democrats of this House. Wherein was my crime greater than theirs? Even this I do not regret, and I am free to say that whenever I can show my friendship for any advocate of Ireland's cause without betrayal of or detriment to my party, I will do so wherever I may be placed. On the other question my only regret is that I have not talked and done more for Ireland. I am more than repaid in the consciousness that throughout the world, wherever a true Irishman lives who has heard my name, in him I have a friend; and that many regrets are to-day entertained that in the coming Congress one voice, always faithful to Ireland, will be silent when her name is spoken.

Among all the words of commendation I had in this cause none were so encouraging as those I received from the late James T. Brady. Among his expressions of approbation of my course was this letter written to one whom he knew felt keenly every ribald joke against the cause in which I was so earnestly engaged, and whose heart he knew would thrill with gratitude at every kindly word spoken in its favor:

WILLARD'S HOTEL,
WASHINGTON, D. C., December 18, 1867.

MY DEAR —: Last Sunday I was kept in my bed afflicted with a headache. Some consolation was afforded me by reading "Rob's" speech.

* * * I think nothing ever was said or could be said more appropriate or effective than that which emanated from our "mutual friend." When he spoke the other day he called it a question of "privilege," but proved it to be a matter of right, not merely right of speech to him, but national right in all who claim to be Americans by birth, service, or adoption.

I know that ROB and myself have often made speeches which more illustrated the genius and fluency of our race than the logic of our subject. But just now he has made a hit, and just as sure as you and I live what he advanced in his brief and pointed speeches has become a great and an eternal national question. I mean "eternal" until we have given Ireland her rights and degraded her oppressors.

* * * * *
In haste, yours, most respectfully,
JAMES T. BRADY.

It is a melancholy pleasure to me to-day to summon him who wrote those words for a moment from the gloom of the grave in which I have seen him laid, and to try to realize the loss which every good cause has sustained in the death of its ablest and truest champion, and to dedicate a few words to his memory:

"Romance and reality blended, in sooth,
The firmest of manhood the freshest of youth
In honor's most beautiful form.
Not even to save the whole cargo of truth
Would he cast out a part in the storm!

Gloom! gloom!
The firmness and freshness are nipped in the bloom,
Broad and dark is the shadow that falls from his tomb.

"Go—mix with the crowds where his praises are spoken:
Go—watch the wet eyes that hang over each token
His genius hath given of its birth.
Would millions in one common grief be combined
If some spell-work embracing the heart and the mind
Of man in its magical girth
Were not left, like a scroll from his spirit behind,
To circle and gird up the earth?"

I have said that I did not neglect my constituents in attending to the rights of American citizens abroad. There was no question that I neglected to advocate or condemn according as I believed it was for the good of my constituents or otherwise. Even this day the Brooklyn bridge bill was taken up out of its order on my urgent entreaties and passed, which otherwise might have been lost in the hurry of the closing hours of this Congress. In all I have done, which I shall not attempt to enumerate, I considered it my duty, and I seek no praise for discharging it, but I claim to have been faithful to my constituents and true to the party electing me in all things in which they were properly interested.

And now, sir, what of the future of this new

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Resumption of Specie Payments—Mr. Cornell.

HO. OF REPS.

Ireland—these United States? We have no need of fear from the immediate reception and admission to citizenship of all who come from Ireland or Germany. They have ever been and ever will be true to your flag and loyal to your cause. They have always bled freely and fought well for this country. There were more soldiers in proportion to their numbers from our foreign-born than from our native population in the late war.

In closing an address which I delivered at Hamilton College before the Psi Upsilon Fraternity, composed of graduates and undergraduates of Yale, Harvard, Union, Amherst, Dartmouth, and other colleges, on the 22d of July, 1851, I stated the number of soldiers, native and adopted, that would rush to the rescue of this country whenever its safety was periled. This was eighteen years ago. Who then believed that any one living would ever see an army of one hundred thousand Irishmen in the field to sustain our flag and Union? With an extract from that speech expressive of my feelings then and of my feelings now, as well as of the feelings of every Irish or German immigrant landing on our shores, I shall close my remarks on this occasion. I quote from the New York Daily Tribune of July 30, 1851:

"This Union shall not fall. It shall stand, for the prayers and hopes and sympathies of a world are gathering around it. In the veins and hearts of its sons there is blood red as its stripes, and patriotism pure as the light of its stars, ready for its defense. Its enemies shall be met and conquered on the ocean, and no foot of a foreign invader shall ever desecrate its soil. Around its borders, on every inlet, are instruments of brass and steel, whose music shall charm away all invaders. There are four millions of citizen soldiers whose every heart is a citadel, whose every body is a shield around and over it; and around the citadel of liberty shall rise ramparts of bodies, and shall flow a deluge of blood, before its safety is periled or its throne shaken. From the exiles from one country alone, whose sons, flying from oppression there, found shelter here, we could raise an army of one hundred thousand fighting men, as brave, as irresistible, as their countrymen who fought at Cremona or Fontenoy. Within sound of the City Hall bell of New York we could raise an army of Irishmen larger than either General Scott or General Taylor had under his command at any time during the war with and conquest of Mexico; and in the right arm of every one of them is a twitching sensation of desire to avenge upon European monarchies, and particularly on that of England, the oppression and sufferings of centuries. The world in arms could not successfully invade this country, guarded by the Irish and German soldiers alone, who would run to its defense."

"I would as soon think of doubting my father's integrity, my mother's honesty, or my wife's fidelity as doubt the stability and perpetuity of my country. There should be 'no such word as fail' in the lexicon of this Republic. Washington's wisdom, Montgomery's blood, the blessings of the past, the promise of the future, the hopes of the world, are mingling with the folds of its flag and dancing in its stars."

"Those who talk of disunion have little faith in man's wisdom and less in God's providence. They have but a faint idea of our bright destiny. The light of that flag shall burst like a sun upon the falling ruins of oppression throughout the world."

"Many an eye sick and sunken shall revive to gaze upon the increasing constellation of its stars. There shall be no Gibion on which the sun of her glory shall stand still, no valley of Ajalon over which the moon of her beauty shall be staid."

"For him who shall attempt to fire the temple of American liberty, who would pale a star or blot a stripe from its glorious flag, time shall be too short for repentance, Heaven too indignant for forgiveness, and the woe of the doomed too merciful for the punishment of his crime. He shall perish from among men, his name shall not bluster on the page of history. The curl of woman's ruby lip shall gather up red malisons for his memory. The curse that sometimes will flutter even on the tongue of angels will be hurled upon his head."

"My young friends, unto you is given this day a glorious inheritance. Beneath the shadow of your eagle's wings lives and grows a Power greater than that ever swayed by a Caesar or an Alexander. You are born or adopted to an inheritance approaching nearer that for which the Christian hopes hereafter than any temporal blessing, an inheritance eternal as earth's foundation, enduring as time. Cherish it as you would your life, your honor. It shall soon commit itself to your hands for good or evil. See that its laws are made in justice and obeyed with fidelity, looking for light to conform to that Supreme Wisdom which the wise and good of all nations acknowledge, for it is the fool who saith in his heart even that there is no God. Live in the light of your own history, following the examples of your fathers; so shall you enjoy blessings never elsewhere vouchsafed to man, and transmit them unimpaired to your children and

your children's children forever. Such is the country and such I trust her destiny soon to commit her interests to your care. Who would not die to save her and think his lot divine? This is the stone which the monarch-builders despised and which has now become the head of the corner.

The poet prophet of Israel seems to have described this country and its glorious career in the volume of Revelations:

"And the Gentiles shall come to thy light and kings to the brightness of thy rising. Thy sons shall come from far and thy daughters shall be nursed at thy side, because the abundance of the sea shall be converted unto thee, the forces of the Gentiles shall come unto thee, all they from Sheba shall come; they shall bring gold. Who are these that fly as a cloud and as the doves to their windows? Surely the isles shall wait for me, and the ships of Tarshish first to bring thy sons from afar, their silver and their gold with them; and the sons of strangers shall build up thy walls, and their kings shall minister unto thee; therefore thy gates shall be open continually; they shall not be shut day nor night; that men may bring unto thee the forces of the Gentiles, and that their kings may be brought. The sons also of them that afflicted thee shall come bending unto thee; and all they that despised thee shall bow themselves down at the soles of thy feet. I will make thee an eternal excellency, a joy of many generations."

"Would that I could see the prophecy applicable to my country as the inspired pen further wrote it:

"I will also make thy officers' peace, and thine exactors' righteousness. Violence shall no more be heard in thy land, wasting nor destruction within thy borders; but thou shalt call thy walls salvation and thy gates praise; thy sun shall no more go down; neither shall thy moon withdraw itself; for the Lord shall be thine everlasting light. Thy people also shall be righteous; they shall inherit the land forever."

The Gentiles have indeed come to this great western light. This nation's adopted sons have indeed come from far. Look at this cloud of Anglo-Saxon-ridden poverty, flying as doves to the windows or ports of our country, where safety and rest wait for them. Ships, compared to which those of Tarshish were as canoes to a man-of-war, bring our sons and gold and riches from lands unknown to Sheba or Jerusalem. The walls of our cities are literally built up by sons of strangers. Night and day our gate-way ports are open, and the strength, force, and flower of monarchies crowd in. And the sons, too, of England, the great afflictor of our fathers, are coming bending to the starry flag; and those Norman nobles that despised us and found their highest literary enjoyment in the low billingsgate of their cockney tourists, are bowing themselves down at our feet and trying to drown the echo of their former curses in the sycophant servility of their present flattery.

"And oh! as we look to what we have been, what we are, and what we will be, what son, native or adopted, does not look back to the Father of his Country with thankful heart and grateful emotions? Spotless and pure as ever human nature was was our own dear and revered father; pure and incorruptible as the gold, firm as the granite foundations, and vast in comprehension as the extent of his country. All human praise short of a violation of the first two commands of the Decalogue be his. Reverence the most profound, praise the most exalted, be rendered unanimously to him, as to him it must be rendered, while a posterity springs up or a wave of immigration rolls to these shores worthy to inherit the country which his wisdom established on such sure and liberal foundations. Cold, treacherous, traitorous will be that American heart in which the blood circulates not more quickly; dull, dead must be the eye which will not kindle with a nobler pride at the mention of the name of Washington. As I follow him back and forward from North to South of our country, the interests of a continent, the freedom of millions of unborn generations, the hopes and fears of a world gathering around him and centering in him, the sufferings of his army, the successes and excesses of the Anglo-Saxon enemy, the want of supplies, the doubts and suspicions of some, the open threats of revolt, the secret plottings of treason, all weighing upon and crushing his big heart; yet still bearing up under all till his bright, untarnished sword, which freed a people from tyranny, was laid down at the feet of that people's representatives. I cannot but think that it would be treason, not only to our Constitution, but to the impulses of every true heart, to even think of separating States woven together by his sacred footsteps printed on their soil and guarded against disunion by his dying words."

"A city set upon a hill, all nations come to receive their light from us. Beneath every flag, dark or paling, they come, attracted by the increasing stars and glowing brightness of our own. On every wave, wherever ocean permits the amorous air to kiss his curling lip or recline on his swelling bosom, they come. Amid the deluge of suffering and tyranny that inundates the earth, till the highest mountain tops of human hopes are submerged, this country appears the Ararat on which the ark of humanity finds sure foundation and peaceful rest."

"Shall such a country be destroyed? Shall the shadow of a great rock in a weary land be taken away? Shall the noble tree be destroyed which gave us protection alike from the drenching rain and the burning sun? No, the good old oak shall stand. Its roots are deep in the people's affections; its branches wave beneath the guardian smile of Heaven, the daily, hourly, constant worship, beneath its thick green shade is the grateful incense of a people's love."

"So forever be it; and as each new wave of popu-

lation, ebbing from the shores of Europe, flows in to swell the flood rising on our own, as the immigrant catches the first glimpse of our shore, when from the folds of our Union's flag floating from masthead or flag-staff he drinks in to intoxication the light of its stars, as a babe's eye drinks in the light of its mother's he will exclaim as I exclaimed:

"Hail! brightest banner that floats on the gale!
Flag of the country of Washington, hail!
Red are thy stripes as the blood of the brave,
Bright are thy stars as the sun on the wave,
Wrapt in thy folds are the hopes of the free,
Banner of Washington, blessings on thee!

"Mountain tops mingle the sky with their snow;
Prairies lie smiling in sunshine below;
Rivers as broad as the sea in their pride
Border thine empires, but do not divide;
Niagara's voice far out-anthems the sea;
Land of sublimity! blessings on thee!

"Hope of the world! on thy mission sublime,
When thou didst burst on the pathway of time,
Millions from darkness and bondage awoke;
Music was born when liberty spoke;
Millions to come yet shall join in the glee;
Land of the pilgrim's hope! blessings on thee!

"Empires shall perish and monarchies fall;
Kingdoms and thrones in thy glory grow pale!
Thou shalt live on, and thy people shall own
Loyalty's sweet, where each heart is thy throne,
Union and freedom thine heritage be;
Country of Washington! blessings on thee!"

Resumption of Specie Payments.

SPEECH OF HON. T. CORNELL,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

March 3, 1869,

On the bill (H. R. No. 1744) to strengthen the public credit and relating to contracts for the payment of coin.

MR. CORNELL. So much time has already been consumed in the discussion of questions pertaining to the financial condition and wants of the country, so much experience and ability brought to bear upon them, that he who can now justify himself in the attempt to shed new light upon the subject must be endowed with more than ordinary wisdom and cherish implicit confidence in the correctness of his own views. To such wisdom, let me say in the outset, I lay no claim. On this, as on other questions involving the interests of the people, I have, indeed, earnest convictions, but they are not such as lead me to believe in the perfect infallibility of my individual opinions. In submitting a few reflections I am conscious of the delicacy of the undertaking, especially in view of the able and eloquent speeches to which it has been my privilege to listen in this House. At this advanced stage of the discussion it were useless to attempt to add new theories to those already before the House and the country. The field has already been well traversed by those who have gone before. The full harvest has been gathered, and to us who appear at this late hour there seems to be nothing left to do but to gather here and there the few fragments that may have escaped the notice of our predecessors.

This subject of finance and currency has been one of anxious solicitude to most of the nations of the earth. In time past it has received the attention of the ablest minds of both France and England, and in our own history this is not the first instance in which we have been called to the adjustment of questions of this nature.

Some countries have confined themselves exclusively to the use of gold and silver. But nothing is clearer than that they have not enjoyed that degree of prosperity, financial and commercial, which has fallen to the lot of other nations who, in addition to these, have also employed a paper currency. Perhaps our own country furnishes one of the best illustrations of the fact that something more than coin is requisite to the transaction of a large and successful business. The early settlers, a people so justly celebrated for their ambition and energy in the prosecution of their purpose to found here a Government to honor God

and to elevate man, finding themselves possessed of but little gold and silver, were under the necessity of agreeing upon something which should represent them in the form of paper currency. And from that time till this such currency has been in use, attended, it is true, with certain disadvantages in the form of losses arising principally from the want of proper security, but such disadvantages being greatly overbalanced by the conveniences and benefits which it has always conferred. In accounting for the unexampled prosperity which has attended us in the past, this fact has too frequently escaped us. To paper currency as a means of exchange are we greatly indebted. Without it your great West had remained a wilderness till this day, and your arts and sciences been far behind their present attainments. Instead of being the first, we should probably be the third or the fourth among the nations of the world.

But I have said such currency has been attended with disadvantages. It has been fluctuating. The want of some system which secures the billholder has been felt by all, and gradually for years have we sought to attain this end. We have made many and great improvements; but we have not yet arrived at perfection. "Necessity," it is said, "is the mother of invention." So it proved to be in this regard during the recent war. As that war progressed we were absolutely forced to invent some system which should be as sound and enduring as our national life, and the management of which should be left with the people, where it properly belongs. Such system was finally discovered and is now embodied in our national currency act. Nothing superior to it, nothing equal to it, exists in any other nation. And yet with all its excellencies it has some defects, as we well know. It ought and can be so amended as to answer fully the end for which it was designed. As it now stands it does not go far enough to secure to the billholder one hundred cents to the dollar. And this is no trivial defect, for the value of a national bank bill should be the same in all parts of the country. In other words, the bank issuing the bill and not the billholder should pay the cost of its redemption. But how, it is asked, can this be accomplished? For my own part I should accomplish it in the following manner, provided no better method can be proposed:

So amend the national bank act as that the banks can make their bills par and at the same time benefit their interest account. For example, authorize and direct the national banks of each State to establish jointly and in proportion to their respective capital a clearing-house, which shall be located at the money center of the State, and the management of which shall be in their own hands; to deposit in such clearing-house one half of their reserve, as required by the act, the other half to be retained in the form of gold at the bank itself; to keep here their deposits after the manner of those banks designated as "corresponding banks," the clearing-house to loan money on call only and only upon Government security; to pay the cost of redemption of bills belonging to all national banks located in their respective States; to defray the expense of such redemption as also of their own management out of the interest received on loans, and the balance, if any, to be distributed among the several banks of the State in proportion to their several amounts of reserve and deposit. Thus the billholder would be protected against discount, each bank being obliged to receive the bills of all the others, with the right to return them to the clearing-house whenever they might wish. This would be one step in the right direction, but I should recommend another.

The nation itself, like the States of which it is composed, has its financial and commercial center. At this point authorize and direct in like manner the establishment of a general or national clearing-house, which shall be under

the joint direction and control of all the national banks of the several States; the State clearing-houses to keep here one half their average deposits; all loans to be made in the manner already indicated, and in no case to exceed one half the deposits; the accruing interest to be employed in defraying the expense of conducting the institution and in the redemption of bills as between itself and the State clearing-houses; these latter to receive their proportionate share of the profits, and in turn to distribute in like manner among the several banks in their respective States. By this or some similar modification of the act bills would be at par in all sections of the country, redemption would be greatly facilitated, and town and city banks would be on the same footing, the former receiving, as in justice they ought, a small per cent. on deposits. The difficulties and losses which would thus be obviated must be patent to every mind. But this is only a brief and imperfect outline, the details of which I will not stop to unfold.

And now, sir, a few words on the all-absorbing question of specie payments. I approach it with a degree of hesitation, because it is a vital question, and because in the opinions I may advance I shall be compelled to differ from the majority of those who have so ably addressed the House. Unlike them I have no definite system of legislation to submit which contemplates a return to the specie basis within a given period, and for the simple reason that I believe no such system can be safely adopted as the policy of the Government. The end we seek is not attainable in that way. However elaborate such system may be, however near or distant the day fixed upon by it for resumption, the country, when the period arrives, would be substantially where it was at the outset. Some have proposed their favorite systems of gradual contraction, asserting that resumption is impossible until the volume of currency now afloat is in great measure withdrawn. In some respects the theory is plausible, but in others it is dangerous in the extreme. To my own mind there appears no method more direct of inducing a financial paralysis from which it would require years to recover. There are others, too, who have seriously proposed the very opposite of this as the wisest course to pursue. They would have the currency expanded, and for the same purpose. Certainly one or the other of these systems is essentially false, and with all deference to the judgment of their respective advocates I think they are both false.

Why, sir, two years have not yet elapsed since an effort was made by the Secretary of the Treasury to realize the advantages of cautious and gradual contraction. The lesson which experience then taught us ought not to be forgotten now. Our circumstances at that time, in so far as they differed from the present, were such as to favor the experiment. But what was the result? Some thirty-five or forty millions of the currency were quietly withdrawn before the people were fairly conscious of the nature of the movement; but no sooner did the active business of the fall require an increased amount of the circulating medium than it was suddenly discovered that the amount in the country was inadequate to our business wants. Then followed a condition of feverish excitement. Fear and distrust prevailed everywhere, and but for the timely interposition of the Secretary directing the immediate suspension of his previous order we should have witnessed universal panic. Such an issue some of us ventured to predict at the time, but we were spared the calamity which seemed inevitably to threaten us only because the experiment was abandoned. The designation of any particular day in the future on which the Government by legislative enactment shall commit itself to resumption, meantime contracting the currency, must, as it seems to me, be attended with incalculable embarrassment, and possibly disaster to the business interests of the country.

It has been asserted by some that early resumption would seriously affect the values of all American products and manufactures. It seems to have been overlooked that such values are regulated by the law of supply and demand, and not so much by the price of gold. Nothing, therefore, is more surprising than the apparent desire of the West to defer resumption on this ground. We have passed through a war of unparalleled magnitude, which consumed the productions of the country as fast as they could be furnished. That war summoned from the active pursuits of industry a million men. They ceased to produce, but continued to consume, requiring food and raiment as before, and in addition to these, unlimited material for the destructive purposes of war. When after four years the contest ceased we found the country in an abnormal condition. The natural working of the great law of supply and demand had been disturbed, and has remained so until now. Time alone can restore it, and year by year is that change gradually coming about. Sooner or later the supply of all staple articles will be in excess of the demand, and when that time comes prices must fall. Increase the price of gold if you will, but it cannot avail you, for when the market is overstocked the unavoidable consequence is decrease of values. Hence I say the West is laboring under a great mistake. It is permitting the opportunity to resume on high prices to pass away. Farmers, we are told, are hoarding their crops. This they may do for a time, but eventually they will be obliged to sell, and in all probability at great sacrifice.

In proof of the statement that values conform to supply and demand and not to the price of gold it is only necessary to refer to facts in our own experience familiar to all. Who has not seen wheat and flour lower with gold at 285 than when it had fallen to 135, and coal quoted at seven dollars a ton with gold at 285 and at eleven dollars a ton when gold stood at 135? Nor are these isolated cases. Take the general course of trade and you find the same facts existing in all its departments. The idea, therefore, that resumption will so vitally affect values is entirely without foundation.

Another objection frequently urged against resumption is our bonds now held in Europe. How, it is asked, can we provide for them? Were this the only obstacle in our way I should conclude we had reached resumption now. We are told that these bonds will be sent home and we have not the gold to redeem them. Those who urge this objection must have been educated to pay their debts fifteen years before they are due or it could have no force. Why, sir, if our bonds should be sent home and there should be no market for them there will be no alternative but to recall and retain them till they are due, when I have no doubt we shall be abundantly prepared to redeem them, paying principal and interest in gold. But who can reasonably suppose that the European who has taken our bonds at seventy-five cents will send them home because they have advanced to ninety or one hundred cents, when in that very rise he finds the positive assurance that they will advance to one hundred and ten cents? So far from this, resumption would be followed by such demand for our bonds as we have not yet witnessed, and in this would we find one of the means by which resumption, when once commenced, could be successfully continued.

On this point it seems to me many are oversensitive. They would have our bonds, so far as possible, retained in our own country. This theory I cannot indorse. To a certain extent the greater the amount of our bonds held in Europe the better, as in that case we have the more ready money for the transaction of our home business. Every investment in bonds here, with the exception of those deposited for the redemption of bank bills, locks up so much money in the vaults of the Government for a

time, and thus removes it from the channels of active trade. For my own part I see no valid objection to Europe holding all the bonds we can spare beyond those necessary to our banking interests. But pay-day we are told will come, and how even then shall we meet our obligations? I answer, I have no fear of the ability of the Government to meet its indebtedness. Americans, with their characteristic energy, industry, and enterprise, might almost earn with the money received from European capitalists in exchange for bonds means sufficient to cancel that indebtedness at the proper time. Beneath the surface of our soil and soliciting our acceptance is wealth enough to meet these obligations at maturity. And in contrast with all this is the condition of Europe. Her coal and copper mines have been worked for centuries, the various sources of her wealth are being rapidly exhausted, and it is no rash prediction that before the maturity of our bonds we may be called upon to supply her workshops and firesides with coal. So, too, continued immigration to this country is sadly affecting her industries, and must be felt more and more in years to come. As the legitimate result of all this the price of labor and of all staple articles must increase in the East and decrease in the West, until America at last shall become the great workshop of the world. Sir, there is no limit to the power and resources of our people to accomplish in this respect what they wisely undertake to do.

These bonds, I repeat, are no obstacle to resumption. Only let the Government make public proclamation of its purpose to return at the earliest possible moment to specie payments and the holder of an American bond, be he in London, Paris, or Frankfort, will cling to his treasure with a firmer grasp; the doubts and fears which now exist as to our ability and disposition to redeem our pledges would then vanish, and our securities, as if by magic, rise to their true value in all the markets of the world.

But the opponents of early resumption do not stop here. They present an array of objections whose combined force they believe it difficult to overcome. They call upon us not simply to provide for our foreign obligations, but also for our legal tenders. The issue of these notes was a necessity of the war, and in all probability without any clear, authoritative sanction in the Constitution. But however that may be, they were issued in good faith, and for this reason if no other I hold that no part of our debt is more sacred. On every principle of justice and honor the Government is now bound faithfully to adhere to its pledge. Sir, on this point I have deep convictions. Just what might be my feelings had these notes been issued under other circumstances and for another purpose, I do not know, but issued in our extremity and in defense of the nation's life I cannot waver. These are "the people's bonds," and the justice and validity of their claim are sealed in blood. We have laid in the grave half a million brave men. Thousands upon thousands of them are buried within sight of this Capitol. Their widows and their orphan children are found in every city and village and hamlet from ocean to ocean. Desolate hearts and desolate hearthstones confront us wherever we go, and all these adjure us to fulfill our promises and preserve untarnished our country's honor.

But these issues known as "legal tenders," even admitting that they have no sanction in the Constitution, might by judicious legislation be the means of aiding us to resumption, and I shall be glad to know that the Supreme Court, at whose bar the question of their constitutionality is now pending, shall suspend their decision until Congress and the country may be prepared to receive it. To declare these notes unconstitutional now would greatly add to the embarrassments under which the country is already laboring. In so far, however, as legal

tenders are related to the resumption of specie payments they cannot be regarded as a serious obstacle. Now held in the form of a forced loan, the Government being professedly unable in its present condition to redeem them, no attempt to reestablish its faith, however unsuccessful, could further depreciate them in the estimation of the people. In a certain sense they are already repudiated, and nothing can raise them from their fallen state short of immediate and positive assurance on the part of the Government of its purpose to redeem them without delay. It can be done, and I believe will be, according to the letter and spirit of the contract.

As to the effect of resumption upon our national banks, many are needlessly alarmed. Were a day fixed upon which to resume, these banks would doubtless deem it prudent to curtail their loan accounts, and possibly to dispose of some of their securities in order the more effectually to encounter the change. In this regard, however, they would but exercise upon themselves a healthful influence. That a return to specie payments would seriously disturb them I do not believe. It is to be remembered that we have now a basis of bank circulation radically different from that which formerly characterized the State banks. Then our issues were corporate obligations, while now they are both corporate and Government obligations, and therefore known to be good. Hence there is no necessity of returning bills to the banks that may have issued them, except in case of a surplus on hand. The only possible difficulty is to have on hand the amount of currency that may be requisite to the business of the country, and even here there can be no ground of apprehension, inasmuch as after resumption a national bank bill would be substantially as good as gold for all the ordinary transactions of business, the Government agreeing to pay and becoming responsible for the payment of gold.

Our national banks are a power for good in our country. They are the very life of our business, and it is highly proper that we undertake nothing that will tend to destroy or cripple them. But I have yet to discover any possible respect in which as the consequence of resumption they are likely to be endangered. So far from this, I believe it was in our power to resume six months after the close of the war. Never were the people so well prepared for it as then, never will they be again. We owed but little one to another, we conducted our business for the most part on the cash principle. There was little commercial paper afloat, and as if inviting us to resume, gold fell to 120. What prevented resumption then? One thing and one only: our great financial head had little confidence in the people and apparently none at all in the boundless resources of our country. For his neglect at that time to avail himself of the opportunity presented he can never make adequate apology, for the result of it has been not merely inestimable loss to the people, but also humiliating disgrace to the nation. We were ready for the issue. We were imbued with the patriotic ardor that inspired us during the war, and then more than ever because victory was perched upon our banners, and if required or encouraged so to do would have presented to the world the sublime spectacle of a nation evincing while yet comparatively in its infancy a degree of recuperative energy which enabled it to return to a specie basis on the very heels of a war which stands without a parallel in ancient or modern history. Resumption could have been effected then, and would have made American securities not only the most desirable in the market but the wonder and admiration of the world. Instead of funding at a sacrifice our short obligations we should have saved twenty-five or thirty per cent. to the people.

It is by no means easy to understand why financial embarrassments resulting from war

should be more difficult to overcome than those resulting from other causes. Such embarrassments, though of less magnitude, we have frequently encountered as the result of over-trading. The money market is disturbed and suddenly tightens, confidence in business circles is shaken, and failures are reported from all sections of the country. For a time all minds are agitated, many give up in despair, and thousands feel that they are hopelessly bankrupt. What course in such cases do we pursue? We pursue the course of the skillful physician, whose first aim is to dispel fear and restore confidence to the mind of the patient. In this consists half the cure. The Government is now in the condition of an embarrassed corporation whose creditors have lost in a degree their confidence in its integrity and resources. Let that confidence, so far as possible, be immediately restored. Let the Government not merely acknowledge its obligations, but evince its disposition to meet them fairly and justly. Such assurance would be welcomed and appreciated by the people, and would be met by that manly forbearance, that generous sympathy, and earnest, faithful co-operation for which all true Americans are so justly celebrated.

But it is objected by our opponents that in advocating immediate or early resumption we are going contrary to all precedents. We are reminded that both France and England failed to resume for many years after their great European wars. Particular reference has been made to the condition of the English finances during and succeeding the revolution of 1688, and to the depreciated condition of the English currency subsequent to the general peace of 1815. But we are not informed by those who would have us walk in the light of English precedent how much earlier by a different financial policy England might have attained to that secure position reached at last after long years of anxious and painful solicitude. But, sir, I am not disposed to compare the past experience of England, much less her financial policy, with the present condition and resources of our own country. Even our fundamental principles of government are essentially different from hers. Both France and England are controlled by the one-man and one-woman power, while here we are free, and every citizen has a voice in the affairs of the Government. The precedents of these nations are by no means the embodiment of all wisdom, nor are we the inferiors of our ancestors, that in all our difficulties we should submissively seek their counsel. Besides, sir, we have already had quite enough of these precedents. Gladly would England have witnessed our defeat in the late war; most heartily would she have rejoiced in the permanent dissolution of our glorious Union. Not to her sympathy, counsel, or encouragement are we indebted for the ultimate triumph of our arms, but rather to the justice of our cause, to the wisdom of our own counsels, to the skill and courage of our noble Army, and to the guidance and favor of Him who presides over the destinies of nations.

But, sir, after all the elaborate theories, speculations, and precedents that have been advanced, resumption is nothing more nor less than the will of the people. There is no other principle or basis of action that will avail us. The question to be determined is whether the people desire to resume. If they do, it can be done, and done quickly. But who is to be benefited by non-resumption? Chiefly two classes, the gold speculator and the importer. The first of these we can afford to dispense with, and the second we can certainly dispense with for a time. In other words, it would be for the interest of more than nine tenths of the people to resume without delay; and such would be their verdict should the issues be fairly presented. And inasmuch as resumption whenever reached must be attained through their will and coöperation let the methods pro-

SENATE.

Representative Reform—Report.

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posed for its accomplishment be such as the masses can comprehend and appreciate. It is in vain that you attempt anything without their sanction. They hold, and justly hold, the balance of power in this country. There is no class to whom we are so highly indebted or who are more entitled to our respect and gratitude than those we denominate the "common people." It is they who have dug our canals and built our railroads, cleared our forests and fought our battles, and, in a word, made us the great nation we are to-day. It is with their approval and by their assistance we must resume; and hence the plainest and most direct way to the object we have in view is to frame our plans with practical simplicity, and thus secure their confidence and support. To this end I would have the Secretary of the Treasury, having fixed upon a time to resume, issue to "the people of the United States," at least three months before the time shall arrive, a circular apprising them of his purpose and requesting their earnest and immediate coöperation in the work; this circular, by a system of congressional distribution to be placed in the hands of every citizen, and also to be published in every newspaper throughout the length and breadth of the land. I would also recommend the issue of a circular to the national banks requesting them to make all necessary preparation to resume at the time specified.

A movement such as this would have a tendency to facilitate resumption by making it popular. It will be remembered that when it became necessary to dispose rapidly of our bonds it was deemed prudent to take this course, and the result more than justified our expectations. No sooner were the circulars issued and the aid of the press called into requisition than the people came forward *en masse* and invested in bonds. For the success of this plan Jay Cooke & Co. received the credit as also the pay, while the work might have been done with equal success by the Secretary of the Treasury and without expense to the people. It is necessary, however, that in a matter of this nature the Secretary be a man in whom the people have implicit confidence. He must be earnest and enthusiastic in the work. With all due respect to the present incumbent of that office, he has failed thus far to resume, and with his term of office almost expired has now no time to accomplish the work. But further, having notified the people and secured their coöperation, let Congress, if it be deemed expedient, prohibit by severe penalty the sale of gold at a fictitious value.

Next authorize a loan of \$200,000,000 of five-thirty six per cent. bonds, payable principal and interest in Europe, and to be employed by the Secretary of the Treasury, under proper limitations and restrictions, in the redemption of the legal tenders within the ensuing two years. I propose that the rate of interest shall be six per cent., because the loan to be taken at once must be made attractive, and because it will be found more prudent and economical to pay six per cent. for five years than eight per cent for thirty years.

The next step I should propose would be to create on or before the day designated for resumption \$600,000,000 of gold or its equivalent, by making legal tenders receivable for all duties on imports except goods then in bond, and for all Government debts except interest on the gold certificates and bonded debt; and, furthermore, to be employed in the redemption of national bank bills for the period of three months from the date of resumption. At the expiration of three months fifteen per cent. of all these payments to be made in gold and the balance in legal tenders, and so increasing fifteen per cent. every three months in the gold payment till we come at last to the full payment in gold. In entering upon resumption we should thus have, in addition to the gold now on hand, the \$200,000,000 realized from the sale of bonds, and also the legal tenders.

This would serve to destroy the premium on gold, and by this means the legal tenders, as already intimated, would contribute to the end in view.

But in order to reduce importations, and thereby diminish our foreign obligations, I should increase the tariff, say twenty per cent., for the term of one year, to take effect on the day of resumption.

Furthermore, in order to provide for the deficiency in circulation arising from the hoarding of legal tenders, I am of opinion it would be good policy to increase the national bank circulation \$50,000,000 on the day resumption begins, and increase it afterward in proportion as the legal tenders are redeemed and destroyed by the two hundred million loan. When resumption is successfully established the national bank act should be made free to all.

I am further of opinion that there should be created a twenty-five year loan at four per cent. of \$2,000,000,000, principal and interest payable in gold, and exempt from Government, State, and municipal tax. A loan of this nature would absorb a large proportion of our present bonded debt, and greatly facilitate the establishment of new national banks.

And now a single word in regard to the funding of this bonded debt. It seems to be ignored by some that these bonds were voluntarily taken by the people, and at a time when, to say the least, it was extremely uncertain whether principal or interest would ever be returned. And yet such was the confidence of the people in the integrity and stability of the Government, and such their determination to preserve the Union, that they did not hesitate to make the investment. And, sir, after all this, again and again have they been reproachfully denominated the "bloated bondholders," and all manner of propositions submitted to the House to compel the premature return to the Government of these very bonds. Such compulsion, in whatever form presented, is repudiation, and repudiation in any form would be disgraceful to the Government.

Sir, while I deplore the present unsettled condition of our finances, I find it difficult to avoid the conviction that in great measure it is without excuse. We might and ought to have reached a specie basis long ago. We shall prove recreant to our trust if we longer delay. Thus far the people have evinced their characteristic patience, but the time has now come when patience ceases to be a virtue. The presidential contest is over; the work of reconstruction is almost complete; conflict is about to cease and harmony be restored in all the departments of the Government; the victorious commander of our Army, who has never known defeat or failure, is about to take his seat in the presidential chair, and all that now remains is for us, the Representatives of the people, to prove faithful to the important trust they have committed to our care.

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REPORT

FROM THE SELECT COMMITTEE ON REPRESENTATIVE REFORM.

IN THE SENATE OF THE UNITED STATES,

March 2, 1869.

(To accompany bill S. No. 772.)

Mr. BUCKALEW, from the select Committee on Representative Reform, submitted the following report:

The bill referred to the committee, and now reported by them, presents a question which deserves deliberate examination both because it is important and because it is new. It proposes to secure fair and complete representation to every important political interest in the country; to strike an effectual blow at corruption in popular elections; to secure more of

harmony and contentment than now exists among the people, and to improve the composition of the popular branch of Congress by facilitating the introduction and continuance of men of ability and merit in that body. That these results may to a great extent be secured by it is by the friends of the measure most positively affirmed. If the claim made by them on its behalf be substantially true or true to any considerable extent, and the plan be capable of convenient application, it will merit strong commendation and prompt adoption.

THE PLAN.

Representatives being assigned to a State under the constitutional rule of distribution, each elector in the State shall possess as many votes as there are Representatives to be chosen. He shall possess his due and equal share of electoral power as a member of the political body or State. Thus far we deal with familiar ideas which have heretofore obtained. It is next proposed that the elector shall exercise his right of suffrage according to his own judgment and discretion, and without compulsion of law. He shall bestow or distribute his votes upon or among candidates with entire freedom, and shall be relieved from that legal constraint to which he has been heretofore subjected. He may select his candidate or candidates anywhere within the limit of his State from among all its qualified citizens, and he may exert his political power upon the general representation of his State instead of the representation of a particular district within it. Here is unquestionably a large and valuable extension of privilege to the citizen, a withdrawal from him of inconvenient and odious restraint, and a more complete application of that principle of self-government upon which our political institutions are founded. And what is material for consideration is, that while all the advantages of a plan of election by general ticket are secured, all its inconveniences and evils are avoided.

FORMER PLANS—THEIR IMPERFECTIONS.

Formerly when elections of Representatives in Congress were had by general ticket a great inconvenience resulted which became at last offensive and intolerable. For a political majority in a State, organized as a party and casting its votes under a majority or plurality rule, secured in ordinary cases the entire representation from the State, and the minority were wholly excluded from representation. To avoid this inconvenience and evil which had become general throughout the country Congress interposed, and by statute required the States to select their Representatives by single districts; that is, to divide their territory into districts, each of which should elect one member. This contrivance, dictated by congressional power, ameliorated our electoral system, mitigated the evil of which general complaint had been made, and was an unquestionable advance in the art of government among us. But retaining the majority or plurality rule for elections, and restricting the power and free action of the elector, it was imperfect in its design and has been unsatisfactory in practice. It has not secured fair representation of political interests, and it has continued in existence in a somewhat mitigated form the evils of the plan of election by general ticket which it superseded. Still one body of organized electors in a district vote down another, electoral corruption is not effectually checked, and the general result is unfair representation of political interests in the popular House of Congress. Besides, the single district plan has called into existence inconveniences peculiar to itself and which did not attach to the former plan.

It excludes from Congress men of ability and merit whose election was possible before, and thus exerts a baneful influence upon the constitution of the House. Two causes operate to this end. In the first place no man who adheres to a minority party in any particular district can be returned; and next, great rapidity

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of change is produced by fluctuation of party power in the districts.

Again, the single district system gives rise to gerrymandering in the States in the formation of districts. Single districts will almost always be unfairly made. They will be formed in the interest of party and to secure an unjust measure of power to their authors, and it may be expected that each successive district apportionment will be more unjust than its predecessor. Parties will retaliate upon each other whenever possible. The disfranchisement suffered through one decade by a political party may be repeated upon it in the next with increased severity; but if it shall happen to have power in the Legislature when the new apportionment for the State is to be made it will take signal vengeance for its wrongs and in its turn indulge in the luxury of persecution.

MODES OF VOTING DESCRIBED.

The manner in which the right of suffrage shall be exercised, always a question of high importance, is one of difficulty also. It has been regulated in various ways in our States and in foreign countries, but must be considered in many respects as still open to debate. We have pretty generally adopted the vote by secret ballot for popular elections, but whether votes be given in secret or open ballot or by voice a question will remain as to the manner in which they shall be bestowed upon or distributed among candidates. Where but one Representative or other official is to be chosen by a constituency it is readily understood that a single vote is to be given by each elector to the candidate of his choice, and such is the uniform regulation. But where more than one person is to be chosen by a constituency the manner of bestowing votes upon candidates is a question of more difficulty, and various regulations have been made or proposed concerning it. Several of these it is necessary to mention and describe before proceeding to the main matters to be examined in this report.

THE VOTE BY GENERAL TICKET.

By the general ticket plan of distributive voting the elector has assigned to him a number of votes equal to the whole number of persons to be chosen, and is authorized to bestow them singly upon a like number of candidates. Upon this plan presidential electors are chosen in all the States except Florida.

THE VOTE BY SINGLE DISTRICTS.

By the single district plan the general constituency is divided into parts by territorial lines, and each part constituted a sub-constituency to vote separately and choose one person. The voter casts a single vote for his candidate and has no participation in the action of the general constituency beyond the giving of his district vote. Upon this plan, prescribed by statute, Representatives in Congress are now chosen.

THE LIMITED VOTE.

The limited vote obtains where the voter is forbidden to vote for the whole number of persons to be chosen by the constituency, but is authorized to give single votes to each of a less number or a single vote to one.

THE CUMULATIVE VOTE.

The cumulative vote is the concentration of two or more votes upon one candidate or upon each of a greater number. It may obtain when the voter has assigned to him more votes than one and is permitted to cast them otherwise than singly among candidates.

UNRESTRICTED OR FREE VOTE.

The unrestricted or free vote obtains where the voter has assigned to him a number of votes equal to the number of persons to be chosen by the constituency, and is permitted to cast them according to his own discretion and choice without legal restraint. In such cases he may bestow them all upon one candidate, or distribute them singly among candidates, or cumulate them upon more candidates than one, or cast a part of them singly and a part of them

upon the principle of cumulation, precisely as his judgment may direct him and the possibilities of the case may permit.

SUPERIORITY OF THE FREE VOTE.

Now, it will be seen that the unrestricted or free vote is more comprehensive and flexible than the others, and that it includes many of their features and may be used to accomplish their objects. It involves or includes the vote by general ticket without the restriction that but one vote shall in any case be given to a candidate. It may be used to accomplish the purposes of the limited vote and of single district voting in a just, effectual, and popular manner, and it includes completely the cumulative vote with which it is in character closely allied. In brief, it combines the advantages of other plans without their imperfections, while it is not open to any strong objection peculiar to itself. The ingredient, however, of greatest value and importance contained in it, and the one particularly fitted to regenerate and give credit to elections is the principle of the concentration of votes. In fact for practical purposes in dissertation or argument upon the question of electoral reform, the terms "cumulative vote" and "free vote" may be interchangeably used, though the latter is most appropriate and accurate to indicate a plan which commonly involves distribution as well as concentration of votes, and sometimes even the giving of single votes to particular candidates.

HOW FAR IT CAN BE APPLIED.

The bill now reported by the committee applies the unrestricted or free vote to the selection of Representatives in Congress from the several States, and the proposed amendment to the Constitution of the United States reported by the committee on the 29th of January will, if adopted, empower Congress to apply that vote (or some other proper reform) to the selection of electors of President and Vice President of the United States.

By the fourth section of the first article of the Constitution power is clearly conferred upon Congress to pass a bill regulating the manner of holding elections for the choice of Representatives. The times, places, and manner of holding such elections are to be prescribed in each State by the Legislature thereof, but the Congress may at any time make or alter such regulations. This power was exercised by the passage of the act of Congress which provides that Representatives shall be chosen in the several States by single districts instead of by general ticket, which had been the general practice before, and it is equally competent for Congress to prescribe a still different manner for choosing them, subject only to such other provisions of the Constitution as may relate to the same subject. The free or cumulative vote or other like reform may therefore be introduced simply by the enactment of a statute. No constitutional amendment will be necessary for the purpose. But as to the choice of presidential electors the case is different, as before stated. The first section of the second article of the Constitution provides that each State shall appoint electors "in such manner as the Legislature thereof may direct." Congress may determine the time of choosing the electors and fix a uniform day on which they shall give their votes, but cannot prescribe the manner in which they shall be chosen. To accomplish any reform in the manner of choosing them through the instrumentality of an act of Congress, an amendment to the Constitution will be necessary. That such amendment is desirable, and that it is necessary also to the introduction of any reform whatever in the manner of choosing electors, will be hereafter shown.

ARGUMENTS FOR ITS ADOPTION.

Recurring now to the question of representative reform raised by the bill reported by the committee, we will proceed to state those

grounds of argument which recommend the adoption of the unrestricted or free vote.

ITS SIMPLICITY AND CONVENIENCE OF APPLICATION.

The first consideration to be taken into account is the simplicity and convenience of this plan of reform. It is easily understood, convenient of application, and will readily adapt itself to all new or changed conditions of political society. It is self-adjusting, and requires no law whatever to enforce it or afford it a sanction beyond the act which shall simply call it into existence. The number of Representatives to which a State shall be entitled being first ascertained under the rule of distribution contained in the Constitution, the law will simply declare that each voter of the State shall have as many votes as there are Representatives to be chosen from his State, and at that point will stop, leaving him perfectly free to cast his votes according to his own judgment and discretion.

The voter then may exercise his right according to any of the plans relating to the distribution or concentration of votes which have heretofore been the subject of discussion, including those which have and those which have not been prescribed by legal enactment. But inasmuch as our political communities will always be divided into political parties, (or so long as our free institutions remain to us,) it must happen that the voter will exercise his right with direct reference to his party associations, to the interests of the party to which he shall belong. He will vote (as he votes now) as a party man and for candidates who have been selected by some form of nomination, by some agreement or concert of action among men of common views and common interests. The inevitable result will be that political parties and the voters who compose them will obtain fair and complete representation by distributing or concentrating their votes in such manner as to secure it, and nothing can be more certain than that they will be better judges of their own interests than the law maker possibly can be; for they will act with a full knowledge of all the facts which pertain to an election, of the relative strength of parties at the time, the probable amount of the aggregate vote to be polled, and generally of the effect of their voting in any particular manner. Of all these matters the law maker must be profoundly ignorant, or must conjecture or assume them at random. He cannot foreknow the future, nor adapt his arrangements to the ever-changing conditions of political society.

It is for this reason that imperfection will always attach to the limited vote as a general plan to be applied to popular elections. The law maker cannot know that his arbitrary limitation will operate justly and secure his object at some future time. If he could know the exact relative strength of parties in future years he might apply his limitation to a constituency with confidence. Adjusting it to the facts he could obtain a proper result. As this cannot be the limited vote can be but partially applied to elections, and must in most cases be unsatisfactory. It has rarely been applied to constituencies selecting more than three Representatives, and can never be accepted as a plan for extensive use and application.

The unrestricted or free vote, however, is not open to these observations. It will adjust itself to all cases, and it will have the most important and effectual sanction, for it will be put under the guardianship of party interest, always active and energetic, which will give it direction and complete effect to the full and just representation of the people.

ITS CONFORMITY TO REPUBLICAN PRINCIPLES.

The unrestricted or free vote is in strict conformity with democratic principles, and realizes more perfectly our ideas of popular government; for by it the whole mass of electors are brought into direct relations with Govern-

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ment, and particularly with that department or branch of Government—the principal one in power, if not in dignity—which makes the laws. All will participate really in choosing Representatives, and all will be represented in fact. Now the beaten body of electors choose nothing, unless it be mortification, and are not represented at all; for the theory that they are represented by the successful candidates against whom they have voted, that those candidates when installed in office represent them, is plainly false. An elected official represents the opinions and the will of those who choose him, and not of those who oppose his selection. As to the latter he is an antagonist and not a representative, for his opinions are opposed to theirs, and their will he will not execute. And this must always be the case where political parties act upon elections, and a majority or plurality rule assigns to one party the whole representation of the constituency. Our present system of representation is therefore essentially partial and imperfect, and our great object in reforming it must be to make it full and complete. If we cannot secure this object perfectly it will be our duty, as it should be our pleasure, to approach it as nearly as possible.

Now, inasmuch as by extending to the elector that freedom of choice and of selection which the law has heretofore forbidden we can strike from our system of representative elections almost entirely the element of disfranchisement and bring the whole electoral body into direct and useful relations with the representative body, we may congratulate ourselves that our reform, while it will be rich and fruitful of results in the purification of elections, in imparting energy and wisdom to government and contentment to the people, will also be strictly republican in character and democratic in principle, and will apply more perfectly than ever before those ideas of self-government which inspired our ancestors when they established our political institutions.

THE FOUR GREAT REASONS FOR IT.

But we proceed to state the main reasons for the unrestricted vote without dwelling upon introductory points or upon those secondary reasons which, while they may commend this plan of reform to us, will not alone command its adoption. Those great reasons—which speak with imperative voice to statesmen and to free constituencies everywhere—are four in number, and they will be mentioned in their proper order.

1. *It is just.*

The unrestricted or free vote should be permitted because it is just. That this quality pertains to it in a high degree and constitutes one of its main characteristics is beyond all question. It gives an equal voice to every elector of a State, secures the elector from the peril of utter disfranchisement, and affords to him also that freedom of choice which is indispensable to his complete and useful exercise of his right. A vote at any point or place in the State is precisely as valuable and as important as at any other point or place; location of the voter is immaterial as affecting his right or his consequence in the electoral body, and no preference in privilege or power is given or advantage allowed to one elector over another. Besides, (and this is the great consideration,) any material disfranchisement of electors is rendered almost impossible; for every political interest of any considerable magnitude in a State will have the complete opportunity afforded it of concentrating its vote upon a proper number of candidates, and those candidates will be chosen, not merely because they have more votes than other candidates, (as under our present system,) but because they are the recipients of an adequate support. One mass of voters will not vote down, defeat, or disfranchise another. One candidate will not beat another in the ordinary sense of that expres-

sion. The full comprehension of this point may require reflection by those to whom it is new, but no reflection is necessary to perceive the justice of a plan which will substantially strike disfranchisement from our electoral system. Lastly, it is but just that the elector should have a greater freedom of choice than is now allowed him; that his judgment should have freer action, that he should enjoy all possible facilities for performing his duty to his country in exercising his right of suffrage. At present he is hedged about and constrained by legal regulations which, while wholly unnecessary to the public order and peace, cripple and impede him in the performance of his duty. He is held responsible for the character and action of the Government, for in theory he controls it by his vote, and yet he does not possess all those facilities and rights the possession of which will justify that responsibility and enable him to discharge all its obligations.

In the matter of selecting Representatives from his State to Congress—perhaps the most important of all electoral operations known in our country—he is allowed to participate in the selection of but one out of the whole number. The State may be entitled to six, to twelve, or to twenty Representatives, but the judgment of the elector can be exercised upon the choice of one only. As to all the rest he is excluded from taking part in their selection. Besides, his choice of a single Representative must be exercised within and for a particular district arbitrarily established by law, with such boundaries, population, interests, and political complexion as may happen to be convenient or agreeable to a majority in the Legislature of the State. And practically he must select his candidate from among the men of the district and is excluded from all choice beyond it. And when to all this we add that the elections held in single districts are necessarily subjected to a majority or plurality rule, which very commonly renders a large part of the votes cast unavailing for the purpose for which they are given, we have the case fully presented as one of inconvenience and hardship upon the elector. The law has been busy where it should have been inactive, and the voter is bound by inconvenient and injurious restrictions, which he can neither evade nor defy. It is time that the hand of power be lifted from the citizen and he be permitted to perform his electoral duties with all possible freedom.

The justice of the proposed reform is therefore evident. It extends popular power upon a principle of equality, limits disfranchisement, and provides the voter with necessary facilities for the exercise of his right.

With good reason, therefore, did the London Times, in speaking of clause nine of the reform bill of 1867, (triumphantly carried in both Houses of Parliament upon full debate, and similar in principle to the proposition before us,) declare "that the idea of modifying our electoral machinery so as to secure in three-membered constituencies the proportionate representation of both the great divisions of party, *has made its way by its inherent justice.*"

2. *It will check corruption.*

The unrestricted or free vote will greatly check corruption at elections. It will take away the motive to corrupt, and thus strike an effectual blow at the source of a great evil.

Now, money and patronage are usually expended upon elections to secure a majority or plurality vote to one or more candidates over one or more other candidates, and are directed or applied to the comparatively small number of electors in the constituency who hold the balance of power between parties. Those persons being bought or seduced, victory is secured. The importation of voters into a State or district or their fraudulent creation within it is with a like object. And such corrupt influence or practice when resorted to by one party provokes like conduct in an opposing one, until

both become tainted with guilt and unfitted for vindicating the purity of elections. This evil grows in magnitude yearly, and it will continue to increase until those motives of interest which produce it shall be weakened or destroyed.

A new right to the elector, whether in the form of the free or cumulative vote or of personal representation, or a new protection to him in the form of the limited vote, will check corruption; but of these remedies the first is the most practicable and effectual. The limited vote, as will be hereafter shown, cannot have extensive application, and it is but a rude contrivance. Personal representation is a scheme of great theoretical merit; it has been tried partially in Denmark, and it has received elaborate vindication from authors of distinction in England, in Switzerland, and in France. But it may be put aside from the present discussion, because it is comparatively intricate in plan and cumbrous in detail, because it assails party organization, and because some of its most important effects cannot be distinctly foreseen. It is so radical in character, so revolutionary in its probable effects, that prudence will dictate that it should be very deliberately considered and be subjected to local experiment and trial before it shall be proposed for adoption upon a grand scale by the Government of the United States.

But why will the cumulative or free vote check corruption? It will have this certain effect, it will operate efficiently to this end, because it will render any ordinary effort of corruption useless and unavailing. *The corruption of voters will not change the result of an election. It will elect no candidate and defeat no candidate* in contested States or districts, unless, indeed, it be carried on and carried out upon a gigantic scale, beyond any ordinary example of the past or probable occurrence of the future.

An average or common ratio of votes for a Representative in Congress, taking the whole country together, is now twenty-five thousand, and it will be much greater in future times. Assume, then, that six hundred thousand votes are to be cast in Pennsylvania at an election, of which each political party has one half, and that twenty-four Representatives are to be chosen. This is a supposition very nearly conformed to actual numbers in that State. Now it is evident that either political party, by resorting to the cumulative vote, can elect twelve Representatives, and thus secure to itself exact and just representation, and no art or effort of the opposite party can prevent it. But suppose further that corruption shall assail the election, and that some thousands of votes shall be changed thereby, or that in the interest of one of the parties so many as ten or twenty thousand voters shall be imported into the State, or be fraudulently created or personated within it, in either case there will be no effect produced; the result will be unchanged; in short, in the case supposed, a fraudulent increase of its vote (and of the total vote) by a party, to the extent of twenty thousand, will not give to it any advantage, nor will its corrupt acquisition of five or ten thousand votes from the opposite party. It follows that corruption will in no ordinary case be resorted to; it will be effectually discouraged and prevented. And even in the extreme case of the corruption of a large number of voters in a State, the resulting evil will be reduced to its minimum.

What has been said concerning the choice of Representatives will apply with equal, if not greater, force to the choice of presidential electors. If the representative presidential electors were chosen in the several States—save those which have but one—upon the plan of the cumulative vote, there would be as to them due representation of the people in the electoral colleges, and the elections for choosing them would receive a much needed purification. Millions now expended upon those elections would be kept out of the hands of

political agents and be applied to better and nobler uses.

That freedom of the vote will have the effect claimed for it will more clearly appear from considering the manner in which the present plan of elections operates to invite and produce corruption. By considering the evil which exists we will be better able to judge the merits of the remedy proposed. Popular elections in the States for Federal or national purposes are either by a general ticket for the whole State, or by a single ticket in district divisions. As before stated, the former obtains in the choice of presidential electors; the latter, in the choice of Representatives to Congress. But to both is applied the plurality rule and a struggle invited between candidates and parties for preponderance of vote.

Whichever can be made to outnumber an opposition upon the return will win the whole result and will wield the entire power of the constituency in an Electoral College or in Congress. Antagonism is thus made an essential element of the proceeding, and the result presents to us the spectacle of victor and vanquished, the former crowned with honor and exultant in strength, the latter humiliated and powerless. And it is important to observe that the successful party does not obtain merely a power proportioned to its vote, does not merely obtain full representation for itself, but obtains the whole power of the constituency. The whole vote cast against it or withheld from it is virtually counted to it and added to its true vote.

An issue thus made up for popular elections must be one portentous of evil; and so far as it is unnecessary to secure popular representation, must be denounced as plainly unjust as well as injurious.

3. *It will be a guarantee of peace.*

The free vote will be a guarantee of peace to our country, because it will exclude many causes of discord and complaint and will always secure to the friends of peace and union a just measure of political power. The absence of this vote in the States of the South when rebellion was plotted, and when open steps were taken to break the Union, was unfortunate, for it would have held the Union men of those States together and have given them voice in the electoral colleges and in Congress. But they were fearfully overborne by the plurality rule of elections and were swept forward by the course of events into impotency or open hostility to our cause. By that rule they were largely deprived of representation in Congress. By that rule they were shut out of the electoral colleges. Dispersed, unorganized, unrepresented, without due voice and power, they could interpose no effectual resistance to secession and to civil war. Their leaders were struck down at unjust elections and could not speak for them or act for them in their own States or at the capital of the nation. By facts well known to us we are assured that the leaders of revolt, with much difficulty, carried their States with them. Even in Georgia, the empire State of the South, the scale was almost balanced for a time between patriotism and dishonor; and in most of those States it required all the machinery and influence of a vicious electoral system to organize the war against us and hold those communities compactly as our foes.

In those same States the free vote will now allay antagonism of race, and will substitute therefor the rivalry of parties formed with reference to the policy of the General Government. The tendency of party is to form upon national issues and not upon State ones, and this tendency will operate more strongly if causes of offense between races shall be removed or lessened. And what can accomplish this more perfectly than the free vote? For under it one race cannot vote down and disfranchise the other; each can obtain its due

share of power without injustice to the other, and there will be no strong and constant motive (as now) to struggle for the mastery. This fact—the importance of which cannot be overestimated—will allay animosity and prevent conflict. And because the free vote will have this certain effect it will nationalize parties in the South, and will be to the whole country an invaluable guarantee of order and peace.

In extending suffrage largely, in extending it to include many hundreds of thousands of voters of another race than our own, it will become us to look to our electoral machinery and to amend it in those parts which have been found defective, or which do not seem well adapted to the new strain to be put upon it. Unquestionably there is a large mass of honest opinion in the country opposed to colored suffrage, and many of those who support it in Congress and out of Congress put their support of it upon the ground of necessity—upon the ground that in order to secure the fruits of emancipation it is necessary that the emancipated be armed with the power of self-defense. A majority of this committee hold that colored suffrage is allowable and expedient, that the objections to it are to a great extent misconceived, and that the fears felt and expressed by many as to its results will not be realized. But all must agree that this great experiment of extended suffrage, being once determined upon, should have a fair trial; that all the conditions proper to its success should, as far as possible, be established by the Government. And those who sincerely believe that the experiment will have had results must approve a plan of voting which will certainly mitigate its possible evils. But the salutary effects of the free vote as a guarantee of peace, though well illustrated by the southern States, will not be confined to them. Everywhere it will decrease the violence of party contests and create more amicable relations than now exist among our people.

4. *It will improve the character and ability of the House.*

The unrestricted or free vote will secure men of ability and experience in the House of Representatives. It is believed that changes are now too frequent in that House, and that the public interests suffer detriment from this cause. The committee give their unqualified approval to that provision of the Constitution which assigns short terms of service to members of the House. But frequency of election does not necessarily involve rapidity of change. Popular power may be retained over the House, and yet the great part of its members be continued by reelection for a considerable period of time; in other words, frequent elections and permanent membership are not incompatible.

But, in point of fact, the members of the House are frequently changed so that members of less than four years' service always constitute a large majority, and it is a rare case that a member continues beyond a third term. Under such a system or practice of rapid change the average character of the House for ability cannot be high. Two and four year men can know but little of the business of Government, can be but imperfectly qualified to curb abuses in the executive department, and to expose or comprehend the true character of most questions of domestic and foreign policy.

There are several reasons which account for frequent change in the membership of the House, of which the single-district system is chief. The fluctuations of party power is next in importance, but is intimately connected with the former. The single-district system has carried the idea of local representation to excess, and has produced a class of inconveniences peculiar to itself. The idea of assigning a Representative by law to a special district within a State is naturally supplemented by the idea of rotation in the representative privilege among the localities within the dis-

trict. Hence, very commonly party nominations are made in turn to the several counties, parishes, or other municipal divisions of the district, which necessitates the frequent selection of new men for representative nomination. The claim of locality becomes more important, and is often more regarded than the claims or fitness of candidates in making party nominations, and this although there is no diversity of interest among the people in the different parts of the district. The other cause which we have mentioned coöperates with this, though subordinate to it in effect. Changes of party power in districts, where one party does not largely predominate over another, are at all times likely to occur, and to defeat the member of the House from the district, although his own party may desire to continue him in the public service.

These causes of change would have but slight operation if delegations from States were elected by general ticket, and would have still less if they were selected upon the plan of the cumulative or free vote; and the general ticket system being quite inadmissible, upon the reasons which apply to it, we are driven to the cumulative or free vote as the practicable and effectual measure of reform. It will continue members of merit for long periods of time in the House, because it will relieve them and those who support them from the causes of change above-mentioned. They can be re-elected with certainty so long as the party whose Representatives they are desire their continuance in service, and it may be reasonably expected that some men of distinction and intellectual power will always be found in the House whose period of service counts by twenty or thirty years. They will be the great representatives of party, and will give luster and power and usefulness to the House, while they will be the objects of profound attachment and of honest pride in the States they represent. Congress will become, much more than at present, a theater of statesmanship and a fit representative of a great people, whose extended territory, diverse populations, and varied interests demand great ability and wisdom in the enactment of the laws. Our present system, admirably calculated to repress merit and lift mediocrity, will be supplanted by one which will produce precisely the opposite result.

At present a member of the House holding his seat insecurely cannot devote himself to public business with that zeal and confidence which his position demands. He is involved all the time in a contest for official existence, and his energies are thereby absorbed and wasted. If he has a just ambition to serve the people he must repress rivals at home, must overcome a rule of rotation in his district, and fortify himself against fluctuations of party power. It will be expected of him that he shall distribute the patronage of the Government to men who will be efficient in his support for reelection; and thus appointments to office and Government contracts are to be his peculiar study, and their distribution a leading object of his labor. And he must be liberal in his expenditure of money upon elections to retain his popularity and place; and the more of political contribution from abroad he can obtain to influence elections in his district the more admired and the more secure he will be.

In brief, his time and his efforts instead of being expended for the public must be expended on personal objects if he desires to remain for any considerable time a Representative of the people. Undoubtedly many of the best men of the country must be deterred from entering upon a congressional career, continuance in which requires such sacrifices to an evil system, so much of unpleasant effort, attended with uncertainty and probable mortification.

But freedom to the elector has one special advantage, hitherto unnoticed, over single dis-

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trict voting. Under the district system a large part of the men of a State are absolutely barred from election to Congress. They cannot be chosen in districts where their party has not a preponderance of vote. The difference in strength between parties may be slight, but it will virtually constitute a rule of exclusion which will always be rigidly enforced. But the cumulative or free vote opens the doors of the people's house to any citizen of a State whenever those who agree with him in opinion in his State will give him a competent support. They can elect him to Congress regardless of State or district majorities. This is an advantage of immense value if republican principles be true, and republican institutions be worthy of being carried to their utmost limit of perfection as fit and proper for the use and enjoyment of mankind.

EXAMPLES OF REFORM.

But let us turn from general argument upon electoral reform to particular cases which will illustrate its application. And first of cases in our own country:

In Pennsylvania and in other States inspectors of elections are chosen upon the plan of the limited vote. Each voter is authorized to vote for but one inspector, and yet two are to be chosen. Thus, whenever the minority party in an election district can poll one third of the whole vote they can secure one of the inspectors, and obtain representation in the election board of the district. This arrangement protects elections from fraud and injustice, and is everywhere within the States which have adopted it strongly sustained by public opinion. In fact, even in districts where the majority has more than a two-thirds vote the attempt is rarely made by them to choose the second inspector.

In Pennsylvania also jury commissioners in the several counties are chosen upon the same plan. But one is voted for by each elector, and yet two are chosen.

For selecting delegates at large to the New York constitutional convention in 1867 a similar plan was adopted. Upon the recommendation of Governor Fenton the Legislature provided that thirty-two delegates at large should be chosen by the people in addition to the delegates from the representative districts, and that in choosing them each voter should vote for but sixteen. The consequence was that each political party obtained sixteen of the delegates at large, many of whom could not have been chosen upon a district plan or upon a general ticket devised in the ordinary way.

These instances in our country illustrate the principle of reform now in question, and many others might be cited. They show distinctly that successful attempts have been made by our people to break away from an unjust system of voting and to secure to themselves those advantages which full representation is so well calculated to produce.

ENGLISH REFORM.

But English authority and example may be called in to aid the argument in a still more effectual manner. The papers appended to this report, from British authors and statesmen of high standing who have in recent years examined this subject of popular representation with great fullness and power, may be consulted with profit by any one desirous of understanding the general grounds of argument in favor of reform. And the debates and proceedings in Parliament during 1867 upon the reform bill may also be examined in connection with the returns of parliamentary elections in 1868 for further and most valuable information.

On the 4th of July, 1867, Mr. Lowe (the present Chancellor of the Exchequer in the Gladstone administration) moved the following amendment to the reform bill in the House of Commons:

"Power to distribute votes.—At any contested election for a county or borough represented by more than two members, and having more than one seat

vacant, every voter shall be entitled to a number of votes equal to the number of vacant seats, and may give all such votes to one candidate, or may distribute them among the candidates as he thinks fit."

This amendment (which was for the free vote including the principle of cumulation and applicable generally to elections where more than one member was to be chosen) was debated on the day when offered and on the day following, and received the very handsome support of one hundred and seventy-three votes—a large vote for a new proposition upon its first trial of strength. Mr. Lowe's amendment was identical in principle and almost identical in terms with the bill now reported by this committee. The English proposition applied to the election of members of Parliament, the American applies to the election of members of Congress; but in both a free vote, including the right of cumulation, is the essential idea, and the object in view more complete and just representation of the people.

On the 30th July, 1867, the reform bill being under consideration in the House of Lords, Lord Cairns moved to insert the following new clause, to come in after clause eight of the bill:

"At a contested election for any county or borough represented by three members, no person shall vote for more than two candidates."

This amendment, after an elaborate debate, was adopted by a strong vote: contents 142, not contents 51; and an additional amendment was then also adopted without a division that "at a contested election for the city of London" (which is entitled to four members) "no person shall vote for more than three candidates."

The success of those amendments (which were concurred in by the House of Commons on the 8th of August) constituted an important event in the history of representative institutions, for they recognized and gave application to a principle of justice which will endure the test of trial and of time—a principle which will hereafter receive indefinite extension, and wherever extended will purify elections, insure contentment to constituencies, and elevate the character and improve the action of free government.

Mr. Gladstone, speaking in the House of Commons and confining his attention to his own country, declared that the proposition or principle contained in those amendments if adopted at all must be adopted with the certainty that "it must unfold and expand itself over the whole country and completely reconstruct the system of distribution of seats." And generally those who supported it in both houses of Parliament foretold and rejoiced in the prospect of its future expansion.

Those amendments constitute the ninth and tenth clauses of the reform act of 15th of August, 1867, and their effect is illustrated by the parliamentary elections of 1868. We give the returns for certain districts:

PARLIAMENTARY ELECTIONS, 1868.

Herefordshire, three members. Average Tory vote, 3,360; average Liberal vote, 2,074. Two Tories and one Liberal elected.

Cambridgeshire, three members. Average Tory vote, 3,924; average Liberal vote, 3,310. Two Tories and one Liberal elected.

The Liberals also obtained the third member in each of the Tory counties of Oxford, Bucks, and Dorset.

Liverpool borough, three members. Average Tory vote, 16,404; average Liberal vote, 15,198. Tory majority, 1,206.

In Liverpool the second seat, previously held by the Tories, was attacked by the Liberals; the result was a failure, as shown by the above vote. But the third member was most justly secured to the Liberals under the certain operation of the limited vote, provided by clause nine of the reform act.

Under the operation of the same clause the Tories obtained the third member for Leeds, and they carried members also in Manchester and London.

Blackwood's Magazine, a Tory organ, (it has called itself "the oldest of the Tories,") although it admits that its party has suffered loss to the extent of at least four seats by the minority clause, says:

"That to the principle of that clause, fairly and consistently worked out, it has no objection whatever."—*Blackwood's Magazine*, January, 1869.

This expression of opinion by a leading organ of the party which suffered somewhat under the minority clause is a valuable testimony in favor of the principle of electoral reform, which that clause was intended to promote.

DIFFICULTIES OF ENGLISH REFORM.

Mr. Disraeli, in debate on the 5th of July, 1867, pointed out one great practical obstacle to the adoption of the cumulative vote in England which does not exist in this country. It happens that the Scotch and Welsh districts are nearly all one-member districts with Liberal majorities. The proposed reform is, therefore, inapplicable to those parts of the kingdom as at present organized for election purposes, and if it were applied to England alone, upon an extensive scale, it might give undue influence and power in the House of Commons to Scotch and Welsh members. They would control the House upon all party questions. Full representation in England would tend to equalize the strength of parties in the House, and then the Scotch vote cast wholly on one side would always turn the scale.

But putting this consideration aside and taking the English districts as they stand, we find that most of them are not adapted, or well adapted, to the cumulative vote. A great part of them are boroughs electing one member each. In schedule A of the reform act are no less than thirty-eight such boroughs added to those which existed before, and in schedule B nine additional. Other boroughs choose two members each, as do divisions of counties, thirty-five of which are fixed in the reform act, schedule D. The triangular districts, those which elect three members each, are not numerous, and we are not aware that any district elects a greater number save London, which elects four. The limited vote is now, however, applied to London and to all the triangular districts, whether boroughs or counties, and it is to be expected that by the reorganization and consolidation of districts hereafter reform will be greatly extended.

REFORM IN THE UNITED STATES.

But the difficulties and obstacles which exist in Great Britain do not exist with us. Our States are well suited to the application of the free vote. There are now only six of the whole number to which it will not apply as a plan for representative elections, to wit, Delaware, Florida, Kansas, Nebraska, Nevada, and Oregon. They constitute the one-member States, and would be unaffected by the new plan. But from this class Kansas will pass at the next apportionment, leaving but five States out of thirty-seven to compose this class; and as they would select but five Representatives out of about two hundred and fifty who will constitute the House, their influence upon general results would be unimportant if not inappreciable. It is to be remarked, also, that these States, in common with all the other States, might come under the operation of the free vote if that vote should be applied to presidential elections, because each of them will be entitled to choose three electors.

THE TWO-MEMBER STATES.

The two-member States are Rhode Island and Minnesota, and both will probably change their position at the next apportionment of Representatives. Rhode Island will fall off to one member and Minnesota rise to three. Other States, however, two or three in number, may take their place, and hence it will be worth while to consider the position of two-member States with reference to the plan of the free vote. It has been sometimes said, without due reflection,

tion, that the cumulative vote is not suited to elections where two persons are to be chosen by a constituency, because if it have practical effect it will give equal representation to the majority and minority. But the frequent application of the limited vote to dual elections—as in the cases of inspectors of elections and jury commissioners in Pennsylvania—may cause us to pause and examine this objection with some care before we accept it as a sound one. Carefully examined it may turn out to be more specious than solid, and we may further discover that in the case of the representation of our States in the Federal Government there is an important fact which bears upon this objection and deprives it of any appearance even of strength or force.

In the first place let us test the objection and illustrate its futility by a supposed case. Take a constituency of 32,000 electors, 20,000 of whom are Tories and 12,000 Liberals, entitled to elect two members to Parliament. As there are 32,000 voters and two members to be chosen the full ratio or number of votes for a member is 16,000. Assign now one member to the Tories and the just demand of 16,000 Tory voters is complied with and exhausted. They can have no further claim to representation. What have we left? Why, on the one hand 4,000 Tory voters, and on the other 12,000 Liberals, and the simple question for us to determine is whether the 4,000 or the 12,000 shall have the second member. The cumulative or the free vote will give that second member to the 12,000 Liberals; unjust voting will give him to the 4,000 Tories.

But let us cite cases of actual parliamentary elections in 1868, for two-member districts, in further illustration: northeast Lancashire, two members; average Tory vote, 3,615; average Liberal vote, 3,458.

Two Tories elected upon a majority of 157. The ratio for a member was 3,536, so that 79 Tory voters obtained the second member, while 3,458 Liberals were disfranchised.

Take next two districts in Kent. Mid Kent, two members; average Tory vote, 3,245; average Liberal vote, 2,873. West Kent, two members; average Tory vote, 3,389; average Liberal vote, 3,279.

Two Tories were chosen from each district. In Mid Kent 186 Tory votes carried the second member, and in West Kent, 55; while in the two districts 6,152 Liberals were entirely disfranchised.

East Derbyshire, two members; average Liberal vote, 2,069; average Tory vote, 1,974. Yorkshire, West Riding, (south,) two members; average Liberal vote, 8,032; average Tory vote, 7,935.

In these districts four Liberals were elected; in one the second member was carried by 48 and in the other by 49 votes; while 9,909 Tories were wholly disfranchised.

Where, then, a minority in a two-member constituency exceeds one third the whole number of voters therein it does not seem unreasonable to assign to them the second member, and thus, in fact, an equality of representation with the majority. It is a case where complete or exact justice is impossible; there must be disfranchisement to some extent; but that disfranchisement should be reduced to its minimum and made to press as lightly as may be upon the constituency. What, then, can be said as to two-member constituencies is this, that any rule of voting for them must (in the very nature of the case) be imperfect in result; but that the cumulative vote, or an equivalent plan applied even to them, will be one of reform and improvement.

But an important consideration remains to be mentioned. Our States are represented in both Houses of Congress, and not merely in one; a fact which changes entirely the character of this question in the two-member States. In Great Britain there is no representation of the people, or even of districts, in the upper

house of Parliament. Compensation to a constituency for loss of political power in the House of Commons cannot be obtained by them in the House of Lords. With us the case is widely different. The political majority in a State will ordinarily have both the Senators from the State; in other words, the whole representation of the State in the Senate. If, then, in two-member States they have but one half the representation of the State in the House (as against a minority of one third or upward) the aggregate of their representation in Congress will still be many times over what it should be upon any principle of justice or of numbers.

THE THREE-MEMBER STATES.

It is agreed pretty generally that the cumulative or free vote is admirably suited to three-member constituencies. The States which now elect three members each are Arkansas, California, New Hampshire, Vermont, and West Virginia. In such States the majority will always have two members, and the minority, if it exceed one fourth the whole constituency and one third of the majority vote, can obtain the third. Upon constituencies or districts of this class—called indiscriminately “three-handed,” “three-cornered,” or “triangular”—much of the debate in Great Britain as to reform in popular voting has been expended. The question as to them in particular is fully expounded in the papers (drawn from British sources) which are appended to this report.

THE GREAT STATES.

Having exhausted the list of States which elect less than four members we find that twenty-four remain. Of these Connecticut, South Carolina, and Texas each elect four members and the remainder various numbers, up to New York, which chooses thirty-one. They may be taken together in this examination as an additional, though by far the most important, class of States. They choose two hundred and eighteen out of the two hundred and forty-three members of the House. In this class all the great States are before us and all of secondary rank, challenging the wisdom of Congress to reform and amend our political system in some effectual manner; for our country has in some respects outgrown the system provided for us by the care of our ancestors; new necessities press upon us; great evils afflict us, and it has become the duty of statesmen not merely to administer or to carry on our plan of government, but to amend it also; and to this end we are to invite and welcome the best thoughts of men abroad and at home upon political reform, and give them, as far as possible, application and practical effect.

Now, there can be no question that if parties in the great States obtain representation according to the number of their votes one of the greatest possible reforms in a republican government will be secured. All the arguments heretofore mentioned apply to those States with special force, because they contribute the main body of members to the House, and a defective plan of election operates within them with extensive effect. As to them reform will be most important and useful, and no reasonable effort should be spared in attempting to apply it.

We have in fact as to the great States no point left for examination except the single one of practicability. Will the free vote work and work well in the great States? Those who distrust popular intelligence and judgment may deny, while those who confide in the people will affirm, the practicability of the plan. But there is one leading consideration which, in the judgment of the committee, is decisive upon this question. It is that where free action shall be permitted each political party will pursue its own interests with activity, intelligence, and zeal, and will inevitably obtain for itself its due share of representative power. Thus where a party shall have one third of the popular vote of the State it will cumulate its vote upon one third the number of Representatives to be

chosen. Where parties are nearly equal in strength in a State the weaker one will cumulate its vote upon one half the number of persons to be chosen, or within one of that number. Where a party has a small majority in a State, and particularly where it is increasing in numbers, it will cumulate its vote upon one or two more than one half the number of candidates. And finally, in States with large delegations a party with so small a vote as one fourth or one fifth the whole number will cumulate its vote upon the small number of one, two, three, or more Representatives, according to the proportion which its vote shall bear to the total vote of the State. The due working of the plan is secured by the selfish interests with which it deals, and we may congratulate ourselves that under the plan the very efforts of parties to secure power for themselves will result in justice; that is, in the division of power between them according to their respective numbers.

Now, it is idle to say that voting in the great States will be confused and uncertain. On the contrary, it will run according to party organization at all times, and will adjust itself naturally and inevitably to all changes of opinion and organization in the political body. And as political parties constantly divide society into parts, the relative strength of which can at any time be approximately stated, there need not be uncertainty or confusion in the polling of votes. And even in times of transition and change, when popular power is departing from one party and attaching itself to another or when some third party takes ground upon a particular issue or faction diverts a fragmentary vote from a great party, the amount of disturbance and consequent uncertainty produced will not be considerable, and can be readily estimated for all practical purposes in fixing the number of candidates which any party shall support. The merit or practicability of a rule of elections is not to be judged upon a supposition which is unlikely or exceptional; but even in the cases supposed the elements of error and mistake will be reduced to their smallest possible quantity. Where the relative strength of party is uncertain—that is, cannot be exactly known or estimated—or where the boundary of power between them is near the dividing line between ratios of representation, it will rarely happen that a mistake will be made beyond the extent of one member, and the general result for the State will be but slightly disturbed.

THE CHOICE OF PRESIDENTIAL ELECTORS.

The proposed amendment to the Constitution of the United States regarding the choice of electors of President and Vice President of the United States, reported by this committee on the 29th of January, (adopted by the Senate subsequently, but lost upon disagreement between the two Houses,) deserves distinct examination, particularly as full debate upon it in the two Houses of Congress could not be had when it came up for consideration, for want of time. That amendment is as follows:

“The second clause, first section, article two of the Constitution of the United States shall be amended to read as follows: Each State shall appoint, by a vote of the people thereof qualified to vote for Representatives in Congress, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust and profit under the United States, shall be appointed an elector; and the Congress shall have power to prescribe the manner in which such electors shall be chosen by the people.”

The amendment has two objects: first, to secure to the people at all times the right of choosing electors themselves; and second, to authorize Congress to prescribe the manner in which this popular right shall be exercised. In other respects the amendment follows the language of the existing Constitution and introduces no change. At present electors are to be appointed as the Legislatures of the several States may direct, and there is no uniform rule for the whole country. Although in most of

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the States the practice has been to choose them by a popular vote, this has not been a matter of constitutional right in the people, but of legislative permission and liable at any time to be taken away. That the authority to appoint electors should be fixed in the Constitution by a uniform rule, and not be left to legislative discretion, is, we believe, a general opinion, and it rests upon good grounds of reason and experience. South Carolina formerly chose her electors by a vote of her Legislature, and the people had no voice in the proceeding; but by her present constitution formed under the reconstruction laws their appointment must be directly by the people. It may be questioned whether a State constitution can take away the discretionary power vested in the Legislature by the Constitution of the United States, which is "the supreme law of the land," but this action by South Carolina shows that popular right requires a constitutional guarantee against the caprice, ambition, or corruption of legislative bodies. Florida has by law placed the appointment of her electors in her Legislature, and a recent attempt in Alabama to fix a similar arrangement in that State was only frustrated by an Executive veto. It may be apprehended that in some future election of President and Vice President closely contested the Legislature of a State or the Legislatures of several States may take to themselves the appointment of electors, prevent their choice by the people, and change the result of the election. This is a danger to be carefully guarded against, to be wholly removed from our electoral system, not only because it contains an element of injustice but because it may provoke convulsion and civil war.

The next provision of the amendment that Congress may prescribe the manner in which electors shall be chosen by the people is most important and valuable. It is true that this clause only permits and does not require congressional action, but its necessity for the introduction of any reform in the manner of choosing presidential electors is perfectly certain, as will be presently shown. The objection that because this clause will take power from the Legislatures of the States and vest it in Congress, or rather will authorize Congress to interpose and control the action of State Legislatures, it will increase Federal power and tend to consolidation, ought not to prevail against the amendment, and that for several reasons. In the first place, the choice of presidential electors is a Federal question as much as the choice of members of Congress, and may properly be subjected to similar regulation as to the manner in which it shall be performed. In the next place, the original design of the electoral colleges has wholly failed. They were intended to be bodies for deliberation and free choice; in other words, to exercise judgment and discretion in giving their votes to candidates for President and Vice President. It was expected that they would not in form and theory merely, but in fact and truth choose the two principal executive officials in the Government of the United States, and it is to be noticed that the "manner" in which they shall choose is carefully "prescribed" by the Constitution. They are to meet on a fixed day in their respective States and vote by ballot for President and Vice President, (one of whom at least shall not be an inhabitant of the same State with themselves,) and shall make distinct lists of their votes, signed and certified, and transmit them under seal to the President of the Senate. But the manner in which the electors themselves should be chosen was not prescribed (or authority conferred upon Congress to prescribe it) for two reasons: first, because the convention did not determine what authority should appoint them; and second, because the actual choice of President and Vice President was intended to be in the colleges themselves, whose "manner" of choosing was distinctly fixed.

These considerations are now of no force. On the contrary, when it is expressly provided that the people shall choose the electors, and it is understood that the colleges shall simply represent them and execute their will, the regulation of the manner in which the electors shall be chosen falls, as before stated, within the same reason which applies to the regulation of the manner of choosing Representatives in Congress; and it falls also within the reasons which originally induced the regulation of the manner in which the electoral colleges were to exercise their powers. The amendment therefore is in conformity with principles already contained in the Constitution, and does not introduce any "portentious novelty" into our system.

But the most important reason in favor of this branch of the amendment remains to be mentioned. *It is absolutely necessary to secure reform in the manner of choosing electors.* They are now chosen by general ticket in nearly all the States, and the only practical alternative to this plan is legislative choice, which is still worse, and struck at by the prior clause of the amendment. Now, the general ticket plan is very objectionable, as is well known, and yet the States cannot change it. Theoretically, by virtue of an express clause of the Constitution, the State Legislatures may direct the manner in which electors shall be appointed at their pleasure, but practically they cannot or will not exercise that power in the direction of reform. Always, whenever they have not taken to themselves the power of appointing electors, they have provided that they should be elected by the people upon the general ticket plan, and that plan, so long as they allow a popular vote at all the presidential elections, they will not abolish or amend. The explanation of this is not difficult, and it will be easily understood by any one familiar with our political history and with the character of our political parties.

By the general ticket a political majority in a State can wield the whole power of the State in an electoral college, not merely a power proportioned to their own numbers, but a power proportioned to the joint vote of their own and of an opposing party. They obtain not only the power appropriate to themselves, but also the power appropriate to their opponents or rivals. Now it is not to be expected that a party in a State will voluntarily surrender such an advantage, though tainted with odium and injustice, or that their representatives in the State Legislature will surrender it; for it is a law of party to obtain all the power possible, and to yield no advantage except upon compulsion or for adequate compensation.

But if considerations of justice and the general good could have weight with the State Legislatures, and overrule with them the suggestions of selfish interest, still reform could not be secured. A change in order to operate fairly should be uniform throughout the whole country and be applied in all the States at the same time. But State action in the way of change must be successive, extending over a period of years, and would not probably be uniform or universal. And so no State could well venture to take the initiative, as its political majority would make a certain sacrifice for an uncertain or imperfect reform. If a political majority in the Legislature of Indiana should desire to have electors chosen by single districts they could not afford to adopt the plan alone. For they would discover at a glance that if other States did not adopt it they would weaken their party without any possible compensation. While they would divide power in their own electoral college with an opposing party, that opposing party, by holding on to the general ticket plan in another State (Kentucky for instance) would obtain an advantage which might determine the general result of the presidential election. Upon the whole, then, we must conclude that without an amendment of the Constitution any

reform whatever in the manner of choosing presidential electors is impossible.

But it is said by many that the electoral colleges should be abolished and the people be permitted to vote directly for President and Vice President. An amendment of the Constitution to effect this purpose has been often proposed, but has never been submitted to the States for adoption, and for a very good reason, which is, that they would have rejected it. Nor is it now possible to obtain the ratification of such an amendment by three fourths of the States. The reason is a plain one. All the small States and all the States of secondary rank are interested largely in retaining their representation as States in the electoral colleges. They have now each two electors without regard to population, whereas under the plan proposed they would be confined to the principle of numbers and would influence the result of an election only in proportion to their actual votes polled. No less than twenty-four States out of thirty-seven would lose from about one fourth to two thirds of their present political weight in presidential elections by the change. This fact is decisive. Instead of ratifications by three fourths of the States there would be prompt rejections by a majority of them if this proposition should be submitted.

But although the electoral colleges cannot be abolished by constitutional amendment they may be greatly reformed. They may be made to represent more truly the will of the people and the States, or of the people alone, by an amendment of the Constitution which shall prescribe, or shall authorize Congress to prescribe, the manner in which their members shall be chosen. It may be provided that the two electors of each State, commonly called senatorial electors, who represent the principle of State equality, shall be chosen in one manner, and the remaining electors of the State, who represent the principle of numbers, in another, or that all the electors shall be chosen in the same way. If the former plan should be preferred the senatorial electors might be chosen by general ticket, and then as to them there would be no change from the present practice. But it could be provided that the representative electors in the one case, or all the electors in the other, should be chosen by single districts, or upon the principle of the free vote. The single district plan would be a very great improvement, and it would be free from some of the objections which lie against it when applied to the choice of Representatives in Congress; but the free vote would be infinitely preferable to it, because it would be more convenient, because it would prevent corruption, and because it would secure a more full and just representation of the people in the electoral colleges.

It is the opinion of the committee that under their amendment as reported Congress would be authorized only to prescribe uniform rules for choosing electors; rules applicable to the whole country and operating equally in every State. But if this opinion should be questioned a slight change of phraseology in the amendment would remove all doubt.

To the suggestion that Congress might attempt itself to district the States in order to perpetrate party injustice there are several answers. In the first place, it is not at all certain that Congress would form districts more unfairly than they would be formed by State Legislatures. In the next place, it is not at all likely, and hardly possible, that Congress would undertake this work, which would be to it both inconvenient and odious. It possesses now the same power of controlling the manner of choosing Representatives which it is proposed to confer upon it in regard to choosing electors; and yet it has never undertaken to district the States for Representative elections, in which it is more directly interested than in those for electors. But again, if thought expedient, the amendment might be modified so as

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to exclude the direct action of Congress in the formation of districts. It is hardly necessary to add that the adoption of the free vote for the choice of electors would avoid this and all similar questions of debate.

The committee refer to the paper upon electoral colleges prepared by Colonel Wheeler, of the Treasury Department, and appended to this report, for interesting information upon the subject of presidential elections and for timely suggestions on the question of reform.

CONCLUSION.

The committee must now conclude their examination of a most important subject. They have not been able, on account of the pressure of other duties, to fill up completely the argument in favor of the free vote or to answer in form the possible objections which may be made to its adoption. But they have endeavored to present fairly the main arguments which should weigh with Congress and with the people in its favor, and by due explanation of its purpose and character to vindicate it against misconception and cavil. As to the objections which may be made that it would delocalize representation, that it would introduce some degree of confusion, that it would decrease political activity, and that it is opposed to the doctrine that the majority shall rule, they must content themselves with declaring that in their opinion none of these objections are well taken or well suited to undergo debate, and that they were thoroughly answered in the two houses of Parliament in 1867. The last one in particular is preposterous, for it is one of the main merits of reformed voting that it will secure the true rule of the majority and give to it a sanction it does not now possess. The whole mass of the electoral population being represented by reformed voting in the representative body the vote will be there taken upon any question in controversy and the voice of the majority duly pronounced; but at present minority rule may obtain, for in the first place all minorities in popular elections are struck out of the returns, and next the minority vote in the representative body is overruled when a decision is there made, so that we have, in fact, the rule of a majority of a majority, which very likely represents only a minority among the people, particularly when a plurality rule is applied to the popular elections.

The argument for reform may be summed up in a few words. By it we will obtain cheap elections, just representation, and contentment among the people; by it we will also secure able men in the people's House; by it our political system will be invigorated and purified; by it our country will "take a bond of the future" that our Government shall be a blessing and not a curse; that our prosperity shall be enduring; that our free institutions "shall not perish from the face of the earth."

Senate Bill No. 722.—(Fortieth Congress, Third Session.)

IN THE SENATE OF THE UNITED STATES,
January 13, 1869.

Mr. BUCKALEW asked, and by unanimous consent obtained, leave to bring in a bill entitled "A bill to amend the representation of the people in Congress;" which was read twice, and referred to a select committee, consisting of Messrs. BUCKALEW, ANTHONY, FERRY, MORTON, WARNER, RICE, and WADE.

MARCH 2, 1869.

Mr. WADE, from the select Committee on Representative Reform, reported the bill without amendment, as follows:

A bill to amend the representation of the people in Congress.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in elections for the choice of Representatives to the Congress of the United States, whenever more than one Representative is to be chosen from a State, each elector of such State, duly qualified,

shall be entitled to a number of votes equal to the number of Representatives to be chosen from the State, and may give all such votes to one candidate, or may distribute them, equally or unequally, among a greater number of candidates; and the candidates highest in vote upon the return shall be declared elected.

APPENDIX.

It has been thought proper and is found convenient to place in an appendix various citations of authority in favor of representative reform from parliamentary debates and from the writings of English authors. These evidences of the progress of thought abroad upon one of the most important and interesting questions which relate to representative government it is believed are worthy the attention of both statesman and citizen in this country—of all who desire the progress and improvement of free institutions and a satisfactory issue to our great experiment of democratic government.

A few general observations may fitly precede what follows. In the first place it is to be remarked that reform in Parliament as secured in 1867, in regard to the mode of popular voting, broke through the lines of party and was obtained independent of party support.

In both houses of Parliament Whigs and Tories, Liberals and Conservatives, Independent and Radical members, were found together in support of an amendment which was intended to do justice to the people and improve the representative body. In the upper house of Parliament in fact the opposition became at last narrowed almost to the ministry and their immediate dependents—a fact which induced the chief minister of the Crown in the lower house to abandon the opposition which he had at first proclaimed. In this country also the question of reform in the manner of popular voting is not one of a party character, and cannot be made such. It appeals to all good citizens and to all thoughtful men, in whatever political organization they may be found, and demands of them an independent and patriotic support. Already men of different opinions upon ordinary questions of party, and others of independent views, have stood forward among us as urgent advocates of reform. Of these, outside of Congress, honorable mention is to be made of Mr. J. Francis Fisher, Mr. Greeley, Mr. D. G. Croly, and Mr. Samuel Stern. Mr. Greeley's proposition in the New York constitutional convention of 1867, for the division of his State into fifteen senatorial districts, each of which should elect three senators upon the principle of the cumulative vote, was one of much merit, and will deserve upon some future occasion to be revived, and will also deserve to be imitated in other States.

ARGUMENTS IN PARLIAMENT.

In the House of Commons, July 4, 1867, Right Hon. Robert Lowe, on moving his amendment for the cumulative vote to the reform bill, addressed the house at length. He said:

"That he must not be understood as coming forward to argue for any protection to the minority," * * * "but between the members of the constituency there should be absolute equality; the majority should have nothing given to it because it was a majority; the minority should have nothing taken away from it." * * * "Let each voter have an equal number of votes not dependent upon the use he makes of them; let him be at liberty to dispose of them as he likes." * * * "The tendency of the present system was to make that stronger which was already strong, and that weaker which was already weak. By an arbitrary and unreasonable rule it strengthened the majority; by the same arbitrary and unreasonable rule it weakened the minority. On abstract justice, therefore, the present rule could not be maintained. The proper way to alter it was to give each elector as many votes as there were vacancies, and leave him absolutely free to dispose of them as he pleased—to give all to one person, one to each of three, or two to one, and one to another. By that means they would be doing nothing unjust or unfair to the majority or to the minority. They would be merely putting them on a level, and leaving them on perfectly fair ground. That was the abstract argument. There were different ways by which the end might be accomplished. Some proposed to give only a single vote to each elector; others recommended that when there were three candidates each elector should have two

votes. He proffered to give each elector three votes, and allow him to dispose of them as he pleased.

"The objection to the two first proposals was that they would operate in the way of disfranchisement, and would take away something people already possessed; because on the supposition that there were three candidates they had already three votes. The system he proposed had greater flexibility and better adapted itself to the general purposes of elections." * * * "They would find that in this way opinion in constituencies would ripen. Opinion in that House would ripen to changes, and the House would become a more delicate reflex of the opinions of the constituencies. The existence of such a system of gradual growth, not only of opinion but in the representation of opinion, would, to a great extent, prevent the necessity of external agitation, and be a great discouragement to it. There was nothing more worthy of the attention of statesmen in the new state of affairs than anything which would have the tendency to prevent that violent oscillation which they now witnessed. What happened in the United States? The minority of thousands might as well not exist at all. It is absolutely ignored. Was their country (England) in like manner to be formed into two hostile camps, debarred from each other in two solid and compact bodies? Or were they to have that shading off of opinion, that modulation of extremes and mellowing and ripening of right principles which are among the surest characteristics of a free country, the true secrets of political dynamics and the true preservatives of a great nation? He said then that what he proposed to the house was in itself just, equal, and fair, founded on no undue or unfair attempt to give a minority an advantage they were not entitled to exercise, and that it was peculiarly applicable to the state of things on which they were entering." * * * "He might justly add that the principle of the amendment was large enough to include boroughs returning two members as well as those which had three, and if it were worth while he was prepared to contend that upon abstract principle it ought to be applied to both classes of boroughs."—183 *Hansard's Parliamentary Debates*, 3d series, pp. 1037-41.

In the House of Lords, July 30, 1867, Lord Cairns spoke at length in support of his amendment for representation of minorities in three-membered constituencies. He said he would state the advantages of the system he had proposed:

"These must obviously be looked at from three points of view—the advantages to the general legislation of the country, the advantages to the members who would be selected under an arrangement of this kind, and the advantages to the constituencies themselves. Now, with regard to the legislature the advantages which I think would be gained by this system would be these: you would obtain in the persons of those who would be the representatives of the minority in these large constituencies a body of men of great intelligence and of great independence; you would have those elements of advantage which exist in the representation of small boroughs, and at the same time you would be perfectly free from the disadvantages and defects of the small borough system." * * * "Questions are constantly arising which in one aspect are questions of general political interest, but which are more or less connected with local interests, and bear upon local claims; and thus a question which, in a general point of view, is of political interest to the whole country is sometimes colored and affected in many ways by the way in which it is viewed in different localities. No doubt, in discussing general questions of political interest, it would be of the greatest possible advantage to hear how those questions were viewed not merely by different localities but by different bodies of men in the same locality. That result you would obtain by the plan which I propose." * * *

"I will pass to the consideration of the advantages which would be gained by the representatives of those large constituencies themselves." * * * "You would have from the same constituency two members representing the majority and one representing the minority, communicating freely with each other, and without the slightest tinge of jealousy or apprehension that the interests of one would jar or conflict with the interests of the other in the constituency." * * *

"Again, with regard to the constituency itself—and this is one of the most important views of the case—observe the advantages which would be gained: first, I believe you would gain the greatest possible local satisfaction; there is nothing so irksome to those who form the minority of one of those large constituencies as finding that from the mere force of numbers they are virtually excluded from the exercise of any political power; that it is vain for them to attempt to take any part in public affairs; that the elections must go in one direction, and that they have no political power whatever. On the one hand the result is great dissatisfaction, and on the other it is disinclination on the part of those who form the minority to take any part in affairs in which it is important they should take a prominent and conspicuous part." * * * "In addition to that, it would do much to soften the asperities of political feeling which sometimes, though not often, prevails in large constituencies." * * * "Of this I am sure, (and although some treat it as an objection I think it a great advantage of the scheme,) that contests would be very much diminished in large constituencies where contests are most ex-

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sive, so expensive that the mind almost recoils at hearing the sums which they cost. Contests practically would come to an end; and, as they did, so would danger of bribery and corruption. You would have great constituencies divided into great component parts; you would have each portion well represented; you would have freedom from expense, freedom from the irritation of political feeling, and from the curse of all elections, bribery."—189 *Hansard*, 3d series, pp. 433-41.

The views of Earl Russell in favor of dividing the representation of large constituencies between parties have been often expressed. In debate in the House of Commons upon the reform bill of 1854 he spoke as follows:

"Now it appears to us that many advantages would attend the enabling the minority to have a part in these returns. In the first place there is apt to be a feeling of great soreness when a very considerable number of electors, such as I have mentioned, are completely shut out from a share in the representation of one place. * * * But in the next place I think that the more you have your representation confined to large populations the more ought you to take care that there should be some kind of balance, and that the large places sending members to this House should send those who represent the community at large. But when there is a very large body excluded it cannot be said that the community at large is fairly represented."—156 *Hansard*, 3d series, p. 2062.

In his essay on the English constitution, (edition of 1865,) he wrote as follows:

"If there were to be any deviation from our customary habits and rooted ideas on the subject of representation I should like to see such a change as I once proposed in order to obtain representatives of the minority in large and populous counties and towns. If, when three members are to be elected, each elector were allowed to give two votes we might have a Liberal country gentleman sitting for Buckinghamshire and a Conservative manufacturer for Manchester. The local majority would have two to one in the House of Commons, and the minority would not feel itself disfranchised and degraded."

In the House of Lords, in 1867, he gave a vigorous and able support to the Cairns amendment, which now constitutes clause nine of the reform act of that year. He said:

"I believe by means of such a plan you would introduce into the House of Commons men of moderate views whose influence would tend to reconcile parties on those occasions which now and then arise when neither extreme is completely right, and when the influence of moderate men is of much use in allaying the heat of party passion. * * * "Suppose a town has twenty thousand voters, and that twelve thousand are of one side in politics and eight thousand of the other, would not that town be better represented if both the twelve thousand and eight thousand were represented than if only the twelve thousand were represented? The gentleman who first impressed me with those opinions as to three-cornered constituencies mentioned to me that in a great manufacturing town where there was a very considerable Conservative minority men of the greatest respectability, men of wealth, and men of education were in such a state of political irritation from the fact of feeling themselves reduced to the position of mere ciphers at elections, that they were sometimes ready to support candidates of even extreme democratic opinions. * * * "I can well understand men who are extremely intolerant and exclusive in politics objecting to give any voice to those whose political views are distasteful to them; but I cannot understand such an objection being urged by those who are in favor of having public opinion fairly represented."—189 *Hansard*, 3d series, pp. 446-47.

Upon the consideration of the reform bill of 1881 in the House of Commons Mr. Praed, distinguished as speaker and poet, expressed himself as follows:

"If we desire that the representatives of a numerous constituency should come hither merely as witnesses of the fact that certain opinions are entertained by the majority of that constituency our present system of election is certainly rational, and members are right in their reprobation of a compromise, because it would diminish the strength of the evidence to a fact we wish to ascertain. But if we intend, as surely we do intend, that not the majority only, but the aggregate masses of every numerous constituency, should so far as is possible be seen in the persons and heard in the voices of their representatives—should be, in short, in the obvious literal sense of the word "represented" in this house—then, sir, our present rule of election is in the theory wrong and absurd, and in practice is but partially corrected by the admission of that compromise on which so much virtuous indignation has been wasted."—3 *Hansard*, v. 1362.

THE CUMULATIVE VOTE.

By Earl Grey.

"The first of the reforms of a conservative tendency which I should suggest, and one which I should consider a great improvement under any cir-

cumstances but quite indispensable if any changes favorable to democratic power are to be admitted, would be the adoption of what Mr. James Marshall has called the "cumulative vote"; that is to say, the principle of giving to every elector as many votes as there are members to be elected by the constituency to which he belongs, with the right of either giving all these votes to a single candidate or of dividing them, as he may prefer. The object of adopting this rule would be to secure to minorities a fair opportunity of making their opinions and wishes heard in the House of Commons. In order that it might fully answer this purpose, the right of returning members to Parliament ought to be so distributed that each constituency should not have less than three representatives to choose. Supposing that three members were to be elected together, and that each elector were entitled to three votes, which he might unite in favor of a single candidate, it is obvious that a minority exceeding a fourth of the whole constituency would have the power of securing the election of one member. It is probable that in general three members would be thus returned, each representing a different shade of opinion among the voters.

"The advantages this mode of voting would be calculated to produce, and the justice of making some such provision for the representation of minorities, or rather the flagrant injustice of omitting to do so, have been so well shown by Mr. Marshall in the pamphlet I have already referred to, and by Mr. Mill in his highly philosophical treatise on representative government, that it is quite needless for me to argue the question as one of principle. But I may observe that, in addition to its being right in principle this measure would be in strict accordance with the lessons of experience if read in their true spirit. One of the most remarkable peculiarities of the British House of Commons as compared with other representative bodies is, that it has always had within its walls members representing most of the different classes of society and of the various and conflicting opinions and interests to be found in the nation. Much of the acknowledged success with which the House of Commons has played its part in the government of the country has been attributed, I believe most justly, to this peculiarity. The changes made by the reform act, and especially the abolition of the various rights of voting formerly to be found in different towns, and the establishment of one uniform franchise in all the English boroughs, (with only a small exception in favor of certain classes of freemen,) tended somewhat to impair the character of the house in this respect. The greatly increased intercourse between different parts of the country and the rapidity with which opinions are propagated from one extremity of the kingdom to another have had a similar tendency; and there is no longer the same probability as formerly that different opinions will be found to prevail in different places so as to enable all parties to find somewhere the means of gaining an entrance to Parliament for at least enough of their adherents to give expression to their feelings.

"Hence there is a danger that the House of Commons may cease to enjoy to the same extent as formerly the great advantage of representing the various classes and opinions to be found in the nation. That danger would be greatly aggravated by rendering the constituencies more nearly equal than they are; but the simple change involved in adopting the cumulative vote would do much toward guarding against it, since with this mode of voting it would be impossible that any considerable party in the country should be left unrepresented in Parliament. The tendency of the alteration would be conservative in the best sense of the word, while at the same time in many cases it would have the effect of relieving liberal politicians from a disadvantage to which they are unfairly subjected. On the one side it would prevent the representation of the large town constituencies from being monopolized, as at present, by candidates ready to pledge themselves to the support of democratic measures. Even in the metropolitan boroughs we might reasonably expect that some members would be returned really representing the higher and most educated classes of their inhabitants, who are now practically without any representation at all except that which they obtain indirectly by means of members chosen by other constituencies. Thus in the large towns it would put an end to the unjust monopoly on the part of radical politicians; and on the other hand, in those counties where a Conservative majority now excludes a strong Liberal minority from any share in the representation it would correct a similar tendency in the opposite direction. In both cases this system of voting would be calculated to give more weight to the Independent electors who are not thorough-going partisans on either side, and to favor the return of candidates deserving their confidence."—*Parliamentary Government Considered with Reference to Reform*, edition of 1864, p. 203.

LIMITED AND CUMULATIVE VOTING.

By John Stuart Mill.

"Assuming that each constituency elects three representatives, two modes have been proposed, in either of which a minority amounting to a third of the constituency may, by acting in concert and determining to aim at no more, return one of the members. One plan is that each elector should only be allowed to vote for two, or even for one, although three are to be elected. The other leaves to the elector his three votes, but allows him to give all of them to one candidate. The first of these plans was adopted in the reform bill of Lord Aberdeen's government; but I do not hesitate most decidedly to prefer the second, which has been advocated in an able and conclusive

pamphlet by Mr. James Garth Marshall. The former plan must be always and inevitably unpopular, because it cuts down the privileges of the voter, while the latter, on the contrary, extends them; and I am prepared to maintain that the permission of cumulative votes—that is, of giving either one, two, or three votes to a single candidate—is in itself even independently of its effect in giving a representation to minorities the mode of voting which gives the most faithful expression of the wishes of the elector. On the existing plan an elector who votes for three can give his vote for the three candidates whom he prefers to their competitors; but among those three he may desire the success of one immeasurably more than that of the other two, and may be willing to relinquish them entirely for an increased chance of attaining the greater object. This portion of his wishes he has now no means of expressing by his vote. He may sacrifice two of his votes altogether, but in no case can he give more than a single vote to the object of his preference. Why should the mere fact of preference be alone considered and no account whatever be taken of the degree of it? The power to give several votes to a single candidate would be eminently favorable to those whose claims to be chosen are derived from personal qualities and not from their being the mere symbols of an opinion; for if the voter gives his suffrage to a candidate in consideration of pledges or because the candidate is of the same party with himself he will not desire the success of that individual more than any other who will take the same pledges or belongs to the same party. When he is especially concerned for the election of some one candidate it is on account of something which personally distinguishes that candidate from others on the same side. Where there is no overruling local influence in favor of an individual those who would be benefited as candidates by the cumulative vote would generally be the persons of greatest real or reputed virtue or talents."—*Thoughts on Parliamentary Reform*, second edition, 1859.

OF TRUE AND FALSE DEMOCRACY—REPRESENTATION OF ALL AND REPRESENTATION OF THE MAJORITY ONLY.

By John Stuart Mill.

"It has been seen that the dangers incident to a representative democracy are of two kinds: danger of a low grade of intelligence in the representative body and in the popular opinion which controls it; and danger of class legislation on the part of the numerical majority, these being all composed of the same class. We have next to consider how far it is possible so to organize the democracy as, without interfering materially with the characteristic benefits of democratic government, to do away with these two great evils, or at least to abate them in the utmost degree attainable by human contrivance.

"The common mode of attempting this is by limiting the democratic character of the representation through a more or less restricted suffrage. But there is a previous consideration which, duly kept in view, considerably modifies the circumstances which are supposed to render such a restriction necessary. A completely equal democracy in a nation in which a single class composes the numerical majority cannot be divested of certain evils; but those evils are greatly aggravated by the fact that the democracies which at present exist are not equal, but systematically unequal in favor of the dominant class. Two very different ideas are usually confounded under the name democracy. The pure idea of democracy, according to its definition, is the government of the whole people by the whole people equally represented. Democracy, as commonly conceived and hitherto practiced, is the government of the whole people by a mere majority of the people exclusively represented. The former is synonymous with the equality of all citizens; the latter, strangely confounded with it, is a government of privilege in favor of the numerical majority, who alone possess practically any voice in the State. This is the inevitable consequence of the manner in which the votes are now taken to the complete disfranchisement of minorities.

"The confusion of ideas here is great, but it is so easily cleared up that one would suppose the slightest indication would be sufficient to place the matter in its true light before any mind of average intelligence. It would be so but for the power of habit, owing to which the simplest idea if unfamiliar has as great difficulty in making its way to the mind as a far more complicated one. That the minority must yield to the majority, the smaller number to the greater, is a familiar idea; and accordingly men think there is no necessity for using their minds any further, and it does not occur to them that there is any medium between allowing the smaller number to be equally powerful with the greater and blotting out the smaller number altogether. In a representative body actually deliberating the minority must of course be overruled; and in an equal democracy (since the opinions of the constituents, when they insist on them, determine those of the representative body,) the majority of the people, through their representatives, will outvote and prevail over the minority and their representatives. But does it follow that the minority should have no representatives at all? Because the majority ought to prevail over the minority must the majority have all the votes, the minority none? Is it necessary that the minority should not even be heard? Nothing but habit and old association can reconcile any reasonable being to the needless injustice. In a really equal democracy every or any section would be represented, not disproportionately, but proportionately. A major-

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ity of the electors would always have a majority of the representatives, but a minority of the electors would always have a minority of the representatives. Man for man they would be as fully represented as the majority. Unless they are there is not equal government, but a government of inequality and privilege. One part of the people rule over the rest. There is a part whose fair and equal share of influence in the representation is withheld from them, contrary to all just government, but above all contrary to the principle of democracy, which professes equality as its very root and foundation.

The injustice and violation of principle are not less flagrant because those who suffer by them are a minority; for there is not equal suffrage where every single individual does not count for as much as any other single individual in the community. But it is not only the minority who suffer. Democracy thus constituted does not even attain its ostensible object—that of giving the powers of government in all cases to the numerical majority. It does something very different, it gives them to a majority of the majority, who may be and often are but a minority of the whole. All principles are most effectually tested by extreme cases. Suppose, then, that in a country governed by equal and universal suffrage there is a contested election in every constituency, and every election is carried by a small majority; the Parliament thus brought together represents little more than a bare majority of the people. This Parliament proceeds to legislate and adopts important measures by a bare majority of itself; what guarantee is there that these measures accord with the wishes of a majority of the people? Nearly half the electors, having been outvoted at the hustings, have had no influence at all in the decision; and the whole of these may be a majority of them probably are, hostile to the measures, having voted against those by whom they have been carried. Of the remaining electors nearly half have chosen representatives who, by supposition, have voted against the measures. It is possible, therefore, and even probable, that the opinion which has prevailed was agreeable only to a majority of the nation, though a majority of that portion of it whom the institutions of the country have erected into a ruling class. If democracy means the certain ascendancy of the majority there are no means of insuring that but by allowing every individual figure to tell equally in the summing up. Any minority left out, either purposely or by the play of the machinery, gives the power not to a majority, but to a minority in some other part of the scale.

The only answer which can possibly be made to this reasoning is that as different opinions predominate in different localities the opinion which is in a minority in some places has a majority in others; and on the whole every opinion which exists in the constituencies obtains its fair share of voices in the representation. And this is roughly true in the present state of the constituency. If it were not, the discordance of the House with the general sentiment of the country would soon become evident. But it would be no longer true if the present constituency were much enlarged, still less if made coextensive with the whole population; for in that case the majority in every locality would consist of manual laborers, and when there was any question pending on which these classes were at issue with the rest of the community no other classes could succeed in getting represented anywhere. Even now is it not a great grievance that in every Parliament a very numerous portion of the electors, willing and anxious to be represented, have no member in the house for whom they have voted? Is it just that every elector of Marylebone is obliged to be represented by two nominees of the vestry, every elector of Finsbury or Lambeth by those—as is generally believed—of the publicans? The constituencies to which most of the highly educated and public-spirited persons in the country belong, those of the large towns, are now in great part either unrepresented or misrepresented. The electors who are on a different side in party politics from the local majority are unrepresented. Of those who are on the same side a large proportion are misrepresented, having been obliged to accept the man who had the greatest number of supporters in their political party, though his opinions may differ from theirs on every other point. The state of things is in some respects even worse than if the minority were not allowed to vote at all, for then at least the majority might have a member who would represent their own best mind, while now the necessity of not dividing the party for fear of letting in its opponents induces all to vote either for the person who first presents himself wearing their colors or for the one brought forward by their local leaders, and these, if we pay them the compliment which they very seldom deserve of supposing their choice to be unbiased by their personal interests, are compelled, that they may be sure of mustering their whole strength, to bring forward a candidate whom none of the party will strongly object to—that is, a man without any distinctive peculiarity, any known opinions except the shibboleth of the party.

This is strikingly exemplified in the United States, where at the election of President the strongest party never dares put forward any of its strongest men, because every one of these, from the mere fact that he has been long in the public eye, has made himself objectionable to some portion or other of the party, and therefore not so sure of carrying all their votes as a person who has never been heard of by the public at all until he is produced as the candidate. Thus the man who is chosen even by the strongest party represents perhaps the real wishes only of the narrow margin by which that party outnumbers the other. Any section whose support is

necessary to success possesses a veto on the candidate. Any section which holds out more obstinately than the rest can compel all the others to adopt its nominee; and this superior pertinacity is unapplied more likely to be found among those who are holding out for their own interest than for that of the public. Speaking generally, the choice of the majority is determined by that portion of the body who are the most timid, the most narrow-minded and prejudiced, or who cling most tenaciously to the exclusive class interest; and the electoral rights of the majority, while useless for the purposes for which votes are given, serve only for compelling the majority to accept the candidate of the weakest or worst portion of themselves.

That while recognizing these evils many should consider them as the necessary price paid for a free government is in no way surprising. It was the opinion of all the friends of freedom up to a recent period; but the habit of passing them over as irremediable has become so inveterate that many persons seem to have lost the capacity of looking at them as things which they would be glad to remedy if they could. From despairing of a cure there is too often but one step to denying the disease, and from this follows dislike to having a remedy proposed, as if the proposer were creating a mischief instead of offering relief from one. People are so injured to the evils that they feel as if it were unreasonable, if not wrong, to complain of them. Yet avoidable or not, he must be a purblind lover of liberty on whose mind they do not weigh who would not rejoice at the discovery that they could be dispensed with. Now, nothing is more certain than that the virtual blotting out of the minority is no necessary or natural consequence of freedom; that, far from having any connection with democracy, it is diametrically opposed to the first principle of democracy—representation in proportion to numbers. It is an essential part of democracy that minorities should be adequately represented. No real democracy, nothing but a false show of democracy, is possible without it.

Those who have seen and felt in some degree the force of these considerations have proposed various expedients by which the evil may be, in a greater or less degree, mitigated. Lord John Russell, in one of his reform bills, introduced a provision that certain constituencies should return three members, and that in these each elector should be allowed to vote only for two, and Mr. Disraeli in the recent debates revived the memory of the fact by reproaching him for it, being of opinion, apparently, that it befits a conservative statesman to regard only means, and to disown scornfully all fellow-feeling with any one who is betrayed, even once, into thinking of ends. Others have proposed that each elector should be allowed to vote only for one. By either of these plans a minority equaling or exceeding a third of the local constituency would be able, if it attempted no more, to return one out of three members. The same result might be attained in a still better way, as proposed in an able pamphlet by Mr. James Garth Marshall, the elector retained his three votes, but was at liberty to bestow them all upon the same candidate.

The author proceeds to state his preference for the plan of personal representation propounded by Mr. Hare over other plans of reform as more effectual and complete, as securing more fully the objects and avoiding the mischiefs mentioned in his preceding remarks. He expresses regret, however, that none of those other plans had "been carried into effect, as any of them would have recognized the right principle and prepared the way for its more complete application."

His preference for personal representation arises from the fact that it would provide for all local minorities of less than a third in a constituency, and for all minorities made up from several constituencies. His views appear to be, to some extent, affected by the peculiar character of British districts, and the absence of great State organizations in the kingdom affording free play for the cumulative vote. As personal representation is a question not proposed for examination in the present report, or for exposition in the papers which accompany it, his remarks upon it are here omitted. But two additional extracts, relating to general considerations connected with reform in representation, are added below:

"The natural tendency of representative government, as of modern civilization, is toward collective mediocrity; and this tendency is increased by all reductions and extensions of the franchise, their effect being to place the principal power in the hands of classes more and more below the highest level of instruction in the community. But though the superior intellects and characters will necessarily be outnumbered it makes a great difference whether or not they are heard. In the false democracy which, instead of giving representation to all, gives it only to the local majorities, the voice of the instructed minority may have no organs at all in the representative body." * * * * "In the American democracy, which is constructed on this faulty model, the highly-cultivated members of the community,

except such of them as are willing to sacrifice their own opinions and modes of judgment and become the servile mouthpieces of their inferiors in knowledge, do not even offer themselves for Congress or the State Legislatures, so certain is it that they would have no chance of being returned."

In every Government there is some power stronger than all the rest, and the power which is the strongest tends perpetually to become the sole power. Partly by intention and partly unconsciously it is ever striving to make all other things bend to itself, and is not content while there is anything which makes permanent head against it, any influence not in agreement with its spirit. Yet, if it succeeds in suppressing all rival influences and molding everything after its own model improvement in that country is at an end and decline commences. Human improvement is a product of many factors, and no power ever yet constituted among mankind includes them all. Even the most beneficent power only contains in itself some of the requisites of good, and the remainder, if progress is to continue, must be derived from some other source. No community has ever long continued progressive but while a conflict was going on between the strongest power in the community and some rival power—between the spiritual and temporal authorities, the military or territorial and the industrious classes, the king and the people, the orthodox and religious reformers. When the victory on either side was so complete as to put an end to the strife, and no other conflict took its place, first stagnation followed and then decay. The ascendancy of the numerical majority is less unjust and, on the whole, less mischievous than many others, but it is attended with the very same kind of dangers, and even more certainly, for when the Government is in the hands of one or a few the many are always existent as a rival power which may not be strong enough ever to control the other, but whose opinion and sentiment are a moral and even a social support to all who, either from conviction or contrariety of interest, are opposed to any of the tendencies of the ruling authority.

But when the democracy is supreme there is no one or few strong enough for dissentient opinions and injured or menaced interests to lean upon. The great difficulty of democratic government has hitherto seemed to be how to provide in a democratic society what circumstances have provided hitherto in all the societies which have maintained themselves ahead of others—a social support, a *point d'appui* for individual resistance to the tendencies of the ruling power, a protection, a rallying-point for opinions and interests which the ascendant public opinion views with disfavor. For want of such a *point d'appui* the older societies and all but a few modern ones either fell into dissolution or became stationary (which means slow deterioration) through the exclusive predominance of a part only of the conditions of social and mental well-being." * * *

"The only quarter in which to look for a supplement or completing corrective to the instincts of a democratic majority is the instructed minority, but in the ordinary mode of constituting democracy this minority has no organ."—*Considerations on Representative Government*, chapter 7, Harper's edition, 1862.

THE ARGUMENT OF LOCALITY.

It has been said that the free vote would delocalize representation, and in this respect would have an unfortunate effect. This may be called the argument of locality, and has been well answered in debate abroad both by Mr. Mill and by Mr. Lowe.

The argument of locality is fallacious, for localities would have representation under the new plan as much as under the present one. It is true that district majorities could not monopolize the whole representation of the State, and here is the true point of this objection, and the only one with which we need be concerned.

Now, the monopoly of representation by district majorities is the very thing complained of, the abatement of which will constitute an evident reform. The free vote admits of nominations by districts, or for district divisions of a State, (if that should be desired,) and, what is more material, it gives to each important interest or locality a power of self-defense which will prevent injustice. These considerations were pointed out by a member of the present committee in a speech made at Philadelphia, November 19, 1867, in the following language:

"It is said that a system of elections such as I have described would deprive particular localities of representation; that there would be a combination of great and powerful communities within a State against some particular districts, and those districts which now have Representatives would be disfranchised. This argument has been made in Great Britain. It is likely to be repeated here, and it is perhaps the only one deserving any considerable attention. Of course my political reading and political thought have been against the undue concentration of power at any particular point, whether Washington, Harrisburg, Philadelphia, or elsewhere, and I have been in favor of its distribution, as far as

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possible, into all the local communities into which the State or the country is divided; and this objection, from my point of view, deserves respectful treatment and respectful answer. I have to observe, then, that in my opinion particular localities within the State would have a due voice and due influence in the selection of candidates; that if they were selected by a common body, by a State convention, any attempt to disfranchise any particular section of the State would be met by a counter combination in the interest of fair play, and that the practical result would be that there would be on the whole a fair distribution of political power in the different parts of the State by the selection of candidates. If, however, any difficulty were apprehended on this ground there might be a rule adopted by which nominations should be made by districts, a thing very often done in counties and also in States. It would be a rule to a party in making its selection that there should be a distribution of its candidates according to district divisions, either those established for other purposes by some general State law or established by the particular party organization for its own purposes of selection or distribution.

"But the conclusive answer to the objection is this, that any important locality would have the power to defend itself against such injustice, and that is one of the merits of this system of cumulative voting. If there was an attempt to disfranchise the city of Philadelphia, to prevent her returning her four members to Congress, and the thing was gross and glaring, what could she do under a system of cumulative voting? Just combine her vote on her four men and elect them in spite of all the other electors in the State, and thus any attempt at injustice in any section of the Commonwealth might be resisted by the people aggrieved by cumulating their votes upon one or more local candidates of their own. They could defeat any such attempt at injustice and defend themselves against it, and the fact that they had such power of defense would always secure a just distribution of nominations."

THE ELECTORAL COLLEGES, THEIR DEFECTS AND FAILURE, AND REMEDIES PROPOSED.

By Colonel J. H. Wheeler, Statistical Bureau, Treasury Department.

"This nation has recently passed through an exciting election for President, and the electors have met at the capitals of each State and cast their vote. We propose to show that the present mode of election of President and Vice President does not guaranty a republican form of government," or carry out the intention of the framers of the Constitution or the will of the people, which is the foundation of our form of government.

"We are aware of the reluctance which exists to disturb the provisions of the Constitution or the customs of the nation. But this very Constitution has been amended again and again, and once in regard to this very question.

"Under the second article of the Constitution the electors, appointed in such manner as the Legislatures of the States may direct, meet in their respective States and vote by ballot for two persons; the person having the majority of the whole number of electors appointed shall be President, and the person having the next greatest number of votes shall be Vice President.

"By this mode the first President (Washington) was elected twice, (1788 and 1792,) and John Adams (in 1796) once.

"In consequence of the violence to the popular will attempted to be done through this mode, this article was amended in 1804, (September 25,) and the electors required to name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President. They are to make a list of all the persons voted for, and the number of votes for each, which they are to transmit to the President of the Senate, who, in the presence of the Senate and House of Representatives, shall count the votes and declare who is chosen. Thus the matter now stands. We propose to show, as previously stated, that this mode as now used does not carry out the intention of the framers of the Constitution; that it is not a faithful indication of popular will, and therefore is subversive of the principle that lies at the foundation of our Government—that the will of the people lawfully expressed should be inviolate. If this is so this mode should be abolished.

"As to the intent of the framers of the Constitution we are not left in doubt. Alexander Hamilton, of New York, a member of the Convention which formed the Constitution, in No. 68 of the Federalist acknowledged that the mode as prescribed for the election of the President by electors chosen by the people was objectionable. He says:

"The Convention which formed the Constitution did not desire the appointment of President to depend on preexisting bodies of men who might be tampered with beforehand to prostitute their votes."

"The mode was suggested by the practice of the Germanic Confederation; and this was that the electors or people should choose as their representatives or electors men of high character, capable and honest, above influences of place or power—for no person holding an office of trust or profit under the United States can be an elector—and these electors, unbiased by party partialities and prejudices, unawed by power, impervious to the seductions of place, but guided only by patriotism and virtue, should select some citizen of the nation, eminent from his services, virtues, and talents as Chief Magistrate.

"If this be the true intent of the framers of the Constitution how widely does the practice differ from

the intent! Any one who has ever witnessed the assembling of the electors of any State can but have felt the ridiculous mockery with which as mere automata they carry out the edict which a caucus or convention has already dictated, and for an elector to vary therefrom or dare to follow the convictions of his judgment would be political suicide, although it is his constitutional right so to do. One case only occurs to our memory in the history of our Government where an elector has ventured to exercise this unquestioned right. In 1820 Mr. William Plummer, elected in New Hampshire as an elector to choose a President, voted for John Quincy Adams (who was not then a candidate or the nominee of any party) against James Monroe. He was doomed to political death. This incident was the more singular as it was the only vote cast in any electoral college against Mr. Monroe. This gave occasion to the caustic remark of John Randolph, of Virginia, in Congress, that 'Mr. Monroe came in by unanimous consent' and went out of office by unanimous consent."

"That the mode now used may be indication of the wishes of the people, may fail in many instances to carry out their will, and, in fact, be at variance with and in opposition thereto, the examples in our political history, as we will presently show, abundantly prove.

"In 1800 this mode had nearly placed in the presidential chair Aaron Burr, for which high position it is well known he did not receive a single electoral or popular vote.

"In 1824, under this mode, John Quincy Adams was placed in the presidential chair against the declared wishes of a majority of the people, for he was in a minority in both the electoral and popular vote. We have prepared a table of the popular and electoral vote. The electoral vote is given from the organization of the Government; the popular vote is only from 1824. This vote has no constitutional existence, and no Federal record officially presents it. Prior to the adoption of the amendment in 1804, the mode of choosing electors was so heterogeneous, by the Legislatures, by districts, and by the people, that no accurate or perfect compilation concerning it is extant worthy of confidence. Even after the adoption of this amendment very many States continued to choose electors by the Legislature, (notably New Jersey, North Carolina, South Carolina, and occasionally Connecticut, Massachusetts, New York, and Vermont.) In the election of 1824 the electors for President and Vice President in Delaware, Georgia, Louisiana, South Carolina, New York, and Vermont were chosen by the Legislatures of those States. Of the election of 1820, back to which the table of popular vote extends, Niles's Register of 18th November, 1820, has this item: 'In Maryland and Virginia the election of electors excites so little interest because there was no thought of opposition that very few votes were cast, only seventeen at Richmond.' Hence of the popular vote, as before stated, no complete record is extant. The following table is as complete as possible and worthy of careful study:

Popular and electoral vote of the United States from 1788 to 1869.

Year.	Term.	Candidates.	Party.	Electoral vote.	Total number of electors.	Popular vote.
1788	1	George Washington.....	Unanimous.....	69	69	-
1792	2	George Washington.....	Unanimous.....	132	132	-
1796	3	John Adams.....	Federalist.....	71	139	-
		Thomas Jefferson.....	Republican.....	68		-
1800	4	Thomas Jefferson.....	Republican.....	73	138	-
		John Adams.....	Federalist.....	65		-
1804	5	Thomas Jefferson.....	Republican.....	102	176	-
		C. C. Pinckney.....	Federalist.....	14		-
1808	6	James Madison.....	Republican.....	122	175	-
		C. C. Pinckney.....	Federalist.....	47		-
1812	7	George Clinton.....	Republican.....	1-8	217	-
		James Madison.....	Republican.....	89		-
1816	8	De Witt Clinton.....	Republican.....	183	217	-
		James Monroe.....	Federalist.....	34		-
1820	9	Rufus King.....	Federalist.....	231	*235	-
		James Monroe.....	Republican.....	1		-
1824	10	John Quincy Adams.....	Democrat.....	99	152,899	-
		Andrew Jackson.....	Federalist.....	84	105,321	-
		John Quincy Adams.....	Cucus.....	41	47,65	-
		William H. Crawford.....	Whig.....	37	47,087	-
1828	11	Henry Clay.....	Democrat.....	178	650,028	-
		Andrew Jackson.....	Federalist.....	83	512,158	-
1832	12	John Quincy Adams.....	Democrat.....	219	687,502	-
		Andrew Jackson.....	National Republican.....	49	550,189	-
		Henry Clay.....	Anti-Mason.....	7	-	-
		William Wirt.....	Anti Jackson.....	11	-	-
1836	13	John Floyd.....	Democrat.....	170	771,968	-
		Martin Van Buren.....	Whig.....	73	-	-
		William Henry Harrison.....	Whig.....	26	769,350	-
		Hugh L. White.....	Whig.....	14	-	-
		Daniel Webster.....	Whig.....	11	-	-
1840	14	Willie P. Mangum.....	Whig.....	234	1,274,208	-
		William H. Harrison.....	Democrat.....	60	1,128,303	-
1844	15	Martin Van Buren.....	Abolitionist.....	170	1,329,023	-
		James G. Birney.....	Democrat.....	105	1,281,643	-
		James K. Polk.....	Whig.....	105	66,304	-
1848	16	Henry Clay.....	Abolitionist.....	163	1,362,242	-
		James G. Birney.....	Democrat.....	127	1,223,795	-
		Zachary Taylor.....	Free-soil.....	127	291,878	-
1852	17	Lewis Cass.....	Democrat.....	251	1,585,545	-
		Martin Van Buren.....	Free-soil.....	42	1,383,587	-
		Franklin Pierce.....	Free-soil.....	174	157,296	-
1856	18	Winfield Scott.....	Democrat.....	174	1,838,229	-
		John P. Hale.....	Free-soil.....	114	1,342,864	-
		James Buchanan.....	Whig.....	8	874,625	-
1860	19	John C. Fremont.....	Republican.....	180	1,866,452	-
		Millard Fillmore.....	Democrat.....	12	1,375,057	-
		Abraham Lincoln.....	Democrat.....	72	847,933	-
		Stephen A. Douglas.....	Democrat.....	72	590,631	-
1864	20	John C. Breckinridge.....	Whig.....	212	2,223,035	-
		Abraham Lincoln.....	Republican.....	21	1,811,754	-
1868	21	George B. McClellan.....	Democrat.....	214	3,916,353	-
		Ulysses S. Grant.....	Republican.....	80	2,706,637	-
		Horatio Seymour.....	Democrat.....	80	-	-

*In this election (ninth term) Pennsylvania, Mississippi, and Tennessee did not cast their full electoral vote.

†In this election (twelfth term) Maryland did not cast her full vote.

‡In this election (twentieth term) Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Tennessee, Texas, South Carolina, and Virginia cast no electoral votes.

§In this election (twenty-first term) Mississippi, Texas, and Virginia did not vote, and in Florida electors were chosen by the Legislature, and not by popular vote.

"(It is to be remembered that the State of South Carolina continued to choose electors by her Legislature down to the time of the late rebellion in 1861; so that no popular vote from her is included in the above returns prior to 1868. As she is, however, a State of the third or fourth rank in population the

absence of her vote does not greatly affect the completeness or accuracy of our exhibit.)

"An examination and analysis of this table and a comparison of the electoral with the popular vote will prove the positions we have laid down, that the mode of the electoral vote, as now used, does not

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carry out the popular vote and is not a faithful reflex of public opinion, and that therefore it should be modified or discontinued.

"Take the first case that occurs in this table where the popular vote appears, the vote in the election of 1824: General Jackson received 152,899 reported votes and John Quincy Adams only 105,321, yet by this mode of machinery the public will was violated and Adams chosen.

"The next election (1828,) while the popular majority for Jackson was 137,870 in a total vote of 1,162,180, his electoral majority was 95 in a total vote of 261; that is, the popular ratio was as 1 to 3, the electoral majority was as 1 to 24, a ratio three times greater.

"In the next election (1832) this disparity appears still more glaring. While Jackson's popular majority was 137,313 in a total vote of 1,237,691, or as 1 to 9, his electoral majority was 170, a ratio seven times greater.

"In the next election (1836) the popular majority for Van Buren was but 2,608 in a total vote of 1,541,318, while the electoral majority was 124 in a total vote of 294; that is to say the ratio of the majority of the popular vote was but 1 to 600, while the ratio of the electoral majority was less than 1 to 6, a ratio 100 as great.

"In the election of 1840 Harrison's popular majority was 145,900 in a total poll of 2,402,506, a ratio of 1 to 16, while his electoral majority was 174 in a vote of 294, or nearly ten times greater than the popular majority.

"In the next election (1844) Polk received but 31,000 majority in a total of 2,626,950, or 1 in 900, while his electoral vote was 65 out of 275, or 1 to 4—200 times the popular vote.

"In 1848 General Taylor was in a minority of the popular vote; his vote being 1,362,242, and Cass and Van Buren had 1,515,173; and yet he received a majority of the electoral votes.

"In 1852 Pierce's popular majority was 202,008, in a total vote of over 3,000,000, a ratio of 1 to 15, while his electoral majority was 192 out of 296 votes, a ratio ten times as great.

"In 1856 Mr. Buchanan was in a minority of the popular vote. He received 1,838,229, while the vote of Fremont and Fillmore was 2,216,789; and yet he received a majority of the electoral votes.

"In 1860 Mr. Lincoln was in a minority of nearly a million of popular votes. He received a total vote of 1,866,452, while the vote of Douglas, Breckinridge, and Bell combined was 2,813,741; and yet Mr. Lincoln received a majority of 123 in an electoral vote of 303. This election demonstrates in a most conclusive manner the fallacy of the electoral mode and the possible misrepresentation under it of the popular will. Lincoln received 180 votes and Douglas only 12 out of 303 electoral votes. In the popular vote Lincoln received 1,866,452, while Douglas received 1,375,157 votes.

"In 1864 Lincoln received 2,223,085 and McClellan received 1,811,754 of the popular vote, while in the Electoral College Lincoln received 212 votes and McClellan received 21; a ratio of 22 to 18 in one case to 10 to 1 in the other.

"In the last presidential election (1868) Grant received a popular majority of 309,716 in a total of 5,722,990; a ratio of about 10 to 9, while his majority of electoral votes was 134 in a total of 294; a ratio of 13 to 5.

"This analysis, carefully made, proves beyond all cavil and error that there is no analogy or community between the vote as expressed by the Electoral College and the will of the people as expressed at the polls. In every case they differ. Hence the mode by electors is unfair, since it misrepresents the popular will. Justice and truth demand its modification or abolition. By this cumbersome and circumlocutory process the electors may be compelled to elect a candidate rejected by the people or reject a candidate accepted by the people. The defeat of General McClellan was complete, for he carried only three States—Delaware, Kentucky, and New Jersey. The whole electoral vote was 233, of which a majority necessary for a choice was 117. Now, a change in the popular vote of thirty-five thousand from Lincoln's would have changed the vote of every State mentioned below, and carried their full electoral vote. These added to the vote he had received would have elected General McClellan.

States.	Lincoln's popular majority.	Electoral votes.
New Hampshire.....	3,630	5
Rhode Island.....	3,432	4
Connecticut.....	2,407	6
New York.....	6,750	33
Pennsylvania.....	20,076	26
Maryland.....	7,415	7
Indiana.....	20,190	13
Oregon.....	1,432	3
Nevada.....	3,233	3
Kentucky.....	-	21
New Jersey.....	-	
Delaware.....	-	
Total.....	70,665	121

"The change of 50,000 popular votes in New York in 1848 from Taylor to Cass, or giving one half of the votes thrown away upon Van Buren to Cass, would have thrown the 36 electoral votes of New York to Cass and elected him.

"We have shown that by the present electoral system a person may be made President by receiving a majority of the electoral votes who is in a minority before the people. We have shown that Lincoln, in 1860, in a popular minority of more than

a million of votes, swept the Electoral College by an overwhelming majority; that Douglas, who received a popular vote equal to two thirds of Lincoln's, received only one fifteenth of his electoral vote; that Breckinridge, who was 500,000 votes behind Douglas, received six times as many votes in the Electoral College, and Bell, who was 800,000 votes of the people behind Douglas, received thrice his number of electoral votes.

"Can any demonstration be more complete and satisfactory as to the utter uselessness and impolicy, if not injustice and iniquity, of the present mode of election by electoral colleges?

"This defect in the machinery of our Government has been long seen by the statesmen of the nation. General Hamilton, one of the framers of the Constitution, acknowledges of this mode that it was objectionable; and when the amendment of 1804 was adopted he proposed another, as follows:

"To divide each State into districts equal to the whole number of Senators and Representatives from each State in the Congress of the United States, and said districts to be as equal in population as possible, and, if necessary, of parts of counties contiguous to each other, except where there may be some detached portion of territory not sufficient of itself to form a district, which then shall be annexed to some other district."

"Thomas H. Benton, during his thirty years in the Senate, again and again brought this subject before Congress.

"General Jackson, in his first annual message, urged an amendment to the Constitution to secure the election of the President by a direct and immediate vote of the people. This he repeated in five subsequent messages. In his message of 1829 he says:

"To the people belong the right of electing their Chief Magistrate. It never was designed that their choice in any case should be defeated, either by the intervention of electoral colleges or by the agency confided in certain contingencies to the House of Representatives. I therefore would recommend such an amendment to the Constitution as may remove all intermediate agency in the election of President and Vice President."

"President Johnson, in 1845, when a member of the House, and in 1860, when a Senator in Congress, urged similar views. As President, in a message to Congress, dated July 18, 1868, he fully sets forth the injustice and inequality of the present mode, 'as virtually denying the right of every citizen of the United States possessing the constitutional qualifications to become a candidate for high office, and also denying the right of each qualified voter in the nation to vote for the person he deems most worthy and well qualified.'"

"Senator WADE, of Ohio, now President of the Senate, at a recent session brought this question as to a direct vote of the people for President before the Senate, and defended the position by an able argument. In a recent debate on Senator BUCKALEW's amendment the present mode of electors was denounced by Senator SUMNER and others 'as cumbersome, effete, and inconvenient.' The scene which occurred recently in the counting of the electoral votes in the joint convention of both Houses of Congress shows that the system must be altered. Mr. MILLER, of Pennsylvania, introduced recently (February 8, 1869) an amendment to the Constitution to allow the qualified voters of the respective States to vote directly for President. The amendment to the Constitution (Article XVI) of Senator MORRIS, adopted by the Senate February 9, 1869, is a proposition in the right direction—that the people shall select electors, and not the Legislatures, and that Congress shall have the power to prescribe the manner in which such electors shall be chosen by the people."

"Connected intimately with this subject as a useful remedy for the evils of the present system is the reform proposed by Senator BUCKALEW, of cumulative voting, which is that where there are more persons than one to be chosen the voter shall possess as many votes as there are persons to be chosen, and the voter may bestow his votes at his discretion upon the whole number of persons to be chosen, or upon a less number, cumulating his votes upon one, two, three, or any number less than the whole. The plan introduced into Parliament as early as 1854, by Lord John Russell, is nearly similar; that in certain constituencies which return three members to Parliament each voter should be allowed only to vote for two. This plan was adopted in 1867, and is now the law of England. Still another plan is urged by John Stuart Mill, in his work on 'Representative Government,' (proposed originally by James Garth Marshall,) that the elector, having his three votes, should be at liberty to give all to one candidate, or two to one and one to another. This is similar to the plan introduced in the Senate January 13, 1869, by Senator BUCKALEW, and commended by Earl Grey in his work on 'Parliamentary Reform.' The more these works are studied the more clearly will appear the perfect feasibility of the plan, and its transcendent advantages. The allied plan of personal representation has also been highly commended. As presented by Mr. Hare in an elaborate work, it contains another great idea, that those who did not like the local candidates may fill up their ticket by voting for persons of national reputation. This is sometimes done in our country on important occasions of deep interest. In 1835 a convention was called in North Carolina to reform her constitution. It was the first convention for this purpose since 1776, and deeply excited the public mind. The ablest men of the State were chosen without regard to their location or politics.

"The natural tendency of representative governments, in the opinion of Mr. Mill, is to *collective mediocrity*. This will be increased the more the elective franchise is extended. Edmund Burke was repudiated by the electors of Bristol in 1780, for Parliament, for his advocacy of the cause of the American colonies. He was, however, returned by another constituency, and continued during life in Parliament, contributing to its debates and to the glory of the nation. In contrast to this, William R. Davie, who had been a gallant and successful officer in the war, Governor of the State, (1793,) envoy extraordinary to France, (1799,) was defeated in the popular elections in North Carolina when a candidate for Congress and for the Legislature by individuals without extraordinary merit or talent.

"There is hardly a State of our Union in which the congressional districts are not gerrymandered in the interest of party. This adds to the deterioration of our public service, so that Mr. Mill declares 'it is an admitted fact that in the American democracy, which is constructed on this faulty model, the highly cultivated members of the community, except such as are willing to sacrifice their own judgment and conscience to the behests of party and become the servile echo of those who are inferiors in knowledge, do not allow their names as candidates for Congress or the Legislatures, so certain it is they would be defeated.'"

FEBRUARY, 1869.

Claim of Miss Sue Murphey.

SPEECH OF HON. GARRETT DAVIS,

OF KENTUCKY,

IN THE UNITED STATES SENATE,

January 7, 1869.

The Senate having under consideration the bill to pay the claim of Miss Sue Murphey for damages to her property during the rebellion—

Mr. DAVIS said:

Mr. PRESIDENT: I do not mean to discuss at length the important bill before the Senate, or the great principles which it involves. I have not bestowed that labor in examining this important subject which it merits; and if I had had the time and the disposition I confess my incapacity to do the work as the importance of the measure demands. I shall therefore not attempt to enter into any elaborate discussion of it. In the Committee on Claims I agreed that this bill should be reported, and in its principle it had the full sanction of my judgment; and I believe it is both a measure of high justice and the truest policy, and in both aspects it should receive the favorable consideration of the Senate.

As I understand the case, Miss Murphey is a resident of the State of Alabama, and was during and before the war. She lives in the town of Decatur. The rebels previous to the taking of her property by our Army for its necessary and proper use held possession and sway of the particular district of country in which her property was situated. But before the property was taken the rebels had been driven away, not only from Decatur, but from the country contiguous to it for a considerable distance around.

Their military power in part of Alabama had been so struck and scattered by the Union Army as to render it wholly improbable that they should ever return to possess themselves again of Decatur. The military commander of the United States conceived that his duty and a proper regard for the military service of the country required him to fortify Decatur. A fort was erected; and in the course of constructing that fort it became necessary to use materials, and to obtain these materials in part it was deemed necessary and expedient to demolish the residence and other buildings of Miss Murphey, and to appropriate the materials to the construction of the fort. There was also another object of considerable importance, amounting, also, to a military necessity. The fort was so close to the house and other buildings of Miss Murphey that if left standing they would have afforded some cover for the rebels if they should attempt to repossess themselves of Decatur; and, according to the common suggestions of military caution and military administration, the houses were

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removed, that they should not shelter an advancing enemy and protect him from the guns of the fort.

This property, then, Mr. President, was taken for public use in two aspects; first, its destruction was necessary to make the operations of that fort complete and perfect by removing obstructions from the range of the guns; in the second place, the house afforded a large amount of material that was useful and necessary in the construction of the fort, and it was so appropriated. This lady was loyal to the Government and to her country. She had no sympathies with the rebellion. All the wishes of her heart, and all the moral influence which she could exercise, were thrown in the cause of her country and of its Government against the insurgents. The question arises, her property having been thus appropriated to public use, is she entitled to a reasonable compensation for it?

Now, Mr. President, I have been amused at the sophistry of the honorable Senators that oppose this bill. They produce not analogous or parallel cases, but cases totally different in fact and principle; and after overthrowing the supposititious cases which they bring up, they argue and conclude that this bill also cannot stand the test, and ought not to be passed. I will give an illustration: we are asked if there is any principle, constitution, law, or justice which requires Congress or the Government of the United States to pay for property that was destroyed by the enemy, to make compensation to the owner, even upon the concession that he was loyal. I answer no. There is not a Senator advocating this bill who has taken that position. The support of this bill is not based upon or attempted to be propped by that principle. The principle of this bill is thus plainly stated: that if the Government takes private property for public use the owner shall have just compensation for it. It is simply the *quid pro quo*.

The position that the property of a citizen who has performed every duty and discharged every obligation to his country and Government may have his whole property taken from him for the proper and necessary uses of that Government, for the common defense and welfare of the people of the United States, and is entitled to no compensation for it, shocks the universal sentiment of justice which our Creator has implanted in the human heart.

But, sir, I contend that the case is provided for by the law. It is provided for by the highest law of this land, by the Constitution of the United States, in these words:

"Nor shall private property be taken for public use without just compensation."

That is the plain, explicit, comprehensive law that meets this case, and that ought to rule and control it in the Senate, before the courts, and everywhere. I ask the honorable Senators who oppose the passage of this bill if this provision of the Constitution does not cover the case. But Senators parry and evade by assuming that national law, the law of nations regulating independent and belligerent States, intervenes when there is an insurrection, a rebellion of a part of the people against the United States and their Government; that in such a state of case the law of nations applies, makes every citizen of the States in which the rebellion broke out the public enemies of the United States; that there is no exception, and that those who have rushed to their country's standard, the emblem of its union, Constitution, and laws, to uphold it against their insurgent neighbors, who would strike it down by hostile arms, that these true and courageous patriots, tried and not found wanting by the bloody treason which environs them and is panting for their destruction, are like the insurgents who are striving to murder both the Government of the United States and these heroic defenders. That defenders and traitorous assailants are alike public enemies of the United

States is a proposition too monstrous to receive the assent of unperverted human reason. Whether or no it is indorsed by the authority of the Supreme Court I reject and scorn it; my mind, my soul, all that appertains to me which can reason or feel, instructs me that this monstrous position is as false in our political law as it is unjust, mischievous, and revolting in political morals. I feel that my position is true and impregnable, however unable I may be to maintain it. But I will try.

My first general proposition is, that where the Constitution of the United States expressly establishes a principle, or makes provision for any state of case, the fundamental law so written cannot be annulled, impaired, or modified by any implication from the Constitution itself, much less from the law of nations. It is a general principle of construction in England and the United States that any express provision in a statute, and in every instrument of writing, stands against all implication; and in reference to the Constitution this principle has the force of a truism. "Nor shall private property be taken without just compensation" is a part of the Constitution, the supreme law of the land, which every Senator has supported.

This, and every other provision of the Constitution, is, and continues to be, the supreme law of the land until changed by an amendment of the Constitution. It was made for times of war and peace, and it has no sliding scale, no faculty of expansion or contraction as the country may be at war or peace. The Government which it organizes, and all the powers vested, is by language whose words and sense and meaning are fixed and the same in seasons of war and peace. It creates and vests powers appropriate to both conditions, and there are peace powers unfit to be exercised in times of war, and especially are there war powers that it would be most unfit to exercise in peace; but all the powers of the Government were established and organized by the Constitution, at the time, by the language, and with the fixed meaning as our father's made it; those powers are dormant or active according to the condition of things. A state of war neither creates nor evokes any new powers; it only awakens those that were sleeping, and they are such, and such only, as the language of the Constitution, as understood by those who made it, had formed, fashioned, and established. This provision of the Constitution, that when private property is taken for public use the owner shall have just compensation, applies to times of both peace and war; the only difference is the much greater frequency and magnitude with which it operates in the one season than the other, and the vastly augmented importance of it in war. There is no other provision or principle of the Constitution, no necessary implication from it, that suspends or restricts the operation of this provision as to loyal citizens in times of war, either foreign or domestic and civil. That the principle is different and contrary in other nations proves nothing in ours. There are many provisions and principles in our Constitution in irreconcilable conflict with those of all other Governments; but ours prevail here, ours are the supreme law, and command the universal submission and obedience of the people of the United States, and none others can be brought into conflict with, much less to overthrow them.

Mr. President, the Government of the United States is *sui generis*. It was made by the original States, when each one was an independent sovereignty, and clothed with plenary political power. They divested themselves of a portion of sovereignty and political powers, most of which they delegated to a common Government; some they agreed not to exercise themselves, but inhibited to the Government they were forming. This limited alienation of inherent power, and delegation and organization of it into a common Government was most cautiously and deliberately performed by

a written compact, which they denominated a Constitution, and invested with the authority, sanctity, and name of the supreme law of the land. The Government it created is a limited popular representative Government, of mixed principles, connected with, and in some of its essential parts and operations based upon, the States and their governments. All sovereignty and power which the States did not delegate to the new Government were retained by them. This was a self-evident truism; but our fathers were not satisfied that this principle should be the plainest logic be demonstrable to exist in the very structure of the Government. In their jealousy of the encroaching nature of power, and especially of a Government of the whole upon the separate governments of the several parts, they, in the shortest possible time, incorporated it into the Constitution as an amendment, in these words:

"The powers not delegated to the United States by this Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Our Government has no parallel. Its powers were all created by and are to be looked for in the Constitution, and nowhere else; and that is to be construed by itself, in the light of the defects of the Articles of Confederation, of the then condition and exigencies of the States, and of the interpretation of its different provisions by the conventions which framed and adopted it. Omissions and defects in it, real or supposed, are not to be supplied by those who administer it attempting to close them out or reform them by resorting to national or any other law. The Constitution, with the Government which it creates, must stand or fall by itself, with the life-continuing principle of amendment in the mode which it prescribes. This Constitution lies open before every Senator, and requires him, by the sanction of his oath, to support it, to vote the fair and loyal petitioner, Miss Murphey, just compensation for her property taken by the Government for public use.

I maintain, Mr. President, that the right of Miss Murphey to compensation for her property is fully sustained by the opinion of the Supreme Court, in the case of *Mitchell vs. Harmony*, (13 Howard's Reports, 134,) and by the Court of Claims, in the case of the *United States vs. Grant*. (1 Nott and Huntington's Court of Claims Reports, 41.) The first one originated out of a transaction during our war with Mexico, and the opinion in it has often been brought to the attention of the Senate by other members as well as myself. Mitchell was an officer of the United States Army in that war, and destroyed the property of Harmony in the Mexican province of Chihuahua to prevent it from falling into the possession of the enemy; and suit was brought by Harmony to recover the value of that property. I will read two short passages from the opinion of the court:

"Where the owner (of property) has done nothing to forfeit his rights, every public officer is bound to respect them, whether he finds the property in a foreign or hostile country, or in his own."

"There are, without doubt, occasions in which private property may lawfully be taken possession of or destroyed to prevent it from falling into the hands of the public enemy; and also where a military officer, charged with a particular duty, may impress private property into the public service or take it for public use. Unquestionably in such cases the Government is bound to make full compensation to the owner; but the officer is not a trespasser."—13 Howard's Reports, p. 134.

In the case decided by the Court of Claims the opinion was pronounced by the late Judge Wilmot, and nobody will contend that either he or his opinion was warped by any sympathy for the rebellion or the rebels. He was author of the famous proviso offered by him to a bill of the House many years ago, and which has become historical, and has always borne his name. I will first read his statement of the facts of the case, and then a syllabus of the principles ruled in the opinion:

"The claim in this case is for private property

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destroyed and abandoned in Arizona on the 15th of July, 1861, by order of Captain J. M. Moore, commanding United States troops in the vicinity of Tucson. Grant was a contractor with the Government for furnishing commissary and quartermaster supplies for the forts and military posts in Arizona, and in furtherance of his contract had expended large sums of money in the repair and erection of flouring mills, dwelling-houses, storehouses, shops, and corals. He had personal property also of considerable value, consisting in part of flour, wheat, corn, barley, beans, merchandise, furniture, &c. In the mills and storehouses of Grant were valuable supplies belonging to the Government. The people of Tucson were lawless adventurers and intensely hostile to the Government of the United States. Lieutenant Lord speaks of the citizens of the Territory as "traitors of the deepest dye;" that they openly talked secession long before the war commenced, especially those in the vicinity of Tucson. Captain Chapin, in his deposition, says: "Tucson was full of gamblers and murderers. Large numbers of the white people were southerners in feeling, and ready to take up arms for the southern cause. Exceptions to this rule were rare."

"A confederate flag was flying at Tucson; and when the property was burnt the people assembled in large numbers, armed, and with such threatening demonstrations as induced Lieutenant Lord to prepare for an expected attack on his train. Fort Breckinridge had been burnt and abandoned on the 10th of July, and Captain Moore had received information by express that Fort Buchanan was also to be abandoned and destroyed. He also had information that Texan rebel forces held Fort Union, and were determined to occupy the Territory and cut off the United States troops within it. With this information and the state of things as he knew them to exist at Tucson, Captain Moore directed Lieutenant Lord, commanding a company of dragoons, to destroy such Government stores as he could not transport, together with such private property of Grant as might be of value to the public enemy or to the disloyal people of Tucson. On receiving information that Fort Buchanan was to be abandoned he took an escort and reached that fort in advance of the main body. In his report to the War Department he says: 'On learning the urgency of the case I sent the inclosed written order to Lieutenant Lord, in command of troops en route from Fort Breckinridge. His report in the case I forward.' Neither the order nor the report here spoken of are before us. Lieutenant Lord, in his deposition, says: 'The property was destroyed in accordance with written orders given me by Captain J. N. Moore. I did make a report of the matter to Captain Moore, and he approved of it and said he would inclose it in his report to the War Department, and that I should be favorably mentioned for the manner in which I had acted.' Captain Chapin, in command at Fort Buchanan, says in his deposition: 'Captain Moore told me the day after he arrived at Fort Buchanan that he had ordered Lieutenant Lord, now Captain Lord, to destroy all the public stores and all provisions that had been stored by Mr. Grant for the use of the Government, Grant's mill, and all other property that could not be transported or which would be of any benefit to the people of that country.'—*1 Nott and Huntington's Court of Claims Reports*, pp. 41-42.

These are the general facts of that case, and now I will only read the syllabus, at the head of the opinion of the court, of the principles ruled by it:

"The officer of the United States commanding troops in the vicinity of Tucson, Arizona, orders his subordinate to destroy such Government stores as he cannot transport, together with such private property of the claimant as may be of value to the public enemy or to the disloyal people of Tucson. The subordinate officer, acting under circumstances of immediate and pressing necessity, notifies the claimant to save his papers, and in half an hour fires his mills and other property."

"The taking of private property for use or for destruction, when the public exigency demands it, by a military officer commanding any part of the public forces, is an exercise of the right of eminent domain."

"Whenever the officer is justified the Government is liable. The state of the facts as they appeared to the officer when he acted must govern the decision. There is no discrimination to be made between property to be used and property taken to be destroyed."

"It is no defense that the circumstances must have rendered the property valueless to the owner if the officer had not destroyed it. It is the imminence of danger that gives the State a right to destroy property; but the certainty of the danger does not relieve the State from liability for the property which it takes to destroy."

Now, Mr. President, I ask if the principles recognized by the opinions of the Supreme Court and the Court of Claims do not fully cover the claim of Miss Murphey and require the passage of the bill under consideration? Her's is a stronger case than that of Grant. He owned a mill and several contiguous buildings in Arizona. His mill had been grinding and his houses held commissary and quartermaster's stores for the supply of the Army of the United

States. The rebels were dominant in Arizona, and particularly in that portion contiguous to and including Tucson, and were about to move upon the Union troops in such force as to put beyond doubt their conquest. His superior ordered the officer in command at Tucson to abandon the country, draw off his forces and the military material, and to destroy the mill, the houses, and their contents, including as well the private property of Grant as the stores belonging to the United States. The order was executed by the subordinate, the property was all destroyed, and Grant brought suit in the Court of Claims against the United States for his mill, houses, and personal property.

He owned a mill and various buildings in Arizona. The buildings and his mill were stored with his private property, grain, flour, &c. That country was in the possession of the rebels at the time. The authorities of the United States and the troops of the United States commanded by its officers were unable to resist the rebel element. The whole country was alive and excited by the *furor* of the rebellion. The authorities and armies of the United States could not maintain themselves there, but were driven by hostile demonstrations to abandon the country and to give it up to the rebellion. Under this state of affairs the highest officer in military command orders his subordinate, Lieutenant Lord, to destroy the mill, the house, and its machinery, and all the buildings in which the private property of Grant, the owner of the mill, was stored—everything which was liable to fall into the hands of the enemy and to be of any use to them. This order is promptly and inexorably executed. The property is destroyed, that of a real as well as that of a personal or movable character—all is destroyed; and here is an account taken of the property amounting to sixty odd thousand dollars. The case comes before the Court of Claims for its adjudication; and that court, after full and patient examination and the collection of all the facts of the case, decides that the officer acted within the pale of his discretionary powers in the destruction of this property, both real and personal.

Mr. HOWARD. Will the honorable Senator from Kentucky allow me to inquire who was the judge of the Court of Claims that delivered the opinion in that case?

Mr. DAVIS. I have just stated it?

Mr. HOWARD. I was not able to hear the name.

Mr. DAVIS. It was Mr. Justice Wilmot; and I presume the honorable Senator from Michigan will not doubt his allegiance and fidelity to the Government.

Mr. HOWARD. Not at all.

Mr. DAVIS. It was not delivered under the Wilmot proviso, either. That was offered to the House of Representatives more than twenty years ago; but this opinion was delivered under the Constitution, under that provision which I have read and upon which I rely for the Senate doing justice to this lady claimant, that her private property taken for public use shall be paid for by full compensation to the owner.

Mr. HOWARD. Allow me to make another inquiry. Does it appear in the report of that case that the Territory of Arizona where that property was destroyed was in a state of insurrection?

Mr. DAVIS. Yes, sir; fully.

Mr. HOWARD. By the proclamation of the President under any law?

Mr. DAVIS. It appears here by a recitation of the facts. I read the statement of the facts in the commencement of the opinion, that the Senate might be possessed of all the facts and features of the case and apply properly the principles of the Constitution and of the law to them.

Now, sir, let us contrast the condition of Tucson with that of Decatur. The rebels had been driven, scattered, disheartened, and demoralized; driven forever from Decatur. There

never has been a rebel flag or a rebel foot making conflict with the authority and laws of the United States in Decatur since months before this property was taken from its owner and appropriated to the public use. The repossession, the reconquest, if my friend from Michigan prefers the phrase, of Decatur by the arms of the United States had become complete, absolute, permanent; and the question is, after it was thus peacefully, permanently, fully repossessed by the arms and the authority of the United States, and the private property of this lady was taken for the palpable and urgent military necessity of constructing a fort to make it an outpost and a guard against southern raiders, and the residue of these houses were swept away that cannon might play freely upon them if they returned to assault the place, whether property taken for this purpose forms a case in which the owner is entitled, under the imperative declaration and principle of the Constitution to have "full remuneration," in the language of the Supreme Court of the United States, for the property thus taken.

Mr. President, there is a principle in this case. Gentlemen cannot destroy or overthrow or weaken this case by bringing up the case of property destroyed by rebels. There is no analogy in fact or principle between them. The cases are wide apart. My honorable friend from New York [Mr. CONKLING] the other day said that it becomes necessary to take and destroy private property in battle. I admit it. Then he triumphantly asked will gentlemen contend that property of rebels destroyed in battle, in the conflict of arms, should be paid for? There is no analogy at all between the cases. Sir, that exercise of power has the explicit authority of the Constitution. It is not only the power but the bounden duty of the General Government to suppress insurrection and rebellion; yea, by force of arms; and whenever life or property is destroyed in this conflict of arms which the United States Government is authorized to wage in the suppression of rebellion it is property destroyed, literally, in obedience to the principle and command of the Constitution.

Mr. WILLEY. Will the Senator allow me to furnish him with another authority just in point?

Mr. DAVIS. With great pleasure.

Mr. WILLEY. I do so with only the greater pleasure to answer the question propounded to me by the Senator from Indiana [Mr. MORTON] yesterday. I propose now to answer that question in the language of Vattel, page 402 of his work on the Law of Nations, where it will be found as follows:

"Is the State bound to indemnify individuals for the damages they have sustained in war? We may learn from Grotius that authors are divided on this question. The damages under consideration are to be distinguished into two kinds, those done by the State itself or the sovereign and those done by the enemy. Of the first kind, some are done deliberately and by way of precaution, as when a field, a house, or a garden belonging to a private person is taken for the purpose of erecting on the spot a town rampart or any other piece of fortification, or when his standing corn or his store-houses are destroyed to prevent their being of use to the enemy. Such damages are to be made good to the individual who should bear only his quota of the loss. But there are other damages caused by inevitable necessity, as, for instance, the destruction caused by the artillery in retaking a town from the enemy. These are merely accidents; they are misfortunes which chance deals out to the proprietors on whom they happen to fall. The sovereign, indeed, ought to show an equitable regard for the sufferers if the situation of his affairs will admit of it; but no action lies against the State for misfortunes of this nature, for losses which she has occasioned, not wilfully, but through necessity and by mere accident, in the exercise of her rights. The same may be said of damages caused by the enemy."

Mr. DAVIS. Mr. President—

Mr. FRELINGHUYSEN. Will the Senator from Kentucky permit me to say a word?

Mr. DAVIS. Certainly; I give way for an explanation.

Mr. FRELINGHUYSEN. Mr. President, do I understand the Senator from West Virginia to hold that that authority has any appli-

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cation to this case? That authority is simply this—which nobody in this Senate and no court in the world, I suppose, would ever dispute—that where a nation takes from its own citizen a locality in order to erect a fortification it is proper for it to pay for it. That is all of it. I will read it:

"The damages under consideration are to be distinguished into two kinds, those done by the State itself or the sovereign and those done by the enemy. Of the first kind, some are done deliberately and by way of precaution, as when a field, a house, or a garden belonging to a private person is taken for the purpose of erecting on the spot a town rampart or any other piece of fortification, or when his standing corn or his store-house are destroyed to prevent them being of use to the enemy."

Simply declaring that a nation should pay where it takes the property of a subject to erect a fortification.

Mr. DAVIS. I am much obliged to the honorable Senator from New Jersey for having so promptly after the production of this authority by the honorable Senator from West Virginia reread it to the Senate. The only effect is to imprint it doubly deep upon the understanding and the conscience of Senators. The case put by Vattel is precisely analogous to the one under consideration, as I will proceed to show by the facts. I was aware of the fact stated by Vattel, that in relation to the proposition whether a country was or was not responsible to its own people for the destruction of property by a public enemy the authorities were divided. Grotius lays it down explicitly that it is the duty of a Government to protect its citizens, and that that duty is not performed where the neglect of the Government permits the private property of a citizen to be destroyed, and therefore the Government is responsible for the value of the property so destroyed. I admit that we do not contend for that principle now; I admit that that principle is rejected by all the Governments of the earth; but I believe that the principle is sound and just, and ought to prevail here and everywhere, that Government ought to be constructed upon the principle of a mutual insurance company against foreign and domestic enemies; and wherever any member of this mutual insurance company is subjected to a loss by the destruction of his property by a foreign or domestic enemy he has a claim on the company for the value of his property, and there is no Government that gives complete protection upon any other principle.

The case put in Vattel is precisely analogous to the case under consideration. I ask any Senator who opposes this claim if Decatur was ever possessed or molested by the rebels after this property was taken? From a considerable time before the property was taken did not the authority of the United States, civil and military, prevail at and rule over Decatur and its vicinage for a very considerable area? Were not the Army and the authorities of the United States at the time in the undisputed, undisturbed, and peaceable possession of Decatur? Was there any conflict of arms raging in Decatur or around between the rebels and the United States Army? None. On the contrary, Decatur had been reduced to obedience; the authority of the Government, civil and military, was reestablished not only peacefully but permanently. That peace and permanence have never been disturbed to this day. The rule and the authorities of the United States were as fixed, as undisturbed, as permanent in Decatur then as they were in Washington city. All the facts and principles of law, constitutional, statutory, or private, that would have required the owner of property in Washington city at that time whose property had been taken for the public use to receive full compensation for it applied to Miss Murphey and to Decatur.

There is no principle announced in the prize cases or in the case of Mrs. Alexander's cotton that is at all in conflict with that position; but, on the contrary, the reasoning and the principles conceded by the court in Mrs. Alex-

ander's case fully authorize, and not only authorize but require the payment of this claim to Miss Murphey. What was it? There was a fort constructed by the rebels on the Red river between Alexandria and the Mississippi; I do not recollect the name of it at this time. General BANKS and Admiral PORTER made an invasion of the Red river country. They took possession of this fort, which was abandoned by the rebels; they penetrated the rebel country back some hundreds of miles, but eventually met with a reverse and a repulse that forced them to evacuate the country. From the time of their first invasion of and entry upon this country until they were forced by superior numbers to leave it was less than eight weeks. It was contended for Mrs. Alexander, or for the persons who claimed that property as her cotton, that this was a permanent reconquest and reoccupation of the country by the American armies, this temporary, uncertain, fugitive occupation of eight weeks; and the Supreme Court simply decided that that was not such a permanent, peaceable reoccupation of the country as changed its character from enemy's country to the country of the United States.

The honorable gentlemen who oppose this bill are guilty of another fallacy or self delusion. They hold, at least their argument so treats the subject, that the southern States were States in rebellion or unfriendly to the United States by their boundaries; that the whole of the State of Alabama must necessarily have been reduced to obedience to the laws and authorities of the United States to withdraw from it the character of enemy's country. The Supreme Court have established no such principle. The Supreme Court neither in the prize cases nor in the case of Mrs. Alexander's cotton treat insurrection and rebellion by State boundaries, but they establish distinctly this principle: that wherever a State or any portion of a State, however small the part and fraction, has been taken possession of by the American arms and authority, to the extent that it is thus repossessed by the American Army and authorities it is not enemy's country, but the country of the United States. I ask the Senate to take note of that discrimination. Alabama was not an enemy's country, according to the reasoning and the positions of the Supreme Court, by its State boundary. It was only enemy's country as portions of it were occupied by the armies of the enemy and they were able to expel and exclude the authorities of the United States; and whenever and wherever the armies and authorities of the United States set foot upon Alabama, in Decatur or anywhere else, and held permanent possession—a possession that defied the assaults of the rebels, that maintained the laws and authority of the United States and excluded beyond all question all rebel authority—the Supreme Court decide expressly that that portion of the State is not enemy's country but is friendly country, the country of the United States.

Now, Mr. President, what was the state of facts in relation to Decatur and all north Alabama? The rebels had been expelled from the most of north Alabama. They were driven from it by the superior power of the Union arms. They no longer held sway there. Their armies, their civil authority, everything that appertained to rebeldom, had been swept from north Alabama. The rebellion was no longer present, much less ruling in Decatur. It had no power in Decatur, no influence there, no control, any more than it had in Washington city or in the State of Michigan; and the Supreme Court decided expressly in Mrs. Alexander's case that whenever a part of the country that had been in a state of insurrection and rebellion was thus reoccupied by the United States, and its possession and power was peacefully and permanently established, the laws of war were no longer applicable to that territory or its people. They say explicitly that if such a reconquest

and reoccupation of Fort De Russey and of the country in that vicinity had been effected by the armies of the United States, it would have been such a reoccupation and would have so changed its relations to the General Government as to have made it friendly and not enemy's territory, and that a loyal citizen inhabiting the country thus reoccupied by the authorities of the United States would be entitled to compensation for property taken for public use.

Sir, that position is impregably established according to the false reasoning and principles of the Supreme Court. I am not now controverting the authority of that decision. I am taking it as settling the law of the case correctly and conclusively, from which I totally dissent; but upon the premises and the principles ruled by the Supreme Court itself Miss Murphey is undeniably entitled to full compensation for property taken in Decatur belonging to her for public use.

Having said thus much in relation to the case itself, I desire to add a few words in relation to the true principles that I think ought to govern such questions in the Supreme Court. That court are but men; and we are their equals in that respect. It is an august tribunal. It is clothed with grander and more important powers than any court that ever was organized on the face of the earth. It was presided over for more than thirty years by Chief Justice Marshall, one of the greatest if not the very greatest legal intellect that this country has ever produced. But even when that august and powerful intellect, with his boundless learning, legal and promiscuous, was presiding over that court he committed one of the most palpable errors that ever a judicial tribunal was guilty of. I will state it in a very few words.

Congress passed a law incorporating a lottery in the District of Columbia, and authorized it in general terms to establish offices for the sale of tickets. In Virginia there was a law of the State prohibiting the sale of lottery tickets and making it a penal offense to vend lottery tickets within the State and many of the other States had similar laws. The case of *Cohens vs. The State of Virginia* came up to the Supreme Court for adjudication. *Cohens* established a lottery office in Richmond. He was proceeded against, prosecuted, and fined under their State law for vending lottery tickets against that law. He brought the case up to the Supreme Court; and what was the position, not the principle, that Chief Justice Marshall ruled, and to an assent to which he cajoled the other members of the court? It was simply this: Congress has the power of exclusive legislation in all cases whatever in the District of Columbia. What is the power of Congress under that provision? It has just such powers within the District of Columbia as a State Legislature may properly exercise within the limits of each State; and yet Chief Justice Marshall ruled that under that provision, singly and alone, where Congress passed such a law as they did in that case it authorized the establishment of lottery offices in every State in the Union; and although any and every State might have laws making it penal and criminal to vend lottery tickets within their respective States, those laws would fall before the power of such an act of Congress! Sir, I say a more unsound and untenable opinion never was rendered by human reason.

Gentlemen find it very convenient to invoke the authority of the Supreme Court where it will sustain their principles, their policies, and their purposes; but whenever the Supreme Court has adjudged principles that are hostile to their purposes they are as prompt to repudiate and reject those decisions. I lay down this principle to my honorable friend from Michigan, [Mr. HOWARD,] who is an able lawyer, as well also to the honorable chairman of the Committee on Claims, [Mr. HOWE,] who is certainly one of the ablest lawyers in this

body, that the only authoritative power of a superior court over an inferior court is in the case decided, and no other. The judgment of Chief Justice Marshall to which I have referred overruled the decision of the court in Virginia. Whenever a similar case arose that court in Virginia might reject the authority as established by Chief Justice Marshall in the case of Cohens, and ought to do so, and in rejecting the authority of that case it would commit no contempt; it would violate no legal or constitutional obligation upon it. The only remedy for the second dissent of the inferior court from the principle of the previous case would be to take that identical case up to the Supreme Court and have the judgment in that particular case also reversed. That is the only legal, effective, authoritative power which any superior court has over an inferior court. It can only coerce obedience to its mandates, to its principle in a case directly coming up to it, where it certifies its decision in the particular case again to the inferior court.

I therefore say that the authority of the Supreme Court in the prize cases is against the Constitution; that the ruling and principles decided by the Supreme Court in the Alexander cotton case are against the Constitution. They ought not to be respected by the Senate; they ought not to be respected by any court; they ought not to be respected by any citizen. They ought only to be respected by the inferior court in another case of the same kind going up from the inferior court to the superior court and the judgment being pronounced in that identical case. That is certainly a sound principle.

Now, Mr. President, I have a few remarks to make upon general principles. Every political corporation has one common power, and that is the police power. It has the power to maintain order within its jurisdiction and to enforce the execution of such laws as it may enact. That is the great internal peace power of every political community. It exists in cities. It exists in Baltimore; it exists in New York. It exists in the States of the Union. It exists in a different form in the United States. Let me proceed to illustrate it. A mob rises, as it often has risen, in the city of Baltimore. It resists the execution of the city ordinances and laws and the authority of the city courts. It overthrows them for the time. It supersedes its regular and legal jurisdiction by an anomalous, irregular, and revolutionary jurisdiction. What is the police power of the proper government of Baltimore? It may summon to its aid military power, and by the assistance of arms it may reduce those who are resisting the city government to obedience to its law. It may meet them in battle. It may shoot them down in battle array. It may exercise all the powers and do all the acts in that particular service that two conflicting armies acting under any authority may do. But when the mutiny is subdued and the mutineers are reduced to obedience the power of the city government over the subject is exhausted and the former state of things is restored, as though there had never been such irregular and violent resistance.

Now, take the case of a State. There was an insurrection in Massachusetts when the Constitution was cradled, called Shays's rebellion. It obtained in Worcester and that portion of the State. It took possession of two or three counties. It expelled the government of Massachusetts and all of its tribunals and all of its laws and authority from those counties. The government of Massachusetts moved upon this rebellion with military power and with perfect authority to put down the rebellion by military power. The rebellion was put down. Shays himself was pardoned, and afterward became an applicant to Congress for pay for his revolutionary services, and had a bill passed to reward him. But so soon as the State government and authorities of Massachusetts put

down Shays's rebellion their power ceased; it was exhausted. If Shays and his rebels were to be pursued afterward they were to be pursued as criminals under the statutory and civil laws of Massachusetts in her civil courts, who were vested with authority to try such offenses.

Mr. President, precisely analogous is the power vested in Congress by the Constitution to suppress insurrection and rebellion. They may do it by using the armies and calling out the militia of all the States. They may do it by force of arms, by the conflict of arms; and in that conflict of arms they may meet properly and constitutionally the insurgents in battle as though those insurgents were a foreign invading enemy; but the power of Congress is simply to suppress the insurrection, and when the insurrection is suppressed the power is exhausted as completely as the power of a State government is exhausted when it puts down a rebellion against the State, as in Rhode Island. Just as a city government may use the same means, an armed force to put down an insurrection against it, and as that whole power is exhausted when the insurrection is put down, so is the power of Congress and of the General Government in relation to the suppression of an insurrection exhausted when the insurrection is put down and the people have submitted fully and completely to the authority of the Government of the United States.

In addition to the police power in political communities some of them have the war power. The police power enables a city to suppress an insurrection against its government. That is not a war power. Boston, New York, and Baltimore have no power to declare war, to wage war, in the sense in which that term is understood when it is used in relation to conflicts between foreign States with beligerent obligations and duties. A State has no power to wage war. There is but one power to make war—the Government of the United States. I do not mean a mere contest, of course. That is the general phrase that characterizes all disputes by force of arms, whether by States, cities, or people; but I mean war as it is understood by publicists and by the law of nations. I say that war as thus defined and understood can be made in the United States only by one power, and that is the power of Congress. From whence is that power derived? From the Constitution. The Supreme Court years ago expressly decided, and in the prize cases decided, that the General Government has no power to declare war against a State. I go further than that: I say that the General Government has no power to make war against a State without a formal declaration or proclamation. It may be made in act and in fact without proclamation. The General Government has not only no power to declare war, but it has no power to make war against a State. When it enters into a conflict of arms with the people of a State it is not war; it is not the exercise of the war power. The war power is not to be and cannot be legitimately exercised against a State. It is the exercise of the police power against the enemy, however numerous, and whether they are State officials or not, to compel them to obey the laws and authority of the United States, to ground and surrender the arms which they hold in their hands in violent and bloody resistance to the authority of the United States. When that work is accomplished every vestige of power of the General Government, much less of Congress, ceases.

I admit that it is a universal principle of national law that whenever two nations are at war with one another, whether by declaration or proclamation; or war in fact without either declaration or proclamation, the laws of nations treat every subject or citizen of one of the States as the enemy of the other State; but I assert that that principle has no application to the American scheme of government; it has no application in our country. Let me advert to one or two of its absurdities. What

is the extent to which this principle prevails according to Vattel and all other writers upon national law and as recognized by the decision of the Supreme Court? I will read only a line or two from a case decided by Chief Justice Marshall:

"Respecting the power of Government no doubt is entertained. That war gives to the sovereign full right to take the persons and confiscate the property of the enemy wherever found is conceded. The mitigations of this rigid rule, which the humane and wise policy of modern times has introduced into practice, will more or less affect the exercise of this right, but cannot impair the right itself. That remains undiminished, and when the sovereign authority shall choose to bring it into operation the judicial department must give effect to its will. But until that will shall be expressed no power of condemnation can exist in the court."

The main question in that case was whether a simple declaration of war involved the confiscation of property, or whether it required a special act of Congress. But here is the principle laid down broadly and explicitly:

"That war gives to the sovereign full right to take the persons and confiscate the property of the enemy wherever found is conceded."

Under that principle what would be the effect upon citizens of Tennessee or Alabama, or any other of the States the people of which were in rebellion, resident in the loyal States? They are enemies without regard to the place that they inhabit at the time. They may live within the United States; they may have any amount of estate, real and personal, in the United States; and yet by this principle they are equally public enemies, whether they are temporarily resident here or whether they are at their homes in the country with which we are at war. That is the principle. Is there any man so mad in his partisanship as to apply that principle to the people of the United States? The Supreme Court have seemingly given it some countenance, but they have done this by the stress of public opinion; by the danger of the success of the rebellion. They were frightened out of their propriety and of their correct legal learning by the immense exigency in which the country was placed.

But I ask the honorable Senator from New Jersey, [Mr. FREELINGHUYSEN,] does he maintain that the national law in relation to war and the subjects or citizens of two independent States at war, both in relation to their persons and property, had application in the late rebellion to the people of the States where the insurrection broke out and existed? Let us examine that position for a moment. There was Mr. Justice Wayne, a member of the Supreme Court, whose home was in Georgia. There was Mr. Justice Catron, at the breaking out of the rebellion a resident of the State of Tennessee. Both States had gone into the insurrection. There was Andrew Johnson, after the rebellion had broken out nominated by the party in power to the office of Vice President. Now, what is the effect of the doctrine that gentlemen contend for? That because those States had seceded and erected the standard of revolt against the Government of the United States every citizen of those States, whether then there or temporarily in this city or in any other friendly State of the Union, was a public enemy to the Government of the United States and subject to all the penalties to which a public enemy is subject! Why, sir, in the case from which I have just read, the case of *Brown vs. The United States*, Chief Justice Marshall decides expressly that where two countries are at war and a citizen or a subject of one of them is found within the boundary and under the jurisdiction of another he may be proceeded against as a public enemy both as to his person and his property.

Sir, you elected a Vice President, who succeeded to the first office in this country, in violation of any such principle as that. It is no principle. It has no truth; it has no justice; it has no proper application under our system. You permitted Mr. Justice Wayne, who had been upon the Supreme bench for

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thirty years, to continue in long service in that court to the close of his life. You never disturbed Mr. Justice Catron. What became of the ten thousand soldiers whom the honorable Senator from Arkansas [Mr. RICE] said yesterday enlisted in that State into the Army of the United States and rendered service in putting down this rebellion? Upon the monstrous, revolting, shocking position assumed by gentlemen in this debate every one of those soldiers when he entered into the Union Army was a public enemy, and upon his capture by the rebels, according to their principle, was liable to be tried and shot as a traitor to his own country and Government!

Sir, we had the mockery of an impeachment trial against the President of the United States—the most splendid and iniquitous proceeding that was ever indulged in by a great and sensible people. It required two thirds of Congress to impeach him. According to this theory you had a much more plain, direct, and practical remedy. You had only to declare that he was an alien enemy because he was a resident of the State of Tennessee, a State in rebellion. You had a right under this principle to order him to prison, to expel him from the country, and to take all his personal property and real, if he had any, within the other States, and to treat in like manner Mr. Justice Wayne and Mr. Justice Catron. By the same principle you put the brave, gallant, and devoted men who rushed into the Union Army from Virginia, Tennessee, Arkansas, and the other States in the position of public enemies, and you subjected them to trial as traitors to their own country and cause and to be shot because of the patriotism that they exhibited in rallying to the flag of the Union.

Mr. President, there is a reason in every principle. I admit the principle to be that wherever two sovereign States are at war the national law permits the subjects or citizens of each to be treated by the other as public enemies in all their rights of property and in all their personal rights; but I say that no such principle as that applied to the late insurrection, and I say the Supreme Court have given no such extreme, unjust, and revolting application of that principle. And why is this so? Here is a reason to which I would ask the considerate attention of Senators for one moment: the reason that the subject or citizen of a State at war with another State may be treated, as he is treated by the law of nations, as a public enemy to that State is that the government of that other State has the legal and undoubted power to establish his status. That government has the power to declare war, to make war, to wage war against the other State without a declaration of war. That is a principle which no one will dispute and which the world in every age has conceded. Does any such reason as that apply or can it apply to the case of this insurrection? I ask the honorable Senator from Michigan what power had the State of Alabama or the congress of the southern confederacy to make a true and loyal citizen of the United States, male or female, a traitor? None. The act of the Government as between independent States which gives to every subject or citizen of the particular State the character of a public enemy is an act that is lawful, legitimate, and properly performed by the government of that subject or citizen. That is the reason upon which the whole power is based; that is the philosophy of it. How can you apply that to the anomalous case of the rebellion?

Sir, the State of Alabama had no power to secede. The act of secession was utterly null and void. It had no constitutional or legal effect. The act of the confederate congress was equally void and inoperative. Instead of exercising a power over the people of their States in relation to their position to the General Government and in conformity to the Constitution and laws, they were directly attacking

and overthrowing all constitution and law when they sought to sever their relations with the General Government. Can human reason, can the legal learning—constitutional, statutory, and national—of the honorable Senator from Michigan sustain the theory that we have now been discussing by the authority of Vattel and other writers on national law? When they are treating of a war between separate States, war declared legitimately by the proper power, war declared by the power that has the right to command every citizen or subject within the country and to make him a rebel, and to throw upon him all the responsibility of a rebel in case of refusal—has that any application here when the acts of the State conventions, of the State Legislatures, of the southern confederate congress, were all but so many crimes committed by a parcel of individuals who exercised no more constitutional or legitimate power than if they had been self-constituted, self-organized?

No, Mr. President; it was a concession to fear when the Supreme Court intimated any sanction to such monstrous and mischievous principles. As the cause of that great fear and that great exigence begins to pass away the unsoundness, the absurdity, the eminent mischief of this principle will be found from day to day more palpable. It is an interminable source of confusion, injustice, and oppression. The idea that when a set of rebels, traitors, and criminals who may happen to have the ascendancy by military power or force in my State, when my mind is as deeply engraved with the greatness and justice and obligation of the Government of the United States as any man's, when my heart beats as warmly, as truly, as bravely toward the support of that Government as any man's, these wrongdoers, not only against my consent and act, but in defiance of it, can place me in a position where I become the public enemy of the Government and the people of the United States, is too monstrous to receive the sanction of human reason when deliberately and wisely considered. It is a most foul and atrocious heresy.

Why, Mr. President, it would be impossible for a popular system of government to exist under the operation of such a principle. A more daring, violent, revolutionary principle was never announced. Here is the State of Tennessee, whose people voted against secession by a majority of sixty thousand, and yet they were dragged into secession by the State authorities. That those men holding an army organized and equipped, the great mass of the people being unprepared, should have the power to drag this vast mass of people of the State of Tennessee, loyal and true to their Government, into a position where that Government would be bound to recognize and to visit upon them all the pains and penalties of consenting rebels and traitors, is the most monstrous position that ever was promulgated. As the honorable Senator from West Virginia and the honorable Senator from Wisconsin said, if this principle of severe punishment of loyalty and fidelity to the Constitution, the Union, and the enforcement of the laws is to be pronounced and executed by the General Government, for whom and whose continuance and just power the mass of the people of the State have risen and thereby subjected themselves to oppression, wrong, and assault in every form under rebels, the true criminals; if they are inexorably to be treated as rebels by that Government which they rallied to support, and to support which was the dearest object of their minds and their hearts; if when their property is taken for the just uses of that Government and they come to Congress and ask for compensation in the plain, explicit, eternal obligation of the Constitution in the form prescribed, they are told, "You are rebels, you are enemies; your persons and your property were all subject to be taken by us and to be treated as public enemies," as the harshest conqueror of the Old World treats

the subjugated countries and provinces over which he marches in triumph with his armed military forces—if this is to be the fate of every man who thus stands for his country, its Constitution, and its people, it is the greatest inducement, the greatest premium to disloyalty and rebellion that I have ever known to be offered by any country. In such a case there would be no safety to that unfortunate class of men except in the success of the rebellion. Such a man might well say, "Here is my own Government; my obedience is to it; my paramount allegiance is to it. No State has a right to command me to alter my position of obedience and fidelity to that General Government. I have resisted all attempts to do this. I have ventured my life, my fortune, my household honor, my wife, my little ones, everything that renders life desirable, in the cause of this unnatural, ungrateful country and Government; and when at length by the feeble aid I have contributed it triumphs, and I ask this Government simply to pay me the value of the property which it has taken for public use, I am answered that I am a public enemy and liable to be treated in my person and property as a public enemy."

"O judgment, thou art fled to brutish beasts,
And men have lost their reason!"

Sir, I say this principle is utterly contrary to the decisions of the Supreme Court. My honorable and able friend from New York, [Mr. CONKLING,] one of the profoundest lawyers in this body, knows that no principle is settled by a case before a court except the one that is under trial; that everything else that is said in the way of principle is merely *ipse dixit* and has no effect. The principle decided in the Alexander cotton case is simply that the repossession and occupation of a portion of the rebel country in the vicinity of Fort De Russey was too ephemeral, too fleeting, too uncertain to amount to a reoccupation of the country by the authority and armies of the United States Government, and therefore that the owner of the property had no right to ask for compensation. But if the case of Miss Murphey, the case under consideration, had been or were now to be thrown before the Court of Claims and on appeal or writ of error was to pass up from that court to the Supreme Court who doubts that the claim would be sustained? In the case of Grant, from which I read, where his mill and all his houses were burned in a country where the contending parties were still in conflict, with flagrant war raging, where neither party had a settled and permanent command, where the mill and the houses and all the stores of provisions and quartermaster and commissary stores that were within them were consumed by the order of an Army officer of the United States to prevent their falling into the possession of the rebels and enabling the rebels to appropriate them to their own use, even in that divided and warring and chaotic scene for contending power and domination it was decided that the owner of the property was entitled to full compensation.

Sir, the case under consideration is greatly stronger in all of its aspects, in all of its principles, in all its policy and justice, than that case. I do trust that this Senate will not commit, in my judgment, the grievous mistake of rejecting this claim. I think every consideration of law, of humanity, of the soundest policy, of justice that ought to rule it in the councils of this great nation imperatively demand that this lady, this loyal, heroic woman, who shed her influence and all her hospitalities around to cheer the Union Army and its officers should be compensated for her property taken for public use. I trust that she will not be so ungraciously dismissed from this most august of all legislative tribunals on the face of the earth. In the name of justice, in the name of the Constitution, in the name of that justice which declares that private property shall not be taken for public use without just compensation, in the name of the highest and

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loftiest patriotism, in the name of that love and devotion which every true heart in this land should feel toward its own Government, the Constitution that formed that Government and the constituted authorities to execute the principles of that Constitution and Government, I invoke you, I beseech you not to permit this poor, unfortunate, heroic woman to go from these portals penniless, against all the principles of the Constitution and of humanity.

Suffrage Constitutional Amendment.

SPEECH OF HON. GARRETT DAVIS,

OF KENTUCKY,

IN THE SENATE OF THE UNITED STATES,

February 8, 1869.

The Senate having under consideration the joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States—

Mr. DAVIS said:

Mr. PRESIDENT: The plain proposition now before the Senate is a proposed amendment to the Constitution which reads in these words:

The right of citizens of the United States to vote and hold office shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Before proceeding to enter upon my remarks I beg leave to propound one question to my progressive and able friend from Nevada. Does he support this proposition under or by authority of the Constitution of the United States, or outside of and independent of that instrument?

Mr. STEWART. In pursuance of the Constitution.

Mr. DAVIS. Very good. Now, Mr. President, after the frank avowal of my honorable friend, I will read the provision of the Constitution under which this proposition is made:

"Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes as part of this Constitution when ratified by the Legislatures of three fourths of the several States."

Mr. President, the Congress of the United States is not omnipotent; it is a body of limited and delegated powers, as every statesman heretofore in the United States has conceded. This power of amendment is a limited one. It is to be exercised after a form, and whether the form of its being proposed by two thirds of both Houses of Congress is a compliance with it or not, to which point the honorable Senator from North Carolina [Mr. ABBOTT] who has just taken his seat adverted, I will not now inquire. But I lay down the position that the power of Congress to propose amendments to the Constitution is a restricted and a limited power. It is limited by the terms "to propose amendments to this Constitution." To ascertain whether or not a proposition comes within the scope of the power it is necessary to look to the Constitution and then to compare the amendment with the general character and scope of the Constitution and see whether it is a proposition to amend or not.

Mr. President, I hold that under the power to amend the Constitution Congress has no authority to propose to terminate the Constitution. Surely from that position no gentleman will dissent. Congress has no power to subvert the Constitution under the guise of a proposition to amend it. Congress has no power to revolutionize the Constitution and the Government, to change its essential character, and to introduce in its stead a new form of government under the guise of a proposition to amend it.

Let me illustrate this position. Congress has no power to propose an amendment that shall change the office of the President from an elective limited office of restricted powers and of four years' duration to an hereditary Exec-

utive with limited or unlimited powers, with an enlargement or restriction of powers. In other words, Congress has no power to propose an amendment that would make our Government a monarchy by making the President an officer for life with his office descending either according to the Salic law or the common law of England to his next of kin or to his next of male kin.

I follow that proposition by another one. Ours is a mixed system, not only of State and of national Governments, but with different characteristics of government reposed in different branches. We have a Senate elected by the Legislatures of the several States, two Senators chosen by each State for the term of six years. Under the guise of amending the Constitution Congress has no power to propound a proposition that Senators shall hold their offices during life, and that their offices and titles, if Congress chose to attach titles to them, should descend to their children according to the law of primogeniture.

Why has not Congress the option and the power, under this authority of proposing amendments, to make either of the propositions that I have indicated? Simply for the reason that the sole power of Congress is to propose amendments to the Constitution, and under that power to amend it has no power whatever to propose amendments that would revolutionize it, change its essential principles and character, and introduce a different form of government, either a monarchy or an aristocracy, in its stead.

These remarks lead me to the conclusion that the power of Congress to propose amendments is a restricted, a limited power, not an unlimited or an illimitable power. It is a power that must be exercised purely within the character and the essential principles of the Government; and any proposition to amend that would change essentially the character of the Government in any of the aspects to which I have referred would be outside of the power of Congress to propose amendments as settled and defined by the Constitution.

Mr. President, we have a mixed form of government in our country, and that mixed form consists of the State governments and of the Government of the United States. What is the proposition that is now before Congress? It is to amend not only the Constitution of the United States, but of every State in the Union. I ask the honorable Senator from Nevada and all the supporters of this monstrous proposition where is the power of Congress to amend or to change the constitution of a State or of all the States? There is no such power in the Constitution. The restricted, limited power of Congress over the subject is to propose amendments to the Constitution of the United States. That is the power and the utmost limit of the power of Congress to propose amendments. Will my honorable and candid and able friend from New Hampshire [Mr. PATTERSON] assume that under this power to propose amendments to the Constitution of the United States Congress has the power to amend or alter the constitution of his State or of any other State? If that is granted it far transcends the grant of power to Congress to propose amendments to the Constitution of the United States.

Gentlemen lose sight of the fact, at least they do not keep it in the line of their argument, that we have one General Government, formed by the Constitution of the United States; and then we have the governments of thirty-seven States, formed by the people of those States respectively; that this blended system of State and United States Government is our system; that the preservation of the system and the harmony of the system require that the governments of the States and of the United States, especially in the matter of amendment and change, shall always be considered as separate and distinct.

Sir, my honorable friend from Delaware [Mr. SAULSBURY] gave us an exposition, historical and upon principle, of the origin of our

Government to-day, remarkable for its lucidness, its ability, and truth. He stated that when the work of amending the Constitution was commenced the States were only united by a league and Articles of Confederation; each State was then a sovereignty. I would ask the honorable Senator from Nevada, before this Constitution was framed and adopted by the people of the United States what power had the people of Virginia over the constitution and the government of the State of Massachusetts or of any other State? They were separate, distinct, and independent sovereignties; and as read by the honorable Senator from Delaware the separate sovereignty of each State of the Confederation was expressly reserved and guaranteed in the Articles of Confederation themselves. What was proposed to be done when the Federal Convention was called? Who called the Convention? Did the United States as a nation, as one people, call the Convention of the States by their delegates at Philadelphia that framed the present Constitution? Not at all. The wise and great men of the nation, who had experienced the insufficiency of the old Articles of Confederation, recommended it *ex officio* and as private citizens to the States. The States as States chose their delegates to that Convention and sent them as their representatives. Each State being sovereign had an equal voice in the deliberations and action of the Convention, though represented by unequal numbers of delegates.

The members of the Convention thus called deliberated as to the form of the Government. The result was the presentation to the States of the Constitution as it is, exclusive of the amendments. How was that form of government submitted? How was it adopted? What power made it a common Government for all the States? It was the States themselves and the people of the States acting as States. In every State of the Union a convention of that State was called to accept or reject this proposed common Government of all the States. What power called these conventions of the States? Did the old Congress under the Confederation call those conventions? No, sir; it had no such power. It was thought advisable that the new proposed Government should not be submitted to the State Legislatures, but should be submitted to the people of each State as a sovereignty entitled to all the powers of government, with full option to choose and accept, each State for itself, or to reject the proposed form of government. Sir, it was in this way that the conventions of the States that passed upon the acceptance or rejection of the proposed Government were called upon and constituted. When they got together they acted as States, united not by a government, united not as a nation, but each State as a separate and independent political sovereignty, with every political power that a State or a nation could possess, and bound together only by a league and Articles of Confederation. The new Government was formed, and after it was formed the States became united under a common Constitution and by a common Government.

Now, Mr. President, I ask every gentleman, did not and do not the States now exist in our form of government in virtue of their original sovereignty? What change does the Constitution make in the condition of the States? It simply divides the sovereignty; that is, each agrees to surrender a portion of her sovereignty for the purpose of having it combined in a common Government. What was the object of this common Government? Was it to create one consolidated Government in which should be combined all the powers of the United States? No, sir. No gentleman will be so extravagant as to assume that position. I have heard State rights denounced, and denounced in a manner that, to my mind, showed an utter ignorance of what State rights under our system of government were. There were two or

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three objects to be subserved by the States who formed the Government in agreeing to the proposed Constitution that was drafted by the Convention in Philadelphia. What were they? I will frankly concede that the first was a Union to protect the country against exterior assault. The second was a power in the General Government to act not upon the States but upon the people of the States for the purpose of maintaining domestic order and tranquillity. The third was the preservation of the States with a view to the perpetuation of popular liberty.

It would be impossible to have the necessary amount of national strength to protect the country against foreign nations without a Union and a common Government. It would be equally impossible to have a common Government that would have any popular or free character without the intervention of the States and the State governments charged with all the reserved powers that were not expressly conferred by the Constitution upon the common Government, and with all the reserved sovereignty that was necessary to control and manage their own domestic and internal affairs.

Mr. President, I will answer in a single remark a line of argument that was entered upon by the Senator from New Jersey [Mr. FRELINGHUYSEN] this evening. He assumed that this question of suffrage for the States was before the Federal Convention and was deliberated upon and debated in that Convention. My honorable friend is a deep reader generally, but in that position he is utterly at fault. What was the business of the Convention? Not to form State governments for the States, not to modify the State governments any further than the States might surrender a portion of their powers for the purpose of organizing those powers into a General Government. The Convention deliberated, debated, and acted upon the restriction of such powers. It provided for that restriction and for that partial surrender; but in relation to the State governments that Convention never acted, never deliberated. There never was a proposition before them in relation to suffrage to be exercised in the States under their own constitutions and in the administration of their own governments.

At that time each State had its Executive, called a Governor, each State had its Legislature, consisting of two branches known by different names. The Governor and the members of each branch of the Legislature of each State were elected by popular vote; in most cases directly, but in relation to the senate in some States indirectly. If the honorable Senator was here present I would ask him, by reference to the proceedings of that Convention as reported by Mr. Madison or to any history of the proceedings of that Convention, to show to the Senate where the subject of electors or suffrage to be exercised by any portion of the people of any State in the election of the Governor of that State, or the senate of that State or the house of representatives of the Legislature of that State ever came before that Convention for its deliberation, for its reflection, for its action. There never was a proposition made in the Convention in relation to the electors of the several States acting under their State governments and in the election of their State officers.

The honorable Senator read from some remarks of Franklin and others. If he reads the proceedings of the Convention carefully he and every other man of common sense, and especially he, with all his ability and legal astuteness, cannot fail to come to the conclusion that every proposition, every speech, every argument, every suggestion, that was made in relation to electors and the right of suffrage in the States had sole and exclusive reference to the right of suffrage that was to be exercised, under the Constitution of the United States, in the election of Representatives to Congress and presidential electors. Sir, that is the truth

of history; that is the record of the proceedings of that Convention of illustrious men. Why, sir, I doubt myself whether it ever entered into the mind or the imagination of a solitary member of that Convention to propose to regulate the right of suffrage or the qualifications of electors in the different States where the suffrage was to be exercised in the election of State officers under their State constitutions. If there ever was such a mind, such a conclusion, such an imagination, in that Convention, there is no history of it in its recorded proceedings.

Mr. President, I agree that the subject of suffrage and of the qualification of electors arrested the attention of that Convention and produced considerable debate and an expression of various and discordant views. The proposition most insisted upon was that those who exercised the office of elector under the Government of the United States in the election of members of the House of Representatives or presidential electors should be freeholders. But every proposition, every thought, every suggestion, every argument in that debate which occurred in the Convention related exclusively to the right of suffrage and to the qualification of electors acting in the new Government under the Constitution of the United States simply and singly in the election of members of the House of Representatives and presidential electors. I challenge this position to be refuted by fact or history.

Mr. President, the men who deliberated in that Convention were too much of State-rights men, they were too much devoted to the liberties of the people of their respective States, ever to have proposed, ever to have thought of giving a power over the right of suffrage in their respective State governments to the common Government that was about to be organized by the Constitution. Sir, if such a heterodox proposition had been proposed, one so wholly inconsistent not only with State rights but with popular liberty, it would have been scorned and trampled under foot, or it would have broken up the deliberations of that Convention in twenty-four hours.

Mr. President, here is the error which men slide into sometimes imperceptibly; they confound the State governments and the United States Government. Why, sir, that Convention proposed and organized an Executive not for the States but for the United States in the Government that they proposed, and that Chief Executive they called the President. The State governments then were in existence, in full and perfect operation. The Government formed by that Convention was upon the model of the State governments, consisting of the division and partition of the powers of government into three branches, executive, legislative, and judicial. That Convention deliberated, acted, voted upon, and organized all those branches of the Government of the United States. We have a record of their action in relation to the President, in relation to the Senate, in relation to the House of Representatives, but in none of their action in relation to any of these branches of government did they ever have any reference to or dream of the Executive of any of the States, the senate or the house of representatives of any of the States, the government of any of the States. They had no power whatever. Their action was merely advisory. They were a gratuitously assembled Convention, without authority except so far as they derived their authority from the appointment of their respective States.

The Congress of the Confederation had no power to authorize such a Convention. They acted simply with a view to remedy the defects and the weaknesses of the existing form of government, if government it might be called, and they restricted all their deliberations and all their action to that single subject. They never pretended to interfere with the States, and it was well for the harmony of their delib-

erations, for the wise conclusion which they reached in recommending a system of government to the people of the United States, and for the adoption of that system of government by the conventions called in the several States, it was well for all these great and inappreciable interests that they confined their action and their deliberations only and exclusively to considering and forming a Government for the United States and forbore all interference whatever with the State governments. I concede that the system of government which the Convention framed recommended that the States in their sovereign capacity as independent political corporations, vested with all the political powers and sovereignty of any State or nation, should sacrifice and surrender up a portion of their political sovereignty for the purpose of forming a General Government, and that is all they did. I will read a short passage from the introductory number of the *Federalist*, written by Mr. Madison:

"It has been frequently remarked that it seems to have been reserved to the people of this country to decide by their conduct and example the important question whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force."

That was a problem that had occupied the minds of statesmen and lawgivers from the earliest ages of the world to the period when this Constitution was formed. Our fathers attempted to solve the problem, and their solution of the problem is presented in the Constitution of the United States. Every man in this body and in this nation professes reverence for and devotion to that Constitution. In reaching the ends of the country in the formation of the Government it was an evidence of the most signal wisdom, forethought, and patriotism. It exacted from the States the sacrifice of the essential powers necessary to regulate the external affairs of all the States with other Governments; all the powers necessary to preserve harmony and peace and concord among the several States of the Union; and then provided that all the residue of sovereignty and political power should be reserved to the undisputed possession and exercise of the people of the States. I have before me the Commentaries of Mr. Justice Story, and I will read from them presently. He lays down this position, as all our eminent commentators upon the Constitution and statesmen have done, that this Government of ours is one of limited and delegated powers. The most familiar and striking illustration which I can give of it is that it is a political power of attorney from the people of the several States to the common Government and to the men who in the future were to fill the offices of that common Government.

This familiar illustration will bring to the mind of every man of common sense the principle by which it is to be construed. You create an attorney in fact to transact your business; you create that attorney by a written letter or power. What is the extent of his powers? Only such as you have chosen expressly to delegate to him. All that you do not delegate by words you retain; and the truth of that position needs no argument or principle to sustain it. But our jealous fathers were not satisfied with that irrefragable principle of logic and of human reason. They chose to provide expressly that all the powers not herein delegated to the United States are reserved to the States respectively or to the people. Judge Story, in his Commentaries, treats it as an unnecessary provision which was only inserted for greater caution to avoid all pretense for the assumption that the States did not retain their sovereignty.

We have heard this Chamber resound, from time to time, with the declaration that there was no State sovereignty; that it was a mock-

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ery of terms, and that not only the paramount but all the sovereignty of the United States was vested in the Government of the United States. What says Mr. Madison? In the *Federalist*, No. 45, that recommended this system of government to the adoption of the people of the several States, I read this passage:

"The State governments may be regarded as constituent and essential parts of the Federal Government, while the latter is no wise essential to the operation or organization of the former. Without the intervention of the State Legislatures the President of the United States cannot be elected at all. They must in all cases have a great share in his appointment, and will perhaps in most cases of themselves determine it. The Senate will be elected absolutely and exclusively by the State Legislatures. Even the House of Representatives, though drawn immediately from the people, will be chosen very much under the influence of that class of men whose influence over the people obtains for themselves an election into the State Legislatures. Thus each of the principal branches of the Federal Government will owe its existence more or less to the favor of the State governments, and must consequently feel a dependence which is much more likely to beget a disposition too obsequious than too overbearing toward them. On the other side, the component parts of the State governments will in no instance be indebted for their appointment to the direct agency of the Federal Government, and very little, if at all, to the local influence of its members."

Now I will refer to another vital and important matter in which the States and their governments are a necessary and an indispensable part of the machinery of the Government of the United States. Why? Because it is the State Legislatures that are to provide for the election of presidential electors. Another feature and provision of the Constitution is that the Senate of the United States shall consist of two Senators from each State, elected by the Legislatures of the different States. I will give other instances in which the States are a part of the machinery of the General Government. Suppose the States, or a majority of them, were to refuse to send Representatives to Congress, would not that terminate the Government? Suppose a majority of the States were to decline to pass laws for the election of presidential electors? Mr. Madison says that the action of the States is indispensably necessary to the election of a President. There is no substitute power of action by which a valid presidential election can take place. What would become of the Senate, what would become of the Constitution and Government of the United States, if the State Legislatures or a majority of them should refuse to elect Senators? The idea that this Government is a self-preserving and a self-perpetuating power is a heresy. It has no truth in the provisions of the Constitution or any logic that results from the Constitution.

What was the scene that was witnessed in 1801? No candidate for the Presidency got a majority of all the presidential electors. The consequence was that under the provision of the Constitution the election of President was thrown before the House of Representatives and the House balloted a great many times, and that threatened to bring the Government to a close before it succeeded in making a President.

Did not every man then concede, does not every man now concede, that if the House of Representatives by States had continued obstinately to ballot between Jefferson and Burr without giving either of them a majority of the States there would then have been no presidential election, and the Government would have been brought to an end? No, sir. There is no such absurdity as that in our system of government. We have no government of inherent sovereignty; we have no government that does not derive all of its sovereignty and all of its powers from the people. There is no government, State or Federal, that does not require the constant ministration and action of the people of America, acting by States, to continue it in being and in administration; and the withdrawal by the States from the Govern-

ment of action in various forms would bring the Government to a close.

Why, Mr. President, suppose there should be another election in which any candidate for the Presidency failed to receive a majority of all the electoral votes. The election would be thrown into the House of Representatives. The three highest of the candidates are before the House, and the House of Representatives, acting by States, continues to divide between the three candidates so as to render it utterly impracticable for any one of them to obtain a majority of the vote of the States acting by States. In such a state of case would not the Government come to an end? There might be an irregular assumption and usurpation of power that would continue the governmental action; but that would be essentially as much a revolution as though it was brought about by force of arms.

Mr. President, the Government of the United States might cease to exist to-morrow in any of these modes; would that affect the existence of the governments of the States? No, sir. Our complex system of government was formed upon the principle of erecting and building the Federal Government upon the States. They are the piles driven into the earth upon which this magnificent edifice was reared. When these piles or any of them fall it endangers the superstructure and will bring it to ruin. But the superstructure itself may be overthrown by the blast of revolution; it may be abandoned by the States themselves; it may be abandoned by the people of the States who formed it, and yet it would leave the existing States with their governments in all their perfected organization as unharmed and undisturbed as though there had been no such catastrophe to the common Government of the country.

Now, Mr. President, I ask the honorable Senator from Nevada and his able coadjutors what power in the United States forms the State governments? I concede that the State governments, as I said heretofore, were existing in a State organization and perfect operation in 1787, in 1789, in 1790, when the Constitution went into operation. I concede furthermore that so far as powers and sovereignty were delegated by the people of the States, acting by States, to the common Government by the enumerated powers of the Constitution it circumscribed the sovereignty and the powers of the States; but not beyond it. The powers of the States are restricted by the Federal Constitution. The powers of the General Government are restricted by the Federal Constitution; for there are powers enumerated there which the wise and patriotic men who framed it were not willing to trust either to the General or to State Governments. But I ask what was the manipulation of the State governments in their modification by the Convention of 1787? I concede that the States were shorn of a part of their sovereignty and political power; but I say that in the organism of their governments, in the arrangement and powers of their government, they were not only not interfered with by the Convention of 1787, but the people of America without exception would not have submitted a day to any such interference. It is now proposed to put in the Constitution:

The right of citizens of the United States to vote and hold office shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

What is the extent and the office of this amendment as it is proposed, to regulate by an amendment of the Constitution the whole force and power of suffrage and of holding office in the different States for their respective governments? Sir, I maintain that Congress has no such power. The miserable negroes whom it is proposed to invest with the right of suffrage by this provision, and which is the chief object of most of its advocates, are utterly worthless in the consideration of this vast, permanent,

great matter. The honorable Senator from Oregon [Mr. WILLIAMS] adverted to it a day or two since when he spoke of the tide of emigration that might pour in upon the Pacific States from the surcharged populations of eastern Asia. He adverted to a danger that cannot excite too much alarm. Our Christian civilization and our Government of the people by written Constitution and giving limited and delegated powers could not survive a few great waves from that vast hive of an inferior race. We all know this who know anything of the Chinese. They are vastly a superior race to the negro. There is no nation out of Europe that has as high a civilization as the Chinese. In the arts, in science, in all the achievements of civilization, the Celestial Empire is incomparably greater than the Japanese Islands. Next to the Christian nations in Europe and America it is the highest and much the highest that has ever been reached by any race in the world. We know the efficiency of this race, and we know that if it was to come in its deluge or successive, numberless waves from an empire that numbers one fourth of the population of globe it might well give us cause for alarm.

Our system of religion and government and of social organization is threatened by this wave of emigration from Eastern Asia. Sir, for myself, I would be willing to lay a perpetual and an absolute embargo upon it. If my voice could prevail, not for my benefit or for the benefit of this generation, there never should be allowed the privilege to one son or daughter of the Mongolian race again to put foot upon the shores of America. I want no negro Government; I want no Mongolian Government; I want the Government of the white man which our fathers incorporated. The Declaration of Independence was made as irrespective of the negro as it was of the red man of the forest. It embraced neither. Neither of them was a party to it. Neither had any hand in its organization. Neither was to take part in it; and that truth is evidenced not only by contemporaneous history, but by the act of Congress authorizing the naturalization of foreigners, passed in 1803, which expressly limits the naturalization of foreigners to white men.

Now, Mr. President, I ask you in sober reason, and I ask the Senators here present this question: did an after generation ever owe such a debt of gratitude to a previous one as we do to our fathers who framed this wonderful instrument of government? Was ever such a complicated piece of governmental machinery put together? Was there ever a Government that required so much of human reason and intelligence and virtue to sustain and to perpetuate it? Was there ever a Government so fraught with blessings unnumbered, inappreciable, to those who were to succeed the founders of this Government? Was there ever as important and difficult and priceless an office performed by one generation of men to all the subsequent generations of men?

But, Mr. President, as high a duty as that has devolved upon this generation; and that is to preserve, to perpetuate unimpaired in all their purity, in all of their remarkable distributions and arrangements and checks of power, in all their restrictions, in all the guarantees which they give not only of national strength but of individual liberty and happiness, the institutions they founded. That is as priceless and as difficult a duty devolving upon this generation. I am not prepared to say that the duty and the difficulty of preservation are not quite as great as those of creation and inauguration. What says Mr. Madison upon that point? In the *Federalist* he says:

"The powers delegated by the proposed Constitution to the Federal Government are few and defined."

Is there any compatibility between that enumeration of the powers and objects of the two governments and the proposition now under consideration? Sir, what is the great princi-

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ple, the great force and power of representative government? The first and fundamental is the right of suffrage. Next to that in importance and influence is the right to hold office. Here it is proposed in what is termed an amendment of the Constitution, but what will be a revolution of the Constitution, to take these great forces and powers from all the State governments and for Congress to absorb them. Sir, the very essence of government is contained in these two propositions. The power that regulates the right of suffrage, that decides who shall vote, has an equal right to decide who shall not vote. The power that decides who shall hold office has an equal right to decide who shall not hold office. Then, I ask any intelligent man if these two powers in their double aspect do not combine the very essence of human government? You now ostensibly offer to amend the Constitution of the United States. I concede that you have a right to regulate suffrage in all popular elections under the Constitution of the United States; not beyond. You have a right to decide who shall vote for Representatives to Congress. The Convention endeavored to establish a uniform rule on that subject, but the different qualifications and the modes of election were so various in the States that for that reason, and that reason alone, they were unable to present a uniform rule, not for regulating suffrage in State governments and under State constitutions, but within the Constitution of the United States in the election simply of members of the House of Representatives and presidential electors.

Now, I ask, Mr. President, if this proposition is to be adopted and it is to become a function of Congress to propose, not amendments, not improvements, but provisions that contain the very elements of revolution and destruction of our whole system of permanent State governments; if it is a competent power for Congress to exercise to propose such amendments, where is the safety of the States, where are the State governments, where are State rights? Do you not at once, if you establish this principle and make this precedent, absorb all State rights, all State power? Do you not assume and usurp a perfectly uncontrollable and absolute power to regulate the State governments as you please, to manipulate them, to dictate how and on what principles they shall be formed, and if you choose so to interpose directly to form them themselves? Yes, Mr. President, if it is competent for Congress to exercise the power in this form you may do it in a more summary and effective form. With as much show of constitutional power, with as much justice, reason, and truth, you could present the *projet* of a permanent form of government, a constitution for all the States, and pass an amendment of the Constitution that that should be the government of all the States. There is no arresting you from reaching that conclusion if you proceed on in these principles, upon this platform.

Now, sir, have you any such power as that? In the case of *McCulloch vs. The State of Maryland*, Chief Justice Marshall said:

"We admit, all must admit, that the powers of the Government are limited and must not be transcended. Should Congress in the execution of its powers adopt measures which are prohibited by the Constitution, or should Congress under the pretext of executing its powers pass laws for the accomplishment of objects not intrusted to the Government, it would become the painful duty of this tribunal, should a case requiring such a decision come before it, to say that such an act was not the law of the land."

That position has a strong and irresistible application to the present case. Congress has a right to propose amendments to the Constitution. That is a limited right. Under the guise and pretext of executing that power you have no right to pass other acts with which you are not intrusted. Now, I ask gentleman here at this point, is Congress intrusted with any power to make a State government; or is the provision of the Constitution the only charter of the power of Congress from which such a

course can be deduced either by express provision or by any sort of implication? Have you the right by an amendment of the Constitution to say who shall vote in State elections? Have you any right to decide that the provisions of State constitutions which confine the right of suffrage to white men shall not be enforced? May you strike out of these instruments that provision and leave language that will comprehend the black men and the red men and the yellow men? If you have, I ask you to read the provision of the Constitution.

Now, why do you attempt this amendment? It is indirection; it is that you may reach as certainly and as surely the control of all the State elections in the southern States as though you decided those elections by your own votes. You are to do that by the negro vote. You are to do that by giving the right of suffrage to a majority of ignorant, half barbarians, totally unfit; men of an inferior race in some of the southern States and a large proportion in all of them.

I should like to hear a statesman or a lawyer read to me the principles of the Constitution that clothes you with such a power, and maintain his conclusions by any fair logic or argumentation. Sir, there never was a bolder usurpation attempted by men. There never was one more abhorrent to the American mind and to all the fundamental principles of the American system of government. Here is the State of Kentucky; I will put the case of that State because it is my own. We claim the right perfectly, absolutely, under the Constitution of the United States and our mixed system of government, to form our own State government. One of the essential and most important principles of that government, one of the most important forms of that right, is that we shall have the power to decide who shall vote in the State in our State elections. Another one of equal importance is that we claim the right to decide what class of persons, what qualifications our candidates for Governor, for attorney general, for all the high offices of the State and for members of the houses of the Legislature shall have. Now, you can claim not only to share that right with us, but to control it by the action of the Representatives and Senators from the other States. Whence do you deduce that right? Show me your warrant for it. You have no such warrant. Suppose we refuse to submit to it. Suppose the people, who are generally opposed to negro suffrage, refuse to submit to it. How will you enforce it? Oh, by arms! That is the panacea.

Well, now, Mr. President, if that is your purpose, you are forcing the devotees to State rights, to a limited and delegated government, to popular liberty, to one common right upon which all may unite without regard to section or the former existence of slavery or freedom in their States. You force us to a right to question whether Congress shall absorb all the powers of this Government at its will and pleasure, the power to make State governments and declare who shall administer State governments both in suffrage and office; to blot out any of the provisions of the State governments according to your will, and to create others according to your party interests, according to your selfish schemes of ambition and of party power. Whence do you derive such a power as that? You are forcing the free-men of America, the sons of the men who carried our country through the struggle of the Revolution, to occupy a common ground upon that right. If you will have it so, when you all rally to that line, for one I am for making the issue there and fighting it out to the death. I am ready to stand or fall upon that great principle of State rights and popular government. It was for that our fathers fought; it was for that they framed the Constitution; it was for that they preserved the States and their governments as a part of the machinery

of the General Government; and you have no more right to cut off a part of the machinery of the General Government in the form of the State governments than you have to cut off Congress or to cut off the Senate.

Mr. President, the English Government is fast assuming the feature and powers of a government of the House of Commons. Its impetuous action is swallowing up the royal prerogatives and the privileges of the House of Lords. So of our House of Representatives. You claim to be omnipotent, at least you act as though you were omnipotent. You strip the Supreme Court at your pleasure of its powers as a coördinate branch of the Government. You invade the Presidency, and you strip the Executive of powers that are as much his as your ordinary legislative powers are yours. Not satisfied with that, you proceed on in the paths of usurpation of power, of oppression, and of error, and now claim the right to stifle the State governments and to say who shall vote, who shall control them, who shall fill their offices, and what their constitutions and laws shall be.

You are doing the true votaries of liberty in this country a great service in making this issue. I thank you for pushing it to such an extreme. The sensibilities of the people have been struck so often and with so much force by congressional usurpations of power and prerogative as to have lost much of their true comprehension of the Government, but it seems to me this will be an electric shock that will give it all of its vitality and energy, and it will arouse itself for your final overthrow; and for one I am willing to accept the issue. If you are resolved to push forward the work of usurpation, of wrong, of violation of the Constitution, of oppression upon the free people of the United States, who have as much right to power in the Government as you have, you presume on their future submission from their past submission; you believe that the people who have submitted to so much will yet submit to more. But I warn you that the operations of nature from which spring forth the earthquake are deep, silent, and seated in the bosom of the earth. They will not be known or seen until the eruption comes with all of its attendant destruction. The removal of Charles X from his throne and of Louis Philippe was almost without popular commotion. The late expulsion of Queen Isabella from Spain was almost as quiet and noiseless. You ought to take caution. Such will be your fate.

But, Mr. President, the vigorous and able Senator from Indiana [Mr. MORTON] reminded us a few days ago that the people had been educated by the war up to certain measures of policy. The honorable Senator from Maryland [Mr. VICKERS] read extracts from speeches of the honorable Senator from Nevada, [Mr. STEWART], and from speeches of the honorable Senator from Kansas, [Mr. POMEROY], and speeches of other Senators, as inconsistent with their present positions and principles on that subject as it is possible for human action to be. The honorable Senator from Nevada explained that he had no such weakness as to pretend to any consistency in politics. The honorable Senator from Indiana says that the people had been educated up to the measures that were enumerated to-day by the Senator from Delaware. Sir, we have heard of educating the hearts of the southern people up to the point of treason and rebellion before the war began by Yancey and others. Such is the progress of human error from boyhood to manhood—it becomes more violent. The highway robber, the burglar, commences his career with timidity, with some compunctions of conscience, but soon learns to stifle all compunctions of conscience. Such is the progress of error. Sir, the progress of all wrong, of all crime, is forward.

Let me read from your platform of 1860. The Democratic party had held, with slight

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interruptions, the Government and all its great powers from 1824. The Republican party made a most earnest and eventually a successful struggle to hurl the Democracy from power, and by what means and for what purposes as they avowed at the time:

"Resolved, That the maintenance of the principles promulgated in the Declaration of Independence and embodied in the Federal Constitution are essential to the preservation of our republican institutions, and that the Federal Constitution, the rights of the States, and the union of the States ought and shall be preserved.

"Resolved, That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political faith depend; and we denounce a lawless invasion by an armed force of any State or Territory, no matter under what pretext, as among the gravest of crimes."

My honorable friend, not now in his seat, from Iowa [Mr. HARLAN] I believe was one of the fathers of the Republican party when it first announced its principles. The principles are essentially right. There could be no stronger professions of devotion to State rights than are herein set forth, if those professions were acted on by the gentlemen who made them. This party in Congress passed another resolution in 1861 which has been often read here, but I read it again:

"Resolved, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States now in revolt against the constitutional Government and in arms around the capital; that in this national emergency Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not prosecuted upon our part in any spirit of aggression or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of the States, but to defend and maintain the supremacy of the Constitution and of the laws made in pursuance thereof, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."

This party had another convention in the course of the past year in which they adopted another platform, one of the articles of which was:

"The guarantee by Congress of equal suffrage to all loyal men in the South was demanded by every consideration of public safety, of gratitude, and of justice, and must be maintained while the question of suffrage in all the loyal States properly belongs to the people of those States."

Before the election there was no controversy as to the meaning of this plank in the Republican platform. The proposition simply means this: that the States in rebellion had been conquered by the Government of the United States, and that all the rights of conquerors over the southern States belonged to the Congress of the United States as their conqueror, and therefore it was that the Chicago convention justify Congress in having imposed negro suffrage upon the southern States, and having abrogated their proper and legitimate State governments. The meaning of the residue of the plank is simply that as to the States that did not enter into the rebellion, and that therefore were not conquered by Congress and its armies, the loyal States were subject to a different rule than the southern States who had been conquered, and who were at the feet of their conquerors, subject to the same law that any foreign Government imposes upon its enemies when it has conquered them. That is the whole of it. That was your promise to the people of the States who did not enter into the rebellion. You maintained that the right of suffrage was properly given to the loyal negroes of the South. Upon what principle and by what power? Upon the principle that Congress has all the powers of a conqueror, having been by the laws of nations invested by that war with the rights of conquerors, just as any foreign State might have invaded the United States, or any of them, and have permanently conquered a State, having become its masters, expelled its government, and introduced a government of the conquerors. You said that the

same rights that the conqueror in that state of the case would have had you have over the southern people, and the same power over their State governments and their institutions; but at the same time you said explicitly that the power, the right to regulate suffrage in the loyal States belongs to those States; and that part of the proposition is unquestionably true. There is no provision of constitutional or national law that can shake it.

You go into Ohio, you go into all the States that were loyal and who furnished the troops that preserved the nation and suppressed the rebellion and perpetuated the Government of the United States, and say to them that you have the power under the guise of amendment to the Constitution to say who shall and who shall not vote in those States, and who shall and who shall not hold office in those States. In other words, you claim a power that subjects the governments of those States to the power of two thirds of Congress and three fourths of the States in proposing and passing amendments to the Constitution. Sir, you have no such power. It is as flagrant a usurpation as any party were ever guilty of. It will not be submitted to. It ought not to be submitted to a day or an hour. The people who will submit to it have the spirit of slaves; they will be slaves, and the sooner they are slaves the better for the tranquillity of the country; and let order reign in the country as order reigned in Warsaw.

Mr. President, I protest against Congress assuming any such power. From whence did these vast claims of power originate? In the school of Boston, in Massachusetts. Massachusetts at the era of the Revolution and the formation of the Constitution had great men. Massachusetts was then more States rights than Virginia herself. Some of the most important amendments to the Constitution were proposed by that State. There were one hundred and twenty-six amendments proposed by seven States, says Mr. Madison. To be sure in different clauses of the amendment several of these proposed amendments are to be found. Sir, since the era of the formation of the Constitution Massachusetts has been the hot-bed of political heresy and sedition and disobedience to the country, and of innovations that have threatened to subvert not only the Government and Constitution of the country, but its reputation and credit. Massachusetts in a minority, bound to obey, has always been malcontent and insurgent; in a majority she has always been grasping, usurping, insulting, and rebellious. There is no politician in Massachusetts with whom and with whose writings I am acquainted with a single sound and correct idea in relation to the Federal Constitution, much less the question of suffrage. A recent book that I have read called "the Manual of the Constitution" is the wildest of all the essays I have read, and only equaled by those that I have heard enunciated on the floor of this House by the honorable Senators from Massachusetts.

Sir, what does the honorable Senator from Vermont propose? He speaks of this amendment being submitted to the people of the United States just as all the previous amendments have been submitted. Do we not all know the history of the previous amendments? They were insisted upon by all the people of the States, with few exceptions, before the ratification of the Federal Constitution; and all of them, I believe, without exception, made the adoption of the first ten amendments that were adopted in the First Congress a condition upon which they accepted and ratified the Constitution. Is there any such parallel between those amendments and their modes of adoption and the proposition to submit now this amendment to Legislatures long since elected who were chosen without any regard to the great and vital questions involved in the proposed amendment? Sir, the dominant men of the majority

party in the Senate may make loud professions of obeying the will of the people. They are for universal suffrage, that the will and the voice of the people must prevail everywhere in the Government they establish. How is it to prevail? Is there any practical rule except that the majority shall control? The majority in each State ought to control. That is the fundamental principle of our Government.

What would become of this proposition now if it were submitted to the people of the States? Instead of getting three fourths of the States it would not get half of them. Here is Connecticut. There was a proposition made within the past three years to strike out the term "white" from her constitution in regulating the right of suffrage; and it was voted upon by the people of that State, and it was voted down by a majority of six thousand. But my honorable friend from Connecticut [Mr. FERRY] proposes that the Legislature elected by the people after such a decided majority had determined against the proposition of negro suffrage—and its Legislature was elected without any regard to that question—when a large majority of the people thought, no doubt, it was settled in the State of Connecticut by that vote he now insists that this Legislature shall act upon the proposition of amendment to the Constitution of the United States here proposed.

Let us examine that just a minute in relation to Connecticut. Connecticut votes by towns. I understand that each town elects two members of the house of representatives. Here is one town with twelve hundred votes that elects two members of the house; here is another with two thousand votes that elects two members. Here is New Haven with forty thousand people that elects two members; here is Hartford with fifty-two thousand people that elects two members. Here, then, are ninety thousand people electing four members of the Legislature of Connecticut, and here are thirty-two hundred people electing four other members. The number that are elected by this meager minority of votes were elected without reference to the proposed amendment of the Constitution that is now under consideration. The honorable Senator from Connecticut wants these thirty-two hundred people to have as much weight as ninety thousand, the majority of whom are opposed to the amendment. By the ratio of population the two towns of New Haven and Hartford ought to elect one hundred and fifty members, while the other two towns should elect but four; but the honorable Senator, with all his devotion to the people, to the power of the sovereign people, to the truism that all the people of the United States should have an equal voice in the government of the country, national and State, insists against the proposition of his colleague, and contends that his side of this question shall have the advantage of four votes with thirty-two hundred constituents, when his colleague shall have the advantage of only four votes with ninety thousand constituents.

The disproportion is enormous. I ask the honorable Senator from Connecticut if the odds were as large against him and his party as they are in his favor would he not sustain a proposition either that this proposed amendment should be submitted to the people or at least that it should be submitted to a Legislature the most numerous body of which was to be elected after the submission was made?

Mr. President, a few more words. In the course of every generation the people of large sections of the United States become terribly disordered in their mental and moral structure about various questions, and these evidences of derangement and disordered intellect and morals are always sure to originate in Boston. They want suffrage; they are not satisfied with that, but they want woman suffrage. Now, Mr. President, I have but a few words to say on that matter. I say that woman

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now occupies her proper domain. She is the priestess of the altar of the household. She is the source of all the morality and virtue that blesses the world. It is of the utmost importance that this ministering priestess shall be preserved pure. He is a most mistaken man, if not a positive misanthrope, who would bring to that altar the defilements of party politics. There is nothing which partisan politics touches that it does not contaminate and degrade. In Heaven's name let woman, whose proper performance of her great functions and influences in her domain are more important than all the offices performed by man, not be subjected to this defilement.

Why go to the hustings, why go to the polls, to the seething crowd that in uncounted numbers is pushing to the polls amid the influences of passion and liquor, vulgarity, blackguardism, bullying, and threatening? Do you want to drag pure woman into such a conjunction as that? No, Mr. President; a good and a pure woman would turn with loathing and disgust from any such contact. Bad women ought never to be allowed to have a vote. It will be a day of woe, of incomparable woe, when the ballot is forced upon American women. I trust that that sad day will never come.

But, Mr. President, now the madness of the hour seems to be to regulate the right of suffrage, to amend the Constitution. The party in power have torn it and cast it aside as an old, worn garment, and every man thinks that he is competent to sew a patch to it. How long is this process to be continued? Mr. President, the way the party in power are progressing, there remains but one further proposition to amend the Constitution by them, and that is that an office shall be secured to every citizen of the United States without regard to color, race, or previous condition, and when that proposition to amend the Constitution is made I think the glory of this party will be complete. [Laughter.]

Mr. President, I cannot conclude, exhausted and feeble as I am, without a most earnest protest against both the power of Congress to propose this amendment and against its most mischievous and destructive policy.

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REMARKS OF HON. W. S. HOLMAN,
OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1869,

On the bill (H. R. No. 1744) to strengthen the public credit and relating to contracts for the payment of coin.

Mr. HOLMAN. Mr. Speaker, up to this hour the faith of this Government has been scrupulously maintained with its creditors. Since the accumulation of this great debt began every engagement with the holders of our public securities has been promptly and faithfully fulfilled. The interest on the bonds payable in coin, and payable half yearly, has been promptly paid, and in some instances actually paid before it became due, and so solicitous has been the Secretary of the Treasury that by no possible contingency should the coin in the Treasury be insufficient to meet the half-yearly payments of interest that \$100,000,000 in gold have been kept idle in the Treasury. While the whole country has been oppressed by national and local taxation you have even refused to impose on these bonds a national tax, although the right to do so is unquestionable. You have made your securities so secure and valuable that the bonds which you sold at par for greenbacks are now at a premium of ten per cent.

Such has been your anxiety to promote the interest of your bondholders at the expense of your laboring people that the capitalists of Europe, neglecting the bonds issued by their own Governments, have purchased \$800,000,000 of

your bonds on which you are annually sending to Europe \$48,000,000 of interest, a sum equal to the entire expenses of this Government twenty years ago; the capitalists at Frankfort and other financial centers of Europe having invested in your bonds at forty cents on the dollar. But the bondholders, not satisfied with the unexampled speculation they have made out of the necessities of this nation, now demand a still further increase in the value of their bonds, demanding, indeed, that you make a new contract and agree to pay in coin the bonds which they bought with paper money worth at the time they purchased the bonds less than half the value of gold. And what concession do these gentlemen propose to make in consideration of this? Do they propose to reduce the interest? No. Do they propose to acquiesce in the just and equal taxation of their bonds with other property? No, sir; they propose nothing of the kind. They simply demand that you pay them in coin, dollar for dollar, the bonds which you agreed to pay in paper money, dollar for dollar. Public creditors even in monarchies, where capital is all-powerful and the people nothing, have usually deemed themselves most fortunate if the Government acted in good faith and paid according to the contract. But here the public creditors with refreshing coolness request us to pay twice as much in value as we agreed to pay them. We have all heard of a conscientious Englishman who had purchased his five-twenty bonds at fifty cents on the dollar in gold who has uniformly refused to receive any more than one half of the amount of his coupons, being six per cent. on his investment, and even then receiving just twice as much interest as his own Government pays on her funded debt, but he stands solitary and alone.

If the people of this country pay this great debt, which has made a few men enormously rich and reduced countless thousands to poverty, in good faith, according to the letter of the contract, "letter and spirit," if you please, they are doing all that honor and justice can demand; and this attempt of Congress to compel the people to pay more than they agreed to pay is the act of a tyrant, the old and infamous example of history again repeated, the oppression of labor for the benefit of the rich and the powerful.

There is a grim humor in the title of this bill: "An act to strengthen the public credit." To strengthen the public credit! No, sir; it is not an act to strengthen the public credit, but to strengthen the manacles that bind and prostrate the laboring masses. What does the bill propose? Its purpose is at least outspoken and direct. There is none of the obscurity and double-dealing of the Chicago platform about it, for the occasion for deception has gone by.

It is hereby provided and declared that the faith of the United States is solemnly pledged to the payment in coin or its equivalent of all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligation has expressly provided that the same may be paid in lawful money or other currency than gold and silver.

It is not necessary for me to say that this measure only applies to the five-twenty bonds, which constitute the bulk of our public debt, being \$1,602,583,350, for the other bonds issued after the legal-tender act was passed expressly specify the kind of money in which they are to be paid. While it is true that the acts authorizing the five-twenty bonds do not "expressly" say in what currency they shall be paid, there is not an impartial judge in the civilized world who would not decide upon the face of the law that these five-twenty bonds are in fact, by the terms of the law, payable in greenbacks, lawful money of the United States. But if it is true that these bonds were sold for greenbacks, and it is doubtful in what funds they are payable, it would be a very pliant subserviency to wealth that would decide that they shall be paid in gold, a money twice as valuable as was received for them.

But the laws authorizing the issuing of the United States notes, commonly called legal tenders or greenbacks, and the five-twenty bonds permit no honest doubt that these five-twenty bonds are in fact payable in greenbacks, and that such is the letter and spirit of the law, although not "expressly" so provided. The first legal-tender act was passed on the 25th day of February, 1862. The first section of that act provides for issuing the United States notes, and declares that such notes shall be received—

"In payment of all taxes, internal duties, excises, debts, and demands of every kind due to the United States, except duties on imports, and of all claims and demands against the United States, of every kind whatsoever, except for interest on bonds and notes, which shall be paid in coin, and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest as aforesaid."

Now, sir, if the five-twenty bonds had been issued or authorized before the passage of this act and before the United States notes were issued as lawful money and while gold and silver were the only lawful money there would be force in the argument that they ought to be paid in coin. But the reverse is true. Everybody knows that not one of the five-twenty bonds was issued until after this act of February 25, 1862, was passed. Indeed this is the very act that first authorized the issuing of the five-twenty bonds, and the first section of the act from which I have quoted further provides that any holder of these United States notes may deposit the same with the Treasurer of the United States in sums of fifty dollars or some multiple of fifty dollars, and the Secretary of the Treasury shall "thereupon issue to the holder an equal amount of bonds of the United States, coupon or registered, as may by said holder be desired, bearing interest at the rate of six per cent. per annum, payable semi-annually, and redeemable at the pleasure of the United States after five years and payable twenty years after the date thereof." These are the five-twenty bonds, so that the very law and the very section of the law that authorized the issue of the United States notes and made them a legal tender "in payment of all debts public and private except duties on imports and interest" authorized the issue of the five-twenty bonds and authorized the sale of these bonds at par for these United States notes, thus creating a public debt not excepted from payment in United States notes, and all debts public and private "except duties on imports and interest" were to be payable in such notes. If any debt public or private was payable in United States notes these five-twenty bonds clearly were; this is so clear that it is an insult to common intelligence to discuss it.

The acts of July 11, 1862, March 3, 1863, March 3, 1864, June 30, 1864, and March 3, 1865, under which all of the United States notes and five-twenty bonds were issued, contain the same provisions. By every act the United States notes are made a legal tender "in payment of all debts public and private, except duties on imports and interest." By every act the five-twenty bonds were authorized to be sold for these United States notes, and by every act the interest is payable in coin. By the act of March 3, 1863, the ten-forty bonds are authorized, principal and interest, expressly payable in coin. Thus by a series of acts extending from February 25, 1862, to March 3, 1865, under which the United States notes (greenbacks) were issued and the five-twenty and the ten-forty bonds were issued, the stubborn facts are presented that the United States notes are made lawful money and a legal tender "in payment of all debts public and private, except duties on imports and interest on bonds," and were convertible dollar for dollar into the five-twenty bonds; and that the interest on the bonds and the principal and interest of the ten-forty bonds were made payable in gold. So that during the whole period while these five-twenty bonds were being issued United States notes (green-

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backs) were lawful money and a legal tender in payment of all debts except duties on imports, interest on bonds and notes payable in gold, and the principal and interest of the ten-forty bonds. There are no other exceptions, and nothing but the arrogant effrontery of overgrown wealth could have suggested that the principal of these five-twenty bonds was payable in coin and not payable in the lawful money with which they were purchased. It cannot be pretended that the intention was to pay in coin, for in the act of February 25, 1862, and every subsequent act providing for the public debt, where payment was to be made in coin, that fact is positively expressed; otherwise, by the terms of every successive act, the debt was payable in lawful money.

The interest on these bonds was payable in coin; it was a hard bargain the money-lenders forced upon us. This concession was made to them with reluctance; but your gallant Army was in the field, the Treasury was exhausted, your soldiers had to be paid, supplies for the Army and Navy had to be furnished, and the Government was anxious to avoid an improper inflation of the currency. The patriotic gentlemen for whom so much is now claimed would not advance a dollar without that provision. The Treasury could not raise money on bonds less favorable as to the interest, and even with the interest payable in coin not a bond was sold until you had so inflated the greenback currency that the five-twenty bonds could be purchased at forty-three cents on the dollar in coin, and then these capitalists came forward and promptly took the bonds. They would at any rate receive six per cent. in gold semi-annually on each \$100 for which they had paid forty-three dollars on the gold value, nearly fifteen per cent. per annum in gold on their investment. It did not require a very exalted degree of patriotism to purchase the bonds on such terms, and now these gentlemen have the effrontery to claim that not only the interest but the principal shall be paid in coin. I say that not a dollar of the five-twenty bonds was sold until the issue of the greenbacks had greatly inflated the currency. Gold had reached a premium of one hundred and thirty seven per cent. on the 8th day of January, 1863. On that day I introduced the following resolution in this House:

"Whereas it is represented that more than forty-five million dollars are now due to the soldiers of the Army of the United States, and that large numbers of them have not received their pay for more than six months past; and whereas on the 25th day of February, 1862, in addition to Treasury notes, the Congress authorized the Secretary of the Treasury to issue and sell the bonds of the United States to the amount of \$500,000,000 to meet the liability of the Government; Therefore,

Resolved, That the Secretary of the Treasury inform the House, at the earliest moment, why his Department has not as authorized by law provided the means necessary to pay the soldiers of the Army and prevent the great public injustice of the unreasonable delay, and that he inform the House why said bonds, if necessary, have not been sold to meet demands so meritorious and so unreasonably and unjustly delayed."

This resolution was adopted; and it was not until after this and when the currency was still further inflated that the capitalists came forward as purchasers of the bonds. I have heard of gentlemen who were so lost to a proper appreciation of what was due to the Army in the field that they have complained that Congress, in order to raise the money to pay the soldier to supply his own wants and the wants of his wife and children at home, yielded to the demand of the capitalists for payment of the interest on the bonds in gold. How fierce must be the indignation, sir, of such gentlemen when they learn that these capitalists are now claiming that the principal of these bonds shall be paid in gold, and that there are gentlemen in Congress willing to yield to this arrogant demand, oppressing the people to gratify this insatiable voracity of men of overgrown fortunes. But these bondholders are here; they crowd every avenue of the Capitol, while the people whose rights are being betrayed are

toiling in the field or the workshop. But I trust in God the people will signally rebuke this attempt to give away the fruits of their labor without consideration or even plausible excuse, simply because a few gentlemen of great wealth and large political influence demand it.

Why was not this question honestly presented in the great contest of the past year? How many gentlemen are here from the great West who frankly told the people whose support they were seeking that they would vote to pay the five-twenty bonds in gold? I did not hear of a single instance. But a short time since I proposed a tax of ten per cent. on the interest of the bonds—a tax of but little more than one half of one per cent. on the principal, about one fourth the tax that other property pays—and when I reminded the House that by a large majority we had adopted that proposition last July we were coolly informed by the leader of the House that "that was before the election." It well illustrated, sir, how little the legislation of this Government, with this new political morality, is under the control of the people. We shall see how far the people will submit to this new and gigantic fraud upon their rights.

Capitalists are demanding a speedy return to specie payments. It is clearly to their interest; it would greatly augment their wealth; it would greatly oppress the people. But wealth, which is naturally timid and always apprehensive of popular movements, feels a sense of absolute security under the existing order of things, having for the first time in our history largely controlled a great political contest. Every interest of wealth is sacredly protected, every measure for its aggrandizement is promoted. If there is any doubt how the bonds should be paid the doubt must go to the benefit of wealth and against the laboring masses. Specie payment must be secured by a reduction of the currency. We have two currencies: one of \$350,000,000 in greenbacks, the money of the people, lawful money, drawing no interest and furnishing a safe and unobjectionable currency. The benefit of this \$350,000,000 goes to the whole people; the other, \$300,000,000 of national bank notes, furnished by the Government free of charge to the banks, on which the banks pay the Government the trifling tax of one per cent., nothing more. The whole benefit of this \$300,000,000 of currency goes to the handful of wealthy gentlemen owning the national banks. Now, sir, the question is, which of these currencies shall be retired to reach specie payments? But there is no hesitation. The bankers are here in force, and every proposition without one exception emanating from the party in power contemplates the withdrawal of the greenbacks and giving to the national banks, for it is nothing less, this vast sum of \$300,000,000 of money. There is not a monarch on the face of the earth who would dare to deal so unjustly with his people; but our people have borne so patiently every successive usurpation of Congress that its leaders have ceased to consider what may be the public will. If the greenback money is retired the object sought by this bill is in fact accomplished. With the specie basis reached by a large reduction of currency the country is still to pay \$300,000,000 a year to pay the interest on the public debt and carry on the Government. I have always said, And I again say that in my judgment gold and silver are the best currency, the most reasonable and permanent standard of value, but while at this time it is clearly to the interest of capitalists, especially of large holders of our bonds, that specie payments should be resumed, is such the interest of the people, waiving the question of the injustice of paying the bonds in a currency, twice as valuable as that we agreed to pay? There is said by well-informed persons to be \$225,000,000 of coin money in the United States. Specie payments can be resumed with \$300,000,000 of paper currency, perhaps

\$350,000,000, and yet the estimates of our annual expenditure is \$300,000,000. Does any man believe that the labor of any country can bear, year after year, taxes to the amount of one half of the entire circulation? It cannot be done, sir. When heavily burdened by direct and indirect taxes the capacity of labor to bear a given tax diminishes year after year, bringing upon a people a hopeless poverty such as we witness in England, France, and Austria, where great debts and heavy taxes have long oppressed labor. To scale the debt and interest to the gold value of the paper money in which the bonds are payable, or meet the debt in the currency in which it was made and is lawfully payable, is the only escape of this nation from the social and political disorders of the Old World, where the overgrown wealth of the few and the squalid poverty of the many fill the whole land with misery.

No, sir; this bill will not strengthen the public credit. The public credit can only be strengthened by a severe and honest economy in the public expenditures, by confirming in the public mind the belief that the millions wrung from labor will be honestly applied to public purposes and not squandered in the base partisan schemes and monstrous frauds which have for years exhausted the Treasury, by satisfying the people that the public demands upon their industry shall be no greater than good faith and even-handed justice to the public creditors imperatively require, and that labor shall be protected against the unjust and voracious demands of capital. With such a policy firmly established there is no danger of the nation being dishonored by repudiation; but all classes of men would resolve that our debt, enormous as it is, unjust as a portion of it is known to be, shall be paid in absolute good faith, dollar for dollar, in gold, where by the contract we agreed to pay in gold; in paper money, lawful money, where, as in the case of the five-twenties, we agreed to pay in such currency. But how can this bill strengthen the public credit? Strengthen the public credit by increasing the public debt? What infatuation has seized these men of capital? Do they hope to enslave a living people, a nation of laboring men who know the value of labor, by a simple, unauthorized, and repealable act of Congress declaring that they shall pay in gold bonds to the amount of \$1,602,583,350—more gold than all the civilized nations could furnish—when by their contract they were to pay in paper money at the time of less than half the value of gold? The very attempt to consummate such an act of injustice, this grasping cupidity of the bondholders, this complacent yielding of Congress to a presumptuous demand, will not strengthen, but will shake the public credit. An overwhelming majority of the people of the United States are laboring men, men whose daily labor supplies food and raiment and shelter for their wives and children, who understand the nature and origin of their public debt and are alike jealous of the nation's honor and of their own just rights. Will they consent, sir, in mere subservience to wealth, to impoverish themselves and their posterity for ages to swell the wealth and pamper the profligate luxury that now riots in your great cities? I do not believe it, sir. This gratuitous and naked declaration, if it becomes a law, will not bind them, sir, when aroused to a sense of its injustice, any more than cobwebs would bind the force of a hurricane.

It is said in favor of this bill that its passage will actually and largely increase the value of the bonds; that the quotations of your bonds at the great moneyed centers of Europe and America, where the millionaires who fatten on the labor of mankind congregate, will show a large appreciation of their value. Certainly they will. And why not? If you pass this bill, and the people submit to it, it does actually almost double the value of your bonds, and it does actually and nearly double the public

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debt; it will increase and perpetuate for ages the tax on the labor of your people, and it will more than double the chances that the laboring man will never be able to drag himself and his wife and children from the merciless grasp of poverty. Is it possible, sir, that monarchies shall be found more considerate of the rights of the people in a contest between labor and capital than a republic? When England found her people oppressed by a great debt—yet a less debt than ours considering the wealth of the two nations and the rates of interest—she reduced the burden one half by reducing the interest one half, while a republican Congress actually, under like circumstances, increases the debt by proposing to pay in a currency of twice the value of that in which the debt was made and is justly payable.

It is said that it would unsettle all values and ruin the country to issue greenbacks enough to pay the five-twenties. No person has ever, so far as I know, proposed to do so. If the currency was kept up to the average of what it was when the debt was contracted—from eight hundred and fifty to nine hundred million dollars—with just economy in the public expenditures this debt would never oppress the labor of the country. It could be substantially liquidated in less than twenty years. The revenues of the year 1865 prove this.

But, sir, if gentlemen are determined to reach specie payments, and are resolved that the greenback currency, the only paper money which any people ever got the benefit of, shall be withdrawn, will you tell me why it would not be just, alike to the bondholders and the people, to scale the public bonds and pay them principal and interest in gold, on the basis of the gold value of the bonds at the time you sold them? The gold value of the bonds was the same as the gold value of the United States notes with which they were purchased. Could the bondholders complain of this? He would get back his money, every dollar of his money, dollar for dollar in value, after having received from year to year nearly fifteen per cent. in gold on the value of his investment. He would have less ground to complain than the English bondholder, whose interest was by an act of Parliament reduced from six and seven per cent. to three per cent., and yet the English debt was made on very nearly the gold basis. Or could the bondholder complain if the right to tax these bonds (a right clearly reserved) for national purposes was justly employed to equalize not only taxation, but to equalize the amount that is being paid in interest in gold with the gold value received by the Government? The just rights of the holders of these securities are readily ascertained. The value on the gold basis received by the Government is not a matter in dispute.

If this debt is to be paid, as is proposed by this bill, a debt of near twenty-six hundred million dollars, principal and interest in gold, the most hopeful patriot must despair of the future of his country. This enormous body of wealth, controlled by a few men ever vigilant to control the affairs of Government, ever seeking to subordinate labor to their own aggrandizement, and ever seeking to make the Government stronger and the popular power weaker as a guarantee of their wealth, would in time and almost imperceptibly enfeeble, if not destroy, the power of the people in national affairs.

In this contest between capital and labor I trust in God the people will be true to themselves and to their posterity, true to the republican institutions of their country, alike just to themselves and just to their creditors, resolved to pay the debt in good faith, dollar for dollar in value, but not one dollar more; that neither the malevolent spirit of party nor the plausible eloquence of the advocates of capital will be able to seduce them into a fatal acquiescence in the policy which is every day more clearly

disclosed of placing the whole power of this Government, with all its vast agencies and appliances, on the side of centralized wealth and against the just rights of labor. Wealth as well as power is steadily "stealing from the many to the few." The public debt and the policy of the Government since it was created have already wrought fearful changes in the social condition of the American people. History furnishes no instance where wealth has so rapidly centralized and no instance in modern times where public policy was made to contribute so directly to the personal aggrandizement of a class of citizens to the injury of the great body of the people. Every leading measure seems designed to make the rich richer and the poor poorer. If the people are true to themselves they will demand the reversal of this policy. They will resume the control of their own Government and not leave it to the unbridled will of a few ambitious leaders. "The condition on which God has granted liberty to man is eternal vigilance; which condition if he break, servitude is at once the consequence of his crime and the punishment of his guilt."

Public Credit.

REMARKS OF HON. W. HIGBY,

OF CALIFORNIA,

IN THE HOUSE OF REPRESENTATIVES,

February 23, 1869.

The House having under consideration the bill (H. R. No. 1744) to strengthen the public credit and relating to contracts for the payment of coin—

Mr. HIGBY said:

Mr. SPEAKER: I was highly interested in listening yesterday to the speech made by the chairman of the Committee of Ways and Means [Mr. SCHENCK] upon the bill now under discussion. There was much truth in what he said. His words were solid and full of meaning. I believe the country will thank him for his words of counsel and encouragement. The clouds that have so long enveloped this question are breaking away and the clear sky is visible.

This question has been debated heretofore as though we had no intercourse with other nations, as though paper would serve just as well as gold and silver for our currency.

Were we to cease all financial intercourse with foreign nations the policy so often advocated in this Hall, to pay our debts in depreciated currency, would be a dangerous one to adopt. A debt so vast as our national debt makes it incumbent upon us to keep good and sound the credit of the Government; the citizen should have implicit faith in the integrity and fidelity of the Government. To keep that faith unimpaired it is our duty to aid it to fulfill in spirit and to the letter its pledges. No matter how much wealth the Government may possess the confidence of the people, inspired by its integrity, is worth far more, and renders it stronger and more prosperous without it than hoarded wealth with plighted faith can make it. A debt canceled with a less sum than was pledged to its payment is repudiation to the extent of the difference between the sum promised and the sum paid. That is, such an act in a Government would be repudiation, but in an individual or business firm it would be bankruptcy. Could a business man or firm, possessing sufficient means to pay, who by fraud and chicanery should so cancel his or their debts, continue to have the confidence of the community thus injured? Why should a Government that violated its pledges continue to have the confidence of the people after such violation? The rule will hold good with nations as with individuals.

Mr. Speaker, I do not attribute the present embarrassed condition of our finances to the bad faith of the Government. The present

indebtedness the nation could not avoid unless it had yielded up the last best earthly boon to man—free government; neither could it in the emergency avoid a paper currency based upon credit. As yet it has kept good faith when and where able to do so. It has promptly paid the interest upon our great debt whenever it was due, and all its obligations it will perform unless unwise legislation causes it to falter. It is true our Treasury notes, circulating as currency, are at a discount, and will so continue to be until the Government can redeem the promise they carry upon their face, or until we return to specie payment. They are now accrued indebtedness, but will continue at a fair figure and make a very tolerable currency until redemption day arrives if our legislation shall be directed to strengthen credit and the fulfillment of pledges rapidly as possible. But as the bill now under consideration pledges the faith of the United States "to the payment in coin or its equivalent of all the obligations of the United States not bearing interest, known as United States notes, and of all the interest-bearing obligations of the United States except in cases where the law authorizing the issue of any such obligations has expressly provided that the same may be paid in lawful money or other currency than gold and silver," I propose to examine the subject somewhat in detail in the few moments I shall occupy, and show, if possible, the salutary effects the passage of this bill will have upon our credit, and how the Government will be enabled to lessen the burden now weighing so heavily upon it.

"The United States promise to pay." So the words run upon our Treasury notes, and which notes are now the currency of the country. These notes are a part of our national debt, and are so classified in the monthly statements made by the Secretary of the Treasury. We must not forget that while these notes are serving a very good purpose as a currency the United States at some period of time must redeem these notes in coin. They bear upon their face the promise to pay the same as the bonds, and both must ultimately be canceled. Is one class of indebtedness to be paid in a different currency or valuation from another? Is one note taken up by the issuance of another specifying like amount a payment of the first? Does not the second note bear upon its face a promise to pay? So in attempting to pay bonds with notes, is not the payment still an indebtedness against the Government? The intent and purpose to pay or take up our Treasury notes with gold and silver coin is too clear, it seems to me, to admit of doubt, and I believe no one pretends to hold but that they are ultimately to be so paid. Gold and silver coin are the standard of value with all civilized nations. Our nation had no other at the time our Treasury notes were put in circulation and our bonds put on the market; the dollar named in each, unless qualified, is the dollar in coin.

Again, Mr. Speaker, we have in the most solemn manner, as a Government, since our paper currency and our bonds were issued, given our pledge that our national indebtedness shall be paid in the utmost good faith. When the fourteenth amendment to the Constitution of the United States was under consideration in Congress this question was duly considered, and in clear and unmistakable language became a prominent feature in that amendment. The language is as follows:

"The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned."

A two-thirds vote of this House and of the Senate, and the ratification of the Legislatures of three fourths of the States in the Union, have firmly imbedded this pledge in the Constitution. Is it possible that we can longer hesitate in arriving at a proper conclusion?

Who can doubt? Who will still continue to mar the credit of our Government by declaring that its debts are to be paid in paper, whose value is alone to be found in the fidelity of our Government to pay? The very effort to pay in this manner would at once bring with it dishonor and a discredit that would require many years of the best faith to remove.

Our national debt is over twenty-five hundred million dollars. The interest upon the interest-bearing portion annually is nearly one hundred and thirty million dollars. Whether we lessen the principal sum at present or not our efforts should be to lessen the interest as soon and as much as possible. How is this to be done? Those holding bonds are holding them under contracts which neither the Government nor bondholder can violate. The bondholder can exact no more interest than the bond specifies; neither can the Government fulfill the contract by paying less interest; so that the Government cannot issue new bonds bearing a lower rate of interest and compel the bondholders to surrender the old bonds and take in their stead new ones. Here we have no relief, and, indeed, there is no relief except through the well-established credit of our Government, and in this we will see and value its importance. All five-twenty bonds over five years old the Government has the right to call in, provided Government has the ability to do so. If there is gold in the Treasury to any amount after payment of interest that gold could be used to take up five-twenty bonds. But the experience thus far is that the Treasury furnishes very little more than enough to pay interest, and for the present no relief may be expected from that source. Wealth increases in our country more than six per cent. annually, which necessarily keeps up a high rate of interest. Government must look to a foreign loan. In Europe money is obtained at much lower rates; and if our Government will keep good faith, and can so induce the nations to believe, the interest upon our indebtedness can be much reduced and our financial burdens much lightened.

Mr. Speaker, we have sad evidence of the evil arising from divided opinion how our Government shall redeem its bonds. I need not repeat here what arguments have been used and opinions expressed in this Hall within the last fifteen months. They are known to the country. I shall, though, criticise somewhat the opinion expressed that our bonds, the five-twenties, might legally be paid in Treasury notes. One thing is very clear, our debates have shaken the faith of people at home and abroad to our great detriment. The capital of the country is seeking for more lucrative investments than it finds in our Government bonds, from which cause they have been sold in foreign markets. Over five hundred million dollars of our Government bonds are now in the hands of foreign holders, purchased at great discount, at least thirty cents on the dollar, inflicting a loss upon our country of \$150,000,000 at least. British consols bearing three per cent. interest are worth in London over ninety cents—twenty cents on the dollar more than our Government bonds. Our bonds bear six per cent., the interest of each is payable in gold, and the interest on our bonds is paid semi-annually promptly when due; there has been no failure on the part of our Government as yet to pay whatever has accrued of its interest-bearing debt. Our bonds should have sold abroad at much higher rates, and they would have so sold but for the doubt raised by our divided councils how the Government would pay them. If our bondholders could have realized dollar for dollar \$150,000,000 would have been saved to the nation to aid in paying the public debt, to help bear the burdens of the Government, and to foster the business of the country.

A new country craves more capital than its ordinary growth supplies. An increase of

capital by a foreign loan, to be thrown into the channels of business, would advance individual and national prosperity while aiding to lessen annual public expenses. From a foreign loan obtained at lower rates of interest than our bonds bear two other advantages besides the one just named would be derived—one of the two would be in the reduction of interest to be paid annually, the other in the large amount of home capital set free to enter into the general business of the country. While there is some advantage arising from the fact that a very large portion of the interest accruing semi-annually upon our debt is paid to our own citizens, that advantage is in a measure balanced by the tying up or secluding from business channels of the capital upon which the interest is paid. If foreign loans could be made at three and a half to four per cent. interest, and our five-twenty bonds be redeemed rapidly, as under the law the Government could do so until the \$1,600,000,000 now out were redeemed, the Government would save at the least calculation \$32,000,000 in gold annually. Should home capitalists desire to take the new loan at reduced rates of interest they should be allowed to do so; but few, though, would be likely to reinvest. Our Government being largely in debt, its credit should be upon a sound basis. It cannot dictate financially. If it has made a hard bargain it must still fulfill its obligations. If we as a nation have not now ready capital for all emergencies our country is full of undeveloped wealth that with marvelous rapidity becomes available. Every decade shows the available wealth more than doubled. Our national credit should be saved from dishonor. Fidelity and honor are above price. No system of logic can lead to the conclusion that a nation destitute of them can prosper or long exist except as a byword and reproach and the scorn of mankind.

Some have advocated in our debates the payment of bonds with Treasury notes. To enable the Government to pay as fast as they become redeemable one of two facts must exist: either the Treasury must have a large surplus from revenue collected, after defraying current expenses of the Government and paying interest, to use for the purpose of redemption, or Congress, if it has the power, must authorize new issues of Treasury notes. Taxation is now a burden to the people, and every revenue bill brought forward amendatory of our revenue laws contains some provision to lessen the burden and still produce revenue enough to defray all ordinary expenditures. The study is to economize as much as possible, and so to graduate taxes as to be least burdensome and still produce sufficient revenue for current expenditures. Revenue from taxation will furnish no adequate means for an immediate redemption of bonds. What encouragement do we find in the proposition—new issues of Treasury notes? Congress claimed the power to issue Treasury notes and declared them lawful money at a time when the nation was in great peril. A rebellion of unparalleled proportions was striving to destroy us as a nation. Every means in the reach of the Government were called into requisition to aid in suppressing that rebellion. The Government was in need of money, and money it must have. Treasury notes were issued under law of Congress as a war measure and an inevitable necessity. By many the right to exercise the power then was denied. While I have no doubt that the necessity of the case gave the power, and that the act was a wise one, I do not believe that Congress would be in any way justified in doing a like thing now that we are at peace within our borders and with all nations.

Gold and silver constitute the true standard of value. They have been the basis of our currency since the foundation of our Government, and in adhering to this standard as a proper measure our Government has but fol-

lowed in the path trodden by all civilized nations. We have commercial relations with all trading and commercial peoples. We exchange commodities with them; we buy of and sell to them. This interchange has grown to a necessity. Our ordinary needs call for foreign products. By commerce nations are enriched, and arts, sciences, and literature become a greater benefit to mankind. The standard of value must necessarily be the same or the nation that uses any other must be the loser, and the sooner all nations use the same coin at the same value the better. The intrinsic value of gold and silver gives great stability to circulating medium. It is a standard limited in amount. Its intrinsic value being so great, and its quantity so limited, fluctuations are far less frequent and financial prosperity is the rule with very rare exception. Paper currency is convenient and preferable when it will command the amount of specie it promises upon its face. Its value is in the certainty that there is on deposit coin sufficient to satisfy the sum named upon the paper. Coin and paper, then, have the same fixed value, the paper giving no increase to the quantity of currency, but being used as a convenience, a representative of value to facilitate exchanges. Paper currency used without a specie basis, but issued upon the credit of Government and but a representative of credit, is subject to fluctuation in quantity and value.

That nation must be largely in debt whose paper currency is issued solely upon the credit of its Government. The day of payment is future, not present, and no burden is directly felt, as no interest is to be paid. Such currency is easily obtained. Its cheapness encourages extravagance and wild financial schemes, to be followed by bankruptcy and financial ruin. It is well for us that we refuse to allow another issue of Treasury notes. The power is doubtful to do so and the policy a dangerous one. Paper currency has served its purpose in the hour of our nation's trial. Rapidly as possible we should return to the standard we left when the rebellion commenced. Our promises should be brought to par value, and to aid in hastening that condition of things let us unite in support of the measure before us. Let us declare to the nations of the earth, by solemn enactment, that our debt shall be measured and paid by that standard of value known and recognized by them. The sooner we do this the sooner we will undo much mischief already done by unwise debates. We will retrace steps by so doing that have led to financial loss and national discredit. The business of the country will become more prosperous, capital will be set at work with far more certainty of success, and labor will be in greater demand and receive a better reward. I hope this bill will pass by a very large majority—the larger the better—for the good of the country and the speedy restoration of a sound state of the finances of our Government.

Suffrage Constitutional Amendment.

REMARKS OF HON. W. HIGBY,

OF CALIFORNIA,

IN THE HOUSE OF REPRESENTATIVES,

March 3, 1869,

On the joint resolution (H. R. No. 402) proposing an amendment to the Constitution of the United States.

Mr. HIGBY. Mr. Speaker, we are making haste slowly in the right direction. The Committee on Reconstruction have brought forward another amendment to the Constitution, and urged its favorable consideration in clear and forcible language. It declares that—

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

HO. OF REPS.

Suffrage Constitutional Amendment—Mr. Higby.

40TH CONG....3D SESS.

The fourteenth article of the Constitution clearly defines who are citizens of the United States :

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside."

That is, all persons born in the United States of any and every race and color, whether once slave or always free, and also all persons foreign born, but who have been naturalized under laws of Congress or by treaty stipulations, and who are subject to the jurisdiction of the United States, are declared citizens by that article. The amendment proposed does not restrain or enlarge the definition so given of citizenship, but insures certain rights to persons so defined to be citizens, not expressed in any part of the Constitution. They shall not be denied the right to vote "on account of race, color, or previous condition of servitude." While the States are to be deprived of certain powers exercised upon the suffrage question no power is to be given to the United States, for the restraint is to be upon both the General and State governments alike. It takes the power from both to deny or abridge the right to vote on account of the three conditions named. The opponents of this measure cannot with truth assert that power is to be centralized by its success, since power is not given but taken away from both Federal and State governments; but the power to control the elective franchise for other conditions than those named in the proposed amendment is allowed to repose where it now rests. There is little or no danger to be apprehended from the exercise of the powers remaining in the States upon this question, as they will incline to extend rather than restrain the rights and privileges of the citizen. By a comparison between the amendment proposed and the second section of the fourteenth article we find the first a great improvement upon the latter, and that the difference may the more readily be seen I will read the whole of that section :

"Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

Clearly there is an implied authority in the States, from the reading of this section, to control in a greater or less degree the right of suffrage; but that the States might be induced to extend the right to all classes of citizens the right of representation in Congress was confined to the voting class alone. This is very questionable power to leave in the control of the States. If the Constitution of the United States assumes to declare who are citizens it should also define the duties devolving upon them and the rights and privileges to be exercised and enjoyed by them. It will endanger the stability and durability of our Government to allow the States to control the question of citizenship, its duties, rights, and privileges, on any essential point, while the United States provide who are citizens and who may become such by laws of Congress and by treaty stipulations.

The second sentence in the first section of the fourteenth article seems to be full and explicit as to the rights conferred upon those declared to be citizens :

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

How comprehensive is this language ! It would seem that every right pertaining to citizenship was conferred, and yet the language of the second section implies that a State may deny or abridge the right of the citizen to vote. The amendment proposed will do away with much of the difficulty, confusion, and misconception that have grown out of the apparent conflict between the first and second sections of the fourteenth article, and will secure to the citizen the political rights to which he is entitled beyond legal or constitutional restraint, either State or national. Citizenship will rest where it should, at the foundation of the Government. Upon citizenship free government should be established. The Constitution and laws are but the expressed will of the people; that is, the citizens.

We are slowly approaching a clearer understanding of what are practically the rights of persons. The question has been heretofore involved in mist and doubt. Theories founded in justice have been promulgated and received the approval of all lovers of free government; but their practical application to mankind has been scouted when attempted, and they who have made the attempt have been decried as madmen or revolutionists.

Mr. Speaker, when were nobler and braver words ever uttered than those found in the Declaration of Independence ?

"We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends it is the right of the people to alter or abolish it and to institute a new government, laying its foundation on such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness."

The public exigency called for outspoken, mainly principles, such as addressed themselves to all men as founded in humanity and justice. How grandly does the declaration open :

"When in the course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the Powers of the earth the separate and equal station to which the laws of nature and nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation."

Then immediately follows the words previously quoted, namely, "We hold these truths to be self-evident," &c. Sir, do you think that three millions of people struggling to free themselves from the thralldom of a powerful Government, odious as it was unjust in its exactions, a people that in their heavy trial needed the favor and sympathy of mankind, would have declared any but just and true principles? False principles then put forth as the ground of their warfare would have lost to our fathers the cause for which they contended. Justice has in it the elements of strength, and doubly arms the people who war against oppression.

After seven years of privation and sacrifice and a heroism displayed unsurpassed by any people, independence was secured, and our present form of government soon thereafter established. The dangers that threatened had disappeared and peace had returned with its blessings. The favor and sympathy of mankind were not then so essential, nor was foreign alliance needed to aid in perpetuating the integrity of the new nation. The British Government encouraged the growth of African slavery in her American colonies, and when they had acquired their independence the institution of slavery was found so closely interwoven with the whole labor system in many of the States that an immediate change was deemed impracticable. While it was thought that time would work its decay under the Government just established and its removal after a lapse of time be the more easily effected the evil increased in its proportions and took stronger hold. How

delusive was this hope ! This institution that at the close of the war of the Revolution and for many years thereafter was regarded as a necessary evil, even in the slave States as well as in the free, grew into favor and became a pet institution where it existed, and was there held to be of divine origin. Manual labor was nearly all performed by slaves. Society rested upon and was sustained by the institution in the slave States. Subtle and fascinating in its weakness, it rapidly increased to great power, and became alarming in its proportions, over-exacting in its demands, and ruled with despotic sway. Free institutions were crushed beneath its heavy tread. The more it fed the more ravenous it became. There was no manly independence and no free expression in its presence. Thriving business enterprise had no footing where the institution had sway. The slave was entirely subject to his master, and the master was entirely subject to the institution. Master and slave were both in bonds. The institution made the slave a brute and the master an instrument of cruelty. Reason, justice, and humanity were burned out, and the most hellish passions had rule.

All departments of Government were made subservient to its purposes. Everywhere its baneful influence was felt. Openly and insolently its work of corruption went on. Good men saw the magnitude of the evil, but were unable to retard its progress, for it became the power that resistance could not thwart. Equal rights, free government, the will of the people were themes for theorizing; but the system that held millions in bondage so tainted public morals, benumbed the consciences of men, and perverted their judgment that these themes did not advance beyond theories. The realization of the principles set forth in the Declaration of Independence was more remote after a lapse of eighty-five years than at the time of its promulgation. Through the arts of peace there was no hope of reform. To human ken the dark cloud that had been so long gathering seemed to grow heavier and less penetrable. The wisest and most profound human philosophy was unable to point the way of escape. How could it, when Christian churches were dumb in the presence of this overshadowing power, and in some instances bowed in homage?

Rebellion, the legitimate fruit of the slave power antagonized by free institutions, broke forth with all the horrors of civil war. The death struggle between free government and the slave power came. One must die; both could not survive. The nations stood amazed at the dreadful havoc going on, and wondered what the end would be. Let us leave history to record the scenes of desolation and sorrow caused by the conflict and give all thanks to that Being who aided our patriotic countrymen in the field, in council, and in their labors at home in the common cause to victory over rebellion, and all thanks, too, that in that victory slavery perished.

Mr. Speaker, we can, if we will, now establish true principles of government. Slavery does not exist. We have no excuse for refusing to declare all citizens politically equal, unless our excuse be found in the prejudice fostered within us by the institution of slavery against those who were lately in bondage—a bondage which the bondman could not avoid and for which our countrymen were guilty. The lesson of the rebellion was terrible in its severity. Had the principles of the Declaration of Independence been carried out both in letter and spirit at the outset, the civil strife might have been avoided and our country much further advanced in wealth and power, and free government more firmly established, protecting and blessing more equally all classes of people. "Man proposes, but God disposes." From uncompensated labor man proposed to accumulate wealth. Who can count up the fearful losses

40TH CONG....3D SESS.

Washington Family Relics—Mr. Jones.

HO. OF REPS.

the nation suffered during the conflict? Can figures make the estimate? The products of slavery would not compensate for the wealth used and destroyed. But figures would entirely fail when we attempt to estimate the loss from our patriot dead sacrificed to save the nation. We can avoid a repetition of the ordeal by holding sacred the rights inherent in citizenship. Power exercised to withhold rights from any class of citizens, "except for participation in rebellion or other crime," puts in danger the liberties of the people. Power so exercised would be for selfish ends, and not to establish justice.

In the fourteenth article we deny to the common felon and the traitor the right to vote. Why do we deny the right to these classes? In part as a penalty and in part to disarm dangerous men of power. Shall we set over on the side with the felons and traitors any portion of our citizens and deny them this sacred right "on account of race, color, or previous condition of servitude?" Can we forget the devotion and fidelity of the colored race during the terrible struggle through which our country has just passed? They knew if the rebellion was crushed that slavery would be at an end. To what end have we already declared them to be citizens? What does it profit them to be citizens if they are not to enjoy the rights? They cannot secure to themselves civil rights through the empty name of citizen; their security will be in the protection which the ballot will give them. Will we, now that they have become citizens in name, leave them powerless politically? They would be a powerful and dangerous physical element in time of civil strife or foreign war if opposed to the Government. To attach them to the Government and make them its warm friends and firm supporters they must be allowed to share its privileges or immunities to the full extent, as well as required to share in bearing its burdens. In some way we must so treat the excluded class of citizens that they will become an element of strength at all times. They are in our midst, natives, knowing no other land, and here they will abide for all that we can do, and here they have a right to remain. Let us make them as much interested in the welfare of this Government as we are. This we can do by conferring upon them what we under like circumstances would be justified in demanding. It is not safe, in settling great principles of government, to be led to final action by prejudice. Our conclusions should be based upon unbiased judgment, rising above passion and prejudice. Let us not hesitate to do this wise and just act "on account of race, color, or previous condition of servitude" of those who are to be reached by this proposed amendment. It is true that much has been said against sharing political rights equally with the colored race; that it would necessitate too intimate social relations between the two races. Can the dividing line between the Anglo-Saxon and the African races be more completely obliterated than it has been in the late slaveholding States under the slave rule? I will not attempt to answer an argument addressed to prejudice and passion, one that history has so incontestably answered. Political rights and social relations have but little to do with each other. I have no fears that placing the ballot in the colored man's hand will be his passport to all ranks and conditions of society. We of the same race, possessing equal political rights, have our social divisions, divisions to which all persons are amenable. Let us dismiss all fallacious arguments, rise above selfish influences, and resolve to do what the times demand. It will be a proud day for free government when citizenship shall be well defined and clearly understood; when in its privileges or immunities it shall not only be beyond the assaults of constitutions and laws, but be itself constitution and law-maker.

Washington Family Relics.

REMARKS OF HON. T. L. JONES,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

March 3, 1869,

On the following resolution offered by Mr. COVODE, from the Committee on Public Buildings and Grounds, in relation to the Washington family relics:

Resolved, That the articles known as the effects of George Washington, the Father of his Country, now in the custody of the Department of the Interior, are of right the property of the United States; and any attempt on the part of the present Administration or any Department thereof to deliver the same to the rebel General Robert E. Lee is an insult to the loyal people of the United States; and they ought to be kept as relics in the Patent Office, and ought not to be delivered to any one without the consent of Congress.

Mr. JONES, of Kentucky. Mr. Speaker, as a member of the committee to which was referred the resolution of the gentleman from Illinois, [Mr. LOGAN,] in regard to the "Mount Vernon relics," I beg leave to dissent from the report and resolution just offered by the committee, and to submit as a minority report the following:

Resolved, That the articles in the Patent Office, which have been identified as the property of Mrs. Mary Custis Lee, and which were taken without authority of the Government from her home at Arlington, as they are of but little value except as heir-loom in her family, bequeathed to her by her father, George Washington Parke Custis, be, at her request, restored to her possession.

I would, Mr. Speaker, be wanting in self-respect and in a proper regard for the high reputation of my Government and country, for its justice and magnanimity, if I did not urge the passage of this resolution. I confess, sir, that my sensibility was shocked in no small degree when the gentleman from Illinois [Mr. LOGAN] offered the resolution of inquiry which was referred to this committee, and upon which they have made a report, unanimous indeed, save by my acquiescence. I desire the attention of the House while I make as brief a detail as possible of the circumstances which make up the little history of these Mount Vernon relics. In the spring of 1862, shortly after the beginning of the late unhappy civil war, General Scott, then in command of the Army of the United States, sent a message to Mrs. General Lee that she must leave Arlington, as it would be required for a military station. In the quickest possible time she prepared to do so, and boxing up the smaller articles of her household she delivered the keys to an old female family servant, requesting her to do the best she could under the circumstances, and took her departure, sad indeed, from this splendid ancestral home. Three long years of war and nearly four of peace had intervened, when a few days ago it happened to be brought to public attention that some of these articles were in the Patent Office, in the Interior Department of the Government. How they came there we have no official knowledge except that given by the Secretary of the Interior, who appeared before the committee yesterday and said that all the information he had been able to get upon the subject was that they were brought to the Patent Office by one Caleb Lyons, of Boston.

The private history of the matter, which I have learned from a most reliable source, is that when General McDowell took possession of the Arlington House as a post of the Army the old servant who had care of the place, and to whom Mrs. Lee had given the keys, told him that the soldiers had broken down many of the doors, broken open the boxes, and had stolen many of the goods left in her charge, especially the clothing, which she had been directed by Mrs. Lee to divide among her servants; whereupon the general and his good lady made an examination of the articles still there, which the general ordered to be taken to the Depart-

ment of the Interior for safe-keeping as the property of Mrs. Lee.

These are all the facts we have been able to learn as to the manner in which these articles were obtained. Some weeks ago Captain James May, of Illinois, formerly of Pittsburg, Pennsylvania, an old friend of General and Mrs. Lee, and a man during the war of unquestioned loyalty, being on a visit to this city and hearing that these articles so valued by Mrs. Lee were in the Patent Office, thought he would do an act of kindness to her in suggesting some mode by which they might with propriety be restored to her.

He mentioned the subject to several distinguished gentlemen of this city, among them General Dent, the father-in-law of the President-elect, who, with others, approved the laudable purpose of Captain May. President Johnson was also consulted, but declined to give any opinion or make any suggestion until the matter was before him in some authentic form. Captain May finally addressed the following note to Mrs. Lee:

WASHINGTON, D. C., February 8, 1869.

MY VALUED FRIEND: I find in the Patent Office a remnant of the articles relative to Washington, and that came from Mount Vernon. Those politically-canonized and universally-appreciated relics were placed by the will of your revered father in your custody during the term of your life.

Several prominent gentlemen here express the opinion that a written request from you to President Johnson will induce his executive interference in the premises and restore you to your legitimate rights as custodian of those relics. Therefore I respectfully suggest the propriety of your making such request as soon as convenient.

As ever, your sincere friend,

JAMES MAY.

Mrs. General LEE.

Upon the reception of this note Mrs. Lee addressed the President, as follows:

LEXINGTON, VIRGINIA.

February 10, 1869.

MR. PRESIDENT: Encouraged by your kind attention to a former application, and prompted by my friend, Captain May, I now venture to request that you will direct all the articles taken from Arlington and deposited in the Patent Office to be restored. They are relics from Mount Vernon bequeathed to me by my father, and consequently of great value and interest to his family.

Very respectfully,

MARY CUSTIS LEE.

His Excellency ANDREW JOHNSON,

President of the United States.

This letter was directed under cover to Captain May, and by him placed in the hands of Secretary Browning, who said in his testimony before the committee he delivered it to the President in full Cabinet meeting, and upon its being read, every member of the Cabinet agreed that the request of Mrs. Lee should be complied with, and it was ordered that she be informed accordingly.

Mrs. Lee, having been informed of the decision of the President and his Cabinet, and being requested to appoint some one to identify, receive, and receipt for the articles, deputed an old friend, a lady of Georgetown, to accomplish the purpose. Before the transfer of the articles was effected the papers of this city announced what was being done, when the resolution of inquiry was offered in this House, and all negotiation for the articles ceased. It may be interesting to the House and the country to know what these articles are. They are beggarly remnants, broken and shattered, and in real value, as the Secretary said, are not worth what it would cost to transport them to Lexington. The list is as follows:

"One pair of candelabra, a lot of gilded ornaments, 42 plates, 16 dishes, 1 punch-bowl, 3 finger-bowls, 2 vases, 1 looking-glass, 1 table, 1 money-chest, 1 knife-case, 1 case for silverware, 1 box drawers, 1 wash-stand, 1 dressing-bureau, 1 window-curtain, 4 tent-poles and pins, 1 bedspread, 1 blanket, 1 set bed-curtains, 1 pair short breeches and vest."

It is true that these articles, or some of them, were once the effects of "George Washington, the Father of his Country," but it is not true, as intimated by the committee, "that any attempt was made by the present Administration or any department thereof to deliver the same to

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Washington Family Relics—Mr. Jones.

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the rebel General Robert E. Lee." That distinguished and noble gentleman and hero has had nothing whatever to do with this transaction, but in regard to it has maintained the delicacy and dignity which have characterized him through life, and which now especially challenge the admiration of every unprejudiced and manly heart.

These articles were the property of Mrs. Lee, and hers only, for her natural life, to be transmitted as heir-looms to her latest posterity, and she only applied for them at the suggestion of others, and then with that true modesty which adorns her sex, of which indeed she is one of the brightest ornaments. Mrs. Lee is the daughter and only child of George Washington Parke Custis, who was the grandson of Mrs. Martha Custis, afterward Martha Washington, wife of the "Father of his Country." How she became possessed of Arlington House and estate will be seen by the following extracts from her father's will:

"I give and bequeath to my dearly beloved daughter and only child, Mary Ann Randolph Lee, my Arlington House estate, in the county of Alexandria and State of Virginia, containing eleven hundred acres, more or less, and my mill on Four Mile run, in the county of Alexandria, and the lands of mine adjacent to said mill in the counties of Alexandria and Fairfax, in the State of Virginia, the use and benefit of all just mentioned during the term of her natural life, together with my horses and carriages, furniture, pictures, and plate during the term of her natural life."

And in another section he says:

"My daughter, Mary A. R. Lee, has the privilege by this will of dividing my family plate among my grandchildren, but the Mount Vernon plate altogether, and every article I possess relating to Washington and that came from Mount Vernon, is to remain with my daughter at Arlington House during said daughter's life, and at her death to go to my eldest grandson, George Washington Custis Lee, and to descend from him entire and unchanged to my latest posterity."

It is thus seen that these articles were never the property of General Lee, but of his wife, and to be the property of her posterity forever. Arlington itself, that palatial home, was hers only, and for her natural life, and could not justly have been confiscated on account of the acts of her husband. She followed his footsteps, indeed, it may be from inclination, as any true woman would have done; but that she was ordered by the Federal commander to leave her beloved home is nevertheless true. Where could she go but to him who in weal or woe possessed her heart, and on whom she must lean for counsel and support? We may well imagine how in sadness and tears she took her way from this blessed abode, this paradise, her "native soil, these happy walks and shades, fit haunt of gods."

The Government of the United States now has possession of this magnificent domain, and has devoted it to a sacred purpose, but how or by what title obtained? It may surprise all just and honorable minds to know that it was obtained simply by tax title; the property put up and sold for taxes, the friends of General and Mrs. Lee, who were anxious to do so, not being allowed to buy it, but the Government authorities arbitrarily claiming to be the rightful purchasers. We may exist in national glory, and in some instances trace our policy to magnanimous examples among the States of Christendom, but we can only look to heathen nations for deeds like this; and even then we may be put to shame by comparison. Mrs. Lee has thus been deprived of her home, the gift of her father and the descending property of her children to the latest generation. We may not stop to argue that, why or wherefore. A day of reckoning may come as to that; but shall we now withhold from her these mutilated relics of her ancestors, transmitted as sacred trusts to her for the benefit of those to come after her? Many of these articles were the property of Mrs. Washington; some of them, as the china set, presented to her by General La Fayette and given by her to her grandson, who bequeathed them to his daughter. By

what right or propriety can we retain them? I am reluctant to believe, Mr. Speaker, that partisan frenzy and hate will go so far even in this Fortieth Congress, certainly not distinguished for its justice and magnanimity.

There is a spirit sometimes among men which refines, dignifies, and exalts them almost to an equality with angels, and there is another which degrades them and would drag angels down, which would pursue their conquered enemies with relentless fury, desecrate their graves, penetrate the tomb, and wreak their insatiate vengeance upon the moldering bones of the dead. I trust we have none of this latter spirit, but that we have learned to be magnanimous from our very triumphs and exaltation. Success should teach us nobility and virtue. How do we stand before the world? The great civil war has ended; our foes were our brothers; it was a family quarrel and warfare; they are vanquished; their camp-fires have gone out; their bugle blasts have died upon the air; their last shouts of battle have ascended to the skies; thousands have gone to a soldier's grave; their wives and mothers and sisters darken the land with weeds of mourning; and they who have survived have borne for nearly four long years the keen anguish of defeat, and with heroic fortitude are now pleading for equal immunities, obligations, and burdens under the old Government of our common fathers.

"Glimpse of the forgotten brave!
Whose land from plain to mountain cave
Was Freedom's home or Glory's grave!
Shrine of the mighty! can it be
That this is all remains of thee?"

Our own losses and griefs have also been great indeed, but from this mighty conflict we have emerged with a conscious strength and power of which we were ignorant before; the ordeal has been one of blood and tears and death, but it is passed, and we are in part united again, and are moving on indissolubly, I hope, to greater prosperity and renown.

Can we not afford to be as magnanimous as we have been victorious? What so noble in a victorious chief as generosity and kindness to his fallen foe? Shall we not learn lessons from history? When Alexander the Great met and defeated in the battle of Arbela the splendid Persian monarch Darius, and took prisoners his wife and mother and daughters, with all their gold and silver, gorgeous furniture, and spacious apartments, on seeing his chariot they broke out in lamentations for fear he would destroy them and all they had possessed; but he sent Leonatus to assure them that they had nothing to fear from Alexander, for his dispute with Darius was only for empire, and that they should find themselves protected and provided for in the same manner as when Darius was in his greatest prosperity. When Julius Cæsar met his rival Pompey on the plains of Pharsalia and conquered him, gaining the most complete victory of his life, the chief glory of the conquest was the clemency of the conqueror. Many of the vanquished were his own countrymen. He granted them amnesty and took them into his own army, and he gave liberty to the whole nation of Thessaly for the sake of the victory he had obtained that day. The laurels of the hero and statesman were thus blended on his brow.

I need not call to mind other illustrious examples. Shall we not profit by them in this enlightened age? I appeal to the gentleman from Illinois, [Mr. LOGAN,] who offered this resolution of inquiry, and who was a conspicuous actor in this unhappy war, if it is not time that the ferocity of the soldier should be lost in the sagacity of the statesman? Much remains to conquer still. "Peace hath her victories no less renowned than war." Generous actions shed the brightest luster on the shield of glory. The tear that moistens the hero's eye or glistens on his cheek is brighter than the diamond in his coronet; and when he comes to the final struggle of life, when he

himself surrenders, as he must, the remembrance of one generous act to the unfortunate, will be worth more to him than all the splendors of the sword; it will be the civic crown of the Roman, and one of his surest passports to immortal bliss.

Can any gallant soldier of the Union deny this meed of justice and courtesy to the wife of the great captain of the rebellion? Can he refuse her her own? Can he withhold from her the broken "plate," the ruined "vase," the tattered "bedspread and blanket" of her great grandmother? I will not believe it. What means the amnesty provided in the amendment to your Constitution held out to those who have borne arms against the Union when you deny simple justice and civility to pure, unoffending, and dependent woman? Would you make the word of promise to the ear and break it to the hope? Would you trample the flowers of forgiveness in the dust, and "waste their sweetness on the desert air?" Imitate the example of your illustrious chief, who has just made his way to that proud seat of power he is about to assume with the sublime insignia of peace emblazoned on his banner, now, indeed, enshrined in the hearts of his followers and become their cherished and boasted motto. "Let us have peace!" Act up to that conquering ensign, mete it out in all things, little and great, and you will consummate the end so devoutly wished. If General Grant at the fall of Vicksburg could allow his prisoners to retire with the arms he had subdued, and if he could, with more majestic courage and dignity of soul, on the final field of Appomattox return his surrendered sword to the grand leader of the rebellious hosts himself, can we not find it in our hearts to restore to the unoffending wife of his bosom these poor tokens of peace, the treasured relics of her ancestors? Oh, how glorious to be

"In war renowned, in peace sublime."

It will be holding up the hands and confirming the covenant of your illustrious chief to be inaugurated to-morrow. It will be aiding in his own efforts, as I trust they are, to cluster about his head the martial splendors of Marlborough with the milder glories of the good Prince of Orange. It will be promoting him to the side of Washington himself. This will cost us nothing, and, in one sense, will be the smallest contribution to peace, but it will have a mighty significance.

"Little drops of water, little grains of sand,
Make the mighty ocean and the bounteous land;
Little deeds of kindness, little works of love,
Make this world an Eden like to heaven above."

This simple act of justice and gallantry will touch every southern heart, and do more in restoring loyalty than an army with banners. There is not a hero, mother, wife, or child in all that sunny land whose bosom will not swell with emotions of respect for their conquerors and with returning devotion to the Union they could not destroy. It will be sending dew-drops to the parched and withered fields, and will shed a gentle fragrance upon their bleeding hearts; it will be scattering sprigs of the olive branch in all their dwellings, cheering them in their desolation and inspiring them anew in their struggles and prayers for their former and better state.

"With peace and soft rapture shall teach life to glow,
And light up a smile in the aspect of woe."

Let us in this, I beseech you, consult our higher nature; let us be guided by examples of the best and noblest of our race, and not be unmindful of the sublime admonitions of our Divine Master. Let one of the last acts of this expiring Congress be remembered as one of justice and clemency. Let us return these relics where they properly belong. I doubt not, Mr. Speaker, if we could this night summon from the "mansions of rest" the blessed spirit of our Washington he would say to us, Be magnanimous and just, my country-

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Public Credit—Mr. Phelps.

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men; tarnish not the escutcheon of your glory with the least shadow of revenge; restore at once these little remnants of my house to those to whom the beloved partner of my bosom and myself have consigned them, and let them descend as cherished mementos among those who bear our name and lineage!

Public Credit.

REMARKS OF HON. C. E. PHELPS,
OF MARYLAND,
IN THE HOUSE OF REPRESENTATIVES,
February 24, 1869,

On the bill (H. R. No. 1744) to strengthen the public credit and relating to contracts for the payment of coin—

Mr. PHELPS. Mr. Speaker, as the vote which I intend to give for the bill reported by the gentleman from Ohio [Mr. SCHENCK] from the Committee of Ways and Means will probably place me in a position of antagonism with a majority of those with whom I have been politically associated on this floor I feel it incumbent upon me to state briefly the reasons which have governed my judgment upon this question.

The first section of this bill is on its face declaratory, proposes no new legislation, but professes simply to remove doubts raised by conflicting interpretations of existing laws as to the purpose of the Government in its future dealings with its creditors.

The second section, which legalizes coin contracts, has been virtually superseded by a recent decision of the Supreme Court of the United States, promulgated since the bill was reported, has therefore been deprived of significance, and may be passed without comment.

The only serious controversy upon this bill arises from the provision in its first section pledging the faith of the United States—

To the payment in coin or its equivalent of all the interest-bearing obligations of the United States, except in cases where the law authorizing the issue of any such obligations has expressly provided that the same may be paid in lawful money, or other currency than gold and silver.

This proposition is the direct converse of that contained in the national Democratic platform adopted by the New York convention in July, 1868, in the following terms:

"Where the obligations of the Government do not expressly state upon their face, or the law under which they are issued does not provide that they shall be paid in coin, they ought, in right and in justice, to be paid in the lawful money of the United States."

I confess that I had no sooner read the proceedings of the New York convention adopting this proposition than I felt that a false if not fatal step had been taken in thus committing the whole organization of the Democratic party to what I had always considered a heresy, as unsound in principle and in public morals as in constitutional law and public policy, and a treacherous innovation upon the hard money record and traditions of the Democratic party during its entire history. From the enactment of the first of the series of acts of Congress authorizing the emission of greenbacks I had shared in the doubts that were entertained by jurists of both political parties as to the constitutional power of Congress to force this currency upon the people as a legal tender. The Constitution of the United States in express terms prohibited the States from exercising such a power:

"No State shall make anything but gold and silver coin a tender in payment of debts."—Article 1, section 10.

The power thus positively inhibited to the States is not to be found among the grants of power to Congress, which is only authorized "to coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures." (Art. 1, sec. 8.) The only constitutional currency, therefore, is "coined money." This is the plain language and obvious import of the document, so held by states-

men of all parties and supported by the uniform practice of the Government, which never until the second year of the late rebellion undertook to declare anything else than coin of gold and silver a legal tender. The attempt to find some constitutional sanction for the financial legislation of 1862 and subsequent years among the incidental powers implied from the express grants "to regulate commerce," "to raise and support armies," "to provide and maintain a Navy," and to make all the laws "necessary and proper for carrying into execution" the granted powers, including, of course, "the common defense and general welfare," was a lame afterthought, an idea unsupported by sound argument, contradicted by concurrent testimony and practice, and exploded by a reference to the proceedings and debates of the Convention. That record discloses the fact that in the proposed draft of the Constitution, as it was reported from the Committee on Revision, was a provision that—

"Congress should have power to borrow money on the credit of the United States, and to emit bills of credit."

Mr. GOUVERNEUR MORRIS moved to strike out "and emit bills on the credit of the United States."

Mr. MADISON. Will it not be sufficient to prohibit the making them a tender?

Mr. ELLSWORTH thought this a favorable moment to shut and bar the door against paper money. The mischiefs of the various experiments which had been made were now fresh in the public mind and had excited the disgust of all the respectable part of America. By withholding the power from the new Government more friends of influence would be gained to it than by almost anything else.

Mr. LANGDON had rather reject the whole plan than retain the three words "and emit bills."

The vote being taken, the words were stricken from the Constitution by nine States against two.

That the framers of the Constitution deliberately intended to shut the door in the face of any such implication warranting the issue of legal-tender notes, as has been of late years attempted to be extorted from various grants in that instrument, is conclusively proved by Mr. Madison in the note which he appends to the debate from which the above extracts are taken:

"The vote in the affirmative by Virginia, on the motion to strike out the words 'emit bills of credit,' was occasioned by the acquiescence of Mr. Madison, who became satisfied that striking out the words would not disable the Government from the use of public notes, as far as they could be safe and proper, and would only cut off the pretext for a paper currency, and particularly for making the bills a tender either for public or private debts."

The power to contract an indebtedness involving as an inseparable incident the right to issue to the creditor certificates of that indebtedness, the power to emit bills of credit, was left to be implied from the express grant (art. 1, sec. 7) "to borrow money on the credit of the United States." And the only reason for refusing to embody that conceded incidental power in the form of an express grant was, as evidenced by the uncontradicted authority of Madison himself, in his own emphatic language, "to cut off the pretext for making the bills a tender either for public or private debts."

No argument can be made more complete or conclusive than the argument to prove the unconstitutionality of so much of the act of February 25, 1862, and of subsequent enactments, as authorizes the issue of legal-tender notes. So overwhelming, in fact, was the force of this argument felt to be by the defenders of this legislation at the time that many of them were compelled to take refuge behind the convenient pretext of "necessity," and advocate the emission as a temporary expedient required by the exigencies of a war to "preserve the life of the nation."

But the event has proved for the warning and instruction of posterity that to violate the Constitution in order to preserve it is as mistaken in policy as it is wicked in principle.

The necessity, if it existed at all, was simply the necessity of the famished burglar who robs

to keep himself and his family from starvation. His "temporary expedient" may carry him over the emergency of the day, but it lays the foundation for a train of consequences which will in the future remind him to his sorrow of the many inconveniences incident to a willful violation of law.

If at the commencement of the war the honest, straightforward, business-like policy had been adopted by the Government of selling its obligations for their market value instead of resorting, in the first instance, to the banks, and when they were crippled endeavoring to force an unconstitutional, irredeemable paper currency upon the people, no such "necessity" as that pleaded in defense of the latter could possibly have existed. The "obligation of contracts" would not then have been "impaired" to the extent of virtual confiscation of one third the total indebtedness of the country. Whole classes of our citizens would not then have been demoralized by this signal example of bad faith and violation of law at headquarters, and we would have escaped at least so much of that Pandora's box of misfortunes let loose upon the country as is incident to a degraded currency, inflated prices, and the speculation and speculation, profligacy, extravagance, corruption, and fraud which are their inevitable consequences.

Viewing this whole controversy about the payment of the five-twenty bonds from the constitutional stand-point indicated, I could not of course accept any construction of the acts of Congress authorizing the issue of those obligations which would involve the emission of a single dollar of legal-tender notes beyond the limit already reached. Further than this, if there was in reality any ambiguity in the language of those acts raising a doubt as to whether it was the intention of the Legislature to provide for the ultimate payment of those obligations in coin or in legal-tender notes within the amount of those notes limited by law, (\$400,000,000,) then my conviction clearly was that the interpretation of those statutes should be made subject to the presumption that the Congress of the United States could not have intended, where they did not in express terms declare, payment in an unconstitutional currency, but must have intended payment in the constitutional currency of gold and silver coin.

It is this proposition, namely, the presumption in favor of coin payments, the act being silent, that I vote for in voting for the bill of the committee; and it is the converse proposition, namely, the presumption in favor of greenback payments, the act being silent, that I emphatically dissented from in the New York platform, as well as from the distinction taken in that platform between "coin" and the "lawful money of the United States." I could never see, even admitting greenbacks to be "lawful money," how gold eagles and silver dollars of the United States, coined under its laws and stamped with its impress, had become unlawful money. And I should almost as soon have expected from a Democratic convention a declaration in favor of the military commission as a substitute for the constitutional trial by jury for civilians, because that institution was made a "legal tender" by the Government during the saturnalia of the civil war, as such an attempt to ignore the constitutional hard money of peace in favor of the bastard progeny of a crazy war measure.

Notwithstanding my want of orthodoxy upon this feature of the Democratic platform I still supported the candidates of that party at the presidential election to the best of my ability as a citizen, although declining to become a candidate for reelection to Congress. Apart from my settled and uncompromising opposition to the Radical theory and practice of reconstruction, which I regarded as, after all, the paramount issue of the canvass, I could find no such unequivocal declaration of the financial policy of that party in its Chicago platform as con-

trusted it very favorably with that just commented on. In fact, the phraseology of both these platforms was so constructed as not to prevent ingenious partisans, whether of the gold or greenback complexion, from standing harmoniously together upon either of them. Both still left open for private interpretation the special question of the true construction of the act of February 25, 1862, and the subsequent fifty-two acts as to whether those acts did or did not contract for payment in coin of the obligations issued under them. The greenback Republican from Ohio or Indiana who believed with Senators SHERMAN and MORTON that both the "letter" and "spirit" of those laws were satisfied by a legal-tender payment was sound enough on the Chicago platform to insist upon "the payment of the public indebtedness," not in coin, but "in the uttermost good faith."

Coming now directly to the question of construction of the original act creating legal tenders, passed February 25, 1862, entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States:" it provides in its first section for the issue on the credit of the United States of \$150,000,000 of United States notes not bearing interest, payable to bearer at the Treasury of the United States, \$50,000,000 of which to be in lieu of certain demand notes previously issued, and the whole amount of said notes at no time to exceed the sum of \$150,000,000, limited to \$400,000,000 by act of June 30, 1864:

"And such notes herein authorized shall be receivable in payment of all taxes, internal duties, excises, debts, and demands of every kind due to the United States, except duties on imports, and of all claims and demands against the United States of every kind whatsoever, except for interest upon bonds and notes, which shall be paid in coin, and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest as aforesaid."

The doubts that have been raised as to the ultimate purpose of the Government, in the payment of the five-twenty bonds authorized to be issued by the second section of the act, and which it is the avowed object of the pending bill to settle, spring from conflicting interpretations of the language just cited from the first section. The advocates of paper money, in and out of Congress, are understood as claiming that this language is express and positive in warranting the payment in legal-tender notes of all debts, public and private, including the bonds issued under the act; and that this language alone embodies the terms of the entire contract between the Government and its creditors.

Now, Mr. Speaker, I do not hesitate to admit that if this construction be the true construction of the act of 1862, and the only construction, then the bill now under consideration, if passed, will be a mere *brutum fulmen*. It will simply be a declaratory statute of what the law was before its passage in the opinion of the present Congress. As such it will have no binding authority upon the judicial department of the Government, to which exclusively belongs the power to construe. It is the alphabet of our system of government, whose powers are distributed and defined, that the power that makes is not the power to construe the law. If the contract between the Government and its creditors be in reality a contract to pay at maturity, either optionally at five years or absolutely at twenty, the face of its obligations in its own due bills, then we have no right to make a present to those creditors of the difference between those due-bills and the solid specie.

But if, as I have always believed, the contract between the Government and its creditors, as apparent upon a true construction of the entire act, is a contract to pay its obligations at maturity in real money, in that constitutional currency of gold and silver coin which is "lawful money" of the highest grade, then it is time that the doubts which have been

thrown over the intention of the Government to perform its contracts in honest simplicity, doubts which have notoriously done great injury to the public credit, should be removed by an emphatic legislative declaration.

The process of reasoning which has brought my mind to this conclusion may be very briefly stated. I shall exclude all presumptions founded upon official or unofficial declarations outside the positive terms of the written law. Whatever may have been the understanding at the time, either from contemporaneous debate in Congress, from the language or conduct of financial functionaries, or from authorized advertisements of the agents of the Government while soliciting for the loan, I am willing to concede, for the purposes of this argument, that both the parties to the contract, the United States on the one side and the public creditors on the other, must be held to the expressed terms of the written contract as the only measure of their rights and liabilities.

I begin with a proposition which is not disputed, that there is nothing in the law which prohibits payment in coin. It is admitted that the law leaves coin at least upon an equal footing with paper. I have not yet heard it claimed that gold and silver have been outlawed by act of Congress. It has never been denied, to my knowledge, that a citizen debtor might still, if he preferred, even under the act of 1862, pay his private debts within the country in coin, and that his creditor would still be obliged to accept it as a legal tender, although, I must confess, that no instance of the kind in practice has occurred in my experience. Nor has it been denied that it is still perfectly competent for the United States to pay its obligations in like currency. Here, then, we have included in the contract two distinct kinds of lawful money, two forms of currency, two separate and specific legal tenders, of which the creditor is bound to take notice, and interwoven with them in the same phraseology, two separate and distinct classes of indebtedness, the one public, the other private, "lawful money and a legal tender in payment of all debts, public and private, within the United States," except duties and interest.

Now, if this language and its immediate context in the first section embraced the whole contract, there might be valid reason to doubt the claim of the public creditor to demand payment in one of these specific kinds of legal tender rather than the other, its equivalent and alternative. Two kinds of currency being available for the purposes of this payment, the one unquestionably lawful money by the supreme and unchanged law, the other attempted to be made lawful by an unconstitutional enactment, the case would then arise for the application of the principle before adverted to, and a forced presumption would have to be made that the Legislature intended a constitutional payment in the currency of the Constitution. Fortunately, however, the contract is not all embraced in the language of the first section, and is not dependent upon the final decision of the constitutional question.

Further on, in the fifth section of the same act, follows a very significant and a very important provision for the purchase or payment of the entire debt of the United States by a specific appropriation, not of ambiguous "lawful money," but of coin *eo nomine*. The exact mode of the appropriation is indicated in the reservation of a coin sinking fund. This section, in terms, enacts that the coin paid for duties on imported goods shall be set apart as a special fund to be applied—

"First, To the payment in coin of the interest on the bonds and notes of the United States.

"Second, To the purchase or payment of one per cent. of the entire debt of the United States, to be made within each fiscal year after the 1st day of July, 1862, which is to be set apart as a sinking fund, and the interest of which shall, in like manner, be applied to the purchase or payment of the public debt

as the Secretary of the Treasury shall from time to time direct.

"Third, The residue thereof to be paid into the Treasury of the United States."

For the purpose for which this section is now cited, it is perfectly immaterial whether its provisions have been regarded or disregarded in practice. In point of fact, they have been up to this date utterly ignored, whether from a difference of opinion between the successive Secretaries of the Treasury on the one hand and Congress on the other, as to the policy of a sinking fund on general principles, or because the indebtedness of the Government continued rapidly augmenting for several years after the act was passed, and its entire coin resources were exhausted in efforts to keep pace with growing liabilities. I will state in this connection that immediately after learning the action that had been taken by the New York Democratic convention upon the bond question, on the 11th of July last, I offered in the House the following:

"Resolutions to carry into effect the fifth section of the act of 1862, February 25, relative to a sinking fund.

"Resolved, That the Committee of Ways and Means are hereby instructed to report for the action of the House a bill to carry into immediate effect the fifth section of the act of 1862, February 25, providing that the coin received for duties on imports shall, after paying interest on bonds and notes, be applied to the purchase or payment of one per cent. of the entire debt of the United States within each fiscal year, to be set apart, with the accruing interest, as a sinking fund.

"Resolved, That the said committee are also instructed to provide in said bill for the establishment of a board of commissioners of the sinking fund, to be composed of the Secretary of the Treasury, the Vice President of the United States, and the Speaker of the House of Representatives, whose duty it shall be, without additional compensation, to make from time to time such lawful rules and regulations as may be necessary for the management of said sinking fund.

"Resolved, That the said committee are further instructed to provide in said bill that all money which may accrue from taxes that may be imposed upon the bonds or coupons of the public debt shall be from time to time appropriated to the increment of the sinking fund, and that all special funds held under the several Departments of the Government, and not covered into the Treasury of the United States, be forthwith transferred and charged to the commissioners of the sinking fund, for the purposes thereof."

(*Ms. Doc. No. 164, Fortieth Congress, second session.*) No action has to this day been taken by the Committee of Ways and Means in the direction indicated by these resolutions, which I offered with a view to securing such an expression of a determination on the part of the Government to fulfill its forgotten pledges as would effectually silence such damaging doubts as those to which the action of the New York convention first gave formal and organized utterance. Had the whole contract made by the Government in solemn statute been literally performed upon its part, by simple compliance with the provisions requiring the special reservation of a coin sinking fund for the purchase or payment of the public debt, we would not be here to-day considering how to settle doubts by a declaratory enactment.

What, then, is the attitude of the Government to-day as respects its creditors, fixed by its own legislation?

It has gone into the markets of the world with one hand open to borrow money and holding in the other a statute pledging its coin receipts for the payment of both interest and principal. Under this statute the five-twenty bonds were issued, to be paid absolutely in twenty years, optionally in five, and a tempting intimation thrown in of a possibility of payment by "purchase" even before the five years' option. This is what the creditors understood; this is what they had a right to understand. If the Government has failed to reserve that coin sinking fund its creditors have still the right to insist that the Government shall not at least forget that it was promised. They have the right to insist upon a fair and legitimate construction of the whole contract in all its parts, and are not now to have the legal-tender clause dismembered from its context and thrown separately into their faces

while the coin-payment clause is first practically repudiated and then contemptuously suppressed.

It matters not whether the theory of a sinking fund be sound or unsound, whether its establishment heretofore has been practicable or not, whether its failure hitherto be justifiable or the reverse, the coin payment was the real end in view, the coin payment was the essence of the promise. If the machinery devised has failed it has been through no fault of the creditor. No act of omission or of commission on his part has defeated the act of Congress. All that can be said is that for some reason not explained the Government has, without the consent of its creditors, without their fault, and without even an apology, utterly ignored and repudiated an important particular of its contract in the matter of this sinking fund. And now the point is, shall the Government take advantage of its own default by affecting ignorance of the very object for which the sinking fund was devised? Shall it pretend not to see that it ever promised payment of interest and principal in coin, because it has not seen fit to resort to the particular method which it once proposed of making that promise available?

This natural interpretation of the statute, upon plain principles of law requiring that the intention of the Legislature should be gathered from the four corners of the enactment, and that the meaning of contracting parties should be learned by giving full effect to the language of the contract in all its parts, and not by suppressing its terms in any particular, is sustained also by plain maxims of sound common sense and common honesty.

The idea of a respectable Government which has some reputation to sustain seriously proposing to its creditors, by specialty, to give up

their obligations drawing interest, and take in settlement its "I. O. U.," and undertaking to call that transaction a payment, has not even the merit of originality to recommend it. It is a tame imitation of the brilliant financial expedient of Mr. Micawber. The boy who got in a basket and tried perseveringly to lift himself up by the handles presented but a faint illustration of the problem in financial dynamics undertaken to be solved by the payment of a debt in due bills.

There seems to be in the human mind, in all ages, an irrepressible hankering after the impossible, well satirized by Dean Swift in his description of the philosophers observed by Gulliver in his travels engaged in extracting sunbeams from cucumbers. Men do not now spend their lives and fortunes in quest of the universal solvent to turn all metals into gold. The search after the philosopher's stone and the elixir of life has been abandoned; there are but few now-a-days who still prosecute the discovery of perpetual motion; but it seems as if the entire class of minds in this generation whose idiosyncrasies would otherwise have led them into these fanciful researches now revel amid the mysteries and miracles of finance. We hear one sect of these philosophers, as yet confined to but one convert, and he the founder of the system, gravely proposing to banish permanently from circulation the constitutional currency of gold and silver, known to our fathers, from father Abraham down, as a vestige of barbaric ages and despotic Governments.

Such I understand to be the theory of the gentleman from Massachusetts, [Mr. BUTLER,] who proposes to shingle the country with shimplasters, fundable into unpayable bonds, and these again dissolvable into irredeemable shimplasters. By this discovery a currency both elastic and convertible is secured to a grateful

people and their posterity, and a reciprocal action established between the national debt and the circulating medium, the debt furnishing the currency and the currency paying the debt, which is to go on *ad infinitum*, thus realizing perpetual motion in finance if not in physics.

Another sage idea, much more widely ventilated and the antipodes of that just mentioned, is that Congress should legislate the country into resumption by only naming the happy day. Between these extremes a countless multitude of financial schemes have been propounded for the funding of the debt, the reduction of the rate of interest, the resumption of specie payments, and the speedy return of prosperity to the country and relief to the Government, of nearly all of which schemes it is enough to say that those which are honest are impracticable, and those which are practicable are dishonest.

It is time that we stopped entertaining each other with these romantic delusions and settled down upon the hard, dry fact, that for nations as well as for individuals there is no new way to pay old debts. A succession of political follies, blunders, and crimes, from which no party and no section have been wholly free of responsibility, culminating in war, has entailed a mortgage of over \$2,500,000,000 upon the property and labor of the entire population of the Republic. There is but one way of discharging this indebtedness, and that is by working it out. Those who talk of repudiation forget that while "private credit is wealth, public honor is security;" and that so long as money is the sinews of war, and credit is the fountain of money, a Government dishonored in the markets of the world and distrusted by its own citizens must expect nothing but humiliation, insult, and aggression.

PUBLIC ACTS OF THE FORTIETH CONGRESS

OF THE

UNITED STATES,

Passed at the Third Session, which was begun and held at the City of Washington, in the District of Columbia, on Monday, the 7th day of December, A. D. 1868, and was adjourned without day on Thursday, the 4th day of March, A. D. 1869.

ANDREW JOHNSON, President. BENJAMIN F. WADE, President of the Senate. SCHUYLER COLFAX, Speaker of the House of Representatives, until the 3d day of March, A. D. 1869, on which day he resigned, and THEODORE M. POMEROY was elected Speaker, and so acted for the remainder of the session.

CHAP. II.—An Act providing for the Sale of the Lands, Tenements, and Water Privileges belonging to the United States at and near Harper's Ferry, in the County of Jefferson, West Virginia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and directed to make sale at public auction of the lands, tenements, and water privileges belonging to the United States, at and near Harper's Ferry, in the county of Jefferson, West Virginia, except as hereinafter provided, in such parcels as shall, in his opinion, be best adapted to secure the greatest amount of money therefor, on a credit of one and two years, taking bond and security from the purchaser or purchasers for the payment of the purchase-money; and that the proceeds of such sale shall be applied by him as follows: *Provided,* That no such sale shall be made until the time, terms, and place thereof shall have been published in one of the principal newspapers in each of the cities of Washington, New York, and Cincinnati for sixty days prior to the day of sale:

First, in defraying the expenses of making said sale.

Second, in refunding to the United States the principal sum of purchase-money paid for said lands, tenements, and water privileges by the United States, and for the erection of buildings thereon.

Third, if any surplus remain, he shall deliver the same to such agent as the Legislature of the State of West Virginia shall appoint to receive the same; but upon condition that such surplus shall be received by the State of West Virginia, to be set apart, held, invested, used, and applied as a part of the school fund of that State, under and by virtue of, and in manner and form as provided in section first of the tenth article of the constitution of West Virginia, and for no other purpose. And on making such sale of the said lands, tenements, and water privileges, or any part thereof, the said Secretary of War is hereby empowered and required, on receiving the purchase money in full, to execute all necessary deeds therefor to the purchaser or purchasers thereof on behalf of the United States.

SEC. 2. *And be it further enacted,* That the Secretary of War be authorized and directed to convey by deed to Storer College, an institution of learning chartered by the State of

West Virginia, all those certain portions of the aforesaid property, namely: the buildings, with the lots on which they stand, numbered thirty, thirty-one, and thirty-two, and also building numbered twenty-five, with enough of the lot on which it stands to give a breadth of ten rods on High street, otherwise known as Washington street, all of said buildings and lots being situated at Harper's Ferry aforesaid, being the same which have heretofore been assigned by the War Department to the Bureau of Refugees, Freedmen, and Abandoned Lands for educational purposes; and also to convey by deed to the proper persons all such other lands and buildings, portions of the aforesaid property, as have heretofore been set apart by the proper authority for religious, charitable, and town purposes.

APPROVED, December 15, 1868.

CHAP. IV.—An Act to amend an Act entitled "An Act imposing Taxes on Distilled Spirits and Tobacco, and for other purposes," approved July twentieth, eighteen hundred and sixty-eight.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the seventy-eighth section of "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July twentieth, eighteen hundred and sixty eight, be and the same is hereby amended by striking out the words "first day of January" wherever they occur in said section and inserting in lieu thereof the words "fifteenth day of February."

APPROVED, December 22, 1868.

CHAP. VII.—An Act authorizing the Admission in Evidence of Copies of certain Papers, Documents, and Entries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That copies of all official papers and documents belonging to and filed or remaining in the office of any consul, vice consul, or commercial agent of the United States, and of all official entries in the books or records of any such office, shall, when certified under the hand and official seal of the proper consul, vice consul, or commercial agent, be admissible in evidence in all the courts of the United States.

APPROVED, January 8, 1869.

CHAP. IX.—An Act to repeal certain provisions of section six of an Act entitled "An Act making Appropriations for the Support of the Army for the year ending June thirtieth, eighteen hundred and sixty-eight, and for other purposes," approved March second, eighteen hundred and sixty-seven.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section six of the act entitled "An act making appropriations for the support of the Army for the year ending June thirtieth, eighteen hundred and sixty-eight, and for other purposes," approved March second, eighteen hundred and sixty-seven, so far as the same is applicable to the States of North Carolina, South Carolina, Florida, Alabama, and Louisiana, is hereby repealed.

APPROVED, January 14, 1869.

CHAP. XIII.—An Act amendatory of an Act entitled "An Act relating to Habeas Corpus and regulating Judicial Proceedings in certain Cases."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of an act entitled "An act relating to habeas corpus and regulating judicial proceedings in certain cases," approved March third, eighteen hundred and sixty-three, so far as the same relate to the removal of causes from the State to the Federal courts, be, and the same [are] is hereby, declared to extend to any suit or action at law, or prosecution, civil or criminal, which has been or shall be commenced in any State court against the owner or owners of any ship or vessel, or of any railway, or of any line of transportation, firm, or corporation engaged in business as common carriers of goods, wares, or merchandise, for any loss or damage which may have happened to any goods, wares, or merchandise whatever, which shall have been delivered to any such owner or owners of any ship or vessel, or any railway, or of any line of transportation, firm, or corporation, engaged in business as common carriers, where such loss or damage shall have been occasioned by the acts of those engaged in hostility to the Government of the United States during the late rebellion, or where such loss or damage shall have been occasioned by any of the forces of the United States, or by any officer in command of such forces: *Provided,* That this act shall not be construed to affect any contract of

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insurance for war risks which may have been made with reference to any goods, wares, or merchandise which shall have been so destroyed.

APPROVED, January 22, 1869.

CHAP. XV.—An Act to amend an Act entitled "An Act to prescribe the mode of obtaining Evidence in cases of Contested Elections," approved February nineteenth, eighteen hundred and fifty-one.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any register in bankruptcy or notary public, resident in a congressional district, the right to represent which is contested, is hereby authorized to take the testimony and to perform any of the other acts which a judge of any court of the United States is authorized to do by the third section of an act entitled "An act to prescribe the mode of obtaining evidence in cases of contested elections," approved February nineteenth, eighteen hundred and fifty-one.

APPROVED, January 23, 1869.

CHAP. XVI.—An Act in relation to the Appointment of Midshipmen from the lately Reconstructed States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he hereby is, authorized and directed to make the appointment of midshipmen to the United States Naval Academy on or before the fourth day of March next, from any State in which the election of members of the House of Representatives to the Forty-First Congress does not by law take place previous to the first day of July, eighteen hundred and sixty-nine, upon the nomination of the members of the House of Representatives from such States in the present Congress: *Provided,* That no such appointment shall be made from any State not by law entitled to the appointment of midshipmen in the year eighteen hundred and sixty-nine.

APPROVED, January 30, 1869.

CHAP. XIX.—An Act making Appropriations for the Support of the Military Academy for the fiscal year ending June thirtieth, eighteen hundred and seventy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Military Academy for the year ending the thirtieth June, eighteen hundred and seventy:

For additional pay of officers, and for pay of instructors, cadets, and musicians, one hundred and eighty-four thousand five hundred and seventy dollars and eighty-eight cents.

For commutation of officers' subsistence, six thousand one hundred and thirty-two dollars.

For pay in lieu of clothing to officers' servants, one hundred and fifty-six dollars.

For current and ordinary expenses, sixty-one thousand nine hundred and thirty dollars.

For increase and expenses of library, two thousand dollars.

For expenses of Board of Visitors, two thousand dollars.

For forage for artillery and cavalry horses, four thousand dollars.

For horses for artillery and cavalry practice, two thousand dollars.

For repairs of officers' quarters, three thousand dollars.

For furniture for cadets' hospital, five hundred dollars.

For gas pipes, gasometers, and retorts, six hundred dollars.

For materials for quarters for subaltern officers, three thousand dollars.

For purchase of fuel for cadets' mess-hall, two thousand dollars.

For furniture for soldiers' hospital, one hundred dollars.

For reflooring academic building and barracks, one thousand dollars.

For repairing roads, five hundred dollars.

For contingencies for the Superintendent of the Academy, one thousand dollars.

APPROVED, February 2, 1869.

CHAP. XX.—An Act making Appropriations for the Payment of Invalid and other Pensions of the United States for the year ending June thirtieth, eighteen hundred and seventy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of pensions for the year ending the thirtieth of June, eighteen hundred and seventy:

For invalid pensions under various acts, nine million dollars.

For pensions of widows, children, mothers, fathers, brothers, and sisters of soldiers, as provided for by acts of March eighteenth, eighteen hundred and eighteen; May fifteenth, eighteen hundred and twenty-eight; June seventh, eighteen hundred and thirty-two; July fourth, eighteen hundred and thirty-six; July seventh, eighteen hundred and thirty-eight; March third, eighteen hundred and forty-three; June seventeenth, eighteen hundred and forty-four; February second, July twenty-first, and July twenty-ninth, eighteen hundred and forty-eight; February third, eighteen hundred and fifty-three; June third, eighteen hundred and fifty-eight; and July fourteenth, eighteen hundred and sixty-two, with its supplementary acts, and under various special acts, and for compensation to pension agents and expenses of agencies, ten million dollars.

For Navy pensions to invalids, widows, and children, and other relatives of the officers and men of the Navy dying in the line of duty, now provided by law, two hundred and fifty thousand dollars.

APPROVED, February 2, 1869.

CHAP. XXI.—An Act supplementary to an Act entitled "An Act to confirm the Titles to certain Lands in the State of Nebraska."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions and benefits of an act entitled "An act to confirm the titles to certain lands in the State of Nebraska," approved the twenty-fifth day of July, anno Domini, eighteen hundred and sixty-eight, be, and the same are hereby, extended to the east half and northwest quarter of the southeast quarter of section nine, township fifteen, range thirteen east, sixth principal meridian, in Douglas county, Nebraska, and that the title to the same is hereby confirmed to the parties holding by deed from the patentee.

APPROVED, February 2, 1869.

CHAP. XXIII.—An Act making Appropriations for the Payment of Salaries and Contingent Expenses of the Patent Office for January and February, eighteen hundred and sixty-nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of fifty-four thousand seven hundred and sixty-six dollars for the payment of the salaries of the officers

and employés of the Patent Office, and for the ordinary contingent expenses of said office, for the months of January and February, eighteen hundred and sixty-nine.

APPROVED, February 9, 1869.

CHAP. XXIV.—An Act to amend an Act entitled "An Act to prohibit the Coolie Trade by American Citizens in American Vessels," approved February nineteen, eighteen hundred and sixty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all the provisions of an act entitled "An act to prohibit the coolie trade by American citizens in American vessels," approved February nineteen, eighteen hundred and sixty-two, shall be extended so as to include and embrace the inhabitants or subjects of Japan, or of any other oriental country, known as coolies, in the same manner and to the same extent as such act and its provisions apply to the inhabitants and subjects of China.

APPROVED, February 9, 1869.

CHAP. XXXI.—An Act for the temporary Relief of the Poor and Destitute People in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of thirty thousand dollars be, and the same is hereby, appropriated out of money in the Treasury not otherwise appropriated, for the temporary relief of the poor and destitute population in the District of Columbia, to be expended under the supervision and direction of the mayor of the city of Washington, the mayor of the city of Georgetown, and the president of the levy court of the District of Columbia.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate pro tempore.

Indorsed by the PRESIDENT: "Received February 6, 1869."

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

CHAP. XXXII.—An Act to prevent loaning Money upon United States Notes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no national banking association shall hereafter offer or receive United States notes or national bank notes as security or as collateral security for any loan of money, or for a consideration shall agree to withhold the same from use, or shall offer or receive the custody or promise of custody of such notes as security, or as collateral security, or consideration for any loan of money; and any national banking association offending against the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof in any United States court having jurisdiction shall be punished by a fine not exceeding one thousand dollars, and by a further sum equal to one third of the money so loaned; and the officer or officers of said bank who shall make such loan or loans shall be liable for a further sum equal to one quarter of the money so loaned; and the prosecution of such offenders shall be commenced and conducted as provided for the punishment of offenses in an act to provide a national currency, approved June third, eighteen hundred

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and sixty-four, and the fine or penalty so recovered shall be for the benefit of the party bringing such suit.

APPROVED, February 19, 1869.

CHAP. XXXIII.—An Act to locate and establish an Assay Office in the Territory of Idaho.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a United States assay office be located and established at Boise City, in the Territory of Idaho, for the assaying of gold and silver. For the carrying on of the business of said office the following officers shall be appointed, as soon as the public interest shall require their service, upon the nomination of the President, by and with the advice and consent of the Senate, namely: one superintendent, one assayer, and one melter and refiner, and two clerks, and the superintendent may employ as many subordinate workmen and laborers, under the direction of the Secretary of the Treasury, as may be required. The salaries of the said officers and clerks shall be as follows: to the superintendent, the sum of two thousand dollars; to the assayer, the sum of eighteen hundred dollars; to the melter and refiner, eighteen hundred dollars; to the clerks, one eighteen hundred dollars, and one sixteen hundred dollars; to the subordinate workmen and laborers such wages and allowances as are customary, according to their respective stations and occupations.

SEC. 2. *And be it further enacted,* That the officers and clerks to be appointed under this act, before entering upon the execution of their offices, shall take an oath or affirmation before some judge of the United States or of the supreme court of said Territory, as prescribed by the act of July second, eighteen hundred and sixty-two, and each become bound to the United States of America, with one or more sureties, to the satisfaction of the Director of the Mint or of one of the judges of the supreme court of Idaho Territory and of the Secretary of the Treasury, with the condition of the faithful performance of the duties of their offices.

SEC. 3. *And be it further enacted.* That the general direction of the business of said assay office of the United States shall be under the control and regulation of the Director of the Mint at Philadelphia, subject to the approbation of the Secretary; and for that purpose it shall be the duty of the said Director to prescribe such regulations, and to require such returns periodically and occasionally, and to establish such charges for parting, assaying, melting, and refining, as shall appear to him to be necessary for the purpose of carrying into effect the intention of this act in establishing said assay office.

SEC. 4. *And be it further enacted,* That said assay office shall be a place of deposit for such public moneys as the Secretary of the Treasury may direct. And the superintendent of said assay office, who shall perform the duties of treasurer thereof, shall have the custody of the same, and also perform the duties of assistant treasurer; and for that purpose shall be subject to all the provisions contained in an act [entitled] "An act to provide for the better organization of the Treasury, and for the collection, safe-keeping, transfer, and disbursement of the public revenue," approved August sixth, eighteen hundred and forty-six, which relates to the treasury of the branch mint of New Orleans.

SEC. 5. *And be it further enacted,* That the superintendent of said assay office be authorized, under the direction of the Secretary of the Treasury, and on terms to be prescribed by him, to issue in payment of the gold dust and bullion deposited for assay and coinage, or bars, drafts, or certificates of deposit, in sums of not less than one hundred dollars, payable at the Treasury, or any sub-Treasury of the

United States, to any depositor electing to receive payment in that form.

SEC. 6. *And be it further enacted,* That the sum of seventy-five thousand dollars be, and the same is hereby, appropriated out of any money in the United States Treasury not otherwise appropriated, to be expended in the construction of said assay office, under the direction of the Secretary of the Treasury; and the Secretary of the Treasury is hereby directed, on the passage of this act, to order the immediate construction of said assay office.

SEC. 7. *And be it further enacted,* That all the laws and parts of laws now in force for the regulation of the United States assay office at New York, and for the government of the officers and persons employed therein, and for the punishment of all offenses connected with said assay office, or with the Mint of the United States, shall be, and they are hereby, declared to be in full force in relation to the assay office by this act located and established, so far as the same may be applicable thereto.

APPROVED, February 19, 1869.

CHAP. XXXIV.—An Act to give an additional Term of the United States Circuit Court for the Eastern District of Arkansas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That instead of one term a year, as now prescribed by law, the circuit court of the United States for the eastern district of Arkansas shall hereafter be held on the second Mondays of April and October in each year.

SEC. 2. *And be it further enacted,* That this act shall be in force from and after the passage thereof.

APPROVED, February 19, 1869.

CHAP. XXXV.—An Act to authorize the Importation of Machinery, for Repair only, free of Duty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That machinery for repair may be imported into the United States without payment of duty, under bond to be given in double the appraised value thereof, to be withdrawn and exported after said machinery shall have been repaired; and the Secretary of the Treasury is hereby authorized and directed to prescribe such rules and regulations as may be necessary to protect the revenue against fraud, and secure the identity and character of all such importations when again withdrawn and exported, restricting and limiting the export and withdrawal to the same port of entry where imported, and also limiting all bonds to a period of time of not more than six months from the date of the importation.

APPROVED, February 19, 1869.

CHAP. XXXVI.—An Act to enable the Holly, Wayne, and Monroe Railway Company, in the State of Michigan, to have the Subscription to its Capital Stock duly stamped.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the president of the board of directors of the Holly, Wayne, and Monroe Railway Company, in the State of Michigan, or any director of said company, may appear before the collector of the revenue of the first congressional district of the State of Michigan at any time prior to the first day of May, eighteen hundred and sixty-nine, with the subscriptions to the capital stock of said company, and the said collector shall, upon the payment of the proper stamps required by law, affix the proper stamps to said subscriptions to said capital stock, and note upon the margin thereof the time of his so doing; and he shall also cancel and note upon the margin thereof as aforesaid all such stamps as have already been affixed and not duly canceled;

and the said subscriptions to the capital stock of said company shall thereupon be held good and valid to all intents and purposes, and may be used in all courts and places in the same manner and with like effects as if they had been originally duly stamped.

APPROVED, February 19, 1869.

CHAP. XXXVII.—An Act to establish a certain Post Road in the State of Connecticut.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress be, and the same is hereby, given to the erection of a drawbridge over the Connecticut river, at or near Middletown, in the State of Connecticut, by the New Haven, Middletown, and Willimantic Railroad Company, in accordance with the terms of a resolution passed by the General Assembly of said State, at the May session thereof, A. D. eighteen hundred and sixty-eight, amendatory of the charter of said railroad company.

SEC. 2. *And be it further enacted,* That said bridge, when completed in the manner specified in said resolution, and in the place and in accordance with the plans of the board of engineers to be appointed in conformity to the resolution aforesaid, and in accordance with the requirements of the second section of the resolution of the General Assembly of the State aforesaid, shall be deemed and taken to be a legal structure, and shall, with the railroad of which it is to be a part, be a post road for the transmission of the mails of the United States.

SEC. 3. *And be it further enacted,* That Congress reserves the right to withdraw the assent hereby given, in case the free navigation of said river shall at any time be substantially and materially obstructed by any bridge to be erected under the authority of said resolution.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate pro tempore.

Indorsed by the PRESIDENT: "Received February 8, 1869."

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

CHAP. XXXVIII.—An Act to establish a certain Post Road in the State of Connecticut.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress be, and the same is hereby, given to the erection of a drawbridge over the Connecticut river, in the State of Connecticut, by the Shore Line Railway Company, in accordance with the terms of a resolution passed by the General Assembly of said State at the May session thereof, A. D. eighteen hundred and sixty-eight, amendatory of the charter of said railroad company.

SEC. 2. *And be it further enacted,* That said bridge, when completed in the manner specified in said resolution, and in the place and in accordance with the plans of the board of engineers appointed in conformity to the resolution aforesaid, and in accordance with the requirements of the second section of the resolution of the General Assembly of the State aforesaid, shall be deemed and taken to be a legal structure, and shall, with the railroad of which it is to be a part, be a post road for the transmission of the mails of the United States.

SEC. 3. *And be it further enacted,* That Congress reserves the right to withdraw the assent

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hereby given in case the free navigation of said river shall at any time be substantially and materially obstructed by any bridge to be erected under the authority of said resolution.

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Speaker of the House of Representatives.

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Indorsed by the PRESIDENT: "Received February 8, 1869."

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

CHAP. XLII.—An Act to establish the Collection District of Aroostook, in the State of Maine, and to more accurately define the Boundaries of the District of Newark, New Jersey.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That that portion of the State of Maine now included within the limits of the county of Aroostook be, and the same is hereby, constituted a customs collection district, to be called the district of Aroostook, of which Houlton, in the said county, shall be the only port of entry.

SEC. 2. *And be it further enacted,* That a collector of customs shall be appointed for the said district, who shall reside at said port of entry, and shall be entitled to the same compensation that is allowed to other collectors of customs on the northern, northeastern, and northwestern frontiers of the United States by the second section of the act approved June seventeenth, eighteen hundred and sixty-four: *Provided,* That the aggregate maximum compensation of the collector of Aroostook shall not exceed fifteen hundred dollars, and which shall be the entire compensation allowed.

SEC. 3. *And be it further enacted,* That the district of Newark, in the State of New Jersey, shall be extended so as to embrace all the waters and shores of Newark bay and the rivers and bays tributary thereto, the northern shore of the strait or passage known as Kill Van Kull, and all that part of the western shore of the strait or passage known as Staten Island sound, or Arthur Kill, which lies north of the northern boundary line of the town of Rahway.

APPROVED, February 22, 1869.

CHAP. XLIII.—An Act to provide for a Term of the Circuit and District Courts of the United States for the District of Vermont.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a regular term of the circuit and district courts of the United States for the district of Vermont shall hereafter be held at Burlington, in said district, on the fourth Tuesday in February in each year: *Provided,* however, That this act shall not be construed to authorize any expenditure for the use of a building for such courts.

SEC. 2. *And be it further enacted,* That permission is hereby given to the authorities of the State of Vermont to erect and maintain at their own expense a court-house, and also a jail upon or partly upon the southerly side of the lot of land belonging to the United States, in said Burlington, on which the custom-house building stands: *Provided,* That no part of said lot shall be built upon or used for said purpose within fifty feet of said custom house: *And provided further,* That said State authorities shall permit the courts of the United States to be held in said court-house without charge for the use thereof, and shall permit prisoners held

under the authority of the United States to be imprisoned in such jail. And for the purposes aforesaid jurisdiction is hereby ceded to the State of Vermont over the land so to be used and occupied.

APPROVED, February 22, 1869.

CHAP. XLV.—An Act regulating the Duties on imported Copper and Copper Ores.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, in lieu of the duties heretofore imposed by law on the articles herein-after mentioned, there shall be levied, collected, and paid on the articles herein enumerated and provided for, imported from foreign countries, the following specified duties and rates of duty, that is to say: on all copper imported in the form of ores, three cents on each pound of fine copper contained therein; on all regulus of copper, and on all black or coarse copper, four cents on each pound of fine copper contained therein; on all old copper, fit only for remanufacture, four cents per pound; on all copper in plates, bars, ingots, pigs, and in other forms not manufactured or herein enumerated, including sulphate of copper or blue vitriol, five cents per pound; on copper in rolled plates called braziers' copper, sheets, rods, pipes, and copper bottoms, eyelets, and all manufactures of copper, or of which copper shall be a component of chief value, not otherwise herein provided for, forty-five per centum ad valorem: *Provided,* That the increased duty imposed by this act shall not apply to any of the articles therein enumerated which shall have been in course of transit to the United States, and actually on shipboard on the nineteenth of January, eighteen hundred and sixty-nine.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES, U. S.,
February 23, 1869.

The President of the United States, having returned to the House of Representatives, in which it originated, the bill entitled "An act regulating the duties on imported copper and copper ores," with his objections thereto, the House of Representatives proceeded, in pursuance of the Constitution, to reconsider the same; and

Resolved, That the bill do pass, two thirds of the House of Representatives agreeing to pass the same.

Attest: EDWD. McPHERSON,
Clerk H. R. U. S.

IN SENATE OF THE UNITED STATES,
February 24, 1869.

The Senate having proceeded, in pursuance of the Constitution, to reconsider the bill entitled "An act regulating the duties on imported copper and copper ores," returned to the House of Representatives by the President of the United States, with his objections, and sent by the House of Representatives to the Senate, with the message of the President returning the bill:

Resolved, That the bill do pass, two thirds of the Senate agreeing to pass the same.

Attest: GEO. C. GORHAM,
Secretary of the Senate, U. S.

CHAP. XLVI.—An Act making Appropriations (in part) for the Expenses of the Indian Department, and for fulfilling Treaty Stipulations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise

appropriated, for the purpose hereinafter expressed:

For the relief of the Yanceton Sioux tribe of Indians, in Dakota Territory, in fulfilling treaty stipulations where the money has been misappropriated, to be expended under the direction of the Governor and acting superintendent of Indian affairs of Dakota Territory, and to be considered as an offset against any claim these Indians may have against the Government for services during the late war, ten thousand dollars.

APPROVED, February 25, 1869.

CHAP. XLVII.—An Act to amend an Act entitled "An Act to confirm certain Private Land Claims in the Territory of New Mexico."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior lines of the Cornelio Vigil and Cram St. Vrain claims of eleven leagues each, subject to claims derived from said parties as confirmed by the act of Congress approved twenty-first June, eighteen hundred and sixty, United States Statutes, volume twelve, page seventy-one, shall be adjusted according to the lines of the public surveys, as nearly as practicable with the limits of said claims, yet in as compact a form as possible; and the claims of all actual settlers upon the tracts heretofore claimed by the said Vigil and St. Vrain, holding possession under titles or promises to settle, which have been made by said Vigil and St. Vrain or their legal representatives prior to the passage of this act, who may establish their claims within one year from the passage of this act to the satisfaction of the register and receiver of the proper land district, shall in like manner be adjusted according to the subdivisional lines of survey, so as to include the lands so settled upon or purchased, and the areas of the same shall be deducted and excluded from the adjusted limits of the claims of said Vigil and St. Vrain respectively; and the claims of all other actual settlers falling within the limits of the located claims of Vigil and St. Vrain shall be adjusted to the extent which shall embrace their several settlements upon their several claims being established either as preëmption or homesteads according to law; and for the aggregate of the areas of the latter class of claims the said Vigil and St. Vrain or their legal representatives shall be entitled to locate a like quantity of public lands, not mineral, according to the lines of the public surveys, and not to exceed one hundred and sixty acres in one section.

SEC. 2. *And be it further enacted,* That it shall be the duty of the General Land Office to cause the lines of the public surveys to be run in the regions where a proper location would place the said Vigil and St. Vrain claims, and that the expense of the same shall be paid out of any moneys in the Treasury not otherwise appropriated; yet, before the confirmation of the said act of June twenty-first, eighteen hundred and sixty, shall become legally effective, the said Vigil and St. Vrain, or their legal representatives, shall pay the cost of so much of said surveys as inures to their benefit respectively, and that all settlers of the said third class, whose claims may be adjusted as valid, shall have the right to enter their improvements by a strict compliance with the preëmption or homestead laws.

SEC. 3. *And be it further enacted,* That upon the adjustment of the Vigil and St. Vrain claims according to the provisions of this act it shall be the duty of the surveyor general of the district to furnish proper approved plats to said claimants, or their legal representatives, and so in like manner to said derivative claimants, which shall be evidence of title, the same to be done according to such instructions as may be given by the Commissioner of the General Land Office.

SEC. 4. *And be it further enacted,* That immediately upon running the lines as provided

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in section second of this act the surveyor general of said district shall notify the said Vigil and St. Vrain, or their agents or legal representatives, of the fact of such survey being made, and said claimants shall, within three months after notice of such survey, select and locate their said claims in accordance with such survey and the provisions of this act and of the act to which this is amendatory, so far as the same is not changed by this act, and shall within said time furnish the surveyor general with the description of such location, specifying the lines of the same. And the party failing to make such selection and location, in such manner and within such time, shall be deemed and held to have abandoned their claim, and their rights and equities under this act, and the act to which this is amendatory, shall cease and terminate.

SEC. 5. *And be it further enacted*, That in case of the neglect or refusal of the said Vigil and St. Vrain, or either of them, to accept of the provisions of this act, and the act to which this is amendatory, and to locate their said claims, as provided therein, no suit shall be brought or proceedings instituted in any of the courts of the United States, by such party or by any one claiming through or under them, to establish or enforce said claims, or for any cause of action founded upon the same, after six months from the passage of this act.

APPROVED, February 25, 1869.

CHAP. XLVIII.—An Act making Appropriations for the Naval Service for the year ending June thirtieth, eighteen hundred and seventy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the year ending the thirtieth of June, eighteen hundred and seventy:

For pay of commission, warrant, and petty officers and seamen, seven millions of dollars.

BUREAU OF YARDS AND DOCKS.

For contingent expenses that may accrue for the following purposes, viz:

For freight and transportation; for printing, advertising, and stationery; for books, models, and drawings; for the purchase and repair of fire engines; for machinery of every description; for purchase and maintenance of oxen and horses, and driving teams; for carts, timber wheels, and workmen's tools; for telegrams and postage of letters on public service; for furniture for Government offices and houses; for candles, oil, and gas; for cleaning and clearing up yards; for flags, awnings, and packing-boxes; for rent of landings; for tolls and ferriages; for water-tax, and for rent of stores, eight hundred thousand dollars.

Navy-Yard at Portsmouth, New Hampshire.

For the necessary repairs of all kinds, fifty thousand dollars.

Navy-Yard at Boston.

For repairs of buildings, and repairs of all kinds, one hundred thousand dollars.

Navy-Yard at New York.

For repairs of all kinds, one hundred thousand dollars.

Navy-Yard at Philadelphia.

For repairs of all kinds, twenty-five thousand dollars.

Navy-Yard at Washington.

For repairs of all kinds, fifty thousand dollars.

Navy-Yard at Norfolk.

For preservation of the yard and the necessary repairs of all kinds, thirty thousand dollars.

Navy-Yard at Pensacola.

For preservation of the yard and the necessary repairs of all kinds, thirty thousand dollars.

Navy-Yard at Mare Island.

For repairs of all kinds, sixty thousand dollars.

Naval Station at Sackett's Harbor.

For repairs and the general care of the public property, one thousand dollars.

Naval Station at Mound City, Illinois.

For necessary repairs of all kinds, five thousand dollars.

Naval Asylum at Philadelphia.

For furniture and repairs of same, one thousand dollars.

For house-cleaning and whitewashing, eight hundred dollars.

For furnaces, grates, and ranges, six hundred dollars.

For gas and water rent, one thousand two hundred dollars.

For general improvement and repairs, five thousand dollars.

For cemetery, five hundred dollars.

For support of beneficiaries, fifty-four thousand dollars: *Provided*, That this appropriation and all amounts hereafter appropriated for the support of the Naval Asylum at Philadelphia, the beneficiaries therein, the pay of officers, repairs, contingent and other expenses, shall be charged to and paid from the income of the naval pension fund.

For pay of superintendents and the civil establishment at the several navy-yards and stations under the control of the Bureau of Yards and Docks, and at the Navy Asylum, fifty thousand dollars.

BUREAU OF EQUIPMENT AND RECRUITING.

For the purchase of hemp and other material for the Navy; for the purchase of coal and the transportation and other expenses thereon; for the purchase of various articles of equipment, viz: wire rope and machinery for its manufacture, hides, cordage, canvas, leather, iron cables and anchors, furniture, galleys, and hose, and for the payment of labor for equipping vessels, and manufacture of articles in the navy-yards pertaining to this bureau, eight hundred thousand dollars.

For expenses that may accrue for the following purposes, viz:

For freight and transportation of materials and stores for Bureau of Equipment and Recruiting, expenses of recruiting, transportation of enlisted men, printing, postage, advertising, telegraphing, and stationery for the bureau, apprehension of deserters, assistance to vessels in distress, two hundred thousand dollars.

For the pay of superintendents and the civil establishment at the several navy-yards under this bureau, eighteen thousand dollars.

BUREAU OF NAVIGATION.

For navigation apparatus and supplies, and for purposes incidental to navigation, viz:

For pay of the civil establishment under this bureau at the several navy-yards, twelve thousand dollars.

For local and foreign pilotage and towage for vessels of war, fifty thousand dollars.

For text-books, stationery, instruments, and furniture used in instructing naval apprentices, one thousand five hundred dollars.

For services and materials for correcting compasses on board of vessels, and for testing compasses on shore, three thousand dollars.

For nautical and astronomical instruments, for nautical books, maps, and charts, and sailing directions, and for repairs of nautical instruments for vessels of war, ten thousand dollars.

For books for libraries of ships of war, three thousand dollars.

For Navy signals and apparatus, other than signal flags, namely, signal lanterns, lights, rockets, and apparatus of all kinds for signal purposes, for drawings and engravings for signal books, six thousand dollars.

For compass fittings, including binnacles, pedestals, and other appurtenances of ships' compasses, to be made in the yards, three thousand dollars.

For appliances for measuring ships' way and sounding, as logs, log lines, log reels, log paper, and sand glasses, for leads, lead reels, lead lines, armings for leads, and other sounding apparatus, and for running lights, (side and head lanterns prescribed by law,) three thousand dollars.

For lamps and lanterns of all kinds for binnacles, standard compasses, and tops, for lamps for cabins, ward-room, and other quarters for officers, and for decks, holds, and store-rooms, and for lamp-wicks, chimneys, shades, and other appendages, six thousand dollars.

For bunting and other material for flags, and for making and repairing flags of all kinds for the Navy, three thousand dollars.

For oil for vessels of war, candles, chimneys, wick, and soap, other than for engineer department, forty thousand dollars.

For commanders' and navigators' stationery for vessels of war, five thousand dollars.

For musical instruments and music of flag-ships for vessels of war, one thousand dollars.

For freight and transportation of navigation materials, instruments, books, and stores, postage on public letters, telegraphing on public business, advertising for proposals, packing-boxes and material, blank-books, forms, and stationery at navigation offices, eight thousand dollars.

For preparing and publishing maps, charts, nautical books, and other hydrographic information, twenty thousand dollars.

For expenses of Naval Academy, viz:

For pay of professors and others, sixty thousand dollars.

For pay of watchmen and others, forty-five thousand two hundred and ninety-four dollars.

For contingent expenses, sixty-one thousand four hundred and fifty dollars.

For necessary repairs of quarters, eight thousand six hundred and eighty dollars.

For support of department of steam engineering, and for pay of mechanics and laborers, five thousand dollars.

For expenses of Naval Observatory, viz:

For wages of one instrument-maker, one messenger, one porter, and three watchmen; for keeping grounds in order and repairs to buildings and inclosures; for fuel, light, and office furniture, and for stationery, chemicals for batteries, postage and freight, and contingent, thirteen thousand five hundred dollars.

For salary of clerk, one thousand five hundred dollars.

For salary of three aids, four thousand dollars.

For preparing for publication the American Nautical Almanac, namely: for pay of computers and clerk, twenty thousand five hundred dollars.

For observation of the eclipse of the sun in August, under the direction of the superintendent of the Nautical Almanac, five thousand dollars, or so much thereof as may be necessary.

For office expenses, one thousand dollars.

For erecting suitable frame building and mounting transit circle in it, five thousand dollars.

For payment of expenses of Visitors to the Naval Academy, two thousand dollars.

For deepening the entrance to the harbor of Midway Islands, in the Pacific ocean, so as to afford a safe rendezvous and port of refuge and resort for the naval and merchant vessels of the United States, fifty thousand dollars, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Navy, if, in his judgment, after a pre-

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liminary examination, he shall deem such expenditure expedient.

BUREAU OF ORDNANCE.

For guns, gun-carriages, shot, shell, magazine and laboratory stores, and equipments of all kinds; for gunpowder, small arms, equipments, and ammunition; for fuel and materials necessary in carrying on the mechanical branches of the ordnance department at the navy-yards and stations, two hundred and fifty thousand dollars.

For pay of the superintendents and the civil establishment at the several navy yards under this bureau, fifteen thousand dollars.

For contingent expenses, one thousand dollars.

That the officer in charge of ordnance and gunnery experiments at the Washington navy-yard shall receive the same and no greater pay than the officers of the same grade performing other shore duty.

BUREAU OF CONSTRUCTION AND REPAIRS.

For preservation of wood and iron vessels and ships in ordinary, and for those that are on the stocks; vessels for the Naval Academy; for purchase of material and stores of all kinds; labor in navy-yard; transportation of material, repair of vessels, and maintenance of the Navy afloat, two millions five hundred thousand dollars.

For pay of superintendents and the civil establishment at the several navy-yards under this bureau, thirty thousand dollars.

BUREAU OF STEAM ENGINEERING.

For pay of the superintendents and the civil establishment at the several navy-yards under this bureau, twenty-four thousand dollars.

For stores and materials, tools; for repairs of machinery of steamers, boilers, instruments, and labor at navy-yards and repairs of the machinery, and purchase of stores and materials for vessels of squadrons on foreign stations; and for transportation of materials, six hundred and fifty thousand dollars.

BUREAU OF PROVISIONS AND CLOTHING.

For pay of the civil establishment at the several navy-yards under this bureau, and at the Naval Asylum, twenty-six thousand dollars.

For provisions and clothing, one million five hundred thousand dollars.

To meet the demands upon the bureau for freight and transportation of stores, for candles, fuel; for tools and repairing same at eight inspections; for books and blanks; for stationery; for furniture and repairs of same in offices of paymasters and inspectors; for telegrams and postage; tolls and ferriages; and for ice, seventy-five thousand dollars.

BUREAU OF MEDICINE AND SURGERY.

For necessary repairs and improvements of hospitals and appendages, including roads, wharves, walls, out-houses, sidewalks, fences, gardens, farms, painting, glazing, blacksmiths', plumbers', and masons' work, and for furniture, thirty thousand dollars.

For pay of the civil establishment under this bureau at the several navy hospitals and navy-yards, fifty thousand dollars.

MARINE CORPS.

For pay of officers, non-commissioned officers, musicians, privates, clerks, messengers, steward, nurse, and servants; for rations and clothing for officers' servants, additional rations to officers for five years' service, for undrawn clothing, four hundred and fifty thousand dollars.

For pensions, [provisions,] one hundred and fifty-six thousand six hundred and seventy-two dollars.

For clothing, one hundred and twenty-nine thousand four hundred and twenty-five dollars.

For fuel, twenty-six thousand six hundred and twenty-five dollars.

For military stores, viz: pay of mechanics;

repair of arms; purchase of accouterments; ordnance stores, flags, drums, fifes, and other instruments, seven thousand dollars.

For transportation of officers, their servants, troops, and for expenses of recruiting, twelve thousand dollars.

For repair of barracks and rent of offices where there are no public buildings, ten thousand dollars.

For contingencies, viz: freight; ferriage; toll; cartage; wharfage; purchase and repair of boats; compensation of judge advocates per diem for attending courts-martial, courts of inquiry, and for constant labor; house rent in lieu of quarters, and commutation for quarters to officers on shipboard; burial of deceased marines; printing, stationery, postage, telegraphing; apprehension of deserters; oil, candles, gas; repairs of gas and water fixtures; water rent, forage, straw, barrack furniture; furniture for officers' quarters; bed sacks, wrapping-paper, oil-cloth, crash, rope, twine, spades, shovels, axes, picks, carpenters' tools; keep of horse for the messenger; repairs to fire-engines; purchase and repair of engine hose; purchase of lumber for benches; mess-tables, bunks; repairs to public carryall; purchase and repair of harness; purchase and repair of handcarts and wheelbarrows; scavenging, purchase and repair of galleys, cooking-stoves, ranges; stoves where there are no grates; gravel for parade grounds; repair of pumps; furniture for staff and commanding officers; brushes, brooms, buckets, paving, and for other purposes, fifty thousand dollars.

SEC. 2. *And be it further enacted*, That each and every seaman, ordinary seaman, or landsman who shall perform the duty of a fireman or coal-heaver on board of any vessel of war shall be entitled to and shall receive a compensation at the rate of thirty-three cents per day for the time they shall thus be employed as firemen and coal-heavers, and which shall be in addition to their compensation as seamen, ordinary seamen, or landsmen, as aforesaid.

SEC. 3. *And be it further enacted*, That so much of the first section of the "Act making appropriations for the naval service for the year ending the thirtieth day of June, one thousand eight hundred and fifty-three," as declares that the salary of the secretary of the Naval Academy shall be twelve hundred and fifty dollars per annum, be, and the same is hereby, repealed; and the salary of said secretary, from and after the thirtieth day of June, eighteen hundred and sixty-eight, shall be at the rate of fourteen hundred dollars per annum.

SEC. 4. *And be it further enacted*, That so much of the eighth section of an act entitled "An act to amend certain acts in relation to the Navy," approved March second, eighteen hundred and sixty-seven, and of any other act authorizing the annual selection of ten enlisted apprentices for appointment as midshipmen to the Naval Academy, be, and the same is hereby, repealed.

APPROVED, March 1, 1869.

CHAP. XLIX.—An Act to restrict and regulate the Franking Privilege.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall not be lawful for any officer of the Government, member of Congress, or other person entitled by law to the franking privilege to exercise said privilege otherwise than by his or her written autograph signature upon the matter franked; and all letters or other mail matter not thus franked by the written signature of a person entitled by law to exercise said privilege shall be charged with the rates of postage which are now, or may be hereafter, established by law.

APPROVED, March 1, 1869.

CHAP. L.—An Act establishing the Term of Office of the House of Representatives, and providing for Biennial Sessions of the Legislative Assembly of the Territory of Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter the members of the house of representatives of the Territory of Montana shall be elected for the term of two years, and the stated sessions of the Legislative Assembly shall be biennial. And the said Legislative Assembly, at its first session after the passage of this act, shall provide by law for carrying this act into effect.

APPROVED, March 1, 1869.

CHAP. LI.—An Act granting a portion of the Military Reservation of Sault Ste. Marie, Michigan, to the American Baptist Home Mission Society.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War is hereby authorized to convey to the American Baptist Home Mission Society, by good and sufficient title, a portion of the military reservation at Sault Ste. Marie, in the State of Michigan, not to exceed one acre, now occupied by a mission building owned by said society.

APPROVED, March 1, 1869.

CHAP. LII.—An Act to amend the Act of April tenth, eighteen hundred and six, for establishing Rules and Articles for the Government of the Armies of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sixty-first article of "An act for establishing rules and articles for the government of the armies of the United States," approved April the tenth, eighteen hundred and six, be, and is hereby, repealed.

SEC. 2. *And be it further enacted*, That from and after the passage of this act commissions by brevet shall only be conferred in time of war, and for distinguished conduct and public service in presence of the enemy. And all brevet commissions shall bear date from the particular action or service for which the officer was brevetted.

APPROVED, March 1, 1869.

CHAP. LIII.—An Act authorizing certain Banks named therein to Change their Names.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the name of the "City National Bank of New Orleans" shall be changed to the "Germania National Bank of New Orleans" whenever the board of directors of said bank shall accept the new name by resolution of the board, and cause a copy of such resolution, duly authenticated, to be filed with the Comptroller of the Currency: *Provided*, That such acceptance be made within six months after the passage of this act.

SEC. 2. *And be it further enacted*, That all the debts, demands, liabilities, rights, privileges, and powers of the "City National Bank of New Orleans" shall devolve upon and inure to the "Germania National Bank of New Orleans" whenever such change of name is effected.

SEC. 3. *And be it further enacted*, That the name of the "Second National Bank of Plattsburgh" shall be changed to the "Vilas National Bank of Plattsburgh" whenever the board of directors of said bank shall accept the new name by resolution of the board, and cause a copy of such resolution, duly authenticated, to be filed with the Comptroller of the Currency: *Provided*, That such acceptance be made within six months after the passage of this act.

SEC. 4. *And be it further enacted*, That all

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the debts, demands, liabilities, rights, privileges, and powers of the "Second National Bank of Plattsburgh" shall devolve upon and inure to the "Vilas National Bank of Plattsburgh" whenever such change of name is effected.

APPROVED, March 1, 1869.

CHAP. LIV.—An Act for the Repeal of Tonnage Duties on Spanish Vessels.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act concerning tonnage duty on Spanish vessels," approved June thirtieth, eighteen hundred and thirty-four, and the first, second, and fourth sections of the act entitled "An act concerning tonnage duty on Spanish vessels," approved July thirteenth, eighteen hundred and thirty-two, be, and they are hereby, repealed; and that of Spanish vessels coming from any port or place in Spain or her colonies, where no discriminating or countervailing duties on tonnage are levied upon vessels of the United States, or from any other port or place to and with which vessels of the United States are ordinarily permitted to go and trade, there shall be exacted in the ports of the United States no other or greater duty on tonnage than is or shall be exacted of vessels of the United States.

APPROVED, March 1, 1869.

CHAP. LV.—An Act to authorize the County Commissioners of Ada county, Idaho, to select a Site for a Territorial Prison.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the county commissioners of the county of Ada, in the Territory of Idaho, be, and they are hereby, authorized, under direction of the Secretary of the Interior, to select a sight upon which to erect a territorial prison for said Territory.

APPROVED, March 1, 1869.

CHAP. LVI.—An Act amendatory of an Act entitled "An Act for the Relief of certain Drafted Men."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the second section of an act entitled "An act for the relief of certain drafted men," approved the twenty-eighth day of February, anno Domini eighteen hundred and sixty-seven, as provides that said section "shall apply only to claims received at the War Department prior to its passage," be, and the same is hereby, repealed: *Provided, however,* That all claims under said second section of said act shall be presented and filed within two years from the date of the final passage of this act and not afterward.

APPROVED, March 1, 1869.

CHAP. LVII.—An Act to allow Deputy Collectors of Internal Revenue acting as Collectors the Pay of Collectors, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any deputy collector of internal revenue who has performed, or may hereafter perform, under authority or requirement of law, the duties of collector of internal revenue in consequence of any vacancy in the office of such collector, shall be entitled to and receive so much of the same pay and compensation as is provided by law for such collector; but no such payment shall in any case be made when the collector has received or is entitled to receive compensation for services rendered during the same period of time.

SEC. 2. *And be it further enacted,* That those persons who held the office of distillery inspector on the second of March, eighteen hundred and sixty-seven, and who continued to perform the duties of that office in ignorance

of the repeal of the statute creating it, be paid at the rate of five dollars per day for such time prior to April first, eighteen hundred and sixty-seven, as they were actually employed, the amounts so paid to be approved by the Commissioner of Internal Revenue, and paid out of the appropriation for assessing and collecting the internal revenue.

APPROVED, March 1, 1869.

CHAP. CXXI.—An Act making Appropriations for the Legislative, Executive, and Judicial Expenses of the Government for the year ending the thirtieth of June, eighteen hundred and seventy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed, for the fiscal year ending the thirtieth of June, eighteen hundred and seventy, namely:

LEGISLATIVE.

Senate.

For compensation and mileage of Senators, four hundred thousand dollars in addition to any unexpended balance of appropriation for that purpose in the Treasury.

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the Senate, viz: Secretary of the Senate, four thousand three hundred and twenty dollars; officer charged with disbursements of the Senate, five hundred and seventy-six dollars; chief clerk, three thousand dollars; principal clerk and principal executive clerk in the office of Secretary of the Senate, at two thousand five hundred and ninety-two dollars each; eight clerks in office of the Secretary of the Senate at two thousand two hundred and twenty dollars each; keeper of the stationery, two thousand one hundred and two dollars and forty cents; two messengers, at one thousand two hundred and ninety six dollars each; one page, at seven hundred and twenty dollars; Sergeant-at-Arms and Doorkeeper, two thousand four hundred dollars; assistant doorkeeper, two thousand and forty dollars; Postmaster to the Senate, two thousand one hundred dollars; assistant postmaster and mail carrier, one thousand seven hundred and twenty-eight dollars; two mail boys at one thousand two hundred dollars each; superintendent of the document-room, one thousand eight hundred dollars; two assistants in document-room at one thousand four hundred and forty dollars each; superintendent of the folding-room, one thousand eight hundred dollars; three messengers, acting as assistant doorkeepers, at one thousand eight hundred dollars each; seventeen messengers, at one thousand four hundred and forty dollars each; secretary to the President of the Senate, two thousand one hundred and two dollars and forty cents; clerk to the Committee on Finance, two thousand two hundred and twenty dollars; clerk to the Committee on Claims, two thousand two hundred and twenty dollars; clerk of printing records, two thousand two hundred and twenty dollars; clerk to Committee on Appropriations, two thousand two hundred and twenty dollars; superintendent in charge of the furnaces, one thousand four hundred and forty dollars; assistant in charge of furnaces, eight hundred and sixty-four dollars; laborer in charge of private passages, eight hundred and sixty-four dollars; two laborers at eight hundred and sixty-four dollars each; Chaplain to the Senate, nine hundred dollars; one special policeman, one thousand dollars; making in all one hundred and one thousand and sixty dollars and eighty cents.

For contingent expenses of the Senate, viz:

For stationery and newspapers for seventy-four Senators, at the rate of one hundred and

twenty-five dollars each per annum, nine thousand two hundred and fifty dollars.

For stationery, eight thousand dollars.

For clerks to committees, pages, horses and carryalls, twenty-five thousand dollars.

For expenses of heating and ventilating apparatus, including coal, wood, and labor, twenty-five thousand dollars.

For plumbing, gas-fitting, and labor, five thousand dollars.

For furniture and repairs, ten thousand dollars.

For additional laborers and messengers, seven thousand five hundred dollars.

For folding documents and materials, twenty thousand dollars.

For miscellaneous items, thirty thousand dollars.

For packing-boxes for the Senate, ten dollars' worth for each member, seven hundred and forty dollars: *Provided,* That all improvements, alterations, additions, and repairs of the Capitol building shall hereafter be made by the direction and under the supervision of the architect of the Capitol extensions, and the same shall be paid for out of the appropriations for the said extensions and from no other appropriation; and that no furniture or carpets for either House shall hereafter be purchased without the written order of the chairman of the Committee to Audit and Control the Contingent Expenses of the Senate, for the Senate, or without the written order of the chairman of the Committee on Accounts of the House of Representatives, for the House.

Capitol Police.

For one captain, two thousand and eighty-eight dollars; two lieutenants, at one thousand eight hundred dollars each; thirty privates, at one thousand five hundred and eighty-four dollars each; twelve watchmen, at one thousand dollars each; making, in all, sixty-five thousand one hundred and sixty dollars, one half to be paid into the contingent fund of the House of Representatives, and the other half to be paid into the contingent fund of the Senate.

House of Representatives.

For compensation and mileage of members of the House of Representatives and Delegates from Territories, one million five hundred thousand dollars.

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the House of Representatives, viz: Clerk of the House of Representatives, four thousand three hundred and twenty dollars; chief clerk and one assistant clerk, at two thousand five hundred and ninety-two dollars each; twelve assistant clerks, Librarian and assistant librarian, at two thousand one hundred and sixty dollars each; one chief messenger, and clerk to the Speaker, at five dollars and seventy-six cents per day each; for three messengers, at one thousand four hundred and forty dollars each; one messenger in the House Library, one thousand and ninety-five dollars; one engineer, eighteen hundred dollars; three assistant engineers, at one thousand four hundred and forty dollars each; six firemen, at two dollars and forty cents each per day; for clerk to the Committee of Ways and Means, two thousand five hundred and ninety-two dollars; clerk to Committee on Appropriations, two thousand five hundred and ninety-two dollars; clerk to Committee on Claims, two thousand one hundred and sixty dollars; Sergeant-at-Arms, two thousand five hundred and ninety-two dollars; clerk to Sergeant-at-Arms, two thousand five hundred dollars; clerk to Committee on Public Lands, two thousand one hundred and sixty dollars; messenger to Sergeant-at-Arms, one thousand four hundred and forty dollars; Doorkeeper, two thousand five hundred and ninety-two dollars; first assistant doorkeeper, two thousand five hundred and ninety-two dollars;

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Postmaster, two thousand five hundred and ninety-two dollars; first assistant postmaster, two thousand and eighty-eight dollars; four messengers, at one thousand seven hundred and twenty-eight dollars each; two mail boys, at one thousand and eighty dollars each; Chaplain of the House, nine hundred dollars; two stenographers, four thousand three hundred and eighty dollars each; superintendent of folding-room, two thousand one hundred and sixty dollars; superintendent and assistant of the document-room, at five dollars and seventy-six cents per day each; eleven messengers, five at eighteen hundred dollars, and six at fourteen hundred and forty dollars each; twelve messengers during the session, at the rate of fourteen hundred and forty dollars each per annum; making, in all, the sum of one hundred and thirty-eight thousand six hundred and sixty-seven dollars: *Provided*, That of the twelve assistant clerks the two designated as reading clerks of the House of Representatives shall receive an annual salary each, beginning with the present Congress, of twenty-five hundred and ninety-two dollars.

For contingent expenses of the House of Representatives, viz:

For cartage, three thousand eight hundred dollars.

For clerks to committees, and temporary clerks of the House of Representatives, thirty-two thousand two hundred and thirty-two dollars.

For folding documents, including materials, thirty-seven thousand five hundred dollars.

For fuel and lights, including plumbing, gas-fitting, repairs, and materials, fifteen thousand dollars.

For horses and carriages for the transportation of mails and for the use of messengers, ten thousand dollars.

For laborers, eight thousand dollars.

For miscellaneous items; thirty-five thousand dollars.

For packing-boxes for members of the House of Representatives, ten dollars' worth for each Member and Delegate, twenty-two hundred and sixty dollars.

For newspapers and stationery for two hundred and thirty-three Members and Delegates, at one hundred and twenty-five dollars each per annum, twenty-nine thousand one hundred and twenty-five dollars.

For twenty pages for the floor of the House and three riding pages, at the rate of two dollars per day while actually employed, eleven thousand two hundred and seventy dollars.

For stationery, ten thousand dollars.

PUBLIC PRINTING.

For compensation of the Congressional Printer, and the clerks and messengers in his office, twelve thousand five hundred and four-teen dollars.

For contingent expenses of his office, viz:

For stationery, postage, advertising, furniture, traveling expenses, horses, and wagons, and miscellaneous items, fifteen hundred dollars.

For the public printing, four hundred thousand dollars.

For paper for the public printing, four hundred thousand dollars.

For the public binding, three hundred thousand dollars: *Provided*, That all blank-books and binding shall be made and done at the Government bindery; and all payments of public money for Government printing or binding not done at the Government Printing Office according to the provisions of the act of July twentieth, eighteen hundred and sixty-eight, shall not be allowed by the accounting officers of the Government: *Provided further*, That no proposition for printing extra copies of public documents, the expense of which shall exceed the sum of five hundred dollars, shall be considered by either House of Congress until the same shall have been referred to the joint Com-

mittee on Printing, and ordered by concurrent resolution of the two Houses.

For lithographing and engraving for the Senate and House of Representatives, eighty-five thousand dollars.

LIBRARY OF CONGRESS.

For compensation of the Librarian, two thousand five hundred and ninety-two dollars.

For three assistant librarians, at two thousand one hundred and sixty dollars each, six thousand four hundred and eighty dollars.

For two assistant librarians, one at one thousand two hundred dollars, and one at nine hundred and sixty dollars, two thousand one hundred and sixty dollars.

For one messenger, one thousand seven hundred and twenty-eight dollars.

For three laborers, at eight hundred and sixty-four dollars each, two thousand five hundred and ninety-two dollars.

For three assistant librarians, at fourteen hundred and forty dollars each, four thousand three hundred and twenty dollars.

For contingent expenses of said Library, two thousand dollars.

For purchase of books for said Library, eight thousand dollars.

For purchase of law books for said Library, two thousand dollars.

For purchase of files of periodicals and newspapers, one thousand five hundred dollars.

For Botanic Garden, grading, draining, procuring manure, tools, fuel, and repairs, and purchasing trees and shrubs, under the direction of the Library Committee of Congress, five thousand dollars.

For paving the main walk through the grounds of the Botanic Garden with some uniform and durable material, five thousand dollars.

For pay of superintendent and assistants in Botanic Garden and green-houses, under the direction of the Library Committee of Congress, eleven thousand two hundred and ninety-six dollars and ninety-six cents.

For expenses of exchanging public documents for the publications of foreign Governments, one thousand five hundred dollars.

PUBLIC BUILDINGS AND GROUNDS.

For clerk in the office of public buildings, one thousand two hundred dollars.

For messenger in the same office, eight hundred and forty dollars.

For compensation to the public gardener, one thousand four hundred and forty dollars.

For compensation to the laborer in charge of the water-closets in the Capitol, seven hundred and twenty dollars.

For compensation of a foreman and twenty-one laborers employed in the public grounds, nineteen thousand two hundred and ninety-six dollars.

For compensation of four laborers in the Capitol, two thousand eight hundred and eighty dollars.

For compensation of furnace-keeper under the old Hall of the House of Representatives, eight hundred and sixty-four dollars.

For compensation of furnace-keeper at the President's House, seven hundred and twenty dollars.

For two policemen at the President's House, two thousand six hundred and forty dollars.

For compensation of two watchmen at the President's House, one thousand eight hundred dollars.

For compensation of the doorkeeper at the President's House, one thousand dollars.

For compensation of assistant doorkeeper at the President's House, six hundred dollars.

For compensation of two draw-keepers at the bridge across the eastern branch of the Potomac, and for fuel, oil, and lamps, one thousand six hundred dollars.

For watchman in Franklin square, six hundred dollars.

For compensation of the person in charge

of the heating apparatus of the Library of Congress, one thousand dollars.

For electrician of the Capitol, one thousand two hundred dollars.

For compensation of watchmen in reservation number two, three thousand dollars.

For compensation of draw-keepers at the Potomac bridge, and for fuel, oil, and lamps, seven thousand five hundred and seventy dollars.

COURT OF CLAIMS.

For salaries of five judges of the Court of Claims, the chief clerk and assistant clerk, bailiff, and messenger thereof, twenty-six thousand eight hundred dollars.

For compensation of attorneys to attend to taking testimony, witnesses, and commissioners, two thousand five hundred dollars.

For stationery, books, fuel, laborers' hire, and other contingent and miscellaneous expenses, three thousand dollars.

For payment of judgments which may be rendered by the court in favor of claimants, one hundred thousand dollars.

EXECUTIVE.

For compensation of the President of the United States, twenty-five thousand dollars.

For compensation of the Vice President of the United States, eight thousand dollars.

For compensation of secretary to sign patents for public lands, one thousand five hundred dollars.

For compensation to the Private Secretary, assistant secretary, (who shall be a short-hand writer,) two clerks of fourth class, steward, and messenger of the President of the United States, twelve thousand five hundred dollars.

For contingent expenses of the executive office, including stationery therefor, four thousand dollars.

DEPARTMENT OF STATE.

For compensation of the Secretary of State, two Assistant Secretaries of State, for chief clerk, eight clerks of class four, additional to one clerk of class four as disbursing clerk, eight clerks of class three, three clerks of class two, three clerks of class one, one messenger, one assistant messenger, and seven laborers, fifty-eight thousand one hundred and forty dollars: *Provided*, That the pay of any messenger in either of the departments, executive or judicial, of the Government, employed during the whole year, shall be eight hundred and forty dollars per annum, and no more; and the pay of any assistant messenger employed as aforesaid shall be seven hundred dollars per annum, and no more; and the pay of all laborers and watchmen, (whether night or day,) employed as aforesaid, shall be seven hundred and twenty dollars per annum, and no more.

For the Incidental and Contingent Expenses of the Department of State.

For publishing the laws in pamphlet form and in newspapers of the States and Territories, and in the city of Washington, forty thousand dollars.

For proof reading, and packing the laws and documents for the various legations and consulates, including boxes and transportation of the same, three thousand dollars.

For stationery, blank-books, furniture, fixtures, and repairs, three thousand five hundred dollars.

For miscellaneous items, two thousand five hundred dollars.

For copper-plate printing, books, and maps, five thousand dollars.

For extra clerk hire and copying, five thousand dollars.

For the general purposes of the Building occupied by the State Department.

For compensation of four watchmen and two laborers of the building, four thousand three hundred and twenty dollars.

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For contingent expenses of said building, viz: for rent, fuel, lights, repairs, and miscellaneous expenses, thirty thousand dollars.

TREASURY DEPARTMENT.

For compensation of the Secretary of the Treasury, two Assistant Secretaries of the Treasury, chief clerk, eleven clerks of class four, additional to one clerk of class four as disbursing clerk, twelve clerks of class three, sixteen clerks of class two, fifteen clerks of class one, one messenger, one assistant messenger, and three laborers, one hundred thousand one hundred and forty dollars.

In the construction branch of the Treasury:

For Supervising Architect, three thousand dollars; assistant supervising architect, two thousand dollars; chief clerk, two thousand dollars; photographer, twenty-five hundred dollars; for two clerks of class four, three thousand six hundred dollars; for four clerks of class three, six thousand four hundred dollars; for three clerks of class one, three thousand six hundred dollars; and one messenger, eight hundred and forty dollars—twenty-three thousand nine hundred and forty dollars.

For First Comptroller of the Treasury, three thousand five hundred dollars; for chief clerk, two thousand dollars; four clerks of class four, seven thousand two hundred dollars; four clerks of class three, six thousand four hundred dollars; five clerks of class two, seven thousand dollars; two clerks of class one, two thousand four hundred dollars; one messenger, eight hundred and forty dollars; and two laborers, twelve hundred dollars; in all, thirty thousand five hundred and forty dollars.

For Second Comptroller of the Treasury, three thousand dollars; for chief clerk, two thousand dollars; eight clerks of class four, fourteen thousand four hundred dollars; sixteen clerks of class three, twenty-five thousand six hundred dollars; twenty clerks of class two, twenty-eight thousand dollars; twelve clerks of class one, fourteen thousand four hundred dollars; twelve copyists, ten thousand eight hundred dollars; one messenger, eight hundred and forty dollars; one assistant messenger, seven hundred dollars; and two laborers, twelve hundred dollars; in all, one hundred thousand nine hundred and forty dollars.

For Commissioner of Customs, three thousand dollars; for chief clerk, two thousand dollars; two clerks of class four, thirty-six hundred dollars; five clerks of class three, eight thousand dollars; eight clerks of class two, eleven thousand two hundred dollars; five clerks of class one, six thousand dollars; one messenger, eight hundred and forty dollars; and one laborer, six hundred dollars; in all, thirty-two thousand six hundred and forty dollars.

For First Auditor of the Treasury, three thousand dollars; chief clerk, two thousand dollars; two clerks of class four, three thousand six hundred dollars; eight clerks of class three, twelve thousand eight hundred dollars; three clerks of class two, four thousand two hundred dollars; five clerks of class one, six thousand dollars; also two clerks of class three, three thousand two hundred dollars; four clerks of class two, five thousand six hundred dollars; and eight clerks of class one, nine thousand six hundred dollars; one messenger, eight hundred and forty dollars; one assistant messenger, seven hundred dollars; and one laborer, six hundred dollars—fifty two thousand one hundred and forty dollars.

For Second Auditor of the Treasury, three thousand dollars; chief clerk, two thousand dollars; six clerks of class four, ten thousand eight hundred dollars; sixty-four clerks of class three, eighty-six thousand four hundred dollars; one hundred and nine clerks of class two, one hundred and fifty-two thousand six hundred dollars; thirty-one clerks of class one, thirty-seven thousand two hundred dollars; one messenger, eight hundred and forty dollars; five assistant messengers, three thousand

five hundred dollars; and seven laborers, four thousand two hundred dollars—three hundred thousand five hundred and forty dollars.

For Third Auditor, three thousand dollars; chief clerk, two thousand dollars; eleven clerks of class four, nineteen thousand eight hundred dollars; additional to one clerk of class four as disbursing clerk, two hundred dollars; twenty-eight clerks of class three, forty-four thousand eight hundred dollars; ninety-two clerks of class two, one hundred and twenty-eight thousand eight hundred dollars; ninety-six clerks of class one, one hundred and fifteen thousand two hundred dollars; ten copyists, nine thousand dollars; three messengers, two thousand five hundred and twenty dollars; two assistant messengers, fourteen hundred dollars; and seven laborers, four thousand two hundred dollars—three hundred and thirty thousand nine hundred and twenty dollars.

For the Fourth Auditor, three thousand dollars; chief clerk, two thousand dollars; five clerks of class four, nine thousand dollars; eighteen clerks of class three, twenty-eight thousand eight hundred dollars; twelve clerks of class two, sixteen thousand eight hundred dollars; eleven clerks of class one, thirteen thousand two hundred dollars; one messenger, eight hundred and forty dollars; one assistant messenger, seven hundred dollars; and five laborers, three thousand dollars, employed in his office—seventy-seven thousand three hundred and forty dollars.

For the Fifth Auditor, three thousand dollars; chief clerk, two thousand dollars; two clerks of class four, three thousand six hundred dollars; four clerks of class three, six thousand four hundred dollars; seven clerks of class two, nine thousand eight hundred dollars; fifteen clerks of class one, eighteen thousand dollars; six copyists, five thousand four hundred dollars; one messenger, eight hundred and forty dollars; and one laborer, six hundred dollars—forty-nine thousand six hundred and forty dollars.

For compensation of the Auditor of the Treasury for the Post Office Department, three thousand dollars; chief clerk, two thousand dollars; nine clerks of class four, sixteen thousand two hundred dollars; additional to one clerk of class four as disbursing clerk, two hundred dollars; forty clerks of class three, sixty-four thousand dollars; sixty-four clerks of class two, eighty-nine thousand six hundred dollars; thirty-seven clerks of class one, forty-four thousand four hundred dollars; one messenger, eight hundred and forty dollars; one assistant messenger, seven hundred dollars; and eleven laborers, six thousand six hundred dollars—two hundred and twenty-seven thousand five hundred and forty dollars.

For compensation of the Treasurer of the United States, six thousand five hundred dollars; Assistant Treasurer, two thousand eight hundred dollars; cashier, two thousand eight hundred dollars; assistant cashier, two thousand five hundred dollars; five chiefs of division, at two thousand two hundred dollars each; two principal book-keepers, two thousand two hundred dollars each; two tellers, two thousand two hundred dollars each; one chief clerk, two thousand dollars; two assistant tellers, two thousand dollars each; fifteen clerks of class four, twenty-seven thousand dollars; fifteen clerks of class three, twenty-four thousand dollars; eleven clerks of class two, fifteen thousand four hundred dollars; nine clerks of class one, ten thousand eight hundred dollars; sixty female clerks, seventy-two thousand dollars; fifteen messengers, twelve thousand six hundred dollars; five male and seven female laborers, four thousand six hundred and eighty dollars—one hundred and eighty-eight thousand one hundred and eighty dollars.

For compensation of the Register of the Treasury, three thousand dollars; assistant register, two thousand dollars; chief clerk, two thousand dollars; five clerks of class four,

nine thousand dollars; thirteen clerks of class three, twenty thousand eight hundred dollars; twenty-five clerks of class two, thirty-five thousand dollars; eleven clerks of class one, thirteen thousand two hundred dollars; one messenger, eight hundred and forty dollars; two assistant messengers, fourteen hundred dollars; and two laborers, twelve hundred dollars, employed in his office; in all, eighty-eight thousand four hundred and forty dollars.

For compensation of the Solicitor of the Treasury, three thousand five hundred dollars; assistant solicitor, three thousand dollars; chief clerk, two thousand dollars; one clerk of class four, eighteen hundred dollars; three clerks of class three, four thousand eight hundred dollars; three clerks of class two, four thousand two hundred dollars; one clerk of class one, twelve hundred dollars; one messenger, eight hundred and forty dollars; and one laborer, six hundred dollars, employed in his office; in all, twenty-one thousand nine hundred and forty dollars.

For compensation of the chief clerk of the Light-House Board, two thousand dollars; two clerks of class three, three thousand two hundred dollars; one clerk of class two, fourteen hundred dollars; one clerk of class one, twelve hundred dollars; one messenger, eight hundred and forty dollars; and one laborer, six hundred dollars, employed in his office; in all, nine thousand two hundred and forty dollars.

For Comptroller of the Currency, five thousand dollars; for deputy comptroller, two thousand five hundred dollars; seven clerks of class four, twelve thousand six hundred dollars; twelve clerks of class three, nineteen thousand two hundred dollars; seven clerks of class two, nine thousand eight hundred dollars; seven clerks of class one, eight thousand four hundred dollars; twenty-one female clerks, twenty-five thousand two hundred dollars; four messengers, three thousand three hundred and sixty dollars; two laborers, one thousand two hundred dollars; and one night watchman, six hundred dollars; in all, eighty-one thousand five hundred and sixty dollars.

For paper, engraving, printing, express charges, and other expenses of the making and issuance of the national currency, seventy-five thousand dollars.

For Commissioner of Internal Revenue, six thousand dollars; three deputy commissioners, one at three thousand five hundred dollars, and two at three thousand dollars each; one solicitor, four thousand dollars; seven heads of divisions, two thousand five hundred dollars each; thirty-four clerks of class four, sixty-one thousand two hundred dollars; forty-five clerks of class three, seventy-two thousand dollars; fifty clerks of class two, seventy thousand dollars; thirty-seven clerks of class one, forty-four thousand four hundred dollars; fifty-five female clerks, sixty-six thousand dollars; five messengers, four thousand two hundred dollars; three assistant messengers, two thousand one hundred dollars; and fifteen laborers, nine thousand dollars, employed in his office; in all, three hundred and forty-nine thousand four hundred dollars; and the Commissioner of the Internal Revenue shall not be required to give bond.

For rent, dies, paper; for stamps and incidental expenses, including the cost of subscriptions for such number of copies of the "Internal Revenue Record and Customs Journal" as the Secretary of the Treasury may deem necessary to supply the revenue officers, one hundred and fifty thousand dollars.

For salaries and expenses of collectors, assessors, assistant assessors, revenue agents, inspectors, and superintendents of exports and drawbacks, together with the expense of carrying into effect the various provisions of the several acts providing internal revenue, excepting items otherwise estimated for, eight million dollars: *Provided*, That the Commissioner of Internal Revenue shall make a detailed report

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to Congress of the expenditure of this appropriation at the next December session, to whom paid, how much to each, and for what purpose; giving the items of each payment and the number of employes; and hereafter the said Commissioner shall estimate in detail, by collection districts, the expense of assessing and the expense of the collection of internal revenue.

For detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws, or conniving at the same, in cases where such expenses are not otherwise provided for by law, one hundred thousand dollars.

For Incidental and Contingent Expenses of the Treasury Department.

In the office of the Secretary of the Treasury and the several bureaus, including copying, labor, binding, sealing ships' registers, translating foreign languages, advertising, and extra clerk hire for preparing and collecting information to be laid before Congress, and for miscellaneous items, fifty thousand dollars.

For stationery for the Treasury Department and the several bureaus, fifty thousand dollars.

For furniture, carpets, and miscellaneous items for the Treasury bureaus, five thousand dollars.

For the general purposes of the Treasury Department Building, including the Extension.

For compensation of twelve watchmen and eleven laborers of the building, thirteen thousand eight hundred dollars.

For contingent expenses of the said building, and five other buildings occupied by clerks of the Treasury Department, viz: for fuel, light, labor, and miscellaneous items, seventy-five thousand dollars.

DEPARTMENT OF THE INTERIOR.

For compensation of the Secretary of the Interior, Assistant Secretary, chief clerk, four clerks of class four, additional [to] three disbursing clerks, three clerks of class three, four clerks of class two, one return clerk, one messenger, two assistant messengers, five watchmen, and three laborers in his office; in all, forty-one thousand five hundred and forty dollars.

Office of Education.

For Commissioner of Education, three thousand dollars.

For two clerks of class one, twenty-four hundred dollars.

For contingent expenses, six hundred dollars; in all, six thousand dollars.

General Land Office.

For Commissioner of the General Land Office, recorder, chief clerk, three principal clerks of public lands, three clerks of class four, twenty-three clerks of class three, forty clerks of class two, forty clerks of class one, draughtsman, assistant draughtsman, two messengers, three assistant messengers, two packers, seven laborers, and eight watchmen employed in his office; in all, one hundred and seventy-eight thousand two hundred dollars.

For compensation of additional clerks in the General Land Office under the act of March third, eighteen hundred and fifty-five: for one principal clerk as director, one clerk of class three, four clerks of class two, twenty clerks of class one, and two laborers, fifty-eight thousand six hundred and forty dollars.

Indian Office.

For compensation of the Commissioner of Indian Affairs, chief clerk, three clerks of class four, seven clerks of class three, five clerks of class two, one messenger, one assistant messenger, one laborer, and two watchmen employed in his office; in all, thirty-two thousand six hundred dollars.

Pension Office.

For compensation of Commissioner of Pensions, chief clerk, twelve clerks of class four,

thirty clerks of class three, fifty-two clerks of class two, fifty clerks of class one, one messenger and three assistant messengers, five laborers, and one watchman employed in his office, two hundred and fifteen thousand two hundred and forty dollars.

For compensation of additional clerks in the Pension Office, viz: for ten clerks of class four, eighteen clerks of class three, twenty-four clerks of class two, and twenty-eight clerks of class one, one hundred and fourteen thousand dollars.

Incidental and Contingent Expenses—Department of the Interior.

Office of the Secretary of the Interior:

For stationery, furniture, and other contingencies, and for books and maps for the library, ten thousand dollars.

For casual repairs of the Patent Office building, ten thousand dollars.

For expenses of packing and distributing congressional journals and documents, in pursuance of the provisions contained in the joint resolution of Congress approved on the twenty-eighth day of January; eighteen hundred and fifty-seven, and the act of the fifth day of February, eighteen hundred and fifty-nine, and for collecting, arranging, classifying, and preserving such congressional journals and documents to be found in the Capitol, or in the various Departments and bureaus of the Government, which have not been disposed of according to law, and for compiling and supervising the Biennial Register, six thousand five hundred dollars; and the Secretary of the Interior shall appoint a superintendent of public documents, at a salary of twenty-five hundred dollars per year, who shall be charged with the duty of packing, distributing, collecting, arranging, classifying, and preserving such documents, and compiling and supervising the Biennial Register, but the whole amount to be expended for said purposes, including the pay of said superintendent, shall not exceed the said sum of six thousand five hundred dollars; and the said Secretary of the Interior is hereby directed to procure and assign suitable rooms for such journals and documents in the Department of the Interior.

To enable the Secretary of the Interior to fulfill a contract made by him under the provisions of a joint resolution authorizing a contract with Vinnie Beam for a statue of the late Abraham Lincoln, five thousand dollars.

For fuel and lights for the Patent Office building, including the salaries of engineer and assistant engineer of the furnaces, and repairs of the heating apparatus, eighteen thousand dollars.

Office of the Commissioner of Indian Affairs:

For blank-books, binding, stationery; and miscellaneous items, including two of the daily city newspapers, to be filed, bound, and preserved for the use of the office, five thousand dollars.

Office of the Commissioner of Pensions:

For stationery, engraving, and retouching plates for bounty land warrants, printing and binding the same, office furniture, and repairing the same, and miscellaneous items, including two daily newspapers, to be filed, bound, and preserved for the use of the office, and for detection and investigation of fraud, thirty thousand dollars.

Office of the Commissioner of the General Land Office:

For cash system, maps, diagrams, stationery, furniture and repairs of the same, miscellaneous items, including two of the city newspapers, to be filed, bound, and preserved for the use of the office; for advertising and telegraphing; for miscellaneous items on account of bounty lands and military patents under the several acts, and for contingent expenses under swamp-land act of September twenty-eighth,

eighteen hundred and fifty, eight thousand dollars.

Surveyors General and their Clerks.

For compensation of the surveyor general of Minnesota, two thousand dollars, and the clerks in his office, two thousand five hundred dollars—four thousand five hundred dollars.

For surveyor general of the Territory of Dakota, two thousand dollars, and the clerks in his office, two thousand five hundred dollars—four thousand five hundred dollars.

For surveyor general of Kansas, two thousand dollars, and the clerks in his office, four thousand dollars—six thousand dollars.

For surveyor general of Colorado, three thousand dollars, and for the clerks in his office, four thousand dollars—seven thousand dollars.

For surveyor general of New Mexico, three thousand dollars.

For surveyor general of California and Arizona, three thousand dollars, and for clerks in his office, four thousand five hundred dollars—seven thousand five hundred dollars.

For surveyor general of Idaho, three thousand dollars, and for clerks in his office, four thousand dollars—seven thousand dollars.

For surveyor general of Nevada, two thousand five hundred dollars, and the clerks in his office, four thousand dollars—six thousand five hundred dollars.

For surveyor general of Oregon, two thousand five hundred dollars, and for the clerks in his office, four thousand dollars—six thousand five hundred dollars.

For surveyor general of Washington Territory, two thousand five hundred dollars, and for the clerks in his office, four thousand dollars—six thousand five hundred dollars.

For surveyor general of Nebraska and Iowa, two thousand dollars, and the clerks in his office, four thousand dollars—six thousand dollars.

For surveyor general of Montana, three thousand dollars, and for clerks in his office, three thousand dollars—six thousand dollars.

For surveyor general of Utah Territory, three thousand dollars, and the clerks in his office, four thousand dollars.

For surveyor general of Florida, two thousand dollars, and for clerks in his office, three thousand five hundred dollars—five thousand five hundred dollars.

For recorder of land titles in Missouri, five hundred dollars.

United States Patent Office.

For compensation of the Commissioner of the Patent Office, four thousand five hundred dollars; for chief clerk, two thousand five hundred dollars; one superintendent of drawing for the annual report, two thousand five hundred dollars; for three examiners-in-chief, at three thousand dollars each, nine thousand dollars; twenty principal examiners, at two thousand five hundred dollars each, fifty thousand dollars; twenty first assistant examiners, at eighteen hundred dollars each, thirty-six thousand dollars; twenty second assistant examiners, at sixteen hundred dollars each, thirty-two thousand dollars; one librarian, one thousand eight hundred dollars; one machinist, one thousand six hundred dollars; one messenger, one thousand dollars; making, in all, the sum of one hundred and forty thousand nine hundred dollars.

For compensation of six clerks of class three, nine thousand six hundred dollars.

For thirty-five clerks of class two, forty-four thousand eight hundred dollars.

For forty clerks of class one, forty-eight thousand dollars.

For six permanent clerks, at one thousand dollars each, six thousand dollars.

For thirteen copyists of drawings, at one thousand dollars each, thirteen thousand dollars.

For fifty-three female copyists, at seven hun-

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dred dollars each, thirty-seven thousand one hundred dollars.

For nine permanent clerks, at nine hundred dollars each, eight thousand one hundred dollars.

For two skilled laborers, at twelve hundred dollars each, two thousand four hundred dollars.

For two skilled laborers, at one thousand dollars each, two thousand dollars.

For seven skilled laborers, at nine hundred dollars each, six thousand three hundred dollars.

For thirty laborers, at six hundred dollars each, eighteen thousand dollars.

For two laborers, at five hundred and seventy-six dollars each, one thousand one hundred and fifty-two hundred dollars.

For one watchman, nine hundred dollars.

For five watchmen, at seven hundred and twenty dollars, three thousand six hundred dollars.

For seven laborers, at six hundred dollars each, four thousand two hundred dollars.

For contingent expenses of the Patent Office, viz: for illustrations of annual report, stationery for use of office, printing patents, furniture for rooms, repairs, advertising, books for library, international exchanges, plumbing, gas-fitting, and other contingencies, one hundred and twenty thousand dollars, and no further or greater sum shall be paid or contracted to be paid for said contingent expenses; and it shall be the duty of the Commissioner of Patents to make a full and detailed report to each December session of Congress of the manner in which said contingent expenses have been disbursed: *Provided*, That with the exception of the Commissioner of Patents, and the examiners-in-chief, all the officers, clerks, and employes of the Patent Office shall be subject to the appointing and removing power of the Secretary of the Interior, in like manner and to the same extent as the clerks of the Pension Office are so subject under existing laws; and the disbursements of the Patent Office shall be made by the disbursing clerk of the Department of the Interior.

[*Expenses of the Courts of the United States.*]

For defraying the expenses of the Supreme Court and district courts of the United States, including the District of Columbia, and also for jurors and witnesses, in aid of the funds arising from fines, penalties, and forfeitures, in the fiscal year ending June thirtieth, eighteen hundred and seventy, and previous years, and likewise for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offenses committed against the United States, and for the safe-keeping of prisoners, one million five hundred thousand dollars: *Provided*, That the second section of the act of August second, eighteen hundred and sixty-one, entitled "An act concerning the Attorney General, and the attorneys and marshals of the several districts," be, and the same is hereby, repealed.

WAR DEPARTMENT.

For compensation of the Secretary of War, eight thousand dollars; chief clerk; four clerks of class four; for additional to one clerk of class four; as disbursing clerk, two hundred dollars; for seven clerks of class three; three clerks of class two; eight clerks of class one; one messenger; three assistant messengers; one laborer—forty-six thousand five hundred and sixty dollars.

Office of Adjutant General:

For three clerks of class four, nine clerks of class three, twenty-seven clerks of class two, twenty-six clerks of class one, and two messengers, ninety thousand four hundred and eighty dollars.

Office of Quartermaster General:

For four clerks of class four; eight clerks of class three; twenty clerks of class two;

seventy-five clerks of class one; thirty copyists; superintendent of the building, two hundred dollars; one messenger; two assistant messengers; and six laborers—one hundred and seventy-one thousand and forty dollars.

Office of Paymaster General:

For chief clerk; four clerks of class four; one clerk of class three; also three clerks of class three, authorized by clause in the act of February twenty-fifth, eighteen hundred and sixty-three, four thousand eight hundred dollars: *Provided*, That said clerks shall not be continued after the thirtieth of June, eighteen hundred and seventy; twenty-six clerks of class two, thirty clerks of class one, and two messengers—eighty-nine thousand six hundred and eighty dollars.

Office of the Commissary General:

For one clerk of class four, one clerk of class three, ten clerks of class two, twenty clerks of class one, one messenger, and two laborers, forty-three thousand four hundred and forty dollars.

Office of the Surgeon General:

For one clerk of class four, one clerk of class three, two clerks of class two, ten clerks of class one, one messenger, and one laborer, nineteen thousand six hundred and forty dollars.

Office of Chief Engineer:

For five clerks of class four, four clerks of class three, four clerks of class two, three clerks of class one, two messengers, and one laborer, twenty-six thousand four hundred and eighty dollars.

Office of Chief of Ordnance:

For chief clerk, three clerks of class four, two clerks of class three, five clerks of class two, eight clerks of class one, and one messenger, twenty-eight thousand and forty dollars.

Office of Military Justice:

For one clerk of class four, one clerk of class three, one clerk of class two, and two clerks of class one, seven thousand two hundred dollars.

Signal Office:

For two clerks of class two, two thousand eight hundred dollars.

Office of the Inspector General, and Inspector of the Military Academy:

For one clerk of class four, eighteen hundred dollars.

Contingent Expenses of the War Department.

Office of the Secretary of War:

For blank-books, stationery, labor, books, maps, extra clerk hire, and miscellaneous items, ten thousand dollars.

Office of the Adjutant General:

For blank-books, stationery, binding, and miscellaneous items, fifteen thousand dollars.

Office of the Quartermaster General:

For blank-books, stationery, binding, and miscellaneous items, ten thousand dollars.

Office of the Paymaster General:

For blank-books, stationery, binding, and miscellaneous items, ten thousand dollars.

Office of the Commissary General:

For office rent, three thousand three hundred dollars.

For fuel and lights, one thousand one hundred and fifty dollars.

For repairs, five hundred dollars.

For two watchmen, twelve hundred dollars.

For two laborers, twelve hundred dollars; total, seven thousand three hundred and fifty dollars.

Chief Engineer's Office:

For blank-books, stationery, binding, and miscellaneous items, three thousand five hundred dollars.

Office of the Surgeon General:

For blank-books, stationery, binding, and miscellaneous items, including rent of office, ten thousand dollars.

Office of the Chief of Ordnance:

For blank-books, stationery, binding, and miscellaneous items, two thousand dollars.

Office of Military Justice:

For blank-books, stationery, binding, and miscellaneous items, one thousand dollars.

For the general purposes of the War Department Building.

For compensation of superintendent, four watchmen, and two laborers of the building, three thousand eight hundred and fifty dollars.

For labor, fuel, light, and miscellaneous items, twenty thousand dollars.

Building occupied by Paymaster General.

For superintendent, watchmen, rent, fuel, lights, and miscellaneous items, twelve thousand dollars.

For the general purposes of the Building corner of F and Seventeenth streets.

For compensation of superintendent, four watchmen, and two laborers for said building, three thousand eight hundred and fifty dollars.

For fuel, compensation of firemen; and miscellaneous items, five thousand dollars.

NAVY DEPARTMENT.

For compensation of the Secretary of the Navy, eight thousand dollars.

For compensation of the chief clerk of the Navy Department, two thousand two hundred dollars; one fourth-class clerk, (also as disbursing clerk;) two clerks of the fourth class; three clerks of the third class; three clerks of the second class; three clerks of the first class; one messenger, eight hundred and forty dollars; one assistant messenger, seven hundred dollars; and two laborers, twelve hundred dollars—twenty-three thousand three hundred and forty dollars.

For compensation of the civil engineer of the Bureau of Yards and Docks, two thousand dollars; chief clerk, eighteen hundred dollars; one clerk of the fourth class; one clerk of the third class; two clerks of the second class; one clerk of the first class; one draughtsman, fourteen hundred dollars; one messenger, eight hundred and forty dollars; and two laborers, twelve hundred dollars—fourteen thousand six hundred and forty dollars.

For compensation of the chief clerk of the Bureau of Ordnance, in place of the of the assistant provided by section three of the act of July fifth, eighteen hundred and sixty-two, eighteen hundred dollars; one draughtsman, fourteen hundred dollars; one clerk of the second class, fourteen hundred dollars; one messenger, eight hundred and forty dollars; and two laborers, twelve hundred dollars—six thousand six hundred and forty dollars.

For the compensation of the chief clerk of the Bureau of Equipment and Recruiting, eighteen hundred dollars; one clerk of the fourth class; one clerk of the third class; two clerks of the first class; and one messenger, eight hundred and forty dollars—eight thousand four hundred and forty dollars.

For the compensation of the chief clerk of the Bureau of Navigation, eighteen hundred dollars; one clerk of the second class; one clerk of the first class; and one messenger, eight hundred and forty dollars—five thousand two hundred and forty dollars.

For compensation of the chief clerk of the Bureau of Construction and Repair, one thousand eight hundred dollars; one draughtsman, one thousand eight hundred dollars; one clerk of class four; two clerks of class three; two clerks of class two; one messenger, eight hundred and forty dollars; and one laborer, six hundred dollars—twelve thousand eight hundred and forty dollars.

For compensation of the chief clerk of the Bureau of Steam Engineering, eighteen hundred dollars; one draughtsman, fourteen hundred dollars; one clerk of the second class, fourteen hundred dollars; one assistant draughts-

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man, twelve hundred dollars; one messenger, eight hundred and forty dollars; and one laborer, six hundred dollars—seven thousand two hundred and forty dollars.

For compensation of the chief clerk of the Bureau of Provisions and Clothing, eighteen hundred dollars; one clerk of the fourth class; two clerks of the third class; two clerks of the second class; three clerks of the first class; one messenger, eight hundred and forty dollars; and one laborer, six hundred dollars—fourteen thousand six hundred and forty dollars.

For compensation of the chief of the Bureau of Medicine and Surgery, three thousand five hundred dollars; one clerk of the fourth class; one clerk of the third class; one messenger, eight hundred and forty dollars; and one laborer, six hundred dollars—eight thousand three hundred and forty dollars; and the office of Assistant Secretary of the Navy is hereby abolished; and no clerks or other employes shall be appointed or employed in the Navy Department except such as are provided for in this act.

Incidental and Contingent Expenses of the Navy Department.

Office of the Secretary of the Navy:

For stationery, labor, newspapers, and miscellaneous items, two thousand eight hundred and forty dollars.

Bureau of Yards and Docks:

For stationery, books, plans, drawings, and miscellaneous items, eight hundred dollars.

Bureau of Equipment and Recruiting:

For stationery, books, and miscellaneous items, seven hundred and fifty dollars.

Bureau of Navigation:

For stationery, blank-books, and miscellaneous items, eight hundred dollars.

Bureau of Ordnance:

For stationery and miscellaneous items, eight hundred dollars.

Bureau of Construction and Repair:

For stationery and miscellaneous items, eight hundred dollars.

Bureau of Steam Engineering:

For stationery and miscellaneous items, eight hundred dollars.

Bureau of Provisions and Clothing:

For stationery and miscellaneous items, eight hundred dollars.

Bureau of Medicine and Surgery:

For stationery and miscellaneous articles, four hundred dollars.

For the general purposes of the Navy Department Building.

For compensation of three watchmen and two laborers of the building, two thousand seven hundred and sixty dollars.

For labor, fuel, lights, and miscellaneous items, six thousand dollars.

POST OFFICE DEPARTMENT.

For compensation of the Postmaster General, eight thousand dollars; three Assistant Postmasters General, at three thousand five hundred dollars each, ten thousand five hundred dollars; superintendent of money-order system, three thousand dollars; superintendent of foreign mails, three thousand dollars; chief of division of dead-letter office, two thousand five hundred dollars; chief clerk, two thousand two hundred dollars; three chief clerks, at two thousand dollars each, six thousand dollars; additional to one clerk of class four, as disbursing clerk, two hundred dollars; twelve clerks of class four, twenty-one thousand six hundred dollars; fifty-one clerks of class three, eighty-one thousand six hundred dollars; forty-five clerks of class two, sixty-three thousand dollars; twenty-three clerks of class one, twenty-seven thousand six hundred dollars; fifty female clerks, sixty thousand dollars; ten folders, seven thousand two hundred dollars; one messenger, at eight hundred and forty

dollars, and three assistants, at seven hundred dollars each, two thousand nine hundred and forty dollars; nine watchmen, at six hundred dollars each, five thousand four hundred dollars; fifteen laborers, at six hundred dollars each, nine thousand dollars; making, in all, two hundred and ninety-eight thousand seven hundred and forty dollars.

For twenty-five clerks in dead letter office, under act of January twenty-first, eighteen hundred and sixty-two, twenty thousand dollars.

For Contingent Expenses of the Post Office Department.

For blank-books, binding, stationery, fuel, lights, laborers, and furnishing apartments for additional letter-carriers and clerks of the money-order system, sixty-five thousand dollars.

DEPARTMENT OF AGRICULTURE.

For compensation of Commissioner of Agriculture, three thousand dollars; chief clerk, two thousand dollars; entomologist, two thousand dollars; chemist, two thousand dollars; superintendent of experimental gardens, two thousand dollars; botanist, fourteen hundred dollars; superintendent of seed-room, eighteen hundred dollars; librarian, eighteen hundred dollars; superintendent of folding-room, twelve hundred dollars; three clerks of class four, five thousand four hundred dollars; four clerks of class three, six thousand four hundred dollars; six clerks of class two, eight thousand four hundred dollars; seven clerks of class one, eight thousand four hundred dollars; five copyists and attendants in museum, at one thousand dollars each, five thousand dollars; three messengers, at eight hundred and forty dollars each, two thousand five hundred and twenty dollars; two watchmen, at six hundred dollars each, twelve hundred dollars; six laborers, at six hundred dollars each, three thousand six hundred dollars; statistician, two thousand dollars; assistant chemist, sixteen hundred dollars; assistant superintendent of experimental garden and grounds, twelve hundred dollars; assistant superintendent of seed-room, twelve hundred dollars; disbursing clerk, eighteen hundred dollars; two engineers, one at fourteen hundred dollars, and one at twelve hundred dollars; making, in all, sixty-eight thousand five hundred and twenty dollars.

Agricultural Statistics.

For collecting statistics and material for annual report, fifteen thousand dollars; one watchman, seven hundred and twenty dollars.

For continuance and completion of investigations of cattle disease, fifteen thousand dollars.

Contingencies.

For stationery, freight, and incidentals, five thousand dollars.

For purchases for library, laboratory, and museum, five thousand dollars.

For fuel, light, and miscellaneous expenses, three thousand two hundred dollars.

For keep of horses, fifteen hundred dollars.

For cases for museum, repairs of furniture, fences, and water, two thousand five hundred dollars.

For labor and repairs in the experimental garden, and purchase of plants for the same, ten thousand dollars.

For improvement of the grounds, ten thousand dollars.

For purchase of new and valuable seeds and labor in putting them up, twenty thousand dollars. And this act shall not be so construed as to reduce the compensation of any employe of the Government below the amount allowed in the last or present appropriation bill.

UNITED STATES MINT AND ASSAY OFFICE.

Mint at Philadelphia.

For salaries of the Director, treasurer, assayer, melter and refiner, chief coiner and engraver, assistant assayer, and seven clerks, thirty-seven thousand nine hundred dollars.

For wages of workmen and adjusters, one hundred and twenty five thousand dollars.

For incidental and contingent expenses, twenty-five thousand dollars.

For specimens of ores and coins to be preserved in the cabinet of the Mint, six hundred dollars.

For freight on bullion and coin, five thousand dollars.

Branch Mint at San Francisco, California.

For salaries of superintendent, treasurer, assayer, melter and refiner, coiner, and six clerks, thirty thousand five hundred dollars.

For wages of workmen and adjusters, one hundred and fifty thousand dollars.

For incidental and contingent expenses, repairs, and wastage, sixty-nine thousand five hundred and forty-five dollars.

For specimens of ores, three hundred dollars.

Assay Office, New York.

For salaries of superintendent, assayer, and melter and refiner, assistant assayer, officers, and clerks, twenty-five thousand seven hundred dollars.

For wages of workmen, in addition to unexpended balances of former appropriations, forty thousand dollars.

For incidental and contingent expenses, fifty thousand dollars.

Branch Mint at Denver.

For assayer, who shall have charge of the said mint, eighteen hundred dollars.

For melter, eighteen hundred dollars.

For wages of workmen, twelve thousand dollars.

For two clerks, at eighteen hundred dollars each, three thousand six hundred dollars.

For incidental and contingent expenses, three thousand dollars.

Branch Mint at New Orleans.

For the care and preservation of the branch mint buildings, machinery, and material at New Orleans, three thousand dollars.

Branch Mint at Charlotte, North Carolina.

For the care and preservation of the branch mint buildings, machinery, and materials, at Charlotte, North Carolina, including five hundred dollars for necessary repairs, one thousand dollars.

Branch Mint at Carson City.

For salaries of officers and clerks, for wages of workmen, and for incidental expenses, including acids, chemicals, and postage for the fiscal year ending June thirtieth, eighteen hundred and seventy, seventy-four thousand six hundred dollars.

INDEPENDENT TREASURY.

For salaries of the Assistant Treasurers of the United States at New York, Boston, Charleston, and Saint Louis, viz: For the Assistant Treasurer at New York, eight thousand dollars; those at Boston and Saint Louis, each five thousand dollars; and the one at Charleston, four thousand dollars—twenty-two thousand dollars.

For additional salary of the treasurer of the Mint at Philadelphia, fifteen hundred dollars.

For additional salary of the treasurer of the branch mint at New Orleans, five hundred dollars.

For additional salary of the treasurer of the branch mint at San Francisco, California, fifteen hundred dollars: *Provided*, That there shall be no increase of salary in the foregoing paragraphs relating to the Independent Treasury over that allowed by existing laws.

For salaries of the clerks and messengers in the office of Assistant Treasurer at Boston, twenty thousand dollars: *Provided*, That hereafter the salaries of the clerks and messengers employed in this office shall not exceed the sum herewith appropriated.

For salaries of clerks, messengers, and watch-

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men in the office of the Assistant Treasurer at New York, ninety thousand dollars.

For salaries of clerks, messengers, and watchmen in the office of the Assistant Treasurer at Philadelphia, twenty thousand dollars.

For salaries of clerks, messengers, and watchmen in the office of the Assistant Treasurer at Saint Louis, eight thousand dollars.

For salaries of clerks, porter, and watchman in the office of the Assistant Treasurer of New Orleans, six thousand dollars.

For compensation to stamp clerk, cashier, and clerk in the office of the Assistant Treasurer at San Francisco, six thousand nine hundred dollars.

For compensation of the depositary at Santa Fé, and the clerk, watchman, and porter in his office, four thousand dollars.

For salaries of clerks in the office of the depositary at Louisville, three thousand five hundred dollars.

For salaries of clerks in the office of the depositary at Chicago, two thousand dollars.

For salaries of clerks and watchmen in the office of the depositary at Pittsburg, two thousand four hundred dollars.

For salaries of clerks and messengers in the office of the depositary at Baltimore, five thousand dollars.

For salaries of clerks in the office of the depositary at Cincinnati, ten thousand dollars.

For compensation to designated depositaries, under fourth section of the act of August sixth, eighteen hundred and forty-six, for the collection, safe-keeping, transfer, and disbursement of the public revenue, five thousand dollars.

For salaries of additional clerk[s], and additional compensation of officers and clerks under act of August sixth, eighteen hundred and forty-six, for the better organization of the Treasury, at such rates as the Secretary of the Treasury may deem just and reasonable, sixty thousand dollars.

For compensation to special agents to examine the books, accounts, and money on hand at the several depositories, under the act of the sixth of August, eighteen hundred and forty-six, six thousand dollars.

For contingent expenses under the act of the sixth of August, eighteen hundred and forty-six, for the collection, safe-keeping, transfer, and disbursement of the public revenue, in addition to premium which may be received on transfer drafts, one hundred thousand dollars: *Provided*, That no part of said sum shall be expended for clerical services.

For checks and certificates of deposit for office of Assistant Treasurer at New York, and other offices, eight thousand dollars.

GOVERNMENTS IN THE TERRITORIES.

Territory of New Mexico.

For salaries of Governor, chief justice and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of said Territory, fifteen hundred dollars.

For interpreter and translator in the executive office, five hundred dollars.

Territory of Utah.

For salaries of Governor, chief justice, two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, fifteen hundred dollars.

Territory of Washington.

For salaries of Governor, chief justice, two associate judges, and secretary, twelve thousand five hundred dollars.

For contingent expenses of said Territory, fifteen hundred dollars.

Territory of Colorado.

For salaries of Governor and superintendent of Indian affairs, chief justice and two associate judges, and secretary, eleven thousand eight hundred dollars.

For contingent expenses of the Territory, one thousand dollars.

Territory of Dakota.

For salaries of Governor and superintendent of Indian affairs, chief justice and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, one thousand dollars.

Territory of Arizona.

For salaries of Governor, chief justice and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, one thousand dollars.

For interpreter and translator in the executive office, five hundred dollars.

Territory of Idaho.

For salaries of Governor and superintendent of Indian affairs, chief justice and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, one thousand dollars.

Territory of Montana.

For compensation of Governor and superintendent of Indian affairs, chief justice and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, one thousand dollars.

Territory of Wyoming.

For salaries of Governor and superintendent of Indian affairs, chief justice, two associate justices, and secretary, twelve thousand three hundred dollars.

For contingent expenses of the Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars: *Provided*, That hereafter the members of both branches of the Legislative Assemblies of the several Territories shall be chosen for the term of two years, and the sessions of the Legislative Assemblies shall be biennial. And each territorial Legislature shall, at its first session after the passage of this act, make provision by law for carrying this act into effect.

JUDICIARY.

Office of the Attorney General.

For salaries of the Attorney General, law clerk, and chief clerk, two clerks of class four, two clerks of class three, one clerk of class one, and one messenger in his office, twenty-five thousand two hundred dollars.

For salaries of two assistant attorneys general, at four thousand dollars each, eight thousand dollars.

For salary of one clerk, two thousand dollars.

For salary of two clerks of class four, three thousand six hundred dollars.

Contingent expenses of the office of the Attorney General, namely:

For fuel, labor, furniture, stationery, and miscellaneous items, ten thousand dollars.

For purchase of law and necessary books for the office of the Attorney General, one thousand dollars.

Justices of the Supreme Court of the United States.

For salaries of the Chief Justice and six associate justices, forty-two thousand five hundred dollars.

For one associate justice, six thousand dollars.

For traveling expenses of the judge assigned to the tenth circuit for attending session of the Supreme Court of the United States, one thousand dollars.

For salaries of the district judges of the United States, one hundred and sixty-five thousand dollars.

For salaries of the chief justice of the supreme court of the District of Columbia, the associate judges, and judge of the orphans' court, nineteen thousand dollars.

For salary of the reporter of the decisions of the Supreme Court of the United States, two thousand five hundred dollars.

For compensation of the district attorneys, twelve thousand five hundred dollars.

For compensation of the district marshals, fourteen thousand eight hundred dollars.

SEC. 2. *And be it further enacted*, That the heads of the several Executive Departments be, and they are hereby, directed to report at the opening of the session of Congress beginning on the first Monday of December next, the number of desks in their several Departments, the number of clerks in their several Departments, the number employed therein during the preceding fiscal year, when employed and when discharged, and the amount of compensation received by each, and what reduction, if any, can be made in the number of clerks in each grade.

APPROVED, March 3, 1869.

CHAP. CXXII.—An Act making Appropriations for sundry Civil Expenses of the Government for the year ending June thirtieth, eighteen hundred and seventy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, for the objects hereinafter expressed, for the fiscal year ending the thirtieth June, eighteen hundred and seventy, viz:

LOANS AND TREASURY NOTES.

For necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes, one million two hundred and fifty thousand dollars.

MISCELLANEOUS.

For carrying out the provisions of the act of the thirtieth of August, eighteen hundred and fifty-two, for the better protection of the lives of passengers on vessels propelled in whole or in part by steam, and of the acts amendatory thereof, the following sums, to wit: for the salaries of the supervising and local inspectors, seventy-six thousand eight hundred dollars; for the traveling expenses of the supervising inspectors, ten thousand dollars; for the traveling expenses of the local inspectors, fifteen thousand dollars: *Provided*, That whenever the public interest requires it, any local inspector may be allowed for travel in any one year a sum not exceeding seven hundred dollars. For the salary and traveling expenses of a special agent of the Department, three thousand six hundred dollars; for the expenses of the meeting of the board of supervising inspectors, including travel and necessary incidental expenses, printing of Manual and Report, four thousand dollars; for stationery, for furniture of offices and repair thereof, for repair and transportation of instruments, and for fuel and lights, fifteen thousand dollars.

For expenses in detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, and other securities of the United States, as well as the coins of the United States, and other frauds upon the Government, one hundred thousand dollars.

To meet expenses to be incurred in the prosecution and collection of claims due the United States, fifteen thousand dollars, to be disbursed under the direction of the Secretary of the Treasury.

For facilitating communication between the Atlantic and Pacific States by electrical telegraph, forty thousand dollars.

For supplying deficiency in the fund for the relief of sick and disabled seamen, one hundred thousand dollars.

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For the construction of four steam revenue-cutters, viz: one for Alaska; one for Columbia river, Oregon; one for Mobile, Alabama; and one for Charleston, South Carolina, three hundred thousand dollars: *Provided*, That said cutters shall not cost more than the sum hereby appropriated.

To defray the expense of a preliminary survey of the site for the proposed navy-yard at League Island, five thousand dollars.

For the completion of a bridge over the Dakota river, and to locate and survey the road from said bridge to the Vermillion bridge, one thousand dollars.

In connection with the late Bureau of Freedmen and Refugees:

For Washington asylum and hospital, Washington, District of Columbia, twenty-five thousand dollars; for Richmond asylum and hospital, Richmond, Virginia, fifteen thousand dollars; Vicksburg asylum and hospital, Vicksburg, Mississippi, ten thousand dollars, for the present fiscal year: *Provided*, That on and after the close of the present fiscal year the said asylums and hospitals shall be discontinued.

For collection and payment of bounty, prize money, and other legitimate claims of colored soldiers and sailors for the fiscal year ending June thirtieth, eighteen hundred and seventy, and for salaries of agents and clerks, one hundred and forty-five thousand dollars;

For rent of offices, fuel and light, twenty-five thousand dollars;

For office furniture, three thousand dollars; For stationery and printing, twenty thousand dollars;

For mileage and transportation of officers and agents, eighteen thousand dollars;

For telegraphing and postage, three thousand dollars; being, in all, two hundred and fourteen thousand dollars.

For compensation of the acting chargé d'affaires ad interim at Venezuela, at the rate of four thousand five hundred dollars per annum, from the first day of June last until such time as a minister shall be appointed and shall take charge of the legation, such sum as may be necessary.

SURVEY OF THE COAST.

For the survey of the Atlantic and Gulf coasts of the United States, including compensation of civilians engaged in the work, and excluding pay and emoluments of officers of the Army and Navy, and petty officers and men of the Navy employed in the work, two hundred and seventy-five thousand dollars.

For continuing the survey of the Pacific coast of the United States, including compensation of civilians engaged in the work, one hundred and seventy-five thousand dollars.

For publishing the observations made in the progress of the coast survey of the United States, including compensation of civilians employed in the work, two thousand dollars, the publication to be made at the Government Printing Office.

For pay and rations of engineers for steamers used in the hydrography of the Coast Survey, no longer supplied by the Navy Department, per act of June twelfth, eighteen hundred and fifty-eight, five thousand dollars.

For repairs and maintenance of the complement of vessels used in the Coast Survey, thirty thousand dollars.

Northern and Northwestern Lakes.

For the survey of northern and northwestern lakes, one hundred thousand dollars: *Provided*, That any surplus charts of the northwestern lakes may be sold to navigators upon such terms as the Secretary of War may prescribe.

To procure a survey and report and for repairing wharf at the site for the navy-yard on the river Thames, near New London, Connecticut, deeded to the United States for naval purposes, ten thousand dollars; but no further amount shall be contracted to be paid for this purpose.

LIGHT-HOUSE ESTABLISHMENT.

For the Atlantic, Gulf, Lake, and Pacific coasts, viz:

For supplying the light-houses and beacon-lights with oil, wicks, glass chimneys, chamois skins, whiting, spirits of wine, polishing powder, cleaning towels, brushes, and other necessary expenses of the same, and repairing and keeping in repair the lighting apparatus, two hundred and fifty-one thousand seven hundred and seventeen dollars.

For the necessary repairs and incidental expenses, improving and refitting light-houses and buildings connected therewith, two hundred and twenty-five thousand dollars.

For salaries of five hundred and eighty-nine keepers of light-houses and lighted beacons, and their assistants, four hundred and fifty-six thousand dollars.

For seamen's wages, repairs, supplies, and incidental expenses of twenty-four light-vessels, two hundred and thirty-two thousand two hundred and ninety dollars.

For expenses of raising, cleaning, painting, repairing, removing, [remooing,] and supplying losses of beacons and buoys, and for chains and sinkers for the same, two hundred and fifty thousand dollars.

For repairs and incidental expenses of refitting and improving fog-signals and buildings connected therewith, thirty thousand dollars.

For expenses of visiting and inspecting lights and other aids to navigation, two thousand dollars.

For a light-house on Half-way Rock, Casco bay, Maine, fifty thousand dollars.

For rebuilding Plum Island light station, in addition to former appropriations, eleven thousand dollars.

For repairs and renovations at Throg's Neck, Highlands at Neversink, Sandy Hook, Conover beacon, and Fort Tompkins light-station at New Jersey, thirteen thousand four hundred dollars.

For stake-lights in the Hudson river, two thousand dollars.

For stake-lights in Whitehall narrows, Lake Champlain, New York, five thousand dollars.

For rebuilding Stratford river beacon, Connecticut, eight thousand dollars.

For building a wharf and shed for landing and storage of buoys at Black Rock light-station, Connecticut, eight thousand dollars.

For repairing and coping the brick wall on the north side of, and filling in and grading grounds at the Staten Island light-house depot, twelve thousand five hundred dollars.

For rebuilding a first-class light-house at Cape Hatteras, North Carolina, in addition to former appropriations, forty thousand dollars.

For replacing the ten-day beacons formerly marking the Florida reefs, fifty thousand dollars.

For rebuilding Cat Island light-station, fifteen thousand dollars.

For repairs and renovations at Proctorville beacon and Pass à l'Ouvre light-station, five thousand five hundred dollars.

For a light-house at Point aux Herbes, Louisiana, to take the place of Bon Fonca light-station, destroyed by the rebels, and now reestablished, eight thousand dollars.

For a new light-house at Timbalier, to replace the one destroyed by a hurricane on the twenty-ninth and thirtieth March, eighteen and sixty-seven, fifty thousand dollars.

For a new light-house at Shell Keys, to replace the one destroyed in the hurricane of the fifth and sixth of October, eighteen hundred and sixty-seven, sixty thousand dollars.

For rebuilding a light-station at the "Swash," Texas, six thousand dollars.

For a steam-tender for light-house and buoy service in the Gulf of Mexico, fifty thousand dollars.

For rebuilding Grand river light-station, Lake Erie, thirty thousand dollars.

For a light-house and pier of protection at Cleveland, Ohio, forty-five thousand dollars.

For repairs and improvements at Genesee light-station, Lake Ontario, thirteen thousand dollars.

For repairs and renovations at Grassy Island and Monroe light-stations, three thousand three hundred dollars.

For range lights to mark the channel into Presque Isle harbor, Lake Huron, seven thousand five hundred dollars.

For the construction of a light-house on Spectacle reef, Lake Huron, one hundred thousand dollars.

For repairs and renovations at South Manitou and Point Betsey light-stations, Lake Michigan, four thousand dollars.

For rebuilding the keeper's dwelling at Muskegon light-station, Lake Michigan, in addition to former appropriations, six thousand dollars.

For repairs and renovations at St. Joseph's, Michigan City, Raspberry Island, Minnesota Point, and other light-stations, five thousand six hundred dollars.

For repairs and renovations at Bayley's Harbor light-station, subject to provisions of act of Congress, March two, eighteen hundred and sixty-seven, in addition to former appropriations, fifteen thousand dollars.

For rebuilding Portage river light-house, Lake Superior, twelve thousand dollars.

For rebuilding Eagle river light-house, Lake Superior, fourteen thousand dollars.

For enabling the Light-House Board to experiment with new illuminating apparatus and fog-signals, in addition to former appropriations, four thousand dollars.

For two first-class light-ships, for relief vessels for outside stations, one hundred thousand dollars.

For compensation of two superintendents of the life-saving stations upon the coasts of Long Island and New Jersey, three thousand dollars.

For compensation of fifty-four keepers of stations, at two hundred dollars each, ten thousand eight hundred dollars.

For contingencies of life-saving stations on the coast of the United States, ten thousand dollars: *Provided*, That the Secretary of the Treasury shall have power, after a week's notice to the public, to sell and convey any real estate no longer used for light-house purposes, the avails of such sale to be paid into the national Treasury.

For life-boat station on Narragansett beach, Rhode Island, to be expended under the direction of the Secretary of the Treasury, five thousand dollars.

REVENUE-CUTTER SERVICE.

For pay of officers and pilots, four hundred and eight thousand six hundred dollars.

For rations for officers and pilots, twenty-eight thousand four hundred and seventy-nine dollars.

For pay of petty officers and crew, three hundred and eighty thousand eight hundred and fifty dollars.

For rations of petty officers and crew, one hundred and thirty-three thousand five hundred and sixty-one dollars.

For fuel, one hundred thousand dollars.

For repairs and outfits, one hundred and twenty-five thousand dollars.

For supplies of ship chandlery, fifty thousand eight hundred dollars.

For traveling expenses, five thousand dollars.

CONSTRUCTION BRANCH OF THE TREASURY DEPARTMENT.

For completing main stairway west wing, eight thousand five hundred dollars: *Provided*, That all moneys appropriated for the extension of the Treasury building shall be disbursed only by one of the regular disbursing clerks of the Treasury Department, who shall receive no extra compensation for such service.

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For fencing and approaches to south front, twenty thousand dollars.

For annual repairs, ten thousand dollars.

For repairs and preservation of public buildings, one hundred thousand dollars.

For furniture and repairs of same for public buildings, fifty thousand dollars.

For fire-proof vaults for depositories, twenty-five thousand dollars.

For fuel and miscellaneous items for custom-houses and other public buildings belonging to the United States, under the supervision of the Secretary of the Treasury, forty thousand dollars.

For the preservation and protection of the public buildings already commenced and for the completion of which no appropriation is made, twenty-five thousand dollars.

For removal of hydraulic weights and construction of the northwest stairway in the Treasury building, ten thousand dollars.

For laying the foundation and commencing the building for the post office and sub-Treasury in Boston, Massachusetts, two hundred thousand dollars.

For laying the foundation and commencing the building for the post office in New York, two hundred thousand dollars: *Provided*, That the Secretary of the Treasury and the Postmaster General are hereby authorized, with the assent of the State of New York, to exchange a part or the whole of the point at the southerly extremity of the park, now the property of the United States; with the city of New York, for an equal or greater amount of land further up said park with public places on the northerly and southerly sides of the land so required: *Provided*, That no money shall be paid and no liability incurred for such exchange.

For custom-house in Bangor, Maine, twenty-five thousand dollars.

For custom-house in Cairo, Illinois, thirty thousand dollars.

For post office and court-house at Columbia, South Carolina, seventy-five thousand dollars: *Provided*, That the site for the same shall be given to the United States.

For custom-house in Portland, Maine, sixty thousand dollars.

For custom-house in St. Paul, Minnesota, fifty thousand dollars.

For custom-house at Portland, Oregon, fifty thousand dollars.

For court-house and post office, Madison, Wisconsin, fifty thousand dollars.

For the completion of a custom-house, court-house, and post office building at Knoxville, East Tennessee, in addition to former appropriations, five thousand dollars.

For purchase of building known as "the Club House," at Charleston, South Carolina, and the fitting up thereof for the use of the United States courts, forty-six thousand dollars, or so much thereof as may be required, and the Secretary of the Interior is hereby authorized to make such purchase and fit up said building for the said purpose: *Provided*, That the same can be done at an expense not larger than the said forty-six thousand dollars.

For court-house and post office in Portland, Maine, twenty-five thousand dollars.

For appraisers' stores, Philadelphia, twenty-five thousand dollars.

For branch mint, San Francisco, one hundred and fifty thousand dollars.

For court-house, Springfield, Illinois, twenty-five thousand dollars: *Provided*, That the Secretary of the Treasury may, at his discretion, designate any officer of the United States who has given bonds for the faithful performance of his duties as disbursing agent for the payment of all moneys that are or may be appropriated for the construction of public buildings authorized by law in their respective districts.

INTERIOR DEPARTMENT.

Rent of Office for Surveyors General.

For rent of surveyor general's office in the

Territory of Dakota, fuel, books, stationery, and other incidental expenses, two thousand dollars.

For office rent of the surveyor general of Kansas, fuel, books, stationery, and other incidental expenses, two thousand dollars.

For rent of office for the surveyor general of Colorado Territory, fuel, books, stationery, and other incidental expenses, two thousand dollars.

For rent of surveyor general's office for the Territory of New Mexico, fuel, books, stationery, and other incidental expenses, one thousand two hundred dollars.

For rent of surveyor general's office of California and Arizona, [Arizona,] fuel, books, stationery, and other incidental expenses, four thousand dollars.

For rent of surveyor general's office in Oregon, fuel, books, stationery, and other incidental expenses, including pay of messenger, two thousand dollars.

For office rent for the surveyor general of Washington Territory, fuel, books, stationery, and other incidental expenses, two thousand dollars.

For rent of office of the surveyor general of Idaho, fuel, books, stationery, and other incidental expenses, two thousand five hundred dollars.

For rent of office for the surveyor general of Nevada, fuel, books, stationery, and other incidental expenses, two thousand dollars.

For office rent of the surveyor general of Iowa and Nebraska, fuel, books, stationery, and other incidental expenses, two thousand dollars.

For rent of office of surveyor general of Montana, fuel, books, stationery, and other incidental expenses, two thousand dollars.

For rent of office of the surveyor general of the Territory of Utah, fuel, books, stationery, and other incidental expenses, two thousand dollars.

For a continuance of the geological survey of the Territories of the United States, by Professor Hayden, under the direction of the Secretary of the Interior, ten thousand dollars.

For continuing the collection of statistics of mines and mining, by Professor R. W. Raymond, ten thousand dollars, to be expended under the direction of the Secretary of the Treasury. The sum of twenty-five hundred dollars appropriated for said purpose by the act of July twenty, eighteen hundred and sixty-eight, shall be transferred by the Commissioner of the General Land Office to the Treasury Department to be expended as provided in said act.

Public Works under the Supervision of the Architect of the Capitol Extension.

For finishing and repairing the work of the United States Capitol extension, seventy-five thousand dollars.

For finishing and repairing the work on the new Dome of the Capitol, five thousand dollars.

For the annual repairs of the old portion of the Capitol, such as painting, glazing, keeping roof in order, also water-pipes, pavements, and approaches to the building, ten thousand dollars.

For finishing the work on the north front of the Patent Office building, and for improving G street from Seventh to Ninth street, eight thousand five hundred dollars: *Provided*, That the corporation of Washington city cause the north half of G street between Seventh and Ninth streets to be paved at the same time, the cost thereof to be assessed against the private property fronting thereupon in the manner usual in cases of such improvements.

To finish the improvements on the western front of the Post Office building, on Eighth street, between E and F streets, for paving, grading, curbing, and sidewalks, five thousand six hundred and fifty dollars: *Provided*, That the corporation of Washington city cause the western half of said Eighth street between E

and F streets to be paved at the same time, the cost thereof to be assessed against the private property fronting thereupon in the manner usual in cases of such improvements.

For the purchase of a site at Omaha, Nebraska, and for the erection upon the same of a building for a post office, the Federal courts, and Federal offices, twenty-five thousand dollars.

SMITHSONIAN INSTITUTION.

For the preservation of the collections of the exploring and surveying expeditions of the Government, four thousand dollars.

METROPOLITAN POLICE.

For salaries and other necessary expenses of the Metropolitan police for the District of Columbia, two hundred and eleven thousand and fifty dollars: *Provided*, That a further sum amounting to one hundred and five thousand five hundred and twenty-five dollars shall be paid to the said Metropolitan police force by the cities of Washington and Georgetown, and the county of Washington, (beyond the limits of said cities,) in the District of Columbia, in the proportion corresponding to the number of patrolmen allotted severally to said precincts; and the corporate authorities of said cities, and the levy court of said county, are hereby authorized and required to levy a special tax, not exceeding one third of one per centum, to be appropriated and expended for said purpose only, for the service of the fiscal year ending June thirtieth, eighteen hundred and seventy.

EXPENSES OF THE COLLECTION OF REVENUE FROM SALES OF PUBLIC LANDS.

For salaries and commissions of registers of land offices, and receivers of public moneys at sixty-six land offices, two hundred and eighty-seven thousand eight hundred dollars.

For incidental expenses of the land offices, twenty thousand dollars.

SURVEYING THE PUBLIC LANDS.

For surveying the public lands in Minnesota, at rates not exceeding ten dollars per lineal mile for standard lines, seven dollars for township, and six dollars for section lines, twenty thousand dollars; and such construction shall be given to the joint resolution number thirty, approved twenty-fifth April, eighteen hundred and sixty-two, as shall not abridge the grant under the act of June third, eighteen hundred and fifty-six, for a railroad from Fond du Lac northerly to the State line, and the Chicago and Northwestern Railroad Company may select their lands along the full extent of the original route of said road as filed under the said act.

For surveying the public lands in Dakota Territory, at rates not exceeding ten dollars per mile for standard lines, seven dollars [for] township and six dollars for section lines, fifteen thousand dollars.

For surveying the public lands in Montana Territory, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township and ten dollars for section lines, twenty-five thousand dollars.

For surveying the public lands in Nebraska, at rates not exceeding ten dollars per lineal mile for standard lines, seven dollars for township and six dollars for section lines, forty thousand dollars.

For surveying the public lands in Kansas, at rates not exceeding ten dollars per lineal mile for standard lines, six dollars for township and five dollars for section lines, forty thousand dollars.

For surveying the public lands in Colorado, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township and ten dollars for section lines, thirty thousand dollars.

For surveying the public lands in Idaho, at rates not exceeding fifteen dollars per mile for standard lines, twelve dollars for township and ten [dollars] for section lines, twenty-five thousand dollars.

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For surveying the public lands in Nevada, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township and ten dollars for section lines, forty thousand dollars.

For surveying the public lands in New Mexico, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township and ten dollars for section lines, five thousand dollars.

For surveying the public lands in Arizona, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township and ten dollars for section lines, five thousand dollars.

For surveying the public lands in California, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township and ten dollars for section lines, fifty thousand dollars.

For surveying the public lands in Oregon, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township and ten dollars for section lines, forty thousand dollars: *Provided*, That the Commissioner of the General Land Office, in his discretion, may authorize public lands in said State densely covered with forests or thick undergrowth to be surveyed at augmented rates not exceeding eighteen dollars per mile for standard parallels, fifteen dollars for township and twelve dollars for section lines.

For surveying the public lands in Washington Territory, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township and ten dollars for section lines, fifteen thousand dollars.

For surveying the public lands in Utah Territory, at rates not exceeding fifteen dollars per mile for standard lines, twelve dollars for township and ten dollars for section lines, twenty-five thousand dollars.

For surveying the public lands in the Territory of Wyoming, at rates not exceeding fifteen dollars per mile for standard lines, twelve dollars for township and ten dollars for section lines, twenty-five thousand dollars.

For surveying that part of the eastern boundary of Colorado Territory which lies between the thirty-seventh and fortieth parallels of north latitude, estimated two hundred and ten miles, at rates not exceeding twenty-five dollars per mile, two thousand five hundred and twenty dollars.

For surveying the northern boundary of Nevada, estimated three hundred and ten miles, at rates not exceeding twenty-five dollars per mile, seven thousand seven hundred and fifty dollars.

To complete the survey of the western boundary of Nebraska, thirty-two hundred dollars.

PUBLIC BUILDINGS AND GROUNDS.

For repairs and improvements of public buildings and grounds heretofore under the direction of the Commissioner of Public Buildings, to wit:

For casual repairs of the navy-yard and upper bridges, three thousand dollars.

For repairs and taking care of the bridge at or near the Little Falls of the Potomac river, two thousand dollars.

For repairs of the Long Bridge across the Potomac river, five thousand dollars.

For fuel for the President's House, five thousand dollars.

For improvement and care of reservation number two, and Lafayette square, two thousand dollars.

For care and improvement of grounds south of the President's House, five thousand dollars.

For extra labor in removing snow and ice from the pavements and public walks, five hundred dollars.

For manure for the public grounds and reservations, and cartage of the same, two thousand dollars.

For further improvement and care of reser-

ventions on New York, Pennsylvania, Massachusetts, Connecticut, Vermont, and Maryland avenues, three thousand dollars.

For painting iron fences around the public squares and reservations, three thousand dollars.

For annual repairs of the President's House, ten thousand dollars.

For flower-pots, glasses, twine, one thousand dollars.

For fuel for the center building of the Capitol, one thousand five hundred dollars.

For hire of carts on the public grounds, two thousand dollars.

For purchase and repair of tools used on the public grounds, one thousand five hundred dollars.

For continuing the work of grading and filling the Capitol grounds, fifteen thousand dollars.

For purchase of trees and tree-boxes, to replace, when necessary, such as have been planted by the United States, to whitewash tree-boxes and fences, and to repair pavements in front of the public grounds, two thousand dollars.

For repairs of buildings in the Botanical Garden and the erection of suitable iron stands for plants in new conservatory, four thousand dollars, to be expended by the architect of the Capitol, under the direction of the joint Committee on the Library.

For pay of lamp-lighters, gas-fitting, plumbing, lamp posts, lanterns, glass, paints, matches, materials, and repairs of all sorts, five thousand dollars.

For purchase of stationery, books, maps, plans, office furniture, and contingents of the office, one thousand dollars.

To aid in supporting the "National Association for the Relief of Destitute Colored Women and Children" of this District, five thousand dollars, to be expended under the direction of the executive committee of its board of managers.

For completing the iron fencing of the President's grounds on the south and along the avenue now being opened between Fifteenth and Seventeenth streets, including gates, twenty-seven thousand dollars.

For refurnishing the President's House, twenty-five thousand dollars.

For the purchase of a portrait of the late President Abraham Lincoln, to be placed in the Executive Mansion, three thousand dollars, or so much thereof as may be necessary: *Provided*, That said portrait shall be selected by the incoming President of the United States.

For improvement, care, protection, and repair of seats and fountains in the Capitol grounds, one thousand dollars.

For repairs and superintendence of the Washington aqueduct, twenty-five thousand dollars.

MISCELLANEOUS.

For national cemeteries, six hundred thousand dollars.

For care, improvement, and repair of the Congressional burying-ground, to be expended under the direction of the wardens and vestry of Christ-church, Washington city, three thousand dollars.

To enable the Secretary of the Interior to provide for the education and maintenance of such deaf and dumb of the District of Columbia as cannot command the means to receive an education, fifteen thousand dollars.

For the support, clothing, medical and moral treatment of the insane of the Army and Navy, revenue-cutter and volunteer service, who may have become insane since their entry into the service of the United States, and of the indigent insane of the District of Columbia in the Government Hospital for the Insane, including five hundred dollars for books, stationery, and incidental expenses, ninety thousand five hundred dollars.

For the purchase, by the Secretary of the Interior, for the agricultural and economical

purposes of the institution, one hundred and fifty acres of land, more or less, with the buildings thereon, lying directly east of the present grounds of the hospital, twenty-three thousand dollars.

For the National Soldiers' and Sailors' Orphan Home of the city of Washington, District of Columbia, ten thousand dollars, to be disbursed under the direction of the Secretary of the Interior.

For reimbursing the State of Iowa for expenses incurred and payments made during the rebellion, as examined, audited, and found due the State by General Robert C. Buchanan, commissioner under the act of Congress approved July twenty-fifth, eighteen hundred and sixty-six; two hundred and twenty-nine thousand eight hundred and forty-eight dollars and twenty-three cents: *Provided*, That the proper accounting officers of the Treasury shall review the said claim upon its merits, and allow only so much, not exceeding said sum, as shall be just.

For the care, support, and medical treatment of sixty transient paupers, medical and surgical patients, in some proper medical or charitable institution in the city of Washington, under a contract to be formed with such institution, six thousand dollars, or so much thereof as may be necessary: *Provided*, That said contract shall be made by the Surgeon General of the Army, who shall report to the December session of every Congress, stating with whom the said contract is made and the amount and nature thereof.

For the contingent fund of the House of Representatives, to pay to John A. Wimpey and James H. Christie, of Georgia, John D. Young, of Kentucky, and James H. Birch, of Missouri, claimants for seats in the House, each the sum of one thousand five hundred dollars, for their expenses severally in their contests for such seats; and the Clerk of the House is hereby authorized to pay the said amounts respectively to the persons named.

To enable the Secretary of the Interior to provide for the proper maintenance and tuition of the beneficiaries of the United States in the Columbia Institution for the Deaf and Dumb, for the year ending June thirtieth, eighteen hundred and sixty-nine, seventeen thousand five hundred dollars.

For the maintenance and tuition of the same, for the year ending June thirtieth, eighteen hundred and seventy, thirty thousand dollars.

For expenses of the commission to run and mark the boundary line between the United States and the British possessions bounding on Washington Territory, thirteen thousand six hundred dollars.

Columbia Hospital for Women and Lying-in Asylum.

For the support of the Asylum, over and above the probable amount received for pay patients, ten thousand dollars.

For deficiency in the appropriation for the relief of the Navajo Indians, now at or near Fort Sumner, to be expended under the direction of the Secretary of the Interior, eighty thousand eight hundred and thirteen dollars and fifty-eight cents.

SEC. 2. *And be it further enacted*, That the Clerk of the House be directed to pay out of the contingent fund the sum of four hundred dollars to W. S. Morse, and the sum of one hundred dollars to Charles S. Shambaugh, which shall be in full of all claims by them on account of services rendered to the Committee on Military Affairs in collecting, during the recess of the Thirty-Ninth Congress, the papers and evidence respecting artificial limbs furnished to soldiers.

SEC. 3. *And be it further enacted*, That the sum of seven thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the relief of the Mount Vernon Ladies'

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Association of the Union, to be applied to the repair and preservation of the property at Mount Vernon, under the direction of the military officer in charge of the public buildings and grounds.

APPROVED, March 3, 1869.

CHAP. CXXIII.—An Act making Appropriations to supply Deficiencies in the Appropriations for the Service of the Government for the fiscal year ending June thirtieth, eighteen hundred and sixty-nine, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June thirtieth, eighteen hundred and sixty-nine:

For the contingent expenses of the Treasury Department, and the several bureaus, namely: for fuel, light, gas, labor, and contingent expenses of the Treasury building and five other buildings occupied by the Treasury Department, forty thousand dollars.

And after the present fiscal year there shall only be employed and paid for labor in the Treasury building and the five other buildings used by the Department, for lighting, cleaning, and general care and superintendence thereof, the following persons, to wit: one superintendent, at a salary of twenty-five hundred dollars a year; one clerk of class four and one clerk of class one; one engineer in charge of heating apparatus, at a salary of twelve hundred dollars a year; five firemen, at a salary of six hundred dollars each per year; one machinist and gas-fitter, at a salary of twelve hundred dollars per year; one captain of the watch, at a salary of fourteen hundred dollars per year; one store-keeper, at a salary of one thousand dollars per year; thirty watchman, [watchmen,] at a salary of eight hundred and twenty dollars each per year; thirty laborers, at a salary of six hundred dollars each per year; seventy women, as cleaners, at a salary of one hundred and eighty dollars each per year: *And it is hereby provided,* That no account for contingent expenses at any of the bureaus of the Treasury Department shall hereafter be allowed, except on the certificate of the general superintendent of the Treasury buildings that they are necessary and proper, and that the prices paid are just and reasonable; and the said superintendent shall keep a full, just, and accurate account in detail of all amounts expended under the head of contingent expenses for the several bureaus of the Treasury Department, which shall be transmitted to Congress by the Secretary of the Treasury at every December session. And the expenditure for furniture and repairs for the same shall be made by the said superintendent, subject to the approval of the Secretary of the Treasury; and it shall be the duty of said superintendent to keep a just and accurate account in detail of all the amounts paid for the purchase of furniture, and also for the repairs thereof, as well as a full statement of the disposition of the old furniture; all of which shall be transmitted to Congress at every December session thereof by the Secretary of the Treasury: *And provided further,* That no part of the appropriations made by this or any subsequent act for contingent and incidental expenses shall be paid for clerk-hire, messengers, or laborers.

To complete the northwing of the Treasury building and approaches, including all liabilities, one hundred and sixty-three thousand five hundred and nine dollars and twenty cents: *Provided,* That no extra compensation exceeding one eighth of one per centum in any case shall hereafter be allowed to any officer,

person, or corporation, for disbursing any moneys appropriated to the construction of any public building.

For repairs and preservation of public buildings, thirty-five thousand dollars.

For necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes, four hundred thousand dollars: *Provided,* That no work shall be done in the Engraving and Printing Bureau for private parties.

For supplying deficiency in the fund for the relief of sick and disabled seamen, fifty thousand dollars.

For amount required to supply a deficiency in the appropriation for salary, miscellaneous, and other expenses of the United States Patent Office for the month[s] of March, April, May, and June, eighteen hundred and sixty-nine, two hundred thousand dollars.

For amount required to supply deficiency in the appropriation for expenses of courts, five hundred thousand dollars; and no part of this appropriation shall be paid to employ and retain counsel to assist district attorneys.

For the survey of the Atlantic, Pacific, and Gulf coasts, forty thousand dollars.

HOUSE OF REPRESENTATIVES.

To supply a deficiency in the appropriation for folding documents, eighty thousand dollars.

To supply a deficiency in the appropriation for laborers, nine thousand nine hundred and seventy-five dollars.

To defray the expenses of the joint Committee on Retrenchment, four thousand dollars, or so much thereof as may be necessary: *Provided,* That said sum shall be drawn from the Treasury upon the order of the Secretary of the Senate as the same shall be required, and any portion of the amount hereby appropriated that shall be allowed by said joint committee to witnesses attending before it, or persons employed in its service, for per diem, traveling, or other necessary expenses, and paid by said Secretary in pursuance of the orders of said committee, shall be accordingly allowed by the accounting officers of the Treasury.

To pay balance due for the twenty-four copies of the Congressional Globe and Appendix for each Representative and Delegate, and one hundred copies for House Library, in the second session of the Fortieth Congress, eighteen thousand four hundred and twenty dollars.

To pay for twenty-four copies of the Congressional Globe and Appendix for each Representative and Delegate, and one hundred copies for the House Library, and for pages in excess of fifteen hundred, in the third session of the Fortieth Congress, twenty-six thousand four hundred and fifty-two dollars.

To pay for reporting and printing the debates and proceedings in the Daily Globe, two thousand seven hundred and thirty dollars.

To pay for complete sets of the Congressional Globe and Appendix for the new members entitled to receive the same under the law of July fourth, eighteen hundred and sixty-four, seven thousand four hundred and eighteen dollars.

For Congressional Globe and Appendix, twenty-nine thousand eight hundred and forty-two dollars, or so much thereof as may be necessary to complete the work under the contract expiring March fourth, eighteen hundred and sixty-nine.

SENATE DEFICIENCY.

For clerks to committees, pages, horses, and carryalls, thirty thousand dollars.

For heating and ventilating, five thousand dollars.

For miscellaneous items, fifteen thousand dollars.

For stationery, five thousand dollars.

For additional messengers, three thousand five hundred dollars.

For folding documents and materials, five thousand dollars.

For *stationary* [stationery] and newspapers for Senators for the third session of the Fortieth Congress, nine thousand dollars.

GOVERNMENTS IN THE TERRITORIES.

Dakota.

For amount required to pay the increased salaries to the judges of Dakota Territory, authorized by the act of March second, eighteen hundred and sixty-seven, two thousand one hundred dollars.

Idaho Territory.

For amount required to pay increased salaries to the judges of the Territory of Idaho, authorized by act of March second, eighteen hundred and sixty-seven, three thousand dollars.

For refunding to the appropriation for the legislative expenses of Idaho Territory the amount advanced from this fund and not accounted for by the secretary of said Territory, thirty-eight thousand dollars.

Montana Territory.

For amount required to pay the increased salaries of the judges authorized by the act of March second, eighteen hundred and sixty-seven, two thousand five hundred dollars.

For amount required to pay outstanding liabilities on account of compensation and mileage of members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars: *Provided,* That from and after the thirtieth June next the salaries of the judges of Utah Territory shall be the same as now paid to judges in Idaho and Montana Territories.

Wyoming Territory.

For expenses of the Territory from January first, eighteen hundred and sixty-nine, to June thirtieth, eighteen hundred and sixty-nine, namely:

For Governor, one thousand five hundred dollars.

For chief justice and two associate justices, at two thousand five hundred dollars each, three thousand seven hundred and fifty dollars: *Provided,* That the compensation of the said officers of the said Territory of Wyoming shall not commence until they have been commissioned and qualified.

For secretary, nine hundred dollars.

For contingent expenses of the Territory, five hundred dollars.

DEPARTMENT OF STATE.

For blank-books, stationery, book-cases, arms of the United States; seals, presses, flags, postages, and miscellaneous expenses of the consuls of the United States, including loss by exchange, fifteen thousand dollars.

For the Incidental and Contingent Expenses of the Department of State.

For stationery, furniture, fixtures, and repairs, two thousand dollars.

For the general purposes of the Building occupied by the Department of State.

For rent, fuel, alterations, watchmen, and laborers, twelve thousand dollars.

For salary of solicitor and judge advocate of the Navy Department, from March fourth to July first, eighteen hundred and sixty-nine, eleven hundred and sixty-seven dollars.

For the continuation of the work on the United States court-house and post office, at Madison, Wisconsin, twenty-five thousand dollars.

For the construction of basin and new dock barge office at New York, twenty-five thousand dollars.

For the construction of a public building at Springfield, Illinois, for a court-house and post office, and the accommodation of officers of the United States, twenty-five thousand dollars.

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For construction of appraisers' stores at Philadelphia, thirty-seven thousand five hundred dollars.

For the continuation of the work on the public building at Cairo, Illinois, to be used for a post office, custom-house, and United States court-room, twenty-five thousand dollars.

For construction of custom-house at Saint Paul, Minnesota, twenty-five thousand dollars.

For construction of custom-house at Ogdensburg, New York, twelve thousand five hundred dollars.

For continuing the work on the marine hospital at Chicago, twenty-five thousand dollars.

For repairs of custom-house at San Francisco, seven thousand five hundred dollars.

PATENT OFFICE BUILDING.

For casual repairs of the Patent Office building, five thousand dollars.

POST OFFICE DEPARTMENT.

For compensation of the superintendent of foreign mails from August first, eighteen hundred and sixty-eight, to June thirtieth, eighteen hundred and sixty-nine, two thousand seven hundred and forty-seven dollars and twenty-eight cents. For compensation to the superintendent of the money-order system from July twenty-seven, eighteen hundred and sixty-eight, to June thirty, eighteen hundred and sixty-nine, four hundred and sixty-four dollars and sixty-seven cents. For compensation of chief of division of the dead-letter office from August first, eighteen hundred and sixty-eight, to June thirtieth, eighteen hundred and sixty-nine, two thousand two hundred and eighty-nine dollars and forty cents. For compensation of one clerk of class four, and two clerks of class three, from August first, eighteen hundred and sixty-eight, to June thirtieth, eighteen hundred and sixty-nine, four thousand five hundred and seventy-eight dollars and eighty-one cents.

For amount required to meet a deficiency in the revenues of the Post Office Department for the fiscal year ending June thirtieth, eighteen hundred and sixty-eight, seven hundred and forty-one thousand four hundred and sixty-six dollars and eighty-five cents.

For amount required to meet an anticipated deficiency in the revenues of the Post Office Department for the current fiscal year, three million seven hundred and sixty-two thousand five hundred dollars.

To supply deficiency in the appropriations for Government building at the corner of F and Seventeenth streets, for fuel and compensation of fireman, for repairs, and for miscellaneous items, three thousand dollars.

To supply the deficiency in the appropriation for lighting the Capitol and President's House, and the public grounds around them, and around the executive offices, twelve thousand dollars.

WAR DEPARTMENT.

For regular supplies of the quartermaster's department, two million five hundred thousand dollars.

For incidental expenses of the quartermaster's department, five hundred thousand dollars.

For horses for cavalry and artillery, one million five hundred thousand dollars.

For transportation of officers' baggage, one hundred thousand dollars.

For transportation of the Army and its supplies, seven million dollars.

For barracks and quarters, one million dollars.

For medical and hospital department, fifty thousand dollars.

For contingencies of the Army, four hundred and seventy-five thousand dollars.

For medical and hospital department, seven hundred and fifty thousand dollars.

For secret service fund, one hundred thousand dollars: *Provided*, That the three last-

named sums are appropriated for the purpose of enabling the Secretary of the Treasury to settle accounts of disbursing officers for expenditures already made in pursuance of law, and shall not make any actual disbursement, but merely a transfer on the books of the Treasury.

NAVY DEPARTMENT.

To supply a deficiency for provisions for the Marine corps for the fiscal year ending June thirtieth, eighteen hundred and sixty-eight, forty-two thousand dollars.

To supply a deficiency for provisions for the Marine corps for the fiscal year ending June thirtieth, eighteen hundred and sixty-nine, fifty-six thousand dollars.

MISCELLANEOUS.

To carry out the provisions of section four-teen of an act relating to pensions, approved July twenty-seventh, eighteen hundred and sixty-eight, fifteen thousand dollars.

For collecting, preparing, and printing the proceedings at the decoration of the soldiers' graves, under resolution of June twenty-second, eighteen hundred and sixty-eight, two thousand dollars.

For supplying deficiency in compensation of register and receiver in land office in Boise City, Idaho Territory, office rent, and purchase of furniture, six thousand three hundred and twenty-four dollars.

For necessary repairs and furniture for the office of the register of deeds of the District of Columbia, three hundred and fifty dollars.

For a sufficient amount to pay the regular salary of the present minister resident at Portugal, and the exchange thereon, from the first day of July, eighteen hundred and sixty-six, so long as the same was withheld from him.

For the relief of the two bands of Sisseton and Wahpeton Sioux Indians, on the reservations at Lake Traverse and Devil's Lake, Dakota Territory, to be expended under the direction of the Reverend H. B. Whipple in the purchase of tools, food, seeds, cattle, agricultural implements, and other articles necessary for Indians, and for the construction of houses, sixty thousand dollars: *Provided*, That the said Whipple shall make a full, detailed, and accurate statement to the Commissioner of Indian Affairs (who shall transmit the same to Congress) of the manner in which the amount hereby appropriated has been expended.

For compensation of H. B. Whipple for his services as above, fifteen hundred dollars.

For this amount expended and to be expended for the relief of the Kaw Indians in Kansas, twenty-five thousand dollars.

For defraying the actual expenses incurred in negotiating the treaty made with the Tabewache, Muache, Capote, Weeminucke, Yampa, Grand River, and Uintah bands of Ute Indians, on the second of March, eighteen hundred and sixty-eight, and in procuring the consent of the said Indians to the Senate amendment thereto, nine thousand two hundred and eighty-six dollars and seventy seven cents.

For additional appropriation required to complete survey of a line dividing the Creek country, under third and fifth article[s] of treaty with the Creek nation of Indians, concluded June fourteen, eighteen hundred and sixty-six, and for surveying exterior boundary of a grant of land to the Seminole nation of Indians, under the third article of the treaty with that nation, concluded March twenty-first, eighteen hundred and sixty-six, five thousand dollars.

To supply a deficiency for the payment of machinery for the branch mint at Carson City, and balance of freight on the same from Philadelphia to Carson City, thirty-one thousand dollars.

For fitting up machinery in said mint, and putting it in working order, eleven thousand dollars, or as much thereof as is necessary for that purpose.

APPROVED, March 3, 1869.

CHAP. CXXIV.—An Act making Appropriations for the Support of the Army for the year ending June thirtieth, eighteen hundred and seventy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Army for the year ending the thirtieth of June, eighteen hundred and seventy:

For expenses of recruiting and transportation of recruits, fifty thousand dollars.

For pay of the Army, eleven million dollars.

For commutation of officers' subsistence, one million five hundred thousand dollars.

For commutation of forage for officers' horses, twenty thousand dollars.

For payment in lieu of clothing for officers' servants, two hundred thousand dollars.

For payments to discharged soldiers for clothing not drawn, two hundred thousand dollars.

For subsistence in kind for regular troops and employes, four million five hundred thousand dollars.

For contingencies of the Army, one hundred thousand dollars.

For medical and hospital department, two hundred thousand dollars.

For Army Medical Museum, five thousand dollars.

For the purchase of artificial limbs for officers, soldiers, and sailors, forty thousand dollars.

For medical and other necessary works for the library of Surgeon General's office, two thousand dollars.

For expenses of commanding general's office, five thousand dollars.

For expenses of the signal service of the Army, five thousand dollars.

For regular supplies to the quartermasters' department, to wit:

For the regular supplies of the quartermasters' department, consisting of fuel for officers, enlisted men, guards, hospitals, store-houses, and offices; of forage in kind for the horses, mules, and oxen of the quartermasters' department at the several posts and stations, and with the armies in the field, for the horses of the several regiments of cavalry, the batteries of artillery, and such companies of infantry as may be mounted, and for the authorized number of officers' horses when serving in the field and at the outposts, including bedding for the animals; of straw for soldiers' bedding; and of stationery, including blank-books for the quartermasters' department, certificates for discharged soldiers, blank forms for the pay and quartermasters' departments, and for printing of division and department orders and reports, five million dollars.

For the general and incidental expenses of the quartermasters' department, consisting of postage on letters and packets received and sent by officers of the Army on public service; expenses of courts-martial, military commissions, and courts of inquiry, including the additional compensation of judge advocates, recorders, members, and witnesses while on that service, under the act of March sixteen, eighteen hundred and two; extra pay to soldiers employed under the direction of the quartermasters' department in the erection of barracks, quarters, store-houses and hospitals, in the construction of roads, and other constant labor, for periods of not less than ten days, under the acts of March two, eighteen hundred and nineteen, and August fourth, eighteen hundred and fifty-four, including those employed as clerks at division and department headquarters; expenses of expresses to and from the frontier posts and armies in the field; of escorts to paymasters and other disbursing officers, and to trains where military escorts

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cannot be furnished; expenses of the interment of officers killed in action or who die when on duty in the field, or at posts on the frontiers, or at posts and other places, when ordered by the Secretary of War, and of non-commissioned officers and soldiers; authorized office furniture; hire of laborers in the quartermasters' department, including the hire of interpreters, spies, and guides for the Army; compensation of clerks to officers of the quartermasters' department; compensation of forage and wagon-masters, authorized by the act of July fifth, eighteen hundred and thirty-eight; for the apprehension of deserters and the expenses incident to their pursuit; and for the following expenditures required for the several regiments of cavalry, the batteries of light artillery, and such companies of infantry as may be mounted, viz: the purchase of traveling forges, blacksmiths' and shoeing tools, horse and mule shoes and nails, iron and steel for shoeing, hire of veterinary surgeons, medicines for horses and mules, picket-ropes, and for shoeing the horses of the corps named; also, generally, the proper and authorized expenses for the movement and operations of an army, not expressly assigned to any other department, one million dollars.

For the purchase of horses for cavalry and artillery, two hundred and fifty thousand dollars.

For mileage, or the allowance made to officers of the Army for the transportation of themselves and their baggage, when traveling on duty without troops, escorts, or supplies, one hundred thousand dollars.

For transportation of the Army, including baggage of the troops when moving either by land or water, of clothing, camp, and garrison equipage, from the depots of Philadelphia, Cincinnati, and New York to the several posts and Army depots, and from those depots to the troops in the field; and of subsistence stores from the places of purchase, and from the places of delivery under contract, to such places as the circumstances of the service may require them to be sent; of ordnance, ordnance stores, and small-arms from the foundries and armories to the arsenals, fortifications, frontier posts, and Army depots; freights, wharfage, tolls, and ferriages; the purchase and hire of horses, mules, oxen, and harness, and the purchase and repair of wagons, carts, and drays, and of ships and other sea-going vessels, and boats required for the transportation of supplies and for garrison purposes; for drayage and cartage at the several posts; hire of teamsters; transportation of funds for the pay and other disbursing departments; the expense of sailing public transports on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific; for procuring water at such posts as from their situation require it to be brought from a distance; and for clearing roads and removing obstructions from roads, harbors, and rivers, to the extent which may be required for the actual operations of the troops in the field, six and one half million dollars.

For hire or commutation of quarters for officers on military duty; hire of quarters for troops, of store-houses for the safe-keeping of military stores, and of grounds for summer cantonments; for the construction of temporary huts, hospitals, and stables, and for repairing public buildings at established posts, one million dollars.

For heating and cook stoves, fifteen thousand dollars.

For the ordnance service, required to defray the current expenses at the arsenals of receiving stores and issuing arms and other ordnance supplies; of police and office duties; of rents, tolls, fuel, and lights; of stationery and office furniture; of tools and instruments for use; of public animals, forage, and vehicles; incidental expenses of the ordnance service, in-

cluding those attending practical trials and tests of ordnance, small-arms, and other ordnance supplies, two hundred thousand dollars: *Provided*, That no money appropriated by this act shall be used to purchase any new cannon or small-arms.

For Repairs and Improvements of Armories and Arsenals.

For arsenal and armory at Rock Island, Illinois, one million dollars: *Provided*, That one half of this amount shall be applied to the construction of the bridge connecting Rock Island with the cities of Rock Island and Davenport.

For Augusta arsenal, Augusta, Georgia, one thousand dollars.

For erecting a brick armory and smith-shop at the arsenal at Columbus, Ohio, fifteen thousand dollars.

For grading and draining public grounds at said arsenal, five thousand dollars.

For Benecia arsenal, Benecia, California, five thousand dollars.

For Watertown arsenal, Watertown, Massachusetts, five thousand dollars.

For paving and curbing Tacony street opposite Frankford arsenal, Pennsylvania, one thousand three hundred and ninety-three dollars and twenty cents.

For Fort Monroe arsenal, Old Point Comfort, Virginia, one thousand dollars.

For Leavenworth arsenal, Leavenworth, Kansas, five thousand dollars.

For Pikesville arsenal, Pikesville, Maryland, five hundred dollars.

For contingencies of arsenals, ten thousand dollars.

For the preservation and necessary repairs of the fortifications and other works of defense, two hundred thousand dollars.

For surveys for military defenses, two hundred thousand dollars.

And the Secretary of War is hereby authorized to have prepared and published the report of the results of the exploring expedition and survey of the line of the fortieth parallel: *Provided*, That the cost of the same shall be defrayed out of existing appropriations in the War Department: *And provided further*, That the letter-press work shall be done at the Public Printing Office.

For the purpose of cutting out a road from Du Luth to the Bois Fort Indian reservation, in Minnesota, there is hereby appropriated the sum of ten thousand dollars, to be expended under the direction of the Secretary of War.

SEC. 2. *And be it further enacted*, That there shall be no new commissions, no promotions, and no enlistments in any infantry regiment until the total number of infantry regiments is reduced to twenty-five; and the Secretary of War is hereby directed to consolidate the infantry regiments as rapidly as the requirements of the public service and the reduction of the number of officers will permit.

SEC. 3. *And be it further enacted*, That no appointments of brigadier generals shall be made until the number is reduced to less than eight; and thereafter there shall be but eight brigadier generals in the Army.

SEC. 4. *And be it further enacted*, That hereafter the term of enlistment shall be five years.

SEC. 5. *And be it further enacted*, That of the fifteen bands now in the service, organized under the provisions of section seven of an act entitled "An act to increase and fix the military peace establishment of the United States," approved July twenty-eight, eighteen hundred and sixty-six, all, except the band at the Military Academy, shall be honorably discharged without delay, and shall receive full pay and allowance to the date of such discharge: *Provided*, That there shall be enlisted in each regiment a chief musician, who shall be instructor of music, with a salary of sixty dollars

a month and the allowances of a quartermaster sergeant.

SEC. 6. *And be it further enacted*, That until otherwise directed by law there shall be no new appointments and no promotions in the adjutant general's department, in the inspector general's department, in the pay department, in the quartermasters' department, in the commissary department, in the ordnance department, in the engineer department, and in the medical department.

SEC. 7. *And be it further enacted*, That brevet rank shall not entitle an officer to precedence or command except by special assignment of the President, but such assignment shall not entitle any officer to additional pay or allowances.

APPROVED, March 3, 1869.

CHAP. CXXV.—An Act making Appropriations for the Consular and Diplomatic Expenses of the Government for the year ending June thirtieth, eighteen hundred and seventy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed, for the fiscal year ending the thirtieth of June, eighteen hundred and seventy, namely:

For salaries of envoys extraordinary, ministers, and commissioners of the United States at Great Britain, France, Russia, Prussia, Spain, Austria, Brazil, Mexico, China, Italy, Chili, Peru, Portugal, Switzerland, Greece, Belgium, Holland, Denmark, Sweden, Turkey, Ecuador, New Granada, Bolivia, Venezuela, Guatemala, Nicaragua, Sandwich Islands, Costa Rica, Honduras, Argentine Confederation, Paraguay, Uruguay, Japan, and Salvador, three hundred and sixteen thousand dollars. For additional salary of minister resident to the Argentine Republic, appointed also to the republic of Uruguay, at the rate of three thousand seven hundred and fifty dollars a year, such salary to commence October thirteenth, eighteen hundred and sixty-eight, and to continue while acting as minister to Uruguay.

For salaries of secretaries of legation, as follows:

At London and Paris, two thousand six hundred and twenty-five dollars each.

At Saint Petersburg, Madrid, Berlin, Florence, Vienna, Rio Janeiro, and Mexico, eight hundred dollars each.

For salaries of assistant secretaries of legation at London and Paris, two thousand dollars each.

For salary of the interpreter to the legation to China, five thousand dollars.

For salary of the secretary of legation to Turkey, acting as interpreter, three thousand dollars.

For salary of the interpreter to the legation to Japan, two thousand five hundred dollars.

For contingent expenses of all the missions abroad, fifty thousand dollars.

For contingent expenses of foreign intercourse, fifty thousand dollars.

For expenses of the consulates in the Turkish dominions, namely: interpreters, guards, and other expenses of the consulates at Constantinople, Smyrna, Candia, Alexandria, Jerusalem, and Beirut, three thousand dollars.

For the relief and protection of American seamen in foreign countries, per acts of February *eighteenth*, [twenty-eighth,] eighteen hundred and three, and February twenty-eight, eighteen hundred and eleven, fifty thousand dollars.

For expenses which may be incurred in acknowledging the services of the masters and crews of foreign vessels in rescuing citizens of

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the United States from shipwreck, five thousand dollars.

For the purchase of blank-books, stationery, book-cases, arms of the United States, seals, presses, and flags, and for the payment of post-ages, and miscellaneous expenses of the consuls of the United States, including loss by exchange, and for office rent for those consuls general, consuls, and commercial agents who are not allowed to trade, including loss by exchange thereon, eighty thousand dollars; and there shall be allowed out of the fees of the office one thousand dollars per annum, and no more, for rent of the consul's offices at Paris.

For salaries of consuls general, consuls, commercial agents, and thirteen consular clerks, including loss by exchange thereon, four hundred thousand dollars, namely:

I. CONSULATES GENERAL.

Schedule B.

Alexandria, Calcutta, Constantinople, Frankfort-on-the-Maine, [Main,] Havana, Montreal, Shanghai, Beirut, Tampico, London, Paris; and on and after the fourth of March, eighteen hundred and sixty-nine, the consulates at Paris and London shall be known and designated as consulates general.

II. CONSULATES.

Schedule B.

Aix-la-Chapelle, Acapulco, Algiers, Amoy, Amsterdam, Antwerp, Aspinwall, Bankok, Basle, Belfast, Buenos Ayres, Bordeaux, Bremen, Brindisi, Bologna, Barcelona, Cadiz, Callao, Canton, Chemnitz, Chin Kiang, Clifton, Coaticook, Cork, *Demerara*, [Demerara,] Dundee, Elsinore, Fort Erie, Foo-Choo, Funchal, Geneva, Genoa, Gibraltar, Glasgow, Goderich, Halifax, Hamburg, Havre, Honolulu, Hong-Kong, Hankow, Hakodadi, Jerusalem, Kanagawa, Kingston, (Jamaica,) Kingston in Canada, La Rochelle, Laguayra, Lahaina, Leeds, Leghorn, Leipsic, Lisbon, Liverpool, Lyons, Malaga, Malta, Manchester, Matanzas, Marseilles, Mauritius, Melbourne, Messina, Moscow, Munich, Mahe, Nagasaki, Naples, Nassau, (West Indies,) Newcastle, Nice, Nantes, Odessa, Oporto, Osacca, Palermo, Panama, Pernambuco, Pictou, Port Mahon, Prescott, Prince Edward Island, Quebec, Revel, Rio de Janeiro, Rotterdam, San Juan del Sur, San Juan, (Porto Rico,) Saint John, (Canada East,) Santiago de Cuba, Port Sarnia, Rome, Singapore, Smyrna, Southampton, Saint Petersburg, Santa Cruz, (West Indies,) Saint Thomas, Spezzia, Stuttgart, Swatow, Saint Helena, Tangier, Toronto, Trieste, Trinidad de Cuba, Tripoli, Tunis, Tunstall, Turk's Island, Valparaiso, Vera Cruz, Vienna, Valencia, Windsor, Yeddo, Zurich. And there shall be appointed a consul at Birmingham, at an annual salary of two thousand five hundred dollars; and a consul at Tunstall at an annual salary of fifteen hundred dollars; and a consul at Barmen at an annual salary of fifteen hundred dollars; and the consul at Valencia shall receive an annual salary of fifteen hundred dollars. The consul at Hakodadi and Buenos Ayres shall receive an annual salary of two thousand five hundred dollars; and there shall be appointed a consul at Winnepeg, Selkirk Settlement, British North America, who shall receive an annual salary of one thousand five hundred dollars.

III. COMMERCIAL AGENCIES.

Schedule B.

Madagascar, San Juan del Norte, Saint Domingo.

IV. CONSULATES.

Schedule C.

Aux Cayes, Bahia, Batavia, Bay of Islands, Cape Haytien, Candia, Cape Town, Carthagena, Ceylon, Cobia, Cyprus, Falkland Islands, Fayal, Guayaquil, Guaymas, Maranhham, Matamoros, Mexico, Montevideo, Omoa, Payta, Para, Paso del Norte, Piræus, Rio Grande,

Saint Catharine, Saint John, (Newfoundland,) Santiago, (Cape Verde,) Stettin, Tabasco, Tahiti, Talcahuano, Tumbaz, Venice, Zanzibar.

COMMERCIAL AGENCIES.

Schedule C.

Amoor River, Apia, Belize, Gaboon, Saint Paul de Loanda, Lanthala, Sabanilla.

For interpreters to the consulates in China, Japan, and Siam, including loss by exchange thereon, five thousand eight hundred dollars.

For expenses incurred, under instructions from the Secretary of State, in bringing home from foreign countries persons charged with crime, and expenses incident thereto, ten thousand dollars.

For salaries of the marshals for the consular courts in Japan, including that at Nagasaki and in China, Siam, and Turkey, including loss by exchange thereon, nine thousand dollars.

For rent of prisons for American convicts in Japan, China, Siam, and Turkey, and for wages of the keepers of the same, nine thousand dollars.

For the restoration of the Protestant American cemetery at Acapulco, in Mexico, one thousand dollars.

For salaries of ministers resident and consuls general to Hayti and Liberia, eleven thousand five hundred dollars.

For expenses under the act of Congress to carry into effect the treaty between the United States and her Britannic Majesty for the suppression of the African slave trade, twelve thousand dollars: *Provided*, That the salaries of the judges and other officers shall be paid to them only upon the condition that they reside at the places where the courts are to be held as provided by law, and only for so much of the time as they reside at such places: *And provided further*, That the President be, and he is hereby, requested to apply to the Government of Great Britain to put an end to that part of the treaty of April seventh, eighteen hundred and sixty-two, which requires of each Government to keep up mixed courts, and upon the consent of the Government of Great Britain being obtained, then the salaries of all the officers of the United States connected with said courts shall cease.

For expenses under the neutrality act, ten thousand dollars.

For the payment of the fifth annual installment of the proportion contributed by the United States toward the capitalizing of the Scheldt dues, to fulfill the stipulations contained in the fourth article of the convention between the United States and Belgium of the twentieth of May, eighteen hundred and sixty-three, the sum of fifty-five thousand five hundred and eighty-four dollars in coin, and such further sum as may be necessary to carry out the stipulation of the convention providing for payment of interest on the said sum and on the portion of the principal remaining unpaid.

SEC. 2. *And be it further enacted*, That no diplomatic or consular officer shall receive salary for the time during which he may be absent from his post, (by leave or otherwise,) beyond the term of sixty days in any one year: *Provided*, That the time equal to that usually occupied in going to and from the United States in case of the return, on leave, of such diplomatic or consular officer to the United States may be allowed in addition to said sixty days; and section three of act of March thirtieth, eighteen hundred and sixty-eight, is hereby repealed.

SEC. 3. *And be it further enacted*, That the fee provided by law for the verification of invoices by consular officers shall, when paid, be held to be a full payment for furnishing blank forms of declaration to be signed by the shipper, and for making, signing, and sealing the certificate of the consular officer thereto; and any consular officer who, under pretense of charging for blank forms, advice, or clerical

services in the preparation of such declaration or certificate, shall charge or receive any fee greater in amount than that provided by law for the verification of invoices, or who shall demand or receive for any official services, or who shall allow any clerk or subordinate to receive for any such service any fee or reward other than the fee provided by law for such service, shall be deemed guilty of a misdemeanor and shall be dismissed from office, and on conviction before any court of the United States having jurisdiction of like offenses be punished by imprisonment not exceeding one year, or by fine not exceeding two thousand dollars. And hereafter no consul, vice consul, or consular agent in the Dominion of Canada shall be allowed tonnage fees for any services, actual or constructive, rendered any vessel owned and registered in the United States that may touch at a Canadian port; and that in the collection of official fees they shall receive foreign moneys at the rate given in the Treasury schedule of the value of foreign coins. And hereafter, in cases of vessels making regular daily trips between any port of the United States and any port in the Dominion of Canada, wholly upon interior waters not navigable to the ocean, no tonnage or clearance fees shall be charged against such vessels by the officers of the United States, except upon the first clearing of said vessel in each year.

SEC. 4. *And be it further enacted*, That the President is authorized, on the recommendation of the Secretary of the Treasury, to cause examinations to be made into the accounts of the consular officers of the United States, and into all matters connected with the business of their said offices, and to that end he may appoint such agent or agents as may be necessary for that purpose; and any agent, when so appointed, shall, for the purpose of making said examinations, have authority to administer oaths and take testimony, and shall have access to all the books and papers of all consular officers. And any agent appointed in this behalf shall be paid for his services a just and reasonable compensation, not exceeding five dollars per day for the time necessarily employed, in addition to his actual necessary expenses, the same to be paid out of the sum appropriated for expenses of collecting the revenue, but no greater sum than five thousand dollars shall be expended as compensation of such agent or agents in any one year. And the President shall communicate to Congress, at the commencement of every December session, the names of the agents so appointed, and the amount paid to each, together with the reports of such agents.

SEC. 5. *And be it further enacted*, That any consular officer of the United States who shall willfully neglect to render true and just quarterly accounts and returns of the business of his office, and of moneys received by him for the use of the United States, or who shall neglect to pay over any balance of such moneys which may be due to the United States, at the expiration of any quarter, before the expiration of the next succeeding quarter, shall be deemed guilty of embezzlement of the public moneys, and shall, on conviction thereof, before any court of the United States having jurisdiction of like offenses, be punished by imprisonment not exceeding one year and by a fine not exceeding two thousand dollars, and shall be forever disqualified from holding any office of trust or profit in the United States.

SEC. 6. *And be it further enacted*, That no consul general or consul now holding, or who shall hereafter hold, either of said offices, shall be permitted to hold the office of consul general or consul at any other consulate, or exercise the duties thereof; and hereafter there shall only be allowed to any vice consulate or consular agency, for expenses thereof, an amount sufficient to pay for stationery and postage on official letters.

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SEC. 7. *And be it further enacted*, That the entire expense of prison and prison-keepers at the consulate of Bangkok, in Siam, shall hereafter not exceed the sum of one thousand dollars annually; and the salary of the interpreter shall not exceed the sum of five hundred dollars annually; and no salary shall hereafter be allowed the marshal at that consulate; and the annual salary of the consul at Bangkok shall be three thousand dollars, to commence July first, eighteen hundred and sixty-eight.

APPROVED, March 3, 1869.

CHAP. CXXVI.—An Act making Appropriations for the Service of the Post Office Department during the fiscal year ending June thirtieth, eighteen hundred and seventy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated for the service of the Post Office Department for the year ending June thirtieth, eighteen hundred and seventy, out of any moneys in the Treasury arising from the revenues of the said Department, in conformity to the act of the second of July, eighteen hundred and thirty-six:

For inland mail transportation, including pay of route agents, postal clerks, and mail messengers, thirteen million thirty-seven thousand six hundred and fifty-three dollars: *Provided*, That no part of said sum shall be paid for inland transportation between Fort Abercrombie and Helena.

For foreign mail transportation, four hundred and fifty thousand dollars.

For ship, steamboat, and way letters, eight thousand dollars.

For compensation to postmasters, four million five hundred and forty-six thousand dollars.

For clerks for post offices, two million dollars.

For payments to letter-carriers, one million dollars.

For wrapping-paper, fifty thousand dollars.

For twine, twenty thousand dollars.

For letter-balances, four thousand dollars.

For compensation to blank agents and assistants, eight thousand dollars.

For office furniture, two thousand five hundred dollars.

For advertising, forty thousand dollars: *Provided*, That no part of this sum shall be paid to any papers published in the District of Columbia for advertising mail routes, except in Virginia and Maryland.

For postage stamps and stamped envelopes, five hundred thousand dollars.

For detecting and preventing mail depredations and for special agents, one hundred thousand dollars; and no greater sum shall be paid special agents than is hereby provided.

For mail-bags, and mail-bag catchers, one hundred and twenty thousand dollars.

For mail locks, keys, and stamps, thirty-seven thousand dollars.

For miscellaneous payments, including payment of balances to foreign countries, eight hundred and seventy-five thousand dollars.

For preparing and publishing post-route maps, sixteen thousand dollars.

For retransfer to money-order account, being money transferred by postmasters and deposited in the Treasury as postage receipts, one million dollars.

SEC. 2. *And be it further enacted*, That the following sums, or so much thereof as may be necessary, be, and the same are hereby, appropriated for the year ending June thirtieth, eighteen hundred and seventy, out of any money in the Treasury not otherwise appropriated, viz:

For steamship service between San Francisco, Japan, and China, five hundred thousand dollars.

For steamship service between the United States and Brazil, one hundred and fifty thousand dollars.

For steamship service between San Francisco and the Sandwich Islands, seventy-five thousand dollars.

For supplying deficiency in the revenues of the Post Office Department for the fiscal year ending June thirtieth, eighteen hundred and seventy, five million seven hundred and forty thousand dollars.

APPROVED, March 3, 1869.

CHAP. CXXVII.—An Act to authorize the Transfer of Lands granted to the Union Pacific Railway Company, Eastern Division, between Denver and the point of its connection with the Union Pacific Railroad, to the Denver Pacific Railway and Telegraph Company, and to expedite the Completion of Railroads to Denver, in the Territory of Colorado.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Union Pacific Railway Company, eastern division, be, and it hereby is, authorized to contract with the Denver Pacific Railway and Telegraph Company, a corporation existing under the laws of the Territory of Colorado, for the construction, operation, and maintenance of that part of its line of railroad and telegraph between Denver City and its point of connection with the Union Pacific railroad, which point shall be at Cheyenne, and to adopt the road-bed already graded by said Denver Pacific Railway and Telegraph Company as said line, and to grant to said Denver Pacific Railway and Telegraph Company the perpetual use of its right of way and depot grounds, and to transfer to it all the rights and privileges, subject to all the obligations pertaining to said part of its line.

SEC. 2. *And be it further enacted*, That the said Union Pacific Railway Company, eastern division, shall extend its railroad and telegraph to a connection at the city of Denver, so as to form with that part of its line herein authorized to be constructed, operated, and maintained by the Denver Pacific Railway and Telegraph Company, a continuous line of railroad and telegraph from Kansas City, by way of Denver to Cheyenne. And all the provisions of law for the operation of the Union Pacific railroad, its branches and connections, as a continuous line, without discrimination, shall apply the same as if the road from Denver to Cheyenne had been constructed by the said Union Pacific Railway Company, eastern division; but nothing herein shall authorize the said eastern division company to operate the road or fix the rates of tariff for the Denver Pacific Railway and Telegraph Company.

SEC. 3. *And be it further enacted*, That said companies are hereby authorized to mortgage their respective portions of said road, as herein defined, for an amount not exceeding thirty-two thousand dollars per mile, to enable them respectively to borrow money to construct the same; and that each of said companies shall receive patents to the alternate sections of land along their respective lines of road, as herein defined, in like manner and within the same limits as is provided by law in the case of lands granted to the Union Pacific Railway Company, eastern division: *Provided*, That neither of the companies hereinbefore mentioned shall be entitled to subsidy in United States bonds under the provisions of this act.

APPROVED, March 3, 1869.

CHAP. CXXVIII.—An Act to provide for the Execution in the District of Columbia of Commissions issued by the Courts of the States and Territories of the United States or of Foreign Nations, and for taking Depositions to be used in such Courts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any party to any suit depending in any court of any State or Terri-

tory of the United States, or of any foreign nation, may obtain the testimony of any witness residing in, or temporarily within, the District of Columbia, to be used in such suit. When a commission to take such testimony shall have issued from the court in which such suit is pending, or a notice shall have been given according to the rules of practice prevailing in such court, on producing the same to a justice of the supreme court of the District of Columbia, and on due proof being made to such officer that the testimony of any witness residing in the District, or temporarily within it, is material to the party desiring the same, such officer shall issue a summons to such witness, requiring him to appear before the commissioners named in such commission or notice to testify to such suit. Such summons shall specify the time and place at which such witness is required to attend, which shall be within the District of Columbia.

SEC. 2. *And be it further enacted*, That if a suit be pending in any court of any State or Territory of the United States, or of any foreign nation, and it shall satisfactorily appear by affidavit to any officer named in the next preceding section, or to the judge of the orphans' court, or any commissioner for the taking of depositions appointed by the supreme court of the District—

First. That any person residing or temporarily dwelling in the District of Columbia is a material witness for either party to such suit;

Secondly. That no commission or notice to take the testimony of such witness has been issued or given; and

Thirdly. That according to the course and practice of the court in which such suit is pending, the deposition of a witness taken without the presence and consent of both parties will be received on the trial or hearing of such suit;

Such officer shall issue his summons requiring such witness to appear before him at a place within the District at some reasonable time to testify in such suit.

SEC. 3. *And be it further enacted*, That the officer before whom such witness shall appear shall take down his testimony in writing, and shall certify and transmit the same to the court before which such suit is pending in such manner as the practice of the court may require. If any person shall refuse or neglect to appear at the time and place mentioned in the summons issued in accordance with this act, or if, on his appearance, he shall refuse to testify, he shall be liable to the same penalties as would be incurred for a like offense on the trial of a suit.

SEC. 4. *And be it further enacted*, That every witness appearing and testifying under this act shall be entitled to receive from the party at whose instance he has been summoned the fees now provided by law for each day he shall give attendance.

APPROVED, March 3, 1869.

CHAP. CXXIX.—An Act granting the Right of Way to the Walla-Walla and Columbia River Railroad Company, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the right of way through the public lands be, and the same is hereby, granted to the Walla-Walla and Columbia River Railroad Company, a corporation existing under the laws of the Territory of Washington, and duly incorporated for the purpose of constructing a railroad from said town of Walla-Walla to some eligible point on the navigable waters of said Columbia river, in said Territory; said right of way hereby granted to said railroad is to the extent of one hundred feet in width on each side of said road where it may pass over the public lands; also, all necessary ground, not to exceed five acres

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at each station, for station buildings, workshops, depots, machine-shops, switches, side-tracks, turn-tables, and water-stations.

SEC. 2. *And be it further enacted*, That the county commissioners of the county of Walla-Walla, in the Territory of Washington, be, and they are hereby, authorized and empowered to aid in the construction of the Walla-Walla and Columbia River railroad by subscribing to the capital stock of said Walla-Walla and Columbia River Railroad Company in the name and on behalf of said county of Walla-Walla, and by issuing bonds of said county, payable at such time as said commissioners shall think proper, and bearing interest of not more than eight per cent. per annum, in payment for said stock so by them taken in said railroad company, or by issuing bonds, bearing interest as aforesaid, as a loan to said company, to be used in the construction of said road, or to aid said company in the construction of said road by the credit of said county in any other manner the said commissioners may think proper: *Provided*, That the said subscription, loan, or other aid so given by said commissioners to said company shall in no case exceed the sum of three hundred thousand dollars: *And provided further*, That the said subscription, loan, or other aid, shall have been submitted to the people of said county and been voted for by three fourths of the legal vote cast at an election held for that purpose: *And provided further*, That if said vote be taken at a special election, the notice shall be the same as provided by the laws of said Territory for general elections.

SEC. 3. *And be it further enacted*, That the county commissioners of the county of Walla-Walla, in the Territory of Washington, be, and they are hereby, authorized and empowered to hold a special election, at such times as they may designate, after twenty days' public notice, which said election shall be governed by the general laws of the Territory upon the subject of elections, at which election the aid to be given by said county to said Walla-Walla and Columbia River Railroad Company, either by subscriptions to stock or otherwise, shall be submitted to and be voted upon by the legal voters of said county in such manner as said commissioners may designate: *Provided*, That this grant is made upon the express condition that any effort by said company hereafter to obtain any land grant, subsidy, or pecuniary aid from the United States Government shall work a forfeiture of this grant.

APPROVED, March 3, 1869.

CHAP. CXXX.—An Act regulating the Reports of National Banking Associations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in lieu of all reports required by section thirty-four of the national currency act, every association shall make to the Comptroller of the Currency not less than five reports during each and every year, according to the form which may be prescribed by him, verified by the oath or affirmation of the president or cashier of such association, and attested by the signature of at least three of the directors; which report shall exhibit, in detail and under appropriate heads, the resources and liabilities of the association at the close of business on any past day to be by him specified, and shall transmit such report to the Comptroller within five days after the receipt of a request or requisition therefor from him; and the report of each association above required, in the same form in which it is made to the Comptroller, shall be published in a newspaper published in the place where such association is established, or if there be no newspaper in the place, then in the one published nearest thereto in the same county, at the expense of the association; and such proof of publication shall be furnished as may be

required by the Comptroller. And the Comptroller shall have power to call for special reports from any particular association whenever in his judgment the same shall be necessary in order to a full and complete knowledge of its condition. Any association failing to make and transmit any such report shall be subject to a penalty of one hundred dollars for each day after five days that such bank shall delay to make and transmit any report as aforesaid; and in case any association shall delay or refuse to pay the penalty herein imposed when the same shall be assessed by the Comptroller of the Currency, the amount of such penalty may be retained by the Treasurer of the United States, upon the order of the Comptroller of the Currency, out of the interest, as it may become due to the association, on the bonds deposited with him to secure circulation; and all sums of money collected for penalties under this section shall be paid into the Treasury of the United States.

SEC. 2. *And be it further enacted*, That in addition to said reports, each national banking association shall report to the Comptroller of the Currency the amount of each dividend declared by said association, and the amount of net earnings in excess of said dividends, which report shall be made within ten days after the declaration of each dividend, and attested by the oath of the president or cashier of said association, and a failure to comply with the provisions of this section shall subject such association to the penalties provided in the foregoing section.

APPROVED, March 3, 1869.

CHAP. CXXXI.—An Act to establish certain Post Roads.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That] the following be, and the same are hereby, established post roads:

ALABAMA.

From Greenville, via Talluka, Cook's Store, Rutledge, New Providence, and Hallsville, to Troy.

From Montgomery, via Falkners, Sharpsville, Strata, Argus, and Salsoda, to Rutledge. From Demopolis to Eutaw.

From Scottsboro to Cottonville. From Scottsboro to Salem, in the State of Tennessee.

From Yellow Creek, via Quincy, in Mississippi, and Okalama, via Red Land, to Serrepta.

From Eufala, via White Pond, Clopton, and Skipperville, to Ozark.

ARKANSAS.

From Gatewood to Elm Store.

CALIFORNIA.

From San Luis Obispo, via Rosaville, Cayucas, and Moro, to San Simeon.

From Downieville, via Eureka and Port Wine, to Laporte.

From Santa Cruz to Felton.

From San Juan to Castroville.

From San Juan to New Idria.

From Tuolumne City, via McSwain's Ferry, Bear Creek, and Mariposa, to Millerton.

CONNECTICUT.

From Norwich, via Greenville, Taft's Village, Occum, and Eagleville, to Hanover.

From Stanford, via North Stanford and High Ridge, to Pound Ridge, New York.

DELAWARE.

From Georgetown to Lewes.

FLORIDA.

From Enterprise to Sand Point.

From Tampa to Clearwater Harbor.

From Mellonville to Lake Eustace.

From Alafia to Pine Level.

From Marianna to Pensacola.

From Vernon to Econfina.

From Lake City, via Neumansville, to Gainsville.

ILLINOIS.

From Sterling to Yorktown.

From Winnebago Depot to Fountindale.

From Carmargo, via Miller's Store, to Cherry Point City.

INDIANA.

From Lebanon, via Dover, to Crawfordsville.

From Pine Village, via Petersburg, to Oxford.

From Leavenworth, via Sulphur Well, Marietta, Foster's Ridge, and Adyeville, to Ferdinand.

From Hazelton to Petersburg.

From Knightstown, via Elizabeth City, Markleville, and Ovid, to Anderson.

From Stockwell, via Potato Creek and Clouser's Mill, to Linden.

From Frankfort to King's Corners.

From Indianapolis, via Spring Valley, Lauderdsdale, and Red House, to Waverly.

From Amo, via Sulesville, Hall, Eminence, and Alaska, to Quincy.

From Hobbieville, via Buena Vista, to Harrodsburg.

From Arcadia to Duck Creek.

From Hillham, via Butler's Bridge, to Halbert's Bluff, (Shoals P. O.)

From West Boston to Laconia.

From Rushville to Millroy.

IOWA.

From Springfield to Victor.

From South English to Tallyrand.

From Atlantic, via Lewis and Cora, to Sidney.

From Belle Plain, via West Irving, to Waterloo.

From Oskaloosa, via Rosehill and Lancaster, to Richland.

From Jefferson, via Add, Van Meter, (late Tracy,) and Winterset, to Afton.

From Centreville to Moulton.

From Ames, via Story City, Lakin's Grove, Rose Grove, and Hamilton, to Belmond.

From Casey, via Fontenelle, to Queen City.

From Greenwood to Rockland.

From Adel, via Van Meter, to Winterset.

KANSAS.

From Pleasant Grove, via Coyville, Graystone, Guilford, and Verdi, to the mouth of Fall river.

From Humboldt to Guilford.

From Eldorado to Douglas.

From Humboldt, via Guilford and Fredonia, to Salt Springs.

From Humboldt, via Eureka, to Eldorado.

From Coyville, via Graystone and Guilford, to Verdi.

From Guilford to Oswego, via Fort Roach.

From Osage Mission, via Fort Roach, to Big Hill.

From Osage Mission to Crawfordsville.

From Osage Mission, via Monmouth, to Pleasant View.

From Girard to Pleasant View.

From Eureka to Elk River.

From Eureka to Eldorado.

From Canville to Guilford.

From Clay Centre to Marion Centre, via Abilene.

From Marion Centre, via Sycamore Springs and Eureka, to New Albany.

From Far West to Diamond Springs.

From Alma, via Council Grove, to Cottonwood Falls.

From Mission Creek to Alma.

From Dover to Burlingame.

From Ottawa to Burlingame, via Sac and Fox Agency and Valley Brook.

From Garnett, via Centreville and Paris, to Blooming Grove.

From Jerome to Avon.

From Waveland, via Williamsport and Richland, to Clinton.

From Eudora, via Hesper, to Olathe.

From Marion Centre, to Wichita.

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From Oswego, via Big Hill, Salt Springs, Elk River, and Douglas, to Wichita.
 From Emporia to Sac and Fox Agency.
 From Burlington, via Madison, to Chelsea.
 From Ellsworth, via Elkhorn, Lindsey, and Clay Centre, to Parallel.
 From Lake Sibley to Salt Marsh.
 From Medor to Carthage, in Missouri.
 From Salt Marsh, via Lake Sibley, to Delphos.
 From Oscaloosa, via Dimon, to Tonganoxie.
 From Jones's Crossing, via Vienna, to Westmoreland.
 From White Cloud, via Hiawatha, to Netawka.
 From Effingham, via Holton, to Saint Mary's Mission.
 From Springdale to Oscaloosa.
 From Osaukee to Mount Florence.
 From Fort Scott, via Cato, Monmouth, and Millersburg, to Chetopa.
 From Humboldt, via Newport, to Chetopa.
 From Chetopa, via Westralia and Big Hill, to Coyville.
 From Wetmore to Albany.
 From Washington, Kansas, to Jenkins's Mills, Nebraska.

KENTUCKY.

From Flumgravy, via Plummer's Landing and Pine Grove, to Upper Tygart.

MAINE.

From Portland to North Windham.
 From Sedgwick to Brooklyn.
 From Camden, via Centre and Lincolnville, to Belmont.
 From Bucksport, via North Penobscot, to Castine.
 From Robert Dagget's, via Danforth Mills, to South Weston.
 From Springfield Corner to Danforth.
 From Portland, via Duckpond, to North Windham.
 From Hancock to Crabtree's Point.

MARYLAND.

From Perrymanusville to Booth Bay Hill.
 From Saint Leonard, via Lisby's Store, to Mill Creek.
 From West River to Lancaster.
 From Newburg to Tompkins.

MASSACHUSETTS.

From Hanover, via East Pembroke, to Marshfield.

MICHIGAN.

From Mackinaw, via Mackinac and Schoolcraft counties, to Escanaba.
 From Millbrook, via Sherman City, to Coldwater.
 From Frankenlust to Wenona.
 From West Ogden to Robertson's Corners.
 From Marion Centre to Wichita.
 From West Ogden to Ogden Centre.
 From Marquette to Minessing or Grand Island.
 From Benzonia, via Platte and Empire, to Glen Arbor.
 From Big Rapids to Cook's Station.
 From Lakeview to Millbrook.
 From Millbrook to Coldwater.
 From Escanaba, via Masons, to Minessing.
 From Luketon, via New Troy, to Three Oaks.
 From Ellington, via Grant township, to Lake Huron.
 From Fenn's Mills to Manlius.

MARYLAND.

From Philopolis, via Belfast, Mount Carmel, Black Rock, and Trenton, to Upperco.
 From Lauraville, via Halberton, to Jerusalem Mills.

MINNESOTA.

From Waseca, via Woodville, Otisco, Richland, Hartland, and Freeborn, to Albert Lea.
 From Glencoe, via Koniska and Silver Lake, to Lake Howard.
 From Redwing to Ellsworth, Wisconsin.

From Glenwood, via Isaac Thorson's Hazel Lake, Six-mile Timber, Big Bend, and Chippewa Crossing, to Chippewa City.

From Rushford, via Brattsburg, Highland, and Lenora, to Eliota.

From Lanesboro to Chatfield.

From Lanesboro to Preston.

From Hutchinson, via Cedar Mills, Cosmos, and Lake Lilian, to Granite Falls.

From Lynn to Fort Dakota.

From Osakes, via River Dale, Spruce Creek, Parker's Prairie, Leaf Mountains, to Outer Tail City.

From Moore's Prairie, via section thirty-four, township one hundred and nineteen, range twenty-nine, to Rice Lake.

From Yellow Medicine to a point along the Yellow Medicine river in township number one hundred and fourteen, range forty-one, of the fifth principal meridian.

From New Ulm, via Leavenworth, to Lake Shetek.

From Mankato, via Sterling, to Mapleton.

NEBRASKA.

From Nebraska City, via Rich's Ford, Helena, Bryson, and Hooker, to Beatrice.

MISSOURI.

From La Plata to Stickleville.

From Edina, via Millport, Sand Hill, Greensburg, and Pleasant Retreat, to Memphis.

From Fredericksburg, via New Providence, Oshena, to Linn.

From New Madrid, via Mount Pleasant, Weaverville, and Clarkton, to Kennett.

From Bigelow to Maryville.

From King City, via Mount Pleasant, Alanthus, and Isadore, to Platteville, Iowa.

From Herman, via Drake, Owensville, Canaan, and High Grove, to Rolla.

From Carrollton, via Shootan Ridge, Bridge Creek, and Bedford, to Laclede.

From Harrisonville, via Everett, West Point, and Blooming Grove, to Mound City.

From Harrisonville to Blooming Grove, in Kansas.

From Versailles to Tuckerville.

From Bigelow, via North Point and Graham, to Maryville.

NEW JERSEY.

From Elwood to Butsto.

NEVADA.

From Cortez to Gravelly Ford.

From Wadsworth, via Stillwater, to Ellsworth.

From Argenta to Austin.

From Elko, via Hamilton and Tesoro, to Sherman.

From Twin river, via Silver Peak, to Palmetto.

From Palmetto to a point intersecting the Aurora and Silver Peak route in Fish Lake valley.

From Austin to Hamilton.

From Wadsworth, via Fort Churchill, to Pine Grove.

From Hamilton, via Troy, to Grant District.

NEW HAMPSHIRE.

From Newport, via Mill Village and East Lempster, to Washington.

NEW YORK.

From Schenectady, via Rynex Corners, to Mariaville.

From Bristol Centre to South Bristol.

From Milford to Cherry Valley.

From Colton to South Colton.

From Centreville to Pike.

From Birdsell to Whitney's Crossing.

From Angelica to West Almond.

From West Almond to Almond.

From North Almond to Arkport.

From Cuba to New Hudson.

From Belmont to Philip's Creek.

From Horseheads to Sullivansville.

From Horseheads to Breesport.

From Randolph, via Conewango, Leon, and New Albion, to Cattaraugus.

NORTH CAROLINA.

From Pollockville, via Palo Alto, to Swansboro.

From Wadesboro, via Deep Creek, Long Pine, Oro, White's Store, and Poplar Hill, to Wadesboro.

From Wadesboro, via Diamond Hill, Kendall's Tanyard, and Candle's Mill, to Wadesboro.

From Wadesboro to Mangum.

From Troy to Bostick's Mills.

From White Hall to Rosindale.

From Waynesville to Clifton, in Tennessee.

OHIO.

From Dinsmore to Fryburg.

From Caldwell, via Hohman's Store, Middle Creek, and Crumtown, to Harrietsville.

From Berlinville to Norwalk.

From Macon to Leipsic.

From Greencastle to Royalston.

From Lancaster to Outville.

From Beverly to Moscow Mills.

From Roundhead, via Belle Centre and Northwood, to Rushsylvania.

From Cedar Mills, via Wamsley's, to Mineral Springs.

From New England to Coolville.

OREGON.

From Roseburg to Randolph.

From Lewisville, via King's Valley, Blodgett's Valley, and Saguina Bay, to Elk City.

From Elk City, via Philomath and Corvallis, to Lewisville.

From Humboldt Basin, via Amelia City, El Dorado City, Clarksville, to Express Ranch.

From Albany, via Lebanon, Sweet Home Valley, Camp Polk, Crooked River, Ochaco Valley, to Mountain House.

From Dallas, via Salt Creek and Hall's, to Grande Ronde, in Washington Territory.

From Steilacoom to Tecoma.

PENNSYLVANIA.

[From] Townville, via Troy Centre, to Plum.

From Brady's Bend, via Baldwins, North Hope, and Hooker, to Browningtown.

From Saint Mary's to Kersey.

From Drake's Mills, via Cummings Corners and Draketown, to McLane.

From Wellersburg, via Southampton Mills, Mount Healthy, New Baltimore, New Buena Vista, to Shellsburg.

From Lysburg, via London, to Wolf Creek.

From Parker Station to Curtsville.

From Shane's Landing to Custards.

From Meshoppen, via Keiserville, to Linn.

From York Sulphur Springs to Latimer.

From Titusville to Morris's Corners.

From Lewisburg, via Kelley Point, to Buffalo Cross Roads.

RHODE ISLAND.

From Crosses Mills to Carolina Mills.

SOUTH CAROLINA.

From Fair Bluff, in North Carolina, to Conwayboro, in South Carolina.

From Georgetown to Conwayboro.

From Lexington to Pine Ridge.

TENNESSEE.

From Bell's Station, via Cageville and Friendship, to Dyersburg.

From Altamont to Tracey City.

From Gorman's Depot, via Newport, to Parrottsville.

VERMONT.

From West Bridgewater to Plymouth.

From West Burke to West Charleston.

VIRGINIA.

From Lebanon, via Head of McClure Creek, Sanders's Mills, Calender Pewtherers, Wise county, Holly Creek, and Osborn's Gap, in the Cumberland mountains, to Picketon, Kentucky.

WEST VIRGINIA.

From Parkersburg, via Valley Mills, to Bull Creek.

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WISCONSIN.

From Maiden Rock to Brookville.
 From Menomonee, via New Haven, Fleming, to Erie Corners.
 From Black River Falls, via Alma Centre, to Eau Claire.
 From Tomah to Black River Falls.
 From Chippewa Falls, via Bloomer, Cook's Valley, and Eighteen Mile Creek, to Menomonee.
 From Winnecome to Poysippi.
 From Sheboygan, via Hika and Mann's Landing, to Manitowoc.
 From Weyauwega to Baldwin's Mills.

IDAHO TERRITORY.

From Boise City, via Middletown, Keeney's Ferry, El Dorado City, and Clarksville, to Baker City, in Oregon.
 From Maggie Creek, in Nevada, via Silver City, to Boise City.
 From Lewiston to Elk City.
 From Placerville, via Warren's Camp, to Florence.
 From Spokane Bridge to Lewiston.
 From Florence to Washington.
 From Silver City to Oro.
 From Walla-Walla, in Washington Territory, via Lewiston, to Helena, Montana.
 From Florence to Warren's Diggings.
 From Rocky Bar to Atlanta.
 From Boise City, via Leesburg, Salmon City, to Bannock City, Montana.

MONTANA TERRITORY.

From Radersburg to Willow Creek.
 From Helena, via Copperopolis, to Merschell.
 From Jefferson Bridge to Silver Star.
 From Virginia City, via Twin Bridges, Rochester, Silver Star, German Gulch, and French Gulch, to Deer Lodge City.
 From Missoula Mills to Frenchtown.
 From Stormsville to In-Poh.

COLORADO TERRITORY.

From Denver, via Mount Vernon, Hayward's Ranch, Tollgate, Idaho, Empire, to Georgetown.
 From Denver, via Little's Mills, Keystone, Bear Cañon, Glen Grove, to Colorado City.
 From Cañon City, via South Arkansas, to Fairplay.
 From South Arkansas, via Garabaldi, to Sagauche.
 From Badito, via West Mountain Valley, to Fort Garland.
 From Colorado City, via Fairplay, to Hamilton, in Park county.
 From Pueblo, via Rock Cañon Bridge, Criswell's Ranch, to Dotson's Ranch.
 From Pueblo, on south side of the Arkansas river, via Blunt's Ranch, to Fort Reynolds.
 From Golden City, via Mount Vernon, to Union City.
 From Georgetown to Breckinridge.
 From Datham, via Boyd's Crossing and Princeton, to Thompson.

WASHINGTON TERRITORY.

From Vancouver, via Fourth Plain, Lackamas, and Fern Prairie, to Washingal.

APPROVED, March 3, 1869.

CHAP. CXXXII.—An Act to authorize the Secretary of War to place at the disposal of the National Lincoln Monument Association, at Springfield, Illinois, damaged and captured Ordnance.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and directed to place at the disposal of the National Lincoln Monument Association, at Springfield, Illinois, such damaged and captured bronze and brass guns and ordnance as may be required, out of which to cast the principal figures to be incorporated into said structure; said material to be delivered to said association at Springfield, Illinois.

APPROVED, March 3, 1869.

CHAP. CXXXIII.—An Act in relation to Additional Bounties, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when a soldier's discharge states that he is discharged by reason or "expiration of term of service," he shall be held to have completed the full term of his enlistment and entitled to bounty accordingly.

SEC. 2. *And be it further enacted,* That the widow, minor children, or parents in the order named, of any soldier who shall have died, after being honorably discharged from the military service of the United States, shall be entitled to receive the additional bounty to which such soldier would be entitled if living, under the provisions of the twelfth and thirteenth sections of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June thirty, eighteen hundred and sixty-seven, and for other purposes," approved July twenty-eight, eighteen hundred and sixty-six, and the said provisions of said act shall be so construed.

SEC. 3. *And be it further enacted,* That all claims for the additional bounties granted in sections twelve and thirteen of the act of July twenty-eight, eighteen hundred and sixty-six, shall, after the first of May next, be adjusted and settled by the accounting officers of the Treasury under the provisions of said act; and all such claims as may on the said first of May be remaining in the office of the Paymaster General unsettled shall be transferred to the Second Auditor of the Treasury for settlement.

SEC. 4. *And be it further enacted,* That all claims for bounty under the provisions of the act cited in the foregoing section shall be void, unless presented in due form prior to the first day of December, eighteen hundred and sixty-nine.

APPROVED, March 3, 1869.

CHAP. CXXXIV.—An Act to Incorporate "The Masonic Mutual Relief Association of the District of Columbia."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That William Mertz, Edward Edwards, Thomas B. Campbell, A. C. Adamson, John J. Callahan, A. T. Dessau, John McClellan, E. H. Atkins, Richard Goodhart, Thomas Rishton, C. H. Dickson, T. D. Winter, H. V. Cole, T. H. Donahue, Thomas H. Graham, M. A. Watson, W. D. Chase, Thomas Dowling, R. B. Tompkins, James O. Lee, Charles H. Kern, and Robert Ball, and their successors, to be elected in the manner hereinafter declared, be, and they are hereby, incorporated and made a body politic and corporate by the name of "The Masonic Mutual Relief Association of the District of Columbia," and by that name may sue and be sued, plead and be impleaded, in any court of law or equity of competent jurisdiction, and may have and use a common seal, and be entitled to use and exercise all the powers, rights, and privileges incident to such corporation.

SEC. 2. *And be it further enacted,* That the particular business and objects of such society or corporation shall be to provide and maintain a fund for the benefit of the widow, orphans, heir, assignee, or legatee of a deceased member immediately upon proof of such death.

SEC. 3. *And be it further enacted,* That the number of directors or managers to manage the same shall be twenty-two, who shall be elected by the members of said society or corporation, at their annual meeting on the second Tuesday of November in each year, from among themselves, who shall hold their office for one year and until others are duly elected and qualified to take their places as directors; and the said directors shall elect one of their number to be president of the board, who shall also be president of the corporation or society, and shall elect one of their number as vice

president, and one of their number as secretary, who shall also be secretary of the association, and one of their number as treasurer, who shall give bonds with surety to said corporation in such sum as the said board of directors may require for the faithful discharge of his trust. A majority of the directors shall form a quorum for the transaction of business; and in case of a vacancy in the board of directors, by death, resignation, or otherwise, of any director, the vacancy occasioned thereby shall be filled by the remaining directors from among the members of said society, who shall serve until the next annual election.

SEC. 4. *And be it further enacted,* That the directors shall have full power to make and prescribe such by-laws, rules, and regulations as they shall deem needful and proper for the disposition and management of the funds, property, and effects of the society or corporation, not contrary to this charter or to the laws of the United States; and they shall have power to alter or amend the same as the interests of the corporation, in their opinion, may require.

SEC. 5. *And be it further enacted,* That the said board of directors shall be capable of taking and holding the funds, property, and effects of said corporation, which funds, property, or effects shall never be divided among the members of the said society or corporation, but shall descend to their successors, duly elected in the manner heretofore specified, for the promotion of the principles of the said corporation and the benevolent purposes of the society which they represent. But this provision shall not prevent the said board of directors from carrying out the principles of the society or corporation, viz: the immediate payment to the widow, orphans, heir, assignee, or legatee of a deceased member as many dollars as there are members in good standing on the books of the corporation.

SEC. 6. *And be it further enacted,* That this act may be altered, amended, or repealed at the pleasure of the Congress of the United States of America.

APPROVED, March 3, 1869.

CHAP. CXXXV.—An Act in reference to certifying Checks by National Banks.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful for any officer, clerk, or agent of any national bank to certify any check drawn upon said bank unless the person or company drawing said check shall have on deposit in said bank at the time such check is certified an amount of money equal to the amount specified in such check; and any check so certified by duly authorized officers shall be a good and valid obligation against such bank; and any officer, clerk, or agent of any national bank violating the provisions of this act shall subject such bank to the liabilities and proceedings on the part of the Comptroller as provided for in section fifty of the national banking law, approved June third, eighteen hundred and sixty-four.

APPROVED, March 3, 1869.

CHAP. CXXXVI.—An Act to amend an Act entitled "An Act to exempt certain Manufacturers from Internal Tax, and for other purposes," approved March thirty-first, eighteen hundred and sixty-eight.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act to exempt certain manufacturers from internal tax, and for other purposes, approved March thirty-one, eighteen hundred and sixty-eight, be, and hereby is, amended in the second section thereof so as to remit all taxes upon naval machinery which had not accrued prior to the first day of April, eighteen hundred and sixty-eight.

APPROVED, March 3, 1869.

CHAP. CXXXVII.—An Act relating to Captures made by Admiral Farragut's Fleet in the Mississippi river in May, (1862,) eighteen hundred and sixty-eight, [two.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the vessels attached to or connected with Admiral Farragut's fleet in the river Mississippi which participated in the opening of that river and which resulted in the capture of New Orleans in the month of May, eighteen hundred and sixty-two, and which by law would have been entitled to prize money in the captures made by said vessels, shall now be entitled to the benefits of the prize laws in the same manner as they would have been had the district court for the eastern district of Louisiana been then open and the captures made by said vessels had been libeled therein; and any court of the United States having admiralty jurisdiction may take and have cognizance of all cases arising out of said captures, and the same proceedings shall be had therein as in other cases of prize.

SEC. 2. *And be it further enacted,* That the shares in such captures awarded to the officers and men entitled to prize shall be paid out of the Treasury of the United States.

APPROVED, March 3, 1869.

CHAP. CXXXVIII.—An Act explanatory of the Act entitled "An Act declaring the Title to Land Warrants in certain cases."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act declaring the title to land warrants in certain cases," approved June third, eighteen hundred and fifty-eight, be so construed and applied as to authorize the legal representatives of deceased claimants whose claims were filed prior to their decease to file the proof necessary to perfect the same.

APPROVED, March 3, 1869.

CHAP. CXXXIX.—An Act to establish a Bridge across the East River, between the cities of Brooklyn and New York, in the State of New York, a Post Road.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the bridge across the East river, between the cities of New York and Brooklyn, in the State of New York, to be constructed under and by virtue of an act of the Legislature of the State of New York, entitled "An act to incorporate the New York Bridge Company, for the purpose of constructing and maintaining a bridge over the East river between the cities of New York and Brooklyn," passed April sixteenth, eighteen hundred and sixty-seven, is hereby declared to be, when completed in accordance with the aforesaid law of the State of New York, a lawful structure and post road for the conveyance of the mails of the United States: *Provided,* That the said bridge shall be so constructed and built as not to obstruct, impair, or injuriously modify the navigation of the river; and in order to secure a compliance with these conditions, the company, previous to commencing the construction of the bridge, shall submit to the Secretary of War a plan of the bridge, with a detailed map of the river at the proposed site of the bridge, and for the distance of a mile above and below the site, exhibiting the depths and currents at all points of the same, together with all other information touching said bridge and river as may be deemed requisite by the Secretary of War to determine whether the said bridge, when built, will conform to the prescribed conditions of the act, not to obstruct, impair, or injuriously modify the navigation of the river.

SEC. 2. *And be it further enacted,* That the Secretary of War is hereby authorized and directed, upon receiving said plan and map and other information, and upon being satisfied that

a bridge built on such plan and at said locality will conform to the prescribed conditions of this act, not to obstruct, impair, or injuriously modify the navigation of said river, to notify the said company that he approves the same; and upon receiving such notification the said company may proceed to the erection of said bridge, conforming strictly to the approved plan and location. But until the Secretary of War approve the plan and location of said bridge, and notify said company of the same in writing, the bridge shall not be built or commenced; and should any change be made in the plan of the bridge during the progress of the work thereon, such change shall be subject likewise to the approval of the Secretary of War.

SEC. 3. *And be it further enacted,* That Congress shall have power at any time to alter, amend, or repeal this act.

APPROVED, March 3, 1869.

CHAP. CXL.—An Act respecting the Organization of Militia in the States of North Carolina, South Carolina, Florida, Alabama, Louisiana, and Arkansas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the act entitled "An act making appropriations for the support of the Army for the year ending June thirty, eighteen hundred and sixty-eight, and for other purposes," approved March two, eighteen hundred and sixty-seven, as prohibits the organization, arming, or calling into service of the militia forces in the States of North Carolina, South Carolina, Florida, Alabama, Louisiana, and Arkansas, be, and the same is hereby, repealed.

APPROVED, March 3, 1869.

CHAP. CXLI.—An Act further to provide for giving Effect to Treaty Stipulations between this and Foreign Governments for the Extradition of Criminals.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever any person who shall have been delivered by any foreign Government to an agent or agents of the United States for the purpose of being brought within the United States and tried for any crime of which he is duly accused, the President shall have power to take all necessary measures for the transportation and safe-keeping of such accused person, and for his security against lawless violence, until the final conclusion of his trial for the crime[s] or offenses specified in the warrant of extradition, and until his final discharge from custody or imprisonment for or on account of such crimes or offenses, and for a reasonable time thereafter. And it shall be lawful for the President, or such person as he may empower for that purpose, to employ such portion of the land or naval forces of the United States, or of the militia thereof, as may be necessary for the safe-keeping and protection of the accused as aforesaid.

SEC. 2. *And be it further enacted,* That any person duly appointed as agent to receive in behalf of the United States the delivery by a foreign Government of any person accused of crime committed within the jurisdiction of the United States and to convey him to the place of his trial, shall be, and hereby is, vested with all the powers of a marshal of the United States in the several districts through which it may be necessary for him to pass with such prisoner, so far as such power is requisite for his safe-keeping.

SEC. 3. *And be it further enacted,* That if any person or persons shall knowingly and willfully obstruct, resist, or oppose such agent in the execution of his duties, or shall rescue, or attempt to rescue such prisoner, whether in the custody of the agent aforesaid, or of any

marshal, sheriff, jailer, or other officer or person to whom his custody may have lawfully been committed, every person so knowingly and willfully offending in the premises shall, on conviction thereof before the district or circuit court of the United States for the district in which the offense was committed, be fined not exceeding one thousand dollars, and imprisoned not exceeding one year.

APPROVED, March 3, 1869.

CHAP. CXLII.—An Act to provide for the Execution of Judgments in Capital Cases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever a judgment of death has been, or shall hereafter be, rendered in any court of the United States, and the case has been, or shall hereafter be, carried to the Supreme Court of the United States by appeal or writ of error, in pursuance of law, it shall be the duty of the court rendering such judgment, by order of court, to postpone the execution thereof from time to time and from term to term until the mandate of the Supreme Court in such case shall have been received and entered upon the records of the lower court; and in case such judgment is affirmed by the Supreme Court, it shall be the duty of the court rendering the original judgment to appoint a day for the execution thereof; and in case of reversal by the Supreme Court, such further proceedings shall be had in the lower court as the Supreme Court may direct.

APPROVED, March 3, 1869.

CHAP. CXLIII.—An Act to amend an Act entitled "An Act granting Lands to the State of Oregon to aid in the construction of a Military Road from Eugene City to the Eastern Boundary of said State."

Whereas by an act granting lands to the State of Oregon to aid in the construction of a military road from Eugene City to the eastern boundary of said State, approved July second, eighteen hundred and sixty-four, and whereas the time designated for the completion of said road expires on the second day of July, eighteen hundred and sixty-nine: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time for the completion of said road be, and hereby is, extended to the second day of July, eighteen hundred and seventy-one.

APPROVED, March 3, 1869.

CHAP. CXLIV.—An Act amendatory of the Act providing for the Sale of the Arsenal Grounds at St. Louis and Liberty, Missouri, and for other purposes, approved July twenty-five, eighteen hundred and sixty-eight.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the third section of the act providing for the sale of the arsenal grounds at Saint Louis and Liberty, Missouri, and for other purposes, approved July twenty-five, eighteen hundred and sixty-eight, as grants to the city of Saint Louis the westernmost six acres of the tract of ground occupied by the Saint Louis arsenal, be, and the same is hereby, repealed, so far as it designates the part of said tract so granted; and in lieu of said westernmost six acres there shall be granted to said city, for the purposes and upon the conditions expressed in said act, other six acres of said tract, to be designated by the Secretary of War; and that the period limited in said act for the erection of the monument therein contemplated to be erected shall be considered as commencing at the time when the Secretary of War shall have desig-

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nated the six acres of said tract to be granted to said city: *Provided, however,* That no part of the said six acres shall be selected east of the western line of the ground occupied by the Saint Louis and Iron Mountain railroad.

APPROVED, March 3, 1869.

CHAP. CXLV.—An Act to amend an Act entitled "An Act to provide a National Currency secured by a Pledge of United States Bonds, and to provide for the Circulation and Redemption thereof," by extending certain Penalties to Accessories.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every person who shall aid or abet any officer or agent of any association in doing any of the acts enumerated in section fifty-two of an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved February twenty-fifth, eighteen hundred and sixty-three, with intent to defraud or deceive, shall be liable to the same punishment therein provided for the principal.

APPROVED, March 3, 1869.

CHAP. CXLVI.—An Act relating to the Metropolitan Railroad Company.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Metropolitan Railroad Company, in the District of Columbia, be, and is hereby, allowed five years from and after the passage of this act for the completion of its line of street railways, authorized by the acts of July first, eighteen hundred and sixty-four, and March third, eighteen hundred and sixty-five, anything contained in said acts or any other act to the contrary notwithstanding.

APPROVED, March 3, 1869.

CHAP. CXLVII.—An Act to regulate Elections in Washington and Idaho Territories.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That elections in the Territories of Washington and Idaho for Delegates to the House of Representatives of the Forty-Second Congress shall be held on the first Monday of June, anno Domini eighteen hundred and seventy, and afterward biennially on the first Monday of June; and such officers in said Territories as are now elected at the same time with their Delegates shall be elected for offices thereafter to be filled at the times herein specified, unless otherwise provided by the laws of said Territory.

APPROVED, March 3, 1869.

CHAP. CXLVIII.—An Act relating to the Time for finding Indictments in the Courts of the United States in the late Rebel States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time for finding indictments in the courts of the United States in the late rebel States for offenses cognizable by said courts, and which may have been committed since said States went into rebellion, be, and hereby is, extended for the period of two years from and after [the time when] said States are or may be restored to representation in Congress: *Provided, however,* That the provisions hereof shall not apply to treason or other political offenses.

APPROVED, March 3, 1869.

CHAP. CXLIX.—An Act relating to the Proof of Wills in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever a will or

codicil shall be exhibited for probate to the orphans' court of the District of Columbia, if any of the witnesses to the same shall reside outside of said District, or be temporarily absent therefrom at the time when said will or codicil shall be so exhibited for probate, it shall and may be lawful for said court to issue upon personal notice of not less than twenty days to all parties in interest, a commission to one or more competent persons, to take the deposition of such absent witness or witnesses, in such form as said court may prescribe, touching the execution of such will or codicil, and the competency of the testator or testatrix, at the time of the execution thereof, and such deposition when returned to said court shall be received therein as competent evidence, and have the same force and effect as if said witness or witnesses were personally present and testifying in said court: *Provided,* That in all such cases the original will or codicil shall accompany such commission, and be exhibited to the witnesses so testifying.

APPROVED, March 3, 1869.

CHAP. CL.—An Act granting Lands to the State of Oregon to aid in the Construction of a Military Wagon-Road from the navigable waters of Coos Bay to Roseburg, in said State.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, granted to the State of Oregon, to aid in the construction of a military wagon-road from the navigable waters of Coos Bay to Roseburg, alternate sections of public lands, designated by odd numbers, to the extent of three sections in width on each side of said road: *Provided,* That the lands hereby granted shall be exclusively applied to the construction of said road and to no other purpose, and shall be disposed of only as the work progresses: *Provided further,* That the grant of lands hereby made shall be upon the condition that the lands shall be sold to any one person only in quantities not greater than one quarter section, and for a price not exceeding two dollars and fifty cents per acre: *And provided further,* That any and all lands heretofore reserved to the United States, or otherwise appropriated by act of Congress or other competent authority, be, and the same are hereby, reserved from the operation of this act, except so far as it may be necessary to locate the route of said road through the same, in which case the right of way to the width of one hundred feet is granted: *And provided further,* That the grant hereby made shall not embrace any mineral lands of the United States, or any lands to which homestead or preemption rights have attached.

SEC. 2. *And be it further enacted,* That the lands hereby granted to said State shall be disposed of by the Legislature thereof for the purpose aforesaid, and for no other; and the said road shall be and remain a public highway for the use of the Government of the United States, free from tolls or other charges for the transportation of any property, troops, or mails of the United States.

SEC. 3. *And be it further enacted,* That said road shall be constructed with such width, graduation, and bridge as to permit of its regular use as a wagon-road, and in such other special manner as the State of Oregon may prescribe.

SEC. 4. *And be it further enacted,* That the State of Oregon is authorized to locate and use in the construction of said road an additional amount of public lands, not previously reserved to the United States nor otherwise disposed of, and not exceeding six miles in distance from it, equal to the amount reserved from the operation of this act in the first section of the same, to be selected in alternate odd sections, as provided in section first of this act.

SEC. 5. *And be it further enacted,* That lands hereby granted to said State shall be disposed

of only in the following manner, that is to say, when the Governor of said State shall certify to the Secretary of the Interior that ten continuous miles of said road are completed, then a quantity of the land hereby granted, not to exceed thirty sections, may be sold, and so on from time to time, until said road shall be completed; and if said road is not completed within five years no further sales shall be made, and the lands remaining unsold shall revert to the United States: *Provided, however,* That the entire amount of public land granted by this act shall not exceed three sections per mile for each mile actually constructed.

SEC. 6. *And be it further enacted,* That the United States surveyor general for the district of Oregon shall cause said lands, so granted, to be surveyed at the earliest practicable period after said State shall have enacted the necessary legislation to carry this act into effect.

APPROVED, March 3, 1869.

CHAP. CLI.—An Act to define the Fees of Recorder of Deeds and to provide for the appointment of Warden of the Jail in the District of Columbia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act the style of the "register of deeds of the District of Columbia" shall be "recorder of deeds of the District of Columbia."

SEC. 2. *And be it further enacted,* That the legal fees for the services of said recorder of deeds shall be as follows, viz:

The filing, recording, and indexing, or for making certified copy of any instrument containing two hundred words or less, fifty cents, and fifteen cents for each additional hundred words, to be collected at the time of filing, and when the copy is made.

For each certificate and seal, twenty-five cents.

For searching records extending back two years or less next preceding current date, twenty-five cents, and five cents for each additional year, to be paid by the party for whom the search may be made.

For recording a town plat, three cents for each lot such plat may contain.

For recording a plat or survey, five cents for each course such survey may contain.

For filing and indexing any paper required by law to be filed in his office, fifteen cents.

For each examination of title by the party or his attorney, fifty cents.

For taking any acknowledgment, fifty cents.

SEC. 3. *And be it further enacted,* That all deeds of conveyance, leases, powers of attorney, and other written instruments required by law to be filed and recorded, and all copies of instruments and records and certificates authorized by law, filed, recorded, made, and certified by William G. Flood, as acting register of deeds for said District since the death of Edward C. Eddie, late register, up to the date of the appointment and qualification of his successor, shall be, and are hereby, declared to be legally performed, the same as if the said William G. Flood had been legally appointed and qualified as register of deeds. And the said William G. Flood is hereby declared to be entitled to all the legal fees and emoluments of said office for his said services which have been hitherto allowed the register of deeds, and which accrued during said period.

SEC. 4. *And be it further enacted,* That from and after the passage of this act the supreme court of the District of Columbia shall have authority to appoint a suitable person to act as warden of the jail of said District, and to remove said officer whenever in the opinion of said court the public interests may require it, and to fill all vacancies which may occur.

SEC. 5. *And be it further enacted,* That the warden of said jail shall have authority to

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appoint such subordinate officers, guards, and employés as are necessary for the proper management and safe-keeping of prisoners, which now are or may hereafter be authorized by law, subject to the approval of the chief justice of said court.

SEC. 6. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

APPROVED, March 3, 1869.

CHAP. CLII.—An Act to confirm certain Private Land Claims in the Territory of New Mexico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That private land claims numbered forty-one, forty-two, forty-four, forty-six, and forty-seven, Territory of New Mexico, as known and designated by the numbers aforesaid in the reports of the surveyor general of the said Territory and on the books of the Commissioner of the General Land Office, be, and the same are hereby, confirmed: *Provided*, That such confirmation shall only be construed as a quit-claim on [or] relinquishment of all title or claim on the part of the United States to any of the lands not improved by or on behalf of the United States, and not including any military or other reservation embraced in either of the said claims, and shall not affect the adverse rights of any person or persons to the same, or any part or parcel thereof.

SEC. 2. *And be it further enacted*, That the Commissioner of the General Land Office shall, without unreasonable delay, cause the lands embraced in said several claims to be surveyed and plated, at the proper expense of the claimants thereof, and upon the filing of said surveys and plats in his office he shall issue patents for said lands in said Territory which have heretofore been confirmed by acts of Congress and surveyed, and plats of such survey filed in his office as aforesaid, but for which no patents have heretofore been issued.

SEC. 3. *And be it further enacted*, That all surveys authorized by this act shall conform to and be connected with the public surveys of the United States in said Territories, so far as the same can be done consistently with the landmarks and boundaries specified in the several grants upon which said claims are founded: *Provided, however*, That when said lands are so confirmed, surveyed, and patented, they shall in each case be held and taken to be in full satisfaction of all further claims or demands against the United States.

APPROVED, March 3, 1869.

RESOLUTIONS.

No. 1.—A Resolution in relation to the Library of the Department of Agriculture.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Agriculture shall regard the library now under his control and in his possession as part of the property of the Department of Agriculture, and he shall retain the same in his charge as directed by section three of the act approved May fifteen, eighteen hundred and sixty-two, establishing a Department of Agriculture.

APPROVED, December 15, 1868.

No. 2.—Joint Resolution donating condemned Cannon for the erection of a Monument to Major General Kearny.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to furnish such

condemned iron cannon as may be required, not exceeding four, for the completion of a monument at Tivoli, New York, over the remains of the late Major General Philip Kearny and other Union soldiers buried at that place, who lost their lives in the late war.

APPROVED, December 21, 1868.

No. 3.—Joint Resolution explanatory of the Act to create an additional Land Office in the State of Minnesota, approved July twenty-fifth, eighteen hundred and sixty-eight.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the limits of the land district as designated in the act entitled "An act to create an additional land district in the State of Minnesota," approved July twenty-fifth, eighteen hundred and sixty-eight, to wit: "All that part of the northwestern land district which lies north of township number one hundred and twenty-four north and west of range number thirty-five west of the fifth principal meridian," shall be construed to embrace all the lands north of township one hundred and twenty-four and west of said range thirty-five.

APPROVED, January 14, 1869.

No. 5.—A Resolution authorizing the Transfer of certain Appropriations heretofore made for the Public Printing, Binding, and Engraving.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause the sum of one hundred and ninety-four thousand dollars to be transferred from the appropriation "for paper for the public printing," contained in the act entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June thirtieth, eighteen hundred and sixty-nine," approved on the twentieth of July, eighteen hundred and sixty-eight, in aid of the appropriations contained in the same act for the following purposes and in the following proportions, to wit:

For the public binding, the sum of one hundred and ten thousand dollars.

For lithographing and engraving for the Senate and House of Representatives, the sum of eighty-four thousand dollars.

APPROVED, February 9, 1869.

No. 7.—A Resolution relative to the recent Contract for Stationery for the Department of the Interior.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be directed to annul and cancel the contract made by him with Messrs. Dempsey and O'Toole for supplying the Department of the Interior and the several bureaus and offices thereof with stationery for the fiscal year ending June thirty, eighteen hundred and sixty-nine, (under the advertisement issued May twenty-five, eighteen hundred and sixty-eight.)

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate pro tempore.

Indorsed by the PRESIDENT: "Received February 6, 1869."

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing resolution having been presented to the President of the United States for his approval, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution

of the United States, has become a law without his approval.]

No. 8.—A Resolution respecting the Provisional Governments of Virginia and Texas.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the persons now holding civil offices in the provisional governments of Virginia and Texas, who cannot take and subscribe the oath prescribed by the act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862, shall, on the passage of this resolution, be removed therefrom; and it shall be the duty of the district commanders to fill the vacancies so created by the appointment of persons who can take said oath: *Provided*, That the provisions of this resolution shall not apply to persons who by reason of the removal of their disabilities as provided in the fourteenth amendment to the Constitution shall have qualified for any office in pursuance of the act entitled "An act prescribing an oath of office by persons from whom legal disabilities shall have been removed," approved July eleventh, eighteen hundred and sixty-eight: *And provided further*, That this resolution shall not take effect until thirty days from and after its passage: *And it is further provided*, That this resolution shall be, and is hereby extended to, and made applicable to the State of Mississippi.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate pro tempore.

Indorsed by the PRESIDENT: "Received February 6, 1869."

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing resolution having been presented to the President of the United States for his approval, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

No. 9.—Joint Resolution directing the Enforcement of the Lien upon the Steamer "Atlantic."

Whereas, on the sixth of February, eighteen hundred and forty-nine, an agreement in the nature of a chattel mortgage was entered into between the Secretary of the Navy of the United States and the assignees of the Collins' contract, by which, after reciting the acts of March third, eighteen hundred and forty-seven, and August third, eighteen hundred and forty-eight aforesaid, and that the assignees of the contract had launched two vessels, (the "Atlantic" and "Pacific," still unfinished,) and had applied for advances under the act, and were willing and desirous to secure the repayment or refunding of the same from the annual compensation of the said ships by a lien on said ships, it was witnessed that the said assignees bargained, sold and conveyed the said two vessels to Prosper M. Wetmore, upon trust; that the assignees should retain possession of the said vessels and employ them in execution of the contract, and if, after the expiration of one year from the commencement of the performance of the service under the contract, the assignees should have failed to repay in money, or to refund out of one year's compensation, such outstanding balance due and unpaid or unfunded of such advances as the Secretary of the Navy might have made prior to the end of one year from the commencement of the performance of the said service, then the said Wetmore was, after advertising for six months the time and place of sale, to sell the said steamships at public auction, and out of the

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proceeds pay (1) the expenses of the trust, (2) the balances of advances due the United States, and (3) the surplus to the assignees; and whereas the said deed of mortgage is still binding on the "Atlantic," one of the said steamships; and whereas a large amount is still due on the said mortgage for expenses incurred in executing the trust, which amount it is claimed the Government is liable for; and whereas the sale of the said steamship "Atlantic" has been duly advertised according to the terms of the mortgage, but never sold: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and is hereby, directed to cause the trustee named in the said deed of mortgage to proceed at once, in such mode as the law and deed of mortgage may authorize, to enforce the lien upon said steamship "Atlantic," with a view to the immediate payment of the expenses of the trust, and any other balances that may be due and owing upon the said mortgage.

APPROVED, February 19, 1869.

No. 10.—Joint Resolution authorizing the Secretary of War to allow to the New York and Oswego Midland Railroad Company a Right of Way across a portion of the Public Ground at Fort Ontario, Oswego, New York, for Railroad purposes.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to allow to the New York and Oswego Midland Railroad Company a right of way through the public land at Fort Ontario, Oswego, in the State of New York, for railroad purposes, upon such terms and conditions as he may think the defenses at that point may require and make proper, reserving to the United States the right to remove, at the expense of the said company, the rails, ties, and other parts of said road, whenever the Secretary of War shall direct, without any claim or right of damages on the part of said company.

APPROVED, February 19, 1869.

No. 11.—A Resolution in relation to Coast Defense.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the General of the Army and the Admiral of the Navy, or in the absence of the Admiral, then the vice admiral, be authorized and directed to inquire into the utility and practicability of the Ryan-Hitchcock mode of marine fortifications, and that they report to Congress at the next session thereof.

APPROVED February 19, 1869.

No. 14.—A Resolution proposing an Amendment to the Constitution of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of the Constitution, namely:

ARTICLE XV.

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate pro tempore.

Attest:

EDWD. MCPHERSON,

Clerk of House of Representatives.

GEO. C. GORHAM,

Sec'y of Senate U. S.

Received at Department of State February 27, 1869.

No. 15.—Joint Resolution granting the Consent of Congress provided for in section ten of the Act incorporating the Northern Pacific Railroad Company, approved July second, eighteen hundred and sixty-four.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of the Congress of the United States is hereby given to the Northern Pacific Railroad Company to issue its bonds, and to secure the same by mortgage upon its railroad and its telegraph line, for the purpose of raising funds with which to construct said railroad and telegraph line between Lake Superior and Puget sound, and also upon its branch to a point at or near Portland, Oregon; and the term "Puget sound," as used here and in the act incorporating said company, is hereby construed to mean all the waters connected with the straits of Juan de Fuca within the territory of the United States.

APPROVED, March 1, 1869.

No. 16.—Joint Resolution in relation to the Meeting of the House of Representatives at the First Session of the Forty-First Congress.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the time for the first regular meeting of the House of Representatives of the Forty-First Congress be, and is hereby, postponed from twelve o'clock meridian, on the fourth day of March, eighteen hundred and sixty-nine, to the hour of three o'clock in the afternoon of the said day.

APPROVED, March 1, 1869.

No. 17.—Joint Resolution in regard to the Publication of Postal Conventions made with Foreign Countries.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State be authorized and directed to cause the several postal conventions made with foreign countries, under the provisions of the act of March third, eighteen hundred and fifty-one, or which may hereafter be made, to be published in the same manner, and upon the same terms, as is prescribed for the publication of the treaties and laws of the United States.

APPROVED, March 1, 1869.

No. 19.—A Resolution providing for the Reporting and Publication of the Debates in Congress.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint Committee of Congress on Public Printing is hereby authorized to contract, on behalf of the General Government, with Rives and Bailey for the reporting and publication of the debates in Congress for the term of two years, on and from the fourth day of March, eighteen hundred and sixty-nine: *Provided,* That, before the United States shall be called on to pay for any reporting or publication of the debates,

the accounts therefor shall be submitted to the joint Committee on Public Printing, or to such other officer or officers of Congress as they may designate, and on their or his approbation thereof, as being in all respects according to the contracts, it shall be paid for from the Treasury of the United States, after having passed the proper accounting officers thereof.

SEC. 2. *And be it further resolved,* That in case the joint Committee on Public Printing are unable to conclude a satisfactory contract with the said Rives and Bailey, or that they be unable to fulfil any contract that they may make, the joint Committee on Printing be authorized to have the debates reported and printed under the direction of the Congressional Printer at the Government Printing Office.

SEC. 3. *And be it further resolved,* That for the purpose aforesaid there be appropriated and paid, out of any money in the Treasury not otherwise appropriated, the sum of three hundred and fifty thousand dollars, or so much thereof as may be necessary.

APPROVED, March 3, 1869.

No. 20.—A Resolution for Printing the Medical and Surgical History of the Rebellion.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there be printed at the Government Printing Office five thousand copies of the first part of the Medical and Surgical History of the Rebellion, compiled by the Surgeon General under the direction of the Secretary of War, and five thousand copies of the Medical Statistics of the Provost Marshal's Bureau, compiled and to be completed by Surgeon J. H. Baxter, as authorized by an act of Congress, approved July twenty-eight, eighteen hundred and sixty-six, which also provides that the editions of both publications thus ordered shall be disposed of as Congress may hereafter direct.

APPROVED, March 3, 1869.

No. 21.—A Resolution giving the Assent of the United States to the Construction of the Newport and Cincinnati Bridge.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress be, and the same is hereby, given to the erection of a bridge over the Ohio river from the city of Cincinnati, Ohio, to the city of Newport, Kentucky, by the Newport and Cincinnati Bridge Company, a corporation chartered and organized under the laws of each of the States of Kentucky and Ohio: *Provided,* That said bridge be built with an unbroken or continuous span of not less than four hundred feet in the clear, from pier to pier, over the main channel of the river, and is built in all other respects in accordance with the conditions and limitations of an act entitled "An act to establish certain post roads," approved July fourteenth, eighteen hundred and sixty-two. That said bridge, when completed in the manner specified in this resolution, shall be deemed and taken to be a legal structure, and shall be a post road for the transmission of the mails of the United States; but Congress reserves the right to withdraw the assent hereby given in case the free navigation of said river shall at any time be substantially and materially obstructed by any bridge to be erected under the authority of this resolution, or to direct the necessary modifications and alterations of said bridge.

APPROVED, March 3, 1869.

No. 22.—A Resolution more efficiently to Protect the Fur Seal in Alaska.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the islands of Saint Paul and Saint George in Alaska be, and they

are hereby, declared a special reservation for Government purposes; and that, until otherwise provided by law, it shall be unlawful for any person to land or remain on either of said islands, except by the authority of the Secretary of the Treasury; and any person found on either of said islands, contrary to the provisions of this resolution, shall be summarily removed; and it shall be the duty of the Secretary of War to carry this resolution immediately into effect.

APPROVED, March 3, 1869.

No. 23.—Joint Resolution authorizing the Union Pacific Railway Company, Eastern Division, to change its Name to the "Kansas Pacific Railway Company."

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Union Pacific Railway Company, eastern division, is hereby authorized by resolution of its board of directors, which shall be filed in the office of the Secretary of the Interior, to change its name to the "Kansas Pacific Railway Company."

APPROVED, March 3, 1869.

No. 24.—Joint Resolution relative to certain Purchases by the Interior Department.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby directed not to receive or make payment for three hundred thousand sheets of bond paper claimed to have been ordered of the stationery contractor for the Interior Department at a cost of twenty-four thousand dollars; and also that he withhold payment on any bills claimed to be due to said contractors the sum of two thousand three hundred and eighty dollars charged and received for printing seventeen thousand patent heads, which work was not performed by them; and also the value of forty thousand sheets of bond paper, at eight cents per sheet, now in

the custody of said contractors, unless the same is returned; and that he also deduct from their unpaid bills the amount charged for goods in such unpaid bills (not included in their contract) above the prices at which like goods are sold in open market.

APPROVED, March 3, 1869.

No. 25.—A Resolution requiring the Commissioner of the General Land Office to transfer certain Money.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the General Land Office be, and is hereby, authorized to transfer to the Treasury Department the twenty-five hundred dollars appropriated "for collecting statistics of mines and mining," by act of Congress approved July twenty, eighteen hundred and sixty-eight, and that the Secretary of the Treasury be required to disburse the same as provided for in said act.

APPROVED, March 3, 1869.

No. 26.—Joint Resolution donating condemned Cannon and Muskets for the McPherson Monument.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to furnish to the McPherson Monument Association, of Clyde, Ohio, four pieces of condemned iron cannon, four pieces of condemned brass cannon, twenty-five cannon-balls, and one thousand condemned muskets, with bayonets, to be placed about the monument.

APPROVED, March 3, 1869.

No. 27.—A Resolution extending the Time for the Completion of the first twenty Miles of the Cairo and Fulton Railroad.

Resolved by the Senate and House of Representatives of the United States of America in

Congress assembled, That in case the Cairo and Fulton Railroad Company shall complete the first section of twenty miles of said road by the twenty-eighth day of April, eighteen hundred and seventy, and the Secretary of the Interior shall be satisfied of such completion, then the said company shall be entitled to its lands in all respects and to the same extent as it would have been had said twenty miles been completed by the twenty-eighth of July, eighteen hundred and sixty-nine, as provided by law relating to said railroad company approved July twenty-eighth, eighteen hundred and sixty-six.

APPROVED, March 3, 1869.

No. 28.—A Resolution reappointing Louis Agassiz a Regent of the Smithsonian Institution.

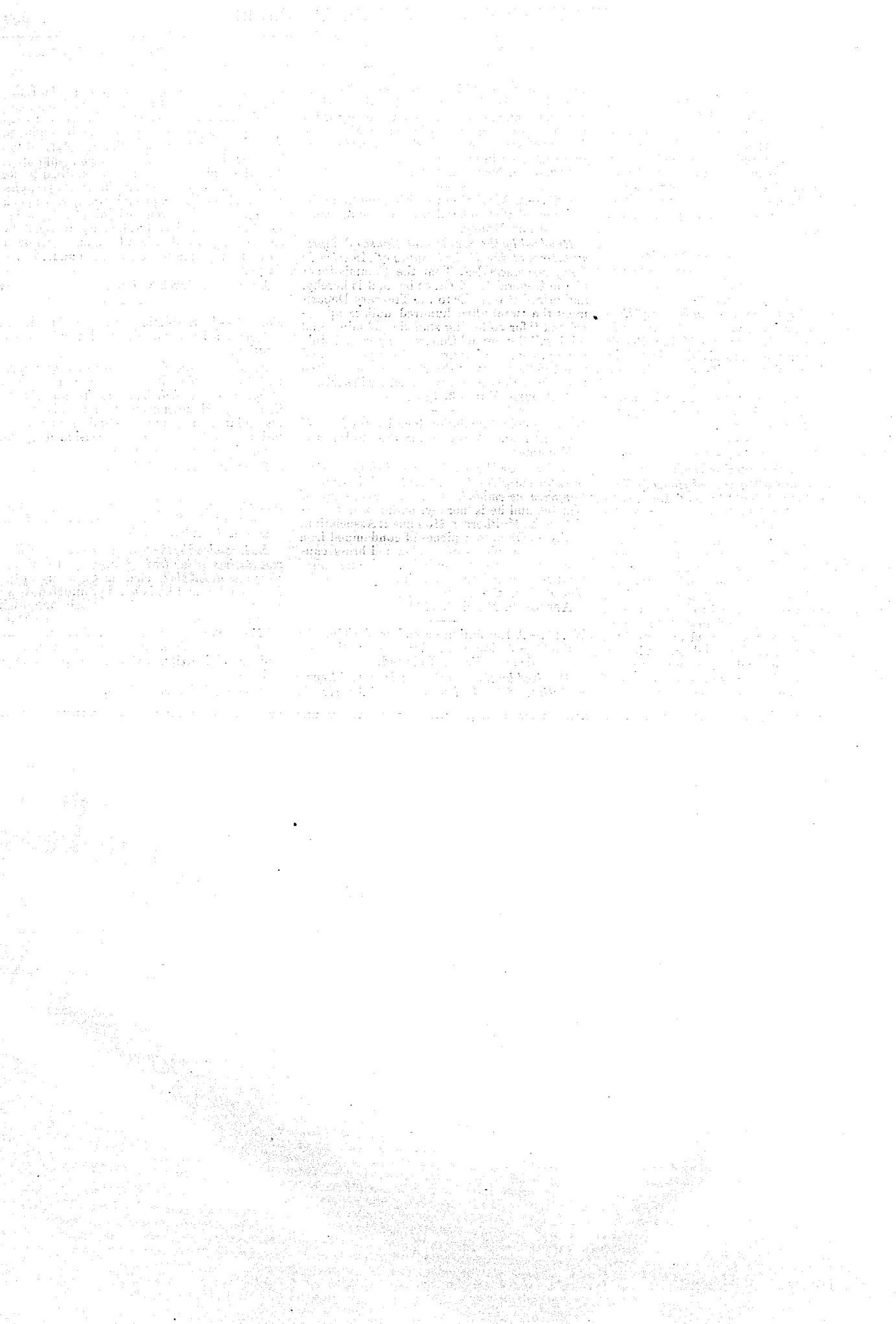
Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Louis Agassiz, of Cambridge, Massachusetts, be, and he is hereby, reappointed a Regent of the Smithsonian Institution to fill the vacancy occasioned by the expiration of his present term.

APPROVED, March 3, 1869.

No. 29.—Joint Resolution authorizing the Secretary of the Treasury to remit the Duty on certain Meridian Circles.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to remit the duties on a meridian circle, imported for the observatory at Cambridge, in the State of Massachusetts, and a meridian circle imported for the observatory connected with the Chicago University, at Chicago, in the State of Illinois.

APPROVED, March 3, 1869.



PRIVATE ACTS OF THE FORTIETH CONGRESS

OF THE

UNITED STATES,

Passed at the Third Session, which was begun and held at the City of Washington, in the District of Columbia, on Monday, the 7th day of December, A. D. 1868, and was adjourned without day on Thursday, the 4th day of March, A. D. 1869.

ANDREW JOHNSON, President. BENJAMIN F. WADE, President of the Senate. SCHUYLER COLFAX, Speaker of the House of Representatives, until the 3d day of March, A. D. 1869, on which day he resigned, and THEODORE M. POMEROY was elected Speaker, and so acted for the remainder of the session.

CHAP. I.—An Act to relieve from Disabilities Franklin J. Moses, a citizen of South Carolina.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of each House concurring therein,) That all political disabilities imposed on Franklin J. Moses, a citizen of South Carolina, by reason of the third section of the fourteenth article of the amendments to the Constitution of the United States, be, and the same are hereby, removed.

APPROVED, December 11, 1868.

CHAP. III.—An Act to authorize the Secretary of State to adjust the Claim of Gustavus G. Cushman for Office Rent while Commissioner under the Reciprocity Treaty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State is hereby authorized to reopen and adjust the accounts of Gustavus G. Cushman, late commissioner of fisheries under the late reciprocity treaty with Great Britain, so far as relates to a claim for office rent, upon the same basis as allowed to all the successors of said Cushman in said office.

APPROVED, December 15, 1868.

CHAP. V.—An Act to relieve certain Persons of all Political Disabilities imposed by the Fourteenth Article of the Amendments to the Constitution of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of each House concurring therein,) That all political disabilities imposed by the fourteenth article of the amendments of the Constitution of the United States upon the following citizens of South Carolina, viz: Andrew Ramsey, of Edgefield county; W. L. Hewit, of Sumter county; William A. McDaniels, James Harrison, and John H. Goodwin, of Greenville county; William J. Mixson, of Barnwell county; Johnson J. Knox, of Sumter county; J. J. Klein, John W. Burbridge, and Charles B. Farmer, of Colleton county; and George Buist, of Charleston county; A. L. McCaslan and William Hill, of Abbeville county; John F. Porteous, of Beaufort county; C. W. McFadden, of Chester county; R. H. Edmunds, of Fairfield county; Alexander McBee, H. M. Smith, and William

E. Earle, of Greenville county; W. H. Langston, of Laurens county; John C. Secrest, of Lancaster county; Julius L. Shanklin, of Oconee county; Thompson H. Cooke, George Boliver, and William N. Mount, of Orangeburg county; Spartan D. Goodlett, R. E. Holcombe, John W. Singleton, L. N. Robbins, and James E. Hagood, of Pickens county; John Heart and William H. Tally, of Richland county; P. Quin Camp and A. E. Smith, of Spartanburg county; R. L. Heriot, of Sumter county; and Charles W. Geddes, of Charleston county, South Carolina; and Edward Cantwell, of Hanover county; and W. J. Clarke, of Craven county, North Carolina; and DeWitt C. Senter, of Granger county, Tennessee; on account of participation in the recent rebellion, be, and the same are hereby, removed.

APPROVED, December 23, 1868.

CHAP. VI.—An Act for the Relief of Joseph Moorehead.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Joseph Moorehead, of Ohio, lately a passed midshipman in the United States Navy, now insane, shall be admitted as a patient into the Naval and Military Asylum for the Insane, at Washington city, District of Columbia, and remain therein so long as he shall continue insane and his guardian shall so desire.

APPROVED, January 6, 1869.

CHAP. VIII.—An Act to relieve from Disabilities John G. Stokes, a citizen of Alabama.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of each House concurring therein,) That all political disabilities imposed on John G. Stokes, a citizen of Alabama, by reason of the fourteenth article of the amendments to the Constitution of the United States, be, and the same are hereby, removed.

APPROVED, January 8, 1869.

CHAP. X.—An Act for the Relief of Mrs. Emma Wilson, of the State of Indiana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be authorized to pay to Mrs. Emma

Wilson, of Indiana, one quarter's salary of her deceased husband, James Wilson, as minister to Venezuela.

APPROVED, January 14, 1869.

CHAP. XI.—An Act to provide for the Removal of the Remains of Hon. W. T. Coggeshall, late Minister of the United States at Ecuador, to the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State be, and hereby is, authorized to provide for the removal of the body of Honorable William T. Coggeshall, late minister of the United States at Ecuador, to the United States, and that of his daughter; and that a sum not exceeding one thousand dollars be, and hereby is, appropriated, out of any money not otherwise appropriated, to defray the expense of said removal; and that the sum of one thousand dollars be, and is hereby, appropriated for the relief of the family of the deceased W. T. Coggeshall.

APPROVED, January 18, 1869.

CHAP. XII.—An Act to relieve William H. Bagley, of Wake county, North Carolina.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of each House concurring therein,) That all political disabilities imposed by the third section of the fourteenth article of the amendments to the Constitution of the United States be, and the same are hereby, removed from William H. Bagley, of the county of Wake, in the State of North Carolina.

APPROVED, January 18, 1869.

CHAP. XIV.—An Act to relieve from Disabilities R. W. Best and Samuel F. Phillips, of North Carolina.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of each House concurring,) That all political disabilities imposed by the United States upon R. W. Best and Samuel F. Phillips, of North Carolina, in consequence of participation in the recent rebellion, be, and the same are hereby, removed.

APPROVED, January 22, 1869.

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CHAP. XVII.—An Act for the Relief of Rufus M. Hollister, of Janesville, Wisconsin.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Rufus M. Hollister, of Janesville, Wisconsin, the sum of five hundred dollars, out of any money in the Treasury not otherwise appropriated, to reimburse the said Hollister for that sum, in seven-thirty bonds of the United States, lost and destroyed by fire on the sixteenth of June, eighteen hundred and sixty-six.

APPROVED, January 30, 1869.

CHAP. XVIII.—An Act confirming Title to "Little Rock Island," in the Mississippi river.

Whereas, according to the official plat of the survey of the public land returned to the General Land Office by the surveyor general, a certain island, in the Mississippi river, known as Little Rock Island, and situate opposite the city of Clinton, in the State of Iowa, was surveyed and platted as being within the district of lands subject to entry and sale at the Government land office at Dubuque, in the Territory of Iowa; and whereas said island was entered by Jonathan L. Pearce, junior, at said Government land office at Dubuque, as appears by cash certificate number three thousand three hundred and twenty-six, and was subsequently granted by the United States to said Jonathan L. Pearce, junior, by letters-patent dated the first day of January, A. D. eighteen hundred and forty-six, and recorded in volume seven, page two hundred and ten, of patents, in which said letters-patent said island is described as being "Little Rock Island, in the Mississippi river, in township eighty-one north, of range seven east, of the fifth principal meridian, in the district of lands subject to sale at Dubuque, Iowa Territory, containing thirty-nine acres and four hundredths of an acre;" and whereas said island is situated east of the main channel of the Mississippi river, in the State of Illinois, in the district of lands subject to sale at Springfield, in said Illinois: Now, therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the title to the said island be, and the same is hereby, ratified and confirmed to the said Jonathan L. Pearce, junior, and his grantees, fully, in like manner and effect and in all respects to the same intent and purpose, as if the laws of the United States respecting the survey, entry, and sale of the public land had been fully and in every respect complied with and observed: *Provided,* That this act shall not be construed to deprive any other person of any right or title to said land acquired from the United States.

APPROVED, January 30, 1869.

CHAP. XXII.—An Act for the Relief of Commander John L. Davis.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officer of the Treasury pay to Commander John L. Davis two hundred and seventy-one dollars and ninety-one cents out of any money in the Treasury not otherwise appropriated.

APPROVED, February 2, 1869.

CHAP. XXV.—An Act for the Relief of John H. Osler, of Guernsey county, Ohio.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid to John H. Osler, late first lieutenant twenty-sixth regiment O. V. I., the pay of a first lieutenant of infantry from the thirty-first of July to the fourth of October, eighteen hundred and sixty-five.

APPROVED, February 9, 1869.

CHAP. XXVI.—An Act to confirm the Title to certain Land to the Pueblo of Santa Ana, in the Territory of New Mexico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the lands claimed by and belonging to the pueblo of Santa Ana, in the Territory of New Mexico, lying upon the Jernez or Santa Ana river, and not exceeding four square leagues in extent, as reported by the surveyor general of said Territory in his report to the Secretary of the Interior, of January fifth, eighteen hundred and sixty-seven, be, and the same is hereby, confirmed, and the Commissioner of the General Land Office shall issue the necessary instructions for the survey of said claim, and upon the return and filing in his office of such survey and plot, said Commissioner shall issue a patent therefor: *Provided, however,* That the confirmation shall only be construed as a relinquishment of title on the part of the United States, and shall not affect any adverse valid right, should any such exist.

APPROVED, February 9, 1869.

CHAP. XXVII.—An Act for the Relief of Jane McMurray.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to allow and pay to Jane McMurray, of Carlisle, Pennsylvania, widow of Ezekiel McMurray, a soldier of the war of eighteen hundred and twelve, a pension at the rate of eight dollars per month, in lieu of the sum of four dollars per month now received by her, to commence from the fourteenth day of July, eighteen hundred and sixty-two.

APPROVED, February 16, 1869.

CHAP. XXVIII.—An Act granting a Pension to the widow and child of Martin Whitt, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret Whitt, widow of Martin Whitt, late a private in company B, fourth regiment Kentucky volunteers, and allow and pay her a pension, commencing September nineteenth, eighteen hundred and sixty-three.

APPROVED, February 16, 1869.

CHAP. XXIX.—An Act granting a Pension to Anne Dycher, widow of Matthew D. Dycher.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place the name of Anne Dycher, widow of Matthew D. Dycher, late a sergeant in company M, first regiment New York cavalry volunteers, on the pension-roll, at the rate of eight dollars per month, to commence from the first day of April, eighteen hundred and sixty-four, and to continue during her widowhood.

APPROVED, February 16, 1869.

CHAP. XXX.—An Act granting a Pension to Elizabeth J. Miller, widow of General John Miller.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place upon the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Elizabeth J. Miller, widow of General John Miller, of Kentucky, and to allow and pay her a pension at the rate of thirty dollars per

month, to commence from the thirtieth day of August, eighteen hundred and sixty-two, and to continue during her widowhood.

APPROVED, February 16, 1869.

CHAP. XXXIX.—An Act granting a Pension to Daniel Hauser, a citizen of North Carolina, and a soldier of the war of eighteen hundred and twelve.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, required to place the name of Daniel Hauser, now a citizen of Forsyth county, North Carolina, a soldier of the war of eighteen hundred and twelve, who served in the fifth regiment of North Carolina militia, upon the pension-roll; and that the said Daniel Hauser be paid out of the pension fund the sum of eight dollars per month from the first day of January, eighteen hundred and sixty-nine, during the remainder of his natural life.

APPROVED, February 19, 1869.

CHAP. XL.—An Act for the Relief of William Grant Powers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized to admit into the Government Hospital for the Insane, in the District of Columbia, William Grant Powers, an insane person, son of Mrs. Eliza H. Powers, widow, an employé of the Government in the Post Office Department.

APPROVED, February 19, 1869.

CHAP. XLI.—An Act for the Relief of the estate of Isaac Philips, deceased, who was a Private in the Revolutionary War.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid out of the pension fund, or out of any money in the Treasury not otherwise appropriated, to Sally Philips, daughter-in-law of Isaac Philips, deceased, the sum of five hundred dollars, which is to be in full for all pension claim that was due from the United States to said Isaac Philips, a private in the revolutionary war, said Sally Philips having nursed and taken care of him in his declining years.

APPROVED, February 19, 1869.

CHAP. XLIV.—An Act for the Relief of Nott and Company.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Attorney General be, and he is hereby, directed to examine the claim of Nott and Company, American merchants trading and doing business in China, against the Chinese Government, for losses of coin sustained in eighteen hundred and fifty-seven by the capture and robbery of the vessel called the "Neva;" and that, if in his opinion the said claim ought to be paid, he is hereby authorized and instructed to order the same to be paid, with the rate of interest allowed on other claims from the time of such loss, out of any funds received from the Chinese Government, under the treaty of eighteen hundred and fifty-eight, for the payment of losses sustained by American citizens; and that the said amount be paid to the said Nott and Company, or the surviving copartner or copartners, or any person duly authorized to be their agent or attorney, from the fund now held by the Secretary of State.

SEC. 2. *And be it further enacted,* That the decision of the said Attorney General as to the right of said claimants to be paid, as to the amount to be paid; and as to the parties entitled to receive the same, shall be final and conclusive.

APPROVED, February 22, 1869.

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CHAP. XLVII.—An Act to amend an Act entitled "An Act to confirm certain Private Land Claims in the Territory of New Mexico."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior lines of the Cornelio Vigil and Cram St. Vrain claims of eleven leagues each, subject to claims derived from said parties as confirmed by the act of Congress approved twenty-first June, eighteen hundred and sixty, United States Statutes, volume twelve, page seventy-one, shall be adjusted according to the lines of the public surveys, as nearly as practicable, with the limits of said claims, yet in as compact a form as possible; and the claims of all actual settlers upon the tracts heretofore claimed by the said Vigil and St. Vrain, holding possession under titles or promises to settle, which have been made by said Vigil and St. Vrain, or their legal representatives prior to the passage of this act, who may establish their claims within one year from the passage of this act, to the satisfaction of the register and receiver of the proper land district, shall in like manner be adjusted according to the subdivisional lines of survey, so as to include the lands so settled upon or purchased, and the areas of the same shall be deducted and excluded from the adjusted limits of the claims of said Vigil and St. Vrain respectively; and the claims of all other actual settlers falling within the limits of the located claims of Vigil and St. Vrain shall be adjusted to the extent which shall embrace their several settlements upon their several claims being established either as preemption or homesteads, according to law; and for the aggregate of the areas of the latter class of claims the said Vigil and St. Vrain, or their legal representatives, shall be entitled to locate a like quantity of public lands, not mineral, according to the lines of the public surveys, and not to exceed one hundred and sixty acres in one section.

SEC. 2. *And be it further enacted,* That it shall be the duty of the General Land Office to cause the lines of the public surveys to be run in the regions where a proper location would place the said Vigil and St. Vrain claims, and that the expense of the same shall be paid out of any moneys in the Treasury not otherwise appropriated; yet, before the confirmation of the said act of June twenty-first, eighteen hundred and sixty, shall become legally effective, the said Vigil and St. Vrain, or their legal representatives, shall pay the cost of so much of said surveys as inures to their benefit respectively, and that all settlers of the said third class, whose claims may be adjusted as valid, shall have the right to enter their improvements by a strict compliance with the preemption or homestead laws.

SEC. 3. *And be it further enacted,* That upon the adjustment of the Vigil and St. Vrain claims according to the provisions of this act, it shall be the duty of the surveyor general of the district to furnish proper approved plats to said claimants, or their legal representatives, and so in like manner to said derivative claimants, which shall be evidence of title, the same to be done according to such instructions as may be given by the Commissioner of the General Land Office.

SEC. 4. *And be it further enacted,* That immediately upon running the lines as provided in section second of this act, the surveyor general of said district shall notify the said Vigil and St. Vrain, or their agents or legal representatives, of the fact of such survey being made, and said claimants shall, within three months after notice of such survey, select and locate their said claims in accordance with such survey and the provisions of this act and of the act to which this is amendatory, so far as the same is not changed by this act, and shall within said time furnish the surveyor general with the description of such location, specifying the lines of the same. And the party failing to make such selection and location, in

such manner and within such time, shall be deemed and held to have abandoned their claim, and their rights and equities under this act, and the act to which this is amendatory, shall cease and terminate.

SEC. 5. *And be it further enacted,* That in case of the neglect or refusal of the said Vigil and St. Vrain, or either of them, to accept of the provisions of this act, and the act to which this is amendatory, and to locate their said claims, as provided therein, no suit shall be brought or proceedings instituted in any of the courts of the United States, by such party or by any one claiming through or under them, to establish or enforce said claims, or for any cause of action founded upon the same, after six months from the passage of this act.

APPROVED, February 25, 1869.

CHAP. LVIII.—An Act for the Relief of Walter D. Plowden.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Walter D. Plowden, a colored scout and spy, the sum of one thousand dollars, for military services rendered the Army of the United States, under Major General Hunter, in the military district of South Carolina, in the war of eighteen hundred and sixty-one, for the suppression of the rebellion.

APPROVED, March 1, 1869.

CHAP. LIX.—An Act providing for the Payment of Captain Goldman Bryson's Mounted Company.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the company of mounted volunteers raised and commanded by Captain Goldman Bryson, of Cherokee county, State of North Carolina, under authority of Major General Rosecrans, and received into the service of the United States by Major General Burnside, September twenty-ninth, eighteen hundred and sixty-three, and such men as were accepted into the service of the United States by the said Captain Goldman Bryson within one month thereafter, and the widows, heirs, and legal representatives of the officers and enlisted men, shall be entitled to pay, bounty, pension, and allowances according to their grade and time of service as other volunteers in the service of the United States, notwithstanding any informality in their muster or enlistment into the service of the United States, under such rules and regulations as may be adopted by the proper accounting officer of the Treasury.

APPROVED, March 1, 1869.

CHAP. LX.—An Act to confirm an Entry of Land by Moses F. Shinn.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the entry by Moses F. Shinn, of the northeast quarter of section sixteen, in township fifteen, north of range thirteen east, in the district of lands subject to sale at Omaha, Nebraska, made on the twenty-second day of August, eighteen hundred and sixty-six, by cash certificate number one thousand nine hundred and thirty-one, be and the same is hereby confirmed.

APPROVED, March 1, 1869.

CHAP. LXI.—An Act granting a Pension to Charles Mains, of Tennessee.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and required to inscribe on the pension-rolls the name of Charles Mains, of Johnson county, Tennessee, and that he be paid at the rate of

eight dollars per month, commencing on the first day of November, eighteen hundred and sixty-eight.

APPROVED, March 1, 1869.

CHAP. LXII.—An Act granting a Pension to Joseph M. Hudson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Joseph M. Hudson, late a private in company E, ninety-first regiment Ohio infantry volunteers, on the pension-roll, subject to the provisions of the pension laws, to commence from the twenty-second day of December, eighteen hundred and sixty-three.

APPROVED, March 1, 1869.

CHAP. LXIII.—An Act granting a Pension to William M. Simpson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William M. Simpson, late a private in company E, seventy-first regiment of Illinois volunteer infantry, and pay him a pension, commencing October twenty-eighth, eighteen hundred and sixty-two.

APPROVED, March 1, 1869.

CHAP. LXIV.—An Act granting a Pension to Mrs. Susan Carson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to place the name of Mrs. Susan Carson, of Cottonwood Grove, Bond county, Illinois, widow of Robert G. Carson, deceased, on the pension-roll, and that he pay her a pension at the rate of eight dollars per month, during her widowhood, commencing on the second day of February, eighteen hundred and sixty-three, the date of her husband's death. This act shall entitle the said Susan Carson to the benefit of the second section of the act approved July twenty-fifth, eighteen hundred and sixty-six, in regard to the minor children of deceased soldiers, to wit: for the following-named children: Frances A., born September first, eighteen hundred and fifty-four; John A., born May twenty-second, eighteen hundred and fifty-six; Kansas A., born July twenty-fifth, eighteen hundred and fifty-eight; Louisa C., born December sixth, eighteen hundred and fifty-nine; and Sarah J., born November fourth, eighteen hundred and sixty-one, as would entitle her to the benefit of said section.

APPROVED, March 1, 1869.

CHAP. LXV.—An Act granting a Pension to Mrs. Naomi Adams.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior cause the name of Mrs. Naomi Adams, mother of G. W. Adams, late a private in company G, thirty-ninth Missouri infantry volunteers, to be placed on the pension-rolls at the rate of eight dollars per month, to commence September twenty-seventh, eighteen hundred and sixty-four, and to continue during her widowhood.

APPROVED, March 1, 1869.

CHAP. LXVI.—An Act granting a Pension to Charlotte Webster, widow of Timothy Webster, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the

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Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Charlotte Webster, widow of Timothy Webster, deceased, who was in the secret service of the United States, arrested by the rebels and executed at Richmond on the thirteenth of April, eighteen hundred and sixty-two; and that she be paid out of the pension fund during her widowhood the sum of eight dollars per month, to commence on the thirteenth of April, eighteen hundred and sixty-two.

APPROVED, March 1, 1869.

CHAP. LXVII.—An Act granting a Pension to Mary R. Brown.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary R. Brown, stepmother of Benjamin R. Brown, late a member of company F, sixth regiment of United States infantry, and pay her a pension at the rate of eight dollars per month, commencing July sixteenth, eighteen hundred and sixty-seven.

APPROVED, March 1, 1869.

CHAP. LXVIII.—An Act to increase the Pension of William H. Johnson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the pension heretofore granted to William H. Johnson, late a private in the United States Navy, be, and the same is hereby, increased from three dollars and fifty cents to eight dollars per month, and that he be paid at that rate, to commence on the first of July, anno Domini eighteen hundred and sixty-eight, and that the Secretary of the Interior is directed to have it so entered in the Department, to be subject, in all respects, to the provisions and limitations of the pension laws passed in relation to soldiers of the late war to put down the rebellion, known as the war of eighteen hundred and sixty-one.

APPROVED, March 1, 1869.

CHAP. LXIX.—An Act granting back Pension to Edmund W. Wandell, of Wilkesbarre, Pennsylvania.

Whereas the said Edmund W. Wandell entered as a private in company I, first regiment Pennsylvania volunteers, in the war with Mexico, and served to the close of that war in eighteen hundred and forty-eight, when he received an honorable discharge; that owing to disease contracted in said service his name in the year eighteen hundred and fifty-four was placed upon the pension-rolls at the rate of eight dollars per month; that in November, eighteen hundred and sixty-two, he raised a company and was commissioned as captain of company G, of the one hundred and forty-third regiment of Pennsylvania volunteers, in the war of eighteen hundred and sixty-one; that on the seventh day of November, eighteen hundred and sixty-three, he was honorably discharged for disability contracted in the Mexican war, and on application his pension was restored, but only from February, eighteen hundred and sixty-eight, instead of from date of his discharge: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sixth section of the act of Congress entitled "An act relating to pensions," approved July twenty-seventh, eighteen hundred and sixty-eight, be, and the same is hereby, made applicable to the case of said Edmund W. Wandell.

APPROVED, March 1, 1869.

CHAP. LXX.—An Act granting a Pension to Katharine Dreyer, widow of Sylvester Dreyer, deceased, late Private of Company H, of the Tenth Regiment of Minnesota Volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That under the provisions of the pension laws of the United States the Secretary of the Interior be, and is hereby, required to place upon the pension-roll the name of Katharine Dreyer, widow of Sylvester Dreyer, deceased, late a private in company H, of the tenth regiment of Minnesota volunteers, who died at Alton, Illinois, on the eighteenth day of November, eighteen hundred and sixty-four, leaving surviving said widow and issue, two children, to wit, William, born November eighth, eighteen hundred and fifty-nine, and Augustus, born June sixteenth, eighteen hundred and sixty-two; and that she be paid the pension during her widowhood, at the rate of eight dollars per month, to commence on the eighteenth day of November, eighteen hundred and sixty-four, besides the sum allowed for minor children of deceased soldiers under the age of sixteen years under existing laws.

APPROVED, March 1, 1869.

CHAP. LXXI.—An Act granting a Pension to Catherine O'Connors, widow of Timothy O'Connors, deceased, late Private Company C, of the Thirty-Third Regiment Massachusetts Volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That under the provisions of the pension laws of the United States the Secretary of the Interior be, and he is hereby, required to place upon the pension-roll the name of Catharine O'Connors, widow of Timothy O'Connors, deceased, late a private in company C, of the thirty-third regiment of Massachusetts volunteers, who died on the eighth day of November, eighteen hundred and sixty-four, leaving surviving said widow and issue four children, to wit: Susan, born November third, eighteen hundred and fifty; Margaret, born March seventeenth, eighteen hundred and fifty-three; Mary, born July fourth, eighteen hundred and fifty-five; and Timothy, born January first, eighteen hundred and fifty-nine; and that she be paid the pension during her widowhood, at the rate of eight dollars per month, to begin on the eighth day of November, eighteen hundred and sixty-four, beside the sum allowed for minor children under the age of sixteen years, under existing laws.

APPROVED, March 1, 1869.

CHAP. LXXII.—An Act granting a Pension to Elizabeth Radigan, widow of John Radigan, deceased, who was a Private in Company A, of the Forty-Ninth Regiment of Pennsylvania Volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Radigan, widow of John Radigan, who was a veteran sergeant in company A, of the forty-ninth regiment Pennsylvania volunteers, and died, leaving surviving said widow and issue, one child, to wit: a son, named Henry E. Radigan, born November eighteenth, eighteen hundred and sixty; and that she be paid during her widowhood a pension, at the rate of eight dollars per month, to commence on the first day of July, anno Domini one thousand eight hundred and sixty-five.

APPROVED, March 1, 1869.

CHAP. LXXIII.—An Act granting a Pension to Ann Smith.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Ann Smith, widow of Simeon Smith, late private in company D, fifty-eighth regiment of Pennsylvania volunteers, commencing July twenty-fourth, eighteen hundred and sixty-eight.

APPROVED, March 1, 1869.

CHAP. LXXIV.—An Act granting a Pension to Mary J. Hutton, widow of John C. Hutton, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary J. Hutton, widow of John C. Hutton, deceased, who enlisted as a private in company K, third regiment of Delaware volunteers, and was afterward detailed as a hospital steward, and died on the tenth day of December, eighteen hundred and sixty-five, leaving surviving said widow and issue, under the age of sixteen years, three children, to wit: Mary A., born December twenty-four, eighteen hundred and fifty-four; Eveline, born April twenty-first, eighteen hundred and fifty-six; and Hattie Hutton, born September third, eighteen hundred and sixty; and that the said Mary J. Hutton be paid during her widowhood the sum of eight dollars per month, to commence on the tenth day of December, eighteen hundred and sixty-five.

APPROVED, March 1, 1869.

CHAP. LXXV.—An Act granting a Pension to Ellen Green.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Ellen Green, mother of Philip Green, late a coal-heaver on the United States ship "E. B. Hale," and pay her a pension, commencing June eleventh, eighteen hundred and sixty-three.

APPROVED, March 1, 1869.

CHAP. LXXVI.—An Act granting a Pension to Edward W. White.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Edward W. White, late a private in the first troop of Philadelphia city cavalry, and pay him the pension of a private, commencing July thirtieth, eighteen hundred and sixty-three.

APPROVED, March 1, 1869.

CHAP. LXXVII.—An Act for the Relief of George W. Short.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Paymaster General is hereby directed to pay to George W. Short, late captain of company D, sixty-third regiment of Illinois volunteers, out of any money appropriated for the pay of the Army, three months' pay proper of a captain of infantry.

APPROVED, March 1, 1869.

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CHAP. LXXVIII.—An Act granting a Pension to Maria Walters.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Maria Walters, widow of Charles F. Walters, late a hospital steward, tenth regiment of Missouri volunteers, and pay her a pension, commencing May thirtieth, eighteen hundred and sixty-two.

APPROVED, March 1, 1869.

CHAP. LXXIX.—An Act granting a Pension to William McDonald.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William McDonald, late a private in company E, first regiment Michigan cavalry, commencing November seventeenth, eighteen hundred and sixty-five.

APPROVED, March 1, 1869.

CHAP. LXXX.—An Act granting a Pension to Richard Look.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Richard Look, late a private in company B, seventh regiment of Maine volunteer infantry, and pay him a pension, commencing November second, eighteen hundred and sixty-three.

APPROVED, March 1, 1869.

CHAP. LXXXI.—An Act granting a Pension to Catharine S. B. Spear.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Catharine S. B. Spear, widow of Reverend Charles Spear, late a chaplain in the service of the United States, commencing April thirteenth, eighteen hundred and sixty-three.

APPROVED, March 1, 1869.

CHAP. LXXXII.—An Act granting a Pension to Nancy Reed.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Nancy Reed, widow of Seabourn Reed, late a private in company B, in the battalion of twelve months' Arkansas cavalry, and pay her a pension, commencing January eighth, eighteen hundred and sixty-four.

APPROVED, March 1, 1869.

CHAP. LXXXIII.—An Act granting a Pension to James H. Maguire.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension

laws, the name of James H. Maguire, late a private in company H, of the fourth regiment United States infantry.

APPROVED, March 1, 1869.

CHAP. LXXXIV.—An Act granting a Pension to John R. Ray.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John R. Ray, a resident of Caldwell county, Missouri, who was wounded while serving in an organization known as the six months' militia of Missouri, and pay him a pension of a private from January first, eighteen hundred and sixty-two.

APPROVED, March 1, 1869.

CHAP. LXXXV.—An Act granting a Pension to Martha E. McKinney.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Martha E. McKinney, widow of Edwin McKinney, late company B, one hundred and twenty-ninth regiment of Illinois volunteers, commencing September twentieth, eighteen hundred and sixty-four, to be paid out of the naval pension fund.

APPROVED, March 1, 1869.

CHAP. LXXXVI.—An Act granting a Pension to Matilda Carney.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Matilda Carney, widow of Garret Carney, late a private in company E, of the one hundred and thirty-fourth regiment of Pennsylvania volunteers, and pay her a pension, commencing September eighteenth, eighteen hundred and sixty-two.

APPROVED, March 1, 1869.

CHAP. LXXXVII.—An Act increasing the Pension of William J. Patton.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William J. Patton, late of the fourth regiment of Arkansas cavalry, and pay him a pension as first lieutenant in lieu of the pension he is now and has been receiving, commencing from his discharge from the service of the United States.

APPROVED, March 1, 1869.

CHAP. LXXXVIII.—An Act granting a Pension to Lorenzo Day.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Lorenzo Day, late a private in company H, of the twenty-seventh regiment of Maine volunteer infantry, and pay him a pension, commencing January first, eighteen hundred and sixty-three.

APPROVED, March 1, 1869.

CHAP. LXXXIX.—An Act granting a Pension to Rachel C. Floyd.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Rachel C. Floyd, widow of Joseph Floyd, late a private in company B, of the twentieth regiment of Iowa volunteer infantry, and pay her a pension, commencing November twenty-seven, eighteen hundred and sixty-three.

APPROVED, March 1, 1869.

CHAP. XC.—An Act granting a Pension to Allen E. Rector.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Allen E. Rector, late a private in company H, of the twenty-eighth regiment of Pennsylvania volunteers, and pay him a pension, commencing July eighteenth, eighteen hundred and sixty-five.

APPROVED, March 1, 1869.

CHAP. XCI.—An Act granting a Pension to Jacob Huggins.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jacob Huggins, late a private in company A, of the ninth regiment of Pennsylvania volunteer cavalry, and pay him a pension, commencing May twenty-ninth, eighteen hundred and sixty-five.

APPROVED, March 1, 1869.

CHAP. XCII.—An Act granting a Pension to Lucinda A. Wilder.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Lucinda A. Wilder, mother of George C. Wilder, late of company I, one hundred and fifteenth New York volunteers, and William E. Wilder, late a private in company H, seventy-seventh New York volunteers, commencing September twentieth, eighteen hundred and sixty-two.

APPROVED, March 1, 1869.

CHAP. XCIII.—An Act granting a Pension to the widow and minor children of Lieutenant Richard H. Allen.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of the widow and children of Lieutenant Richard H. Allen, late a lieutenant in company D, thirteenth regiment of Tennessee cavalry, and pay them a pension, commencing November first, eighteen hundred and sixty-four, and continue to the widow during the time she may have remained a widow, and to continue to the children until they attain the age of sixteen years.

APPROVED, March 1, 1869.

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CHAP. XCIV.—An Act granting a Pension to Bridget Hayes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Bridget Hayes, mother of James Hayes, late a private in company D, twentieth regiment of Massachusetts volunteers, commencing February seventeenth, eighteen hundred and sixty-five.

APPROVED, March 1, 1869.

CHAP. XCV.—An Act granting a Pension to Sarah A. Scherr.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Sarah A. Scherr, widow of Captain William E. Scherr, late of the twenty-sixth regiment of Pennsylvania volunteer infantry, and pay her a pension, commencing May first, eighteen hundred and sixty-four.

APPROVED, March 1, 1869.

CHAP. XCVI.—An Act granting a Pension to Mary A. Amer.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary A. Amer, widow of John Amer, late a private in the ninety-seventh regiment of Pennsylvania volunteers, commencing October thirty-first, eighteen hundred and sixty-three.

APPROVED, March 1, 1869.

CHAP. XCVII.—An Act granting a Pension to Julia A. Fisher.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Julia A. Fisher, widow of Martin Fisher, late corporal in company A, fifth regiment Missouri militia cavalry, commencing twentieth September, eighteen hundred and sixty-three.

APPROVED, March 1, 1869.

CHAP. XCVIII.—An Act granting a Pension to Lucinda Pangle.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Lucinda Pangle, widow of Lieutenant Tarleton S. Pangle, late of the eighth regiment of Tennessee cavalry, and pay her a pension as the widow of a first lieutenant in lieu of the pension she is now receiving.

APPROVED, March 1, 1869.

CHAP. XCIX.—An Act granting a Pension to Mary Ann Shurlock.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Mary Ann Shurlock, dependent sister of Samuel Shurlock, late of the eighty-first regi-

ment of Pennsylvania volunteers, and pay her a pension at the rate of ten dollars per month.

APPROVED, March 1, 1869.

CHAP. C.—An Act granting a Pension to Charles H. B. King.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Charles H. B. King, minor child of Charles L. King, late a private in company C, thirty-sixth regiment of Ohio volunteers, afterward company E, eighth regiment Veteran Reserve corps, and pay him a pension, commencing February twenty-second, eighteen hundred and sixty-four.

APPROVED, March 1, 1869.

CHAP. CI.—An Act granting a Pension to Juliet E. Hall.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Juliet E. Hall, widow of William Hall, late a colonel eleventh regiment of Iowa infantry, commencing August first, eighteen hundred and sixty-four.

APPROVED, March 1, 1869.

CHAP. CII.—An Act granting a Pension to Mahala M. Freeman.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mahala M. Freeman, widow of Benjamin F. Freeman, late a recruit, company D, eighteenth regiment Illinois volunteers, commencing March nineteenth, eighteen hundred and sixty-four.

APPROVED, March 1, 1869.

CHAP. CIII.—An Act granting a Pension to John M. Flynn.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John M. Flynn, late of company I, thirty-second regiment of Massachusetts volunteer infantry, and pay him a pension, commencing from the passage of this act.

APPROVED, March 1, 1869.

CHAP. CIV.—An Act granting a Pension to Harriet M. Mills, widow of Samuel J. Mills, deceased, late a Private in Company F, of Second Regiment Connecticut Volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Harriet M. Mills, widow of Samuel J. Mills, deceased, who was a private in company F, of the second regiment of the Connecticut volunteers, and that she be paid, during her widowhood, out of the pension fund, the sum of eight dollars per month, to commence on the fifth day of September, one thousand eight hundred and sixty-one, the date of her husband's death.

APPROVED, March 1, 1869.

CHAP. CV.—An Act granting a Pension to Henry Riemann.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Henry Riemann, late a private in company G, of the twelfth regiment of Maine volunteers, commencing July thirty-first, eighteen hundred and sixty-five.

APPROVED, March 1, 1869.

CHAP. CVI.—An Act for the Relief of Foster and Tower.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he is hereby, authorized to allow to Messrs. Foster and Tower, of New York, out of the appropriation for yards and docks, the sum of twenty-two hundred and fifty-one dollars for difference in cost of crucibles furnished by them to the navy-yard at New York under contract, in which the price of said crucibles was erroneously stated at five cents each.

APPROVED, March 1, 1869.

CHAP. CVII.—An Act for the Relief of N. A. Shuttleworth, of Harrison county, West Virginia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and is hereby, authorized and directed, out of any money in the Treasury not otherwise appropriated, to pay to N. A. Shuttleworth, of Harrison county, West Virginia, late captain in third regiment Virginia volunteers, the sum of five hundred and fifty dollars and sixty-five cents, to reimburse him for the same amount paid by him for the transportation of recruits in eighteen hundred and sixty-one.

APPROVED, March 1, 1869.

CHAP. CVIII.—An Act for the Relief of Isaac Watts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury and pay department be, and they are hereby, authorized and directed to pay to Isaac Watts all arrears of pay, bounty, or other allowances due from the United States, to his adopted son, Samuel Watts, late a private of company H, eighty-first regiment infantry, Ohio volunteers, the same in all respects as if the said Samuel Watts had been the son of the said Isaac Watts.

APPROVED, March 1, 1869.

CHAP. CIX.—An Act for the Relief of Lieutenant Leonidas Smith, late of the Twenty-Second Regiment Indiana Volunteer Infantry.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and required to audit and allow to Lieutenant Leonidas Smith, late of company K, twenty-second regiment Indiana volunteer infantry, the full pay and allowances of a first lieutenant in the active service in the Army in the late war, from the twenty-eighth day of February, eighteen hundred and sixty-three, to the twenty-third day of January, eighteen hundred and sixty-four, in full payment for unpaid salary and allowances for said period of time.

APPROVED, March 1, 1869.

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CHAP. CX.—An Act granting a Pension to Betsy S. Jackman.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Betsy S. Jackman, foster-mother of Benjamin H. Jackman, late of company I, twenty-third regiment of Massachusetts volunteers, commencing May sixteenth, eighteen hundred and sixty-four.

APPROVED, March 1, 1869.

CHAP. CXI.—An Act for the Relief of H. A. White.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Paymaster General is hereby directed to pay to H. A. White, late captain of company C, third regiment of North Carolina mounted infantry, out of any money appropriated for the pay of the Army, the full pay and allowances of a captain of infantry, from October fifteenth, eighteen hundred and sixty-four, to August eighth, eighteen hundred and sixty-five.

APPROVED, March 1, 1869.

CHAP. CXII.—An Act granting a Pension to Cyrus Hall.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Cyrus Hall, late a private in company A, of the fortieth regiment of Massachusetts volunteer infantry, commencing May thirtieth, eighteen hundred and sixty-three.

APPROVED, March 1, 1869.

CHAP. CXIII.—An Act for the Relief of John Gestiger.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of John Gestiger, late a private in company F, nineteenth regiment Wisconsin volunteers, subsequently transferred as a private of company C, ninth regiment Veteran Reserve corps, on the pension roll, at the rate of fifteen dollars per month, to commence December twelfth, anno Domini eighteen hundred and sixty-four.

APPROVED, March 1, 1869.

CHAP. CXIV.—An Act granting a Pension to John A. Parker, a soldier in the war of eighteen hundred and sixty-one.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John A. Parker, late a private in company K, fifth regiment of Kansas cavalry volunteers, who had his left arm shattered in battle so as to render amputation necessary, and that he be paid during his natural life, out of the pension fund, the sum of fifteen dollars per month, to commence on the first day of January, anno Domini one thousand eight hundred and sixty-five.

APPROVED, March 1, 1869.

CHAP. CXV.—An Act granting a Pension to Clarissa K. Grant.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the

Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Clarissa K. Grant, widow of William H. Grant, late a private in company K, of the fifth regiment of Maine volunteer infantry, commencing October twelfth, eighteen hundred and sixty-one.

APPROVED, March 1, 1869.

CHAP. CXVI.—An Act granting a Pension to Sarah A. Wilcox.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Sarah A. Wilcox, late a nurse in the United States hospitals, now a resident of Cincinnati, Ohio, and pay her a pension at the rate of eight dollars per month during her disability, commencing July first, eighteen hundred and sixty-five.

APPROVED, March 1, 1869.

CHAP. CXVII.—An Act granting a Pension to Jacob S. Baker.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jacob S. Baker, of Marion county, Illinois, formerly a private in company I, fourth regiment Indiana volunteers, in the war with Mexico, to receive a pension from the approval of this act.

APPROVED, March 1, 1869.

CHAP. CXVIII.—An Act granting a Pension to Emily H. Gardner.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Emily H. Gardner, widow of William H. Gardner, late a contract surgeon, and pay her a pension at the rate of seventeen dollars per month, commencing July seventeenth, eighteen hundred and sixty-four.

APPROVED, March 1, 1869.

CHAP. CXIX.—An Act for the Relief of Edwin B. Hoag.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General be, and he is hereby, authorized to pay to said Edwin B. Hoag, in addition to what he is now receiving, such sum or sums as shall make the payment for carrying the mails on route number eleven thousand four hundred and ninety-four equal to the sum of three hundred and ninety-six dollars per annum for all the time he has or shall convey said mails on said route under the existing contract.

APPROVED, March 1, 1869.

CHAP. CXX.—An Act for the Relief of George Kaiser.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay George Kaiser, out of any moneys in the Treasury not otherwise appropriated, the sum of one hundred and eighty-one dollars and fifty cents for labor and material furnished in building a hospital at Parkersburg, West Virginia, in eighteen hundred and sixty-one.

APPROVED, March 1, 1869.

CHAP. CLII.—An Act to confirm certain Private Land Claims in the Territory of New Mexico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That private land claims numbered forty-one, forty-two, forty-four, forty-six, and forty-seven, Territory of New Mexico, as known and designated by the numbers aforesaid in the reports of the surveyor general of the said Territory, and on the books of the Commissioner of the General Land Office, be, and the same are hereby, confirmed: *Provided,* That such confirmation shall only be construed as a quit-claim on [or] relinquishment of all title or claim on the part of the United States to any of the lands not improved by or on behalf of the United States, and not including any military or other reservation embraced in either of the said claims, and shall not affect the adverse rights of any person or persons to the same, or any part or parcel thereof.

SEC. 2. *And be it further enacted,* That the Commissioner of the General Land Office shall, without unreasonable delay, cause the lands embraced in said several claims to be surveyed and platted, at the proper expense of the claimants thereof, and upon the filing of said surveys and plats in his office he shall issue patents for said lands in said Territory which have heretofore been confirmed by acts of Congress and surveyed, and plats of such survey filed in his office as aforesaid, but for which no patents have heretofore been issued.

SEC. 3. *And be it further enacted,* That all surveys authorized by this act shall conform to and be connected with the public surveys of the United States in said Territories, so far as the same can be done consistently with the landmarks and boundaries specified in the several grants upon which said claims are founded: *Provided, however,* That when said lands are so confirmed, surveyed, and patented, they shall in each case be held and taken to be in full satisfaction of all further claims or demands against the United States.

APPROVED, March 3, 1869.

CHAP. CLIII.—An Act for the Relief of Captain Charles Hunter, United States Navy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be directed to pay to Captain Charles Hunter, United States Navy, out of any moneys [moneys] in the Treasury not otherwise appropriated, pay as commander in the Navy, on leave, from the twenty-second day of June, one thousand eight hundred and sixty-three, to the twenty-first day of June, one thousand eight hundred and sixty-six.

APPROVED, March 3, 1869.

CHAP. CLIV.—An Act for the Relief of Wright Duryea.

Whereas on the tenth day of April, anno Domini eighteen hundred and fifty-five, a patent was issued to Wright Duryea, of the city, county, and State of New York, for a certain "card exhibitor," and that owing to circumstances beyond his control he has not, up to the present time, as it is alleged, derived either profit or emolument therefrom; and furthermore, being desirous of applying for a renewal of said patent, has been prevented by ill health from making the petition therefor within the time specified by law: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Patents is hereby authorized and empowered to receive the application for the renewal of said patent, in the same manner and with the same effect as though the time had not passed which is specified by law within which applications for the extensions of patents are

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required to be made: *Provided*, That no person who may make or use said "card exhibitor," after the expiration of said patent and before an extension thereof shall be granted by said Commissioner, shall be liable to any action or damages therefor.

APPROVED, March 3, 1869.

CHAP. XLV.—An Act for the Relief of Mary A. Filler.

Whereas Sergeant Henry Drenning, late of company K, fifty-fifth regiment of Pennsylvania volunteers, was killed at Cold Harbor, in Virginia, on the third day of June, A. D. eighteen hundred and sixty-four, leaving no widow, [and] no heirs lineal or collateral; and whereas the Henry Drenning was the adopted and foster-son from childhood of Mrs. Mary A. Filler: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Mary A. Filler, foster-mother of said Henry Drenning, shall be entitled to receive the back pay due to the said Henry Drenning at the time of his death, and the bounty to which he would have been entitled by law.

APPROVED, March 3, 1869.

CHAP. CLVI.—An Act for the Relief of the Illinois Iron and Bolt Company.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to examine a judgment by confession, rendered on the second day of October, eighteen hundred and sixty-five, in the circuit court of the northern district of Illinois, against the Illinois Iron and Bolt Company for five thousand and five hundred dollars, penalties for certain alleged violations of the internal revenue laws, and to refund to the said Illinois Iron and Bolt Company so much of the amount paid into the Treasury of the United States, not exceeding twenty-seven hundred and fifty dollars, as upon investigation he may think it right and proper under the circumstances of the case to remit.

APPROVED, March 3, 1869.

CHAP. CLVII.—An Act for the Relief of Henry Barricklow.

Whereas on the twenty-eighth day of March, eighteen hundred and fifty-nine, by the sinking of the steamboat "Nat. Holmes," in the Ohio river, near the city of Aurora, Indiana, Henry Barricklow lost the following described twenty-three land warrants, to wit: numbers fifty-three thousand nine hundred and eleven, eighty thousand two hundred and eighty-five, eighty thousand three hundred and nine, and eighty thousand three hundred and forty-one, issued under the act of February eleventh, eighteen hundred and forty-seven; number seven hundred and ninety, issued under act of March twenty-second, eighteen hundred and fifty-two; and numbers thirty-one thousand and seventy-eight, thirty-four thousand two hundred and sixty-six, forty-four thousand and thirty-seven, forty-nine thousand nine hundred and eighty-six, fifty-five thousand one hundred and thirty-two, fifty-seven thousand three hundred and thirteen, sixty thousand one hundred and one, sixty thousand four hundred and eleven, sixty-two thousand four hundred and eighty-eight, sixty-six thousand four hundred and eighty-one, seventy-one thousand three hundred and fifty-seven, eighty thousand and forty-three, eighty-one thousand six hundred and eighty-three, eighty-one thousand eight hundred and thirty, eighty-two thousand four hundred and twenty-one, eighty-two thousand seven hundred and ninety-six, eighty-two thousand nine hundred and eighteen, and eighty-four thousand four hundred and eighty-nine, [issued under] act of March third, eighteen

hundred and fifty-five; each for one hundred and sixty acres: and whereas duplicates of said warrants have been issued by the Commissioner of pensions and delivered to said Barricklow: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That said Henry Barricklow is hereby authorized to locate, or sell and assign, said duplicate land warrants in the same manner as if the same had been issued in his name, and patents shall be issued by the Commissioner of the General Land Office, on the location of said duplicate warrants, as in case of other land warrants.

APPROVED, March 3, 1869.

CHAP. CLVIII.—An Act for the Relief of certain Companies of Scouts and Guides organized in Alabama.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Captain H. J. Springfield's company of scouts and guides, numbering forty-two officers and men, and Captain John B. Kennamer's company of scouts and guides, numbering thirty-three officers and men, organized in northern Alabama, under orders of Brigadier General R. S. Granger, commanding the district of northern Alabama, approved by Major General George H. Thomas, commanding the department of the Cumberland, shall be entitled to receive pay for their services from the date when they respectively joined such companies to the date when they were relieved from duty, respectively, at the price fixed by order of General Thomas, to wit: captains, three dollars; lieutenants, two dollars; sergeants, one dollar and fifty cents; and privates, one dollar per day; the value of the clothing received by each of said scouts and guides to be deducted from the amount due them respectively. And if either of said scouts or guides is dead, or shall die before receiving the amount due him, his heirs or other legal representatives shall be entitled to receive the same.

SEC. 2. *And be it further enacted*, That, in auditing and paying the foregoing accounts, the rolls of said companies now on file in the office of the Adjutant General of the Army shall be the data to guide the accounting officers; and said claims shall, when audited, be paid by the Paymaster General out of any money heretofore appropriated, or that may hereafter be appropriated, for the pay of the Army.

SEC. 3. *And be it further enacted*, That all other companies or parts of companies of scouts and guides organized or employed by General R. S. Granger under authority of or by the approval of Major General George H. Thomas, commanding department of the Cumberland, be entitled to the same relief as provided for the companies named in the first section of this act: *Provided, however*, That before such payment satisfactory evidence of service shall be furnished by claimants and approved by the Secretary of War.

APPROVED, March 3, 1869.

CHAP. CLIX.—An Act granting a Pension to Madge K. Guthrie and Robert B. Guthrie.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the names of Madge K. Guthrie and Robert B. Guthrie, children of Presley N. Guthrie, late a captain in the United States Army, and pay them, or their authorized guardian or guardians, a pension of twenty dollars per month, commencing May second, eighteen hundred and sixty-seven, and continuing until November eleven, eighteen hundred and sixty-eight, and afterward to the said Robert, or his

guardian or guardians, until October twenty-three, eighteen hundred and seventy-one, when he will attain the age of sixteen years.

APPROVED, March 3, 1869.

CHAP. CLX.—An act granting a Pension to Lemuel Bartholow.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Lemuel Bartholow, late a private in company G, of the one hundred and twenty-sixth regiment of Ohio volunteers, and pay him a pension, commencing January third, eighteen hundred and sixty-three.

APPROVED, March 3, 1869.

CHAP. CLXI.—An Act for the Relief of Lieutenant Colonel John W. Davidson, of the United States Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Lieutenant Colonel John W. Davidson, of the United States Army, out of any money in the Treasury not otherwise appropriated, the sum of two hundred and eighteen dollars and twenty-five cents, being the amount of public money stolen from him while in his possession at Los Angeles, California, in August, eighteen hundred and forty-seven.

APPROVED, March 3, 1869.

CHAP. CLXII.—An Act for the Relief of the Heirs and legal Representatives of Charles C. Cook, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Paymaster General is hereby directed to pay to the heirs or legal representatives of Charles C. Cook, deceased, formerly of company C, seventy-seventh regiment Pennsylvania volunteers, the full pay and allowances of a second lieutenant of infantry, from the first day of November, eighteen hundred and sixty-one, until the sixth day of November, eighteen hundred and sixty-four, when he died from wounds received in battle, deducting therefrom, however, such sums as may have been already paid to Charles C. Cook for his military services during that period.

APPROVED, March 3, 1869.

CHAP. CLXIII.—An Act to confirm certain Private Land Claims in the State of Missouri.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the claims of the legal representatives of Gabriel Cerre and Sophia Bolye, falling within the exterior boundaries of the commons of Carondelet, the former entered as number sixty, for four hundred arpents, and the latter as number two hundred and seventy nine, for one hundred and fifty arpents, in the first class of decisions of the board of land commissioners under the acts of Congress approved ninth July, eighteen hundred and thirty-two, and second March, eighteen hundred and thirty-three, for the adjustment of private land claims in Missouri, as recommended by said board, (H. Ex. Doc. 5, 1st session 24th Congress, p. 187, and S. Doc. 16, same session, page 40,) which claims were confirmed by the act of Congress approved fourth July, eighteen hundred and thirty six, subject to location elsewhere than in place in case of conflict, (Stat. L., vol. 5, page 126,) be, and the same are hereby, confirmed in place, subject to any valid adverse rights, if such exist, and patents for said claims shall be issued accordingly.

APPROVED, March 3, 1869.

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CHAP. CLXIV.—An Act granting a Pension to Mary A. Davis, widow of William P. Davis, a Private of the Eighteenth Regiment of Indiana Volunteers, in the war of eighteen hundred and sixty-one.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-rolls the name of Mary A. Davis, widow of William P. Davis, deceased, a private in the eighteenth regiment of the Indiana volunteers of the war of eighteen hundred and sixty-one, and that she be paid a pension allowed a private during her widowhood, subject to the provisions and limitations of the pension laws, to commence on the ninth day of September, eighteen hundred and sixty-four, and in case of her death or marriage, then the pension to be paid to the minor children of the said William P. Davis, deceased, under sixteen years of age, subject to the provisions and limitations of the general pension laws.

APPROVED, March 3, 1869.

CHAP. CLXV.—An Act for the Relief of Peter McGough, Collector of Internal Revenue and Disbursing Agent, Twentieth District, Pennsylvania.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they are hereby, authorized to allow to Peter McGough, collector and disbursing agent of the twentieth internal revenue district of Pennsylvania, a credit for the sum of four thousand seven hundred and fifty dollars and sixty-four cents, public money deposited in pursuance of law in the Venango National Bank, late a United States designated depository, and lost by the failure of said bank, without fault or neglect of the said collector and disbursing agent.

APPROVED, March 3, 1869.

CHAP. CLXVI.—An Act granting a Pension to Sarah E. Haines.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Sarah E. Haines, widow of George H. Haines, late a private in company K, eighteenth regiment Missouri volunteers, and to pay her a pension at the rate of eight dollars per month, to commence on the eighteenth day of July, eighteen hundred and sixty-four, and to continue during her widowhood.

APPROVED, March 3, 1869.

CHAP. CLXVII.—An Act granting a Pension to Horace Peck, of Charlton, Massachusetts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Horace Peck, of Charlton, Massachusetts, and to pay him a pension at the rate of eight dollars per month, to commence on the twenty-fourth day of May, eighteen hundred and sixty-two, and to continue during his natural life.

APPROVED, March 3, 1869.

CHAP. CLXVIII.—An Act granting a Pension to Benjamin T. Raines, of Indiana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and

directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Benjamin T. Raines, of Indiana, late a private in Captain Branhams's company, one hundred and fifth regiment Indiana militia, and to pay him a pension at the rate of fifteen dollars per month, to commence on the fourteenth day of July, eighteen hundred and sixty-three.

APPROVED, March 3, 1869.

CHAP. CLXIX.—An Act granting a Pension to Elizabeth Clarke.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Clarke, widow of Newman S. Clarke, late colonel of the sixth regiment of infantry, United States Army, and to pay her a pension at the rate of thirty dollars per month, to commence from and after the passage of this act, and to continue during her widowhood.

APPROVED, March 3, 1869.

CHAP. CLXX.—An Act granting a Pension to the children of Martin N. Slocum, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to continue the pension allowed by private act, approved February twenty-fifth, eighteen hundred and sixty-seven, to Mrs. Josephine Slocum, widow of Martin N. Slocum, late a second lieutenant in the sixty-fifth regiment United States colored infantry, who has remarried, and to pay the same to Ireton N. Slocum and Lucilla J. Slocum, children of the said Martin N. Slocum, or to their legally appointed guardian or guardians, from the third day of March, eighteen hundred and sixty-seven, until they severally attain the age of sixteen years.

APPROVED, March 3, 1869.

CHAP. CLXXI.—An Act granting a Pension to Benjamin C. Stone.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Benjamin C. Stone, late a private in company I, ninth regiment Vermont infantry volunteers, and to pay him a pension, to commence on the twenty-seventh day of June, eighteen hundred and sixty-five.

APPROVED, March 3, 1869.

CHAP. CLXXII.—An Act granting a Pension to Mrs. Lydia W. Ford.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mrs. Lydia W. Ford, widow of Jefferson Ford, late an acting master in the United States Navy, and allow and pay her a pension at the rate of twenty dollars per month, to commence on the eighteenth day of June, eighteen hundred and sixty-four, and to continue during her widowhood; said pension to be paid out of the naval pension fund.

APPROVED, March 3, 1869.

CHAP. CLXXIII.—An Act for the Relief of Henry C. Noyes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the

Treasury be, and he is hereby, authorized to issue a new bond for one thousand dollars, with coupons from and including that of July first, eighteen hundred and sixty-seven, to Henry C. Noyes, of Claremont, New Hampshire, in place of his coupon bond for a like amount, number fifty-five thousand three hundred and thirty-seven, act of March third, eighteen hundred and sixty-five, July issue, eighteen hundred and sixty-five, destroyed: *Provided,* That before issuing a new bond the Secretary of the Treasury shall require a sufficient bond of indemnity securing the Government against the presentation of the bond alleged to be lost.

APPROVED, March 3, 1869.

CHAP. CLXIV.—An Act for the Relief of Reverend D. Hillhouse Buel.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he hereby is, directed to cause to be issued to the Reverend D. Hillhouse Buel, of Cooperstown, New York, proper certificates of the registered stock of the United States of the consolidated debt under the act of March third, anno Domini eighteen hundred and sixty-five, to the amount of seven thousand dollars, in lieu and stead of certificates of said debt numbered sixteen thousand three hundred and thirty one and sixteen thousand three hundred and thirty-two, for one thousand dollars each, and certificate numbered four thousand nine hundred and eighty-seven, for five thousand dollars, belonging to him and lost while passing through the mails: *Provided,* That said Buel shall give bond with surety to the satisfaction of the Secretary of the Treasury, conditioned to indemnify the United States against all claim upon or in respect to said first-mentioned certificates.

APPROVED, March 3, 1869.

CHAP. CLXXV.—An Act for the Relief of Alpheus C. Gallahue.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Alpheus C. Gallahue have leave to make application to the Commissioner of Patents for the extension of the letters-patent granted to him for an improvement in machines for pegging boots and shoes, on the sixteenth day of August, eighteen hundred and fifty-three, antedated eighteenth day of February, eighteen hundred and fifty-three, for fourteen years from the latter date, in the same manner as if the petition for said extension had been filed at least ninety days before the expiration of said patent, and that the Commissioner of Patents be authorized to consider and determine said application in the same manner as if it had been filed ninety days prior to the expiration of said patent, and with the same effect as if it had been regularly filed and acted upon under existing laws: *Provided,* That any such extension of said patent shall not affect the right to continue to use said machine of any person who since the eighteenth day of February, eighteen hundred and sixty-seven, and prior to the approval of this act, may have procured and at the time of such approval shall be using said machine.

APPROVED, March 3, 1869.

CHAP. CLXXVI.—An Act for the Relief of Celestia P. Hartt.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Celestia P. Hartt, widow of the late naval constructor, Samuel T. Hartt, the sum of three thousand dollars, out of any money in the Treasury not otherwise appropriated, the same to be in full and complete

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compensation and satisfaction for the use of a gun-elevating screw invented by said Samuel T. Hartt, and which had been used on the iron gun-carriages of the United States.

APPROVED, March 3, 1869.

CHAP. CLXXVII.—An Act for the Relief of George Fowler, and the Estate of De Grasse Fowler, deceased, or their Assigns.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That George Fowler and the administrators of the estate of De Grasse Fowler, or their assigns, have leave to make application to the Commissioner of Patents for an extension of the letters-patent for improvement in machine for punching metal, issued to the said George Fowler and De Grasse Fowler for the term of fourteen years from the seventeenth day of April, eighteen hundred and fifty-five, in the same manner as if the petition for said extension had been filed at least ninety days prior to the expiration of said patent, and that the Commissioner be authorized to consider and determine said application in the same manner as if it had been filed ninety days before the expiration of the said patent.

APPROVED, March 3, 1869.

CHAP. CLXXVIII.—An Act confirming certain Purchases of Lands in the Ionia District, Michigan, made by Charles H. Rodd and Andrew J. Campeau.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the locations and purchases of land made by Charles H. Rodd and Andrew J. Campeau, under the provisions of the treaty of August two, eighteen hundred and fifty-five, in the Ionia land district, Michigan, be, and the same are hereby, confirmed, so far as such purchases or locations were made prior to the instructions of the Commissioner of the General Land Office to the register and receiver not to allow any further Indian locations or purchases in the Indian reservation: *Provided,* That such purchases were made regularly, according to the regulations and instructions of the General Land Office in force at the time: *And provided,* That this act shall not prejudice any adverse claims to such lands.

APPROVED, March 3, 1869.

RESOLUTIONS.

No. 4.—Joint Resolution for the Relief of George W. Lane, Superintendent of the Branch Mint at Denver, Colorado, and Assistant Treasurer of the United States.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to credit and allow to George W. Lane, superintendent of the United States branch mint at Denver, Colorado Territory, in the settlement of his accounts, the sum of four thousand four hundred and nineteen dollars and ninety cents, public money, which was stolen from the mint without fault or neglect on the part of said superintendent, and which has not been recovered.

APPROVED, February 4, 1869.

No. 6.—A Resolution relating to the Mileage of Charles Westmoreland.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and is hereby, authorized and directed to pay to the Secretary of the Senate, out of the appropriation for payment of the messengers of the respective States for conveying to the seat of Government the votes of the electors of said States for President and Vice President, (act of July twentieth, eighteen hundred and sixty-eight,) in trust for Charles Westmoreland, the only child of the late Charles Westmoreland, the person appointed by the electors of California to deliver to the President of the Senate a list of the votes of California for President and Vice President for eighteen hundred and sixty-eight, and who died at Panama, on his way to the seat of Government with said list, the sum to which said Westmoreland would have been entitled had he reached the seat of Government and delivered the same; and the receipt of the Secretary of the Senate for said sum shall be a sufficient voucher therefor.

APPROVED, February 19, 1869.

No. 12.—Joint Resolution for the Relief of Leonard Pierce, junior, late United States Consul at Matamoras.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid to Leonard Pierce, junior, of Houlton, Maine, out of any money appropriated for the use of the State Department, the sum of eleven thousand eight hundred and forty-three dollars and eighty-nine cents in gold, in full for expenditures made by him out of his private funds while United States consul at Matamoras, Mexico, during the period from the twelfth of March, eighteen hundred and sixty-two, to the thirtieth of November, eighteen hundred and sixty-four, in aiding Union soldiers and refugees fleeing from Texas.

APPROVED, February 19, 1869.

No. 13.—Joint Resolution for the Relief of Frederick Schley.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the accounting officers of the Treasury Department be, and they are hereby, authorized to allow and credit Frederick Schley, late collector of internal revenue in the fourth district of the State of Maryland, such amount of uncollected taxes as he may, by satisfactory proof, show to have been uncollected by reason of the destruction of his tax lists and accounts by rebel forces during the recent rebellion.

APPROVED, February 25, 1869.

No. 18.—Joint Resolution for the Relief of Edward E. Shead, of Eastport, State of Maine.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to issue to Edward E. Shead, of Eastport, State of Maine, two six per centum coupon bonds, for the sum of five hundred dollars each, in lieu of two bonds destroyed by fire, bearing date eighteenth of August, eighteen hundred and sixty-four, numbered nineteen thousand seven hundred and forty-seven, and nineteen thousand seven hundred and forty-eight, payable in eighteen hundred and eighty-one.

APPROVED, March 1, 1869.

No. 29.—Joint Resolution authorizing the Secretary of the Treasury to remit the Duty on certain Meridian Circles.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to remit the duties on a meridian circle, imported for the observatory at Cambridge, in the State of Massachusetts, and a meridian circle imported for the observatory connected with the Chicago University, at Chicago, in the State of Illinois.

APPROVED, March 3, 1869.

No. 30.—Joint Resolution for the Relief of Henry S. Gibbons, Luther McNeal, and Seth M. Gates.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General be, and he hereby is, authorized and required, in settling the accounts of Henry S. Gibbons, late postmaster at St. John's, Michigan, to allow him a sum not exceeding five hundred dollars as indemnification for a like amount belonging to the post office fund and stolen from him by burglars, and which amount has been paid to the United States by said Gibbons: *Provided,* [That] it shall be proven satisfactorily to the Postmaster General that funds belonging to the Post Office Department to the amount of five hundred dollars were stolen by burglars, and that said Gibbons was not guilty of neglect in the custody thereof.

Sec 2. *And be it further resolved,* That Luther McNeal be paid the sum of one hundred and seventy-five dollars and forty-six cents for money and postage stamps belonging to the United States, and which were stolen from the post office at the town of Lancaster, Erie county, New York, while he was postmaster, and which sum he has paid to the Government on settlement with the Post Office Department, as such postmaster, and that such sum be paid out of the post office fund by the Postmaster General upon the said McNeal making proof to his satisfaction that said money and stamps were stolen without any fault of said McNeal.

Sec 3. *And be it further resolved,* That in the settlement of the accounts of Seth M. Gates, postmaster at Warsaw, New York, with the Post Office Department, the Postmaster General be, and he is hereby, authorized to allow a credit to the said Seth M. Gates of seven hundred and twenty-six dollars and seventy-three cents, the amount in value of postage stamps belonging to the United States, stolen from the post office on the sixteenth day of July, eighteen hundred and sixty-seven, while the said Gates was postmaster: *Provided,* That it shall satisfactorily appear to the Postmaster General that the said Gates was guilty of no negligence in the custody of said stamps.

APPROVED, March 3, 1869.

No. 33.—Joint Resolution for the Relief of Mrs. Ella E. Hobart.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Ella E. Hobart, who was appointed as chaplain to the first regiment of Wisconsin volunteer heavy artillery, shall be entitled to receive the full pay and emoluments of a chaplain in the United States Army, for the time during which she faithfully performed the services of a chaplain to said regiment, as if she had been regularly commissioned and mustered into service.

APPROVED, March 3, 1869.